

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Housing and Community Improvement Division

No fee for recording pursuant to
Government Code Section 27383

DENSITY BONUS AND INCLUSIONARY HOUSING
DEVELOPER AGREEMENT
(Del Hombre Apartments, Walnut Creek)

This Density Bonus and Inclusionary Housing Developer Agreement ("Agreement") is dated _____, 2021, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the "County"), and Del Hombre Walnut Creek Holdings LLC, a Delaware limited liability company ("Developer").

RECITALS

A. Developer owns that certain real property located in an unincorporated area of Contra Costa County on Del Hombre Lane between Roble Road and Honey Trail in Walnut Creek that comprises 2.4 acres, includes Assessor Parcel Numbers 148-170-041, 148-170-037, 148-170-001, 148-170-022, 148-170-042, and is more particularly described in Exhibit A (the "Property"). Developer desires to construct a residential project on the Property.

B. The residential development contemplated by Developer is commonly known as the Del Hombre Apartments (the "Development") and has been designated as County Files #GP18- 0002, #RZ18-3245, #MS18-0010, and #DP18-3031. The Development includes the construction of 284 housing units on the Property, including 21 studio units, 174 one-bedroom units, and 89 two-bedroom units, all located in one building. In addition, the Development will include off-street parking, landscaping, a community building, laundry, a pool, long-term bicycle storage, and trash enclosures.

C. The Development is subject to the on-site affordable inclusionary unit requirements of Chapter 822-4 of the County's Ordinance Code (the "Inclusionary Housing Ordinance") because the Development is a residential development of more than 125 units. The Development is also subject to Chapter 822-2 of the County's Ordinance Code (the "Density Bonus Ordinance") because the County's General Plan and Zoning Ordinance permit the construction of a maximum of 237 housing units on the Property, and the Developer has requested that the Development be permitted to exceed the maximum allowable density.

D. Pursuant to Government Code section 65915, the Density Bonus Ordinance, and Housing Program #22 of the County Housing Element, Developer has proposed to construct and rent twelve (12) Very Low-Income Units and twenty-four (24) Moderate-Income Units in the Development in exchange for a twenty percent density bonus, one concession, and other development standard waivers. The term “Very Low-Income Units” means units that are rented to, and affordable to, Very Low-Income Households. The term “Moderate-Income Units” means units that are rented to, and affordable to, Moderate-Income Households. The terms “Very Low-Income Households” and “Moderate-Income Households” have the meanings ascribed to them in Government Code section 65915. Together, the Very Low-Income Units and the Moderate-Income Units are the “Affordable Units.”

E. Developer or its affiliate submitted, and the County has approved, the Inclusionary Housing Plan attached hereto as Exhibit B, and the request for density bonus attached hereto as Exhibit C (collectively, the “Plan”). Under the Plan, Developer will construct and rent a total of thirty-six (36) Affordable Units in the Development, as described in Section 6 below. The remaining units in the Development may be rented at any rates and are not subject to the provisions of this Agreement. The inclusion of twenty-four (24) Moderate-Income Units in the Development as Affordable Units, rather than the inclusion of units affordable to Lower-Income Households (as defined in Government Code section 65915), is the concession granted Developer to determine Developer’s compliance with the Inclusionary Housing Ordinance.

F. On August 11, 2020, the County Board of Supervisors approved the Development with a density bonus of 47 units (the “Density Bonus”) a concession related to Inclusionary Housing Ordinance requirements, and additional development standard waivers. A copy of the August 11, 2020 order of the County Board of Supervisors (the “Board Order”), which approved the Development, Density Bonus, one concession, and additional waivers, is attached as Exhibit E. In accordance with the Board Order, approval of the Development is subject to the conditions of approval set forth in the Inclusionary Housing and Density Bonus section of the Conditions of Approval for Del Hombro Apartments, Walnut Creek (County Files #GP18-0002, #RZ18-3245, #MS18-0010, and #DP18-3031) (the “Conditions of Approval”).

G. Pursuant to the Conditions of Approval, the Board Order, the Inclusionary Housing Ordinance, the Density Bonus Ordinance, and Government Code section 65915, Developer is required to set aside five percent of the total number of rental units for rent to very low-income households and 10 percent of the total number of rental units for rent to moderate income households, for a minimum of 55 years. In addition, Developer is required to cause this Agreement to be signed and recorded against the Property prior to the issuance of building permits or the recordation of the parcel map for the Development.

H. The Developer is entering into this Agreement to fulfill the Conditions of Approval and to obtain rights to develop the Development.

I. The County is entering into this Agreement in reliance on the Developer’s promise to meet the requirements of the Inclusionary Housing Ordinance, the Density Bonus Ordinance, the Plan, and the Conditions of Approval, by which the stock of affordable housing in the community will be increased during the term of this Agreement.

The parties therefore agree as follows:

AGREEMENT

1. General. This Agreement is subject to the terms set forth below and each of the exhibits to this Agreement, all of which are incorporated herein by reference.

2. Exhibits. The following exhibits are attached to this Agreement:

Exhibit A – Legal Description of Property
Exhibit B – Inclusionary Housing Plan
Exhibit C – Density Bonus Request
Exhibit D – Income Certification Form
Exhibit E – Board Order (including Conditions of Approval)

3. Satisfaction of Conditions of Approval. Developer shall cause this Agreement to be recorded against the Property at least 90 days prior to the County’s issuance of building permits or recordation of the parcel map for the Development; provided, however, that the Director of the County’s Conservation and Development Department (the “Director”) may waive or modify the required timing of the recordation at his discretion. The Developer shall pay all fees and charges incurred in connection with any such recording. The recording of the Agreement shall occur after the acceptance of the document by the County and prior to the filing of a building permit or recordation of the Parcel Map. Execution, recordation, performance of and compliance with this Agreement constitutes performance of conditions number 7 through 15 of the Conditions of Approval and is sufficient in that respect to permit the issuance of building permits or recordation of the parcel map for the Development, subject to satisfaction of all other applicable conditions and compliance with all provisions of the law. Notwithstanding the foregoing, the Conditions of Approval, including conditions number 7 through 15, are to remain applicable to the Development, survive any transfer of title to the Property (whether voluntary or the result of a trustee’s sale, judicial foreclosure, or deed in lieu of foreclosure under or relating to any senior deed of trust or senior lien on the Property) or any assignment of Developer’s interest in the Development, and remain in effect throughout the Term (as defined in Section 5 below) notwithstanding the subordination of this Agreement to any senior regulatory agreement recorded against the Property in connection with other financing on the Property. Developer acknowledges and agrees that, in addition to the Density Bonus, Developer has received significant incentives pursuant to Government Code section 65915.

4. Obligations Run with the Land. The parties expressly intend the covenants and restrictions set forth in this Agreement to run with the land and to bind all successors in title to the Property, provided, however, that on the expiration of this Agreement, such covenants and restriction will expire.

Until the expiration of this Agreement, each and every contract, deed or other instrument hereafter executed covering or conveying the Property, or any portion thereof, is to be held conclusively to have been executed, delivered and accepted subject to the covenants and restrictions of this Agreement, regardless of whether such covenants and restrictions are set forth in such contract, deed or other instrument, unless the County expressly releases such conveyed portion of the Property from the requirements of this Agreement.

5. Term. The term of this Agreement (the “Term”) begins on the date set forth in the introductory paragraph and ends on the date that is fifty-seven (57) years after the date set forth in the introductory paragraph. County agrees to record a document acknowledging the termination of this Agreement following the expiration of the Term but County’s failure to record such document will not negate the automatic expiration and termination of this Agreement at the end of the Term.

6. Rental of Affordable Units. Pursuant to and in consideration of the Density Bonus and the additional incentives set forth in this Agreement, Developer shall cause at least thirty-six units in the Development to be rented as Affordable Units, of which Developer shall rent not fewer than twelve (12) as Very Low-Income Units and not more than twenty-four (24) as Moderate-Income Units. Developer shall cause the Affordable Units to consist of the following number and types of housing units; provided, however, nothing in this Agreement prohibits Developer from renting one or more of the Moderate-Income Units as Very Low-Income Units:

<i>Unit Size</i>	<i>Very Low-Income Units</i>	<i>Moderate Income Units</i>
Studio	0	21
One-Bedroom	8	3
Two-Bedroom	4	0
Total:	12	24

Developer shall construct and lease the Affordable Units concurrently with the construction and leasing of the other housing units in the Development. Developer shall make all Affordable Units on a given floor available for occupancy no later than the time at which the market-rate dwelling units of that floor are available for occupancy. Developer may not lease or occupy any floors in the Development that do not have Affordable Units before any floors that have Affordable Units have been leased and such units are fully occupied. Developer may not market any Affordable Units until the County Department of Conservation and Development (“DCD”), acting on behalf of the County, has approved a marketing plan for the marketing of the Affordable Units. The Affordable Units may, at Developer’s discretion, float within the development and are not specific units within the Development, but Affordable Units must be dispersed throughout the Development and have access to all on-site amenities that are available to market rate units. All Affordable Units must comply with the Conditions of Approval and County Ordinance Code Section 822-4.412.

7. Income Certification; Records. Developer shall certify the income eligibility of each proposed tenant of an Affordable Unit to ensure the tenant qualifies as a Very Low-Income Household or a Moderate-Income Household. The income levels of all applicants for Affordable Units in the Development shall be certified prior to initial occupancy and annually thereafter. Developer shall require tenants and prospective tenants for Affordable Units to submit annually the income certification form attached hereto as Exhibit D with appropriate income documentation. Occupancy and income verification records for each tenant in an Affordable Unit shall be maintained by the Developer for the entire term of affordability.

At DCD's request, Developer shall submit a report and make available for the County's review and inspection the tenant records for each tenant residing in an Affordable Unit. Developer shall cause the tenant records for Affordable Units to include, the lease, the name, address, number of occupants per unit, number of bedrooms in the unit, monthly rent or cost (including utility allowance), initial address of each tenant, income certifications for each person occupying the unit, and the documents used to certify the tenant's income. Tenants of Affordable Units shall provide consent to the owners to allow these disclosures.

Developer shall submit to the County, in a form reasonably approved by the County, an annual report concerning leasing of the Affordable Units not later than the first day in April of each year during the Term. The annual report will include the tenant records for each tenant residing in an Affordable Unit during the previous year. Developer shall submit with each annual report the applicable compliance review application and fee pursuant to the Land Use Development Fee Schedule adopted by the Board of Supervisors.

8. Rent Levels. Each year, DCD will provide Developer with a schedule of maximum permissible rents for the Affordable Units, using guidance provided by the California Department of Housing and Community Development ("HCD"), and the maximum monthly allowances for utilities and services.

On or about April 1 of each year, when HCD issues to the County the annual update to the income limits, adjusted by household size, DCD shall issue to Developer new gross rent limits for the Affordable Units that include a reasonable utility allowance and establish the affordable rent (i) for the Very Low-Income Units, as defined in section 822-4.206(a)(1) of the Inclusionary Housing Ordinance, and (ii) for the Moderate-Income Units, as defined in California Health and Safety Code section 50053(b)(4) (together, the "Affordable Rent") for the following calendar year. Such maximum gross rents will be calculated in compliance with California Health and Safety Code section 50053, using the income limits established by applicable law for the various household sizes. Developer may not charge tenants of the Affordable Units more than the Affordable Rent.

9. Increased Income of Tenant of an Affordable Unit.
 - a. Subject to Section 7 above, if upon certification of the income of a tenant of an Affordable Unit, Developer determines that the income of a tenant of a Very Low Income Unit has increased and that it is above the applicable qualifying limit for a Very Low Income Household or that the income of a tenant of a Moderate Income Unit has increased and that it is above the applicable qualifying limit for a Moderate Income Household (such occurrence, a “Disqualifying Event”), Developer shall not renew the tenant’s lease of the Affordable Unit after expiration of the term of such lease.
 - b. Upon the occurrence of a Disqualifying Event, Developer shall use commercially reasonable efforts to rent another unit in the Development to the tenant at a rental rate that is not subject to the terms of this Agreement.
 - c. Upon the occurrence of a Disqualifying Event, Developer shall give the tenant at least 60 days’ advance notice of the non-renewal of the lease.
10. Assurance of Continued Affordability. The incentive granted to the Developer by the County provides identifiable and actual cost reductions that support the development and leasing of the Affordable Units. In order for the County to meet the requirements of Government Code section 65917 that it ensure the continued affordability of the Affordable Units, during the Term Developer may not rent any of the Affordable Units at rents that exceed those established pursuant to this Agreement.
11. Damages for Breach. In addition to any other remedy available to the County by law, if the Developer charges rent in excess of that allowed by this Agreement, Developer shall be liable to the County for damages in the amount of the rent charged or collected, whichever is greater, in excess of the maximums allowed herein, with interest compounded at the maximum rate allowed for judgments. For any other breach of this Agreement, after notice and opportunity to cure in the manner provided in Section 15, the County may, in addition to any other remedy authorized by law, elect that Developer, or any of its successors in interest, be liable to County in the amount of \$1,000 per day until the breach is cured.

The parties hereto understand and agree that, notwithstanding any provisions contained in this Agreement, or any other instrument or agreement affecting the Property, the restrictions and covenants hereunder are not intended by the parties hereto to either create a lien upon the Property, or grant any right of foreclosure, under the laws of the jurisdiction where the Development is located, to any party hereto or third party beneficiary hereof upon a default of any provision herein; rather they are intended by the parties hereto to constitute a restrictive covenant that is senior to any instrument or agreement granting a security interest in the Property, and that, notwithstanding a foreclosure or transfer of title pursuant to any other instrument or agreement, the restrictive covenants and provisions hereunder shall remain in full force and effect.

The County acknowledges that a portion of the financing for the Development has been or will be provided by Wells Fargo Bank National Association as Administrative Agent for itself and other lenders ("Lender") and that Lender has recorded a Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing against the Property as Document No. 2020-0287908 in the Official Records (the "Deed of Trust"). The County agrees that it will give Lender notice of any alleged default by Developer or its successors under the Agreement and agrees that Lender, at Lender's sole election, will have the right (but not the obligation) for a period of sixty (60) days after receipt of such notice to cure any such default. The County agrees that for so long as the loan evidenced by the Deed of Trust is secured by the Property, notwithstanding the terms of the Agreement to the contrary, the County will not, without Lender's prior written consent, exercise or seek any right or remedy under the Agreement or available at law or in equity which will or could result in (a) a transfer of possession of the Property or the control, operations or management thereof, (b) collection or possession of rents or revenues from or with respect to the Property by any party other than Developer or Lender; (c) appointment of a receiver for the Property; (d) removal or replacement of the existing property manager of the Property; or (e) a material adverse effect on Lender's security for its loan.

12. Property Maintenance. Throughout the Term Developer shall keep the exterior of the Development and common amenities in good, marketable condition and ensure that the Affordable Units receive the same maintenance and scheduled upgrades as market-rate units in the Development. Developer shall certify annually in writing to the County that Developer has performed its obligations under this Section 12. Such certification shall be submitted with Developer's annual report under Section 7. County shall be allowed to make reasonable periodic inspections of the Affordable Units during normal business hours and by coordinating and scheduling such inspections in advance with Developer. Permission and consent from tenants of Affordable Units for such inspections shall be sought in accordance with applicable laws and the applicable leases. Developer shall also permit the County to inspect the exterior of the Development during normal business hours and by coordinating and scheduling such inspections in advance with Developer. Developer shall reasonably cooperate with the County during such inspections.
13. Management Responsibilities. Developer is responsible for all management functions with respect to the Development, including without limitation the selection of tenants, certification and recertification of household size and income for the Affordable Units, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The County has no responsibility for management of the Development.
14. Management Agent. Developer may self-manage the Development but if it hires a third-party manager, Developer shall cause the Development to be managed by an experienced management agent with a demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (the "Management Agent"). If Developer hires a Management Agent, Developer shall

provide the County with the name, phone number and email address of the person or people primarily responsible for the operation of the Development.

15. Periodic Performance Review. The County reserves the right to conduct an annual (or more frequent, if deemed necessary by the County) review of the management practices of the Development. The purpose of each periodic review will be to enable the County to determine if the Development is being operated and managed in accordance with the requirements and standards of this Agreement. Developer shall reasonably cooperate with the County in such reviews.

If, as a result of a periodic review, the County determines in its reasonable judgment that the Development is not being operated and managed in accordance with any of the material requirements and standards of this Agreement, the County shall provide a written notice to Developer specifying the requirements and standards the County has determined are not being met (the "Performance Notice"). The County's failure to specify a particular requirement or standard of this Agreement in the Performance Notice does not waive Developer's obligation to operate and manage the Development in accordance with this Agreement. Developer shall remedy all items on specified in the Performance Notice as soon as practicable and in any event within thirty days of Developer receiving the Performance Notice; provided, however, if, in the sole and reasonable determination of the Director, any item cannot reasonably be remedied within thirty days, Developer shall have additional time as reasonably necessary to remedy all items specified in the Performance Notice, as long as Developer promptly commences efforts to remedy all items specified in the Performance Notice and diligently and in good faith continues to remedy all items as soon as reasonably possible. If in the Director's reasonable judgment Developer fails to remedy all items specified in the Performance Notice within the thirty-day period (as it may be extended pursuant to the preceding sentence), the County may declare Developer to be in breach of this Agreement and thereafter subject to the per diem fine specified in Section 11.

16. Approval of Rules and Regulations. Developer shall submit its written tenant rules and regulations with respect to the Development to the County for its review and shall amend such rules and regulations in any way necessary to ensure the same comply with the provisions of this Agreement.
17. No Discrimination. Developer shall cause all of the Affordable Units in the Development be available for rent to members of the general public who are income eligible. Developer may not give preference to any particular class or group of persons in renting the Affordable Units, except to the extent required to cause each Affordable Units to be rented to a tenant meeting the income level required of each Affordable Unit. The Developer may not permit discrimination against or segregation of any person or group of persons on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the rental of any Affordable Unit in the Development. In addition, the Developer may not permit any such practice or practices of

discrimination or segregation in connection with the employment of persons in the construction of the Development.

18. Marketing Plan.

- a. No later than six (6) months prior to the date construction of the Development is projected to be complete, Developer shall submit to the County for approval its plan for marketing the Affordable Units to income-eligible households as required by this Agreement (the "Marketing Plan").
- b. In addition to any other marketing efforts, Affordable Units shall be marketed through local non-profit, social service, faith-based, and other organizations that have potential renters as clients or constituents. The Developer shall translate marketing materials into Spanish and Chinese. A copy of the translated marketing materials shall be submitted to DCD at least three (3) months prior to the date completion of the Development is projected to be complete.

Marketing may also include publicity through local television and radio stations as well as local newspapers including the East Bay Times, Classified Flea Market, El Mensajero Newspaper, Thoi Bao Magazine, Berkeley/Richmond/San Francisco Posts (aka Post News Group), Korea Times, El Mundo, Hankook Ilbo, and the Sing Tao Daily.

- c. Upon receipt of the Marketing Plan, the County will promptly review the Marketing Plan and will approve or disapprove it within thirty (30) days after receipt. If the Marketing Plan is not approved, the County will give Developer specific reasons for such disapproval and Developer shall submit a revised Marketing Plan within fifteen (15) days of notification of the County's disapproval. Developer shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the County. No certificate of occupancy will be issued by the County for the Development until the Marketing Plan is approved by the County.
- d. Nothing in this Section 18 shall be construed to permit the County to establish rents for any part of the Development other than the maximum gross rent limits and utility allowances for the Affordable Units as provided in Section 8.

19. Tenant Selection Plan.

- a. No later than six (6) months prior to the date construction of the Development is projected to be complete, Developer shall submit to the County, for its review and approval, Developer's written tenant selection plan for the Affordable Units (the "Tenant Selection Plan").
- b. Upon receipt of the Tenant Selection Plan, the County will promptly review the Tenant Selection Plan and will approve or disapprove it within thirty (30) days after receipt. If the Tenant Selection Plan is not approved, the County will give Developer

specific reasons for such disapproval and Developer shall submit a revised Tenant Selection Plan within fifteen (15) days of notification of the County's disapproval. Developer shall follow this procedure for resubmission of a revised Tenant Selection Plan until the Tenant Selection Plan is approved by the County. No certificate of occupancy will be issued by the County for the Development until the Tenant Selection Plan is approved by the County.

- c. Nothing in this Section 19 shall be construed to permit the County to establish rents for any part of the Development other than the maximum gross rent limits and utility allowances for the Affordable Units as provided in Section 8.

20. Lease Provisions.

- a. No later than four (4) months prior to the date construction of the Development is projected to be complete, Developer shall submit to the County for approval Developer's proposed form of lease agreement to be used when leasing Affordable Units for the County's review and approval. When leasing Affordable Units within the Development, Developer shall use the form of Affordable Unit lease approved by the County. The form of Affordable Unit lease must comply with all requirements of this Agreement and must, among other matters:
 - i. Provide for termination of the lease for failure to: (i) provide any information required under this Agreement or reasonably requested by Developer to establish or recertify the tenant's qualification, or the qualification of the tenant's household, for occupancy of tenant's Affordable Unit in accordance with the standards set forth in this Agreement, or (ii) qualify as a Very Low Income Household or a Moderate Income Household as each individual case may be, as a result of any material misrepresentation made by such tenant with respect to the income computation.
 - ii. Be for an initial term of not less than one (1) year, unless by mutual agreement between the tenant and Developer, and provide for no increase in rent during such year. After the initial year of tenancy, the lease may be month-to-month by mutual agreement of Developer and the tenant. Notwithstanding the above, any rent increases are subject to the requirements of Section 8 above.
 - iii. Include a provision that requires a tenant who is residing in an Affordable Unit required to be accessible and who is not in need of an accessible unit to move to a non-accessible Affordable Unit when a non-accessible Affordable Unit becomes available and another income qualifying tenant or prospective tenant is in need of an accessible Affordable Unit.
 - iv. Provide that a termination of, or refusal to renew a lease for, an Affordable Unit for any reason other than for a "just cause," must be preceded by not less than sixty (60) days written notice to the tenant by Developer specifying the grounds for the action. Termination of, or refusal to renew, a lease for a just cause must be

preceded by such notice as may be required by the written lease or applicable law. For purposes of this Agreement, “just cause” has the meaning given in Section 1946.2 of the California Civil Code (as the same may be amended or replaced from time to time). If said Section 1946.2 is hereafter repealed and not replaced, then “just cause” shall have meaning given by such statute immediately prior to such repeal.

- b. During the Term, Developer shall comply with the Marketing Plan and Tenant Selection Plan approved by the County.
21. Attorneys' Fees and Costs. In any action brought to enforce this Agreement, the prevailing party must be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section must be interpreted in accordance with California Civil Code section 1717 and judicial decisions interpreting that statute.
22. Developer Representation. Developer represents and warrants that it is the owner of the Property and has full authority to execute this Agreement.
23. Governing Law. This Agreement is governed by the laws of the State of California.
24. Order of Precedence. In the event of any conflict or inconsistency between the terms of this Agreement and related obligations, the following order of precedence applies: The County’s Ordinance Code, this Agreement, the Plan.
25. Risk of Market Conditions. Developer bears sole responsibility for developing, constructing and marketing the Affordable Units covered by this Agreement, pursuant to the approvals that the County issued for the Development and the requirements contained in this Agreement. The County has no obligation to amend this Agreement and Developer shall reimburse the County for all administrative costs associated with any modification of this Agreement that requires the approval of the County Board of Supervisors.
26. Waiver of Requirements. Any of the requirements of this Agreement may be expressly waived by the County in writing, but no waiver by the County of any requirement of this Agreement extends to or affects any other provision of this Agreement, and may not be deemed to do so.
27. Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title that is duly recorded in the official records of the County of Contra Costa.
28. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement will not in any way be affected or impaired thereby.

29. Notices. All notices required or permitted by any provision of this Agreement are to be in writing and sent by overnight delivery or certified mail, postage prepaid and directed as follows:

County:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Housing & Community Improvement/Christine Louie

Developer:

Del Hombre Walnut Creek Holdings, LLC
c/o The Hanover Company
1780 S. Post Oak Lane
Houston, TX 77056
Attn. General Counsel

With a copy to:

Del Hombre Walnut Creek Holdings, LLC
c/o The Hanover Company
1780 S. Post Oak Lane
Houston, TX 77056
Attn. CEO

and

Del Hombre Walnut Creek Holdings, LLC
c/o The Hanover Company
156 Diablo Road, Suite 220
Danville, CA 94526
Attn. Scott Youdall

Notwithstanding the preceding, either party may change its address(es) for notice from time to time by notice delivered to the other party.

30. Contact Information.

- a. Prior to Community Development Division stamp-approval of plans for issuance of a building permit, the Developer shall provide the name of the contact person representing the owner of the property for permit compliance and their contact information.
- b. The Developer is responsible for keeping DCD informed of the contact information of the owner or designee who is responsible for compliance with this Agreement and

how they may be contacted (i.e., mailing and email addresses, and telephone number) at all times.

[Remainder of Page Intentionally Left Blank]

The parties are signing this Agreement as of the date set forth in the introductory paragraph.

DEVELOPER:

DEL HOMBRE WALNUT CREEK
HOLDINGS, LLC,
a Delaware limited liability company

By: 3000 Del Hombre Holdings, LLC a
Delaware limited liability company, its
managing member

By: 
Kathy Binford, Vice President

(Signatures must be notarized.)

COUNTY:

COUNTY OF CONTRA COSTA

By: _____
John Kopchik, Director
Department of Conservation and
Development

(Signature must be notarized.)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF TEXAS)
)
COUNTY OF HARRIS)

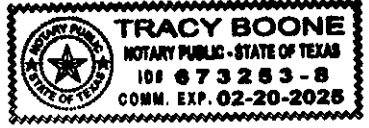
On March 12, 2021, before me, Tracy Boone, Notary Public, personally appeared, Kathy Binford who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Tracy Boone

(seal).



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, 202_, before me, _____, Notary Public, personally appeared, _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)

EXHIBIT A
Legal Description of Property

TRACT 1:

A PORTION OF THE RANCHO LAS JUNTAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF A 40 FEET ROAD, DISTANT SOUTH 7° 10' WEST 85 FEET FROM THE NORTHWEST CORNER OF THE 11.18 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM WM. C. CLARK, TO C. O. BISSELL, ET UX, DATED OCTOBER 14, 1916, AND RECORDED OCTOBER 17, 1916, IN VOLUME 279 OF DEEDS AT PAGE 101; THENCE FROM SAID POINT OF BEGINNING SOUTH 10° WEST ALONG THE CENTER LINE OF SAID ROAD 125 FEET, THENCE SOUTH 83° 45' EAST 348.48 FEET; THENCE NORTH 7° 10' EAST 125 FEET; THENCE NORTH 83° 45' WEST 348.48 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

1) THAT PARCEL OF LAND IN THE DEED FROM LAWRENCE P. LARSEN, ET UX, TO JAMES R. BLEDSOE, ET UX, RECORDED OCTOBER 8, 1963, IN VOLUME 4466 OF OFFICIAL RECORDS, PAGE 186.

2) THAT PARCEL OF LAND IN THE DEED FROM LAWRENCE P. LARSEN, ET UX, TO SAN FRANCISCO BAY RAPID TRANSIT DISTRICT, RECORDED AUGUST 16, 1965, IN VOLUME 4932 OF OFFICIAL RECORDS, PAGE 59.

APN: 148-170-042-3

TRACT 2:

PORTION OF RANCHO LAS JUNTAS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTER LINE OF A PRIVATE ROAD AT THE MOST WESTERLY CORNER OF THAT PARCEL DESCRIBED IN DEED DATED JUNE 16, 1938, EXECUTED BY EMMA E. MULVANEY, ET VIR., LAWRENCE P. LARSEN, ET UX, RECORDED JULY 06, 1938, IN BOOK 463 OF OFFICIAL RECORDS, PAGE 409; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL SOUTH 83° 45' EAST, 348.48 FEET; THENCE SOUTH 07° 10' WEST 100.06 FEET TO A POINT ON THE NORTHERLY LINE OF THAT PARCEL DESCRIBED IN DEED BY ERNEST BERGMAN AND ETHEL S. BERGMAN, HIS WIFE TO MARIE E. GRAHAM AND WILLIAM A. GRAHAM, HER HUSBAND, AS JOINT TENANTS, DATED MARCH 12, 1947, RECORDED APRIL 07, 1947, IN BOOK 1081 OF OFFICIAL RECORDS, PAGE 94; THENCE NORTH 85° 17' WEST ALONG SAID NORTHERLY LINE, 97.90 FEET, TO THE NORTHWESTERLY CORNER OF SAID GRAHAM PARCEL; (1081 OR 94); THENCE SOUTH 2° 11' WEST ALONG THE WESTERLY LINE OF SAID GRAHAM PARCEL; (1081 OR 94), 4.5 FEET TO A POINT; THENCE LEAVING SAID WESTERLY LINE NORTH 85° 17' WEST 251.24 FEET TO THE

CENTER LINE OF A PRIVATE ROAD; THENCE NORTH 7° 10' EAST ALONG SAID CENTER LINE 113.89 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

ALL THAT PORTION THEREOF, AS DESCRIBED IN THE DEED TO THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, RECORDED JANUARY 19, 1965, IN BOOK 4786, PAGE 12, OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE CENTER LINE OF A PRIVATE ROAD, AT THE MOST WESTERLY CORNER OF THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO LAWRENCE P. LARSEN, ET UX, RECORDED JULY 06, 1938, IN VOLUME 463 OF OFFICIAL RECORDS, PAGE 409, RECORDS OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING AND ALONG THE SOUTHERLY LINE OF SAID LARSEN PARCEL SOUTH 82° 11' 41" EAST, 32.00 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 8° 44' 56" WEST, 113.02 FEET; THENCE NORTH 83° 43' 41" WEST, 32.03 FEET TO THE CENTER LINE OF THE ABOVE REFERRED TO PRIVATE ROAD; THENCE NORTH 8° 44' 56" EAST, ALONG SAID CENTER LINE 113.88 FEET TO THE POINT OF BEGINNING.

APN: 148-170-041-5

TRACT 3:

PORTION OF THE RANCHO LAS JUNTAS:

BEGINNING IN THE CENTER LINE OF 40 FEET IN WIDTH ROAD KNOWN AS DEL HOMBRE LANE AT THE SOUTH LINE OF THE 11.18 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM WM. C. CLARK, TO C.O. BISSELL, ET UX, DATED OCTOBER 14, 1916, AND RECORDED OCTOBER 17, 1916 IN VOLUME 279 OF DEEDS AT PAGE 101; THENCE FROM SAID POINT OF BEGINNING NORTH 7° 10' EAST, ALONG SAID CENTER LINE, 114.71 FEET TO THE SOUTH LINE OF THE 0.864 OF AN ACRE PARCEL OF LAND DESCRIBED IN THE DEED OF TRUST MADE BY ERNEST BERGMAN, ET UX, TO TRUSTEE FOR BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, DATED JANUARY 28, 1948, AND RECORDED FEBRUARY 6, 1948, IN VOLUME 1029 OF OFFICIAL RECORDS, AT PAGE 133; THENCE SOUTH 85° 17' EAST, ALONG SAID SOUTH LINE, 251.24 FEET TO THE WEST LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM ERNEST BERGMAN, ET UX, TO MARIE E. GRAHAM, ET VIR, DATED MARCH 12, 1947 AND RECORDED APRIL 7, 1949, IN VOLUME 1081 OF OFFICIAL RECORDS, AT PAGE 94; THENCE SOUTH 2° 11' WEST ALONG SAID WEST LINE 87.59 FEET TO THE SOUTH LINE OF SAID 11.18 ACRE PARCEL (279 d 101); THENCE SOUTH 88° 46' WEST ALONG SAID SOUTH LINE, 261.42 FEET TO THE POINT OF BEGINNING. EXCEPTING THEREFROM THE WEST 20 FEET OF THE PREMISES "FOR ROAD PURPOSES" AS PROVIDED FOR IN THE DEED FROM WM. C. CLARK TO C.O. BISSELL, ET UX, DATED OCTOBER 14, 1916, AND RECORDED OCTOBER 17, 1916 IN VOLUME 279 OF DEEDS, AT PAGE 101.

APN: 148-170-001-9

TRACT 4:

PARCEL ONE:

PORTION OF THE RANCHO LAS JUNTAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM EMMA E. MULVANEY TO ERNEST BERGMAN, ET UX, DATED JANUARY 18, 1940, RECORDED FEBRUARY 03, 1940, IN BOOK 527, OFFICIAL RECORDS, PAGE 223; THENCE FROM SAID POINT OF BEGINNING, SOUTH 88° 46' WEST, ALONG THE SOUTH LINE OF SAID BERGMAN PARCEL, 90.79 FEET TO A 2 INCH BY 2 INCH STAKE; THENCE NORTH 2° 11' EAST, 92.09 FEET TO A 2 INCH BY 2 INCH STAKE; THENCE SOUTH 85° 17' EAST, 97.90 FEET TO A 2 INCH BY 2 INCH STAKE ON THE EAST LINE OF SAID BERGMAN PARCEL (527 OR 223), DISTANT THEREON NORTH 7° 10' EAST, 82.66 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 7° 10' WEST, ALONG SAID EAST LINE, 82.66 FEET TO THE POINT OF BEGINNING.

PARCEL TWO: THE RIGHT OF WAY GRANTED IN THE DEED FROM ERNEST BERGMAN, ET UX, TO MARIE E. GRAHAM, ET VIR, DATED MARCH 12, 1947, RECORDED APRIL 04, 1947, IN BOOK 1081, OF OFFICIAL RECORDS, PAGE 94, AS FOLLOWS: "A RIGHT OF WAY (NOT TO BE EXCLUSIVE)", AS AN APPURTENANCE TO THE TRACT OF LAND DESCRIBED AS PARCEL ONE ABOVE, FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS, PEDESTRIANS AND ANIMALS, FOR WATER, GAS, OIL AND SEWER PIPE LINES, AND FOR TELEPHONE, ELECTRIC LIGHT AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR CONDUITS TO CARRY SAID LINES OVER A STRIP OF LAND 12 FEET IN WIDTH, THE NORTH LINE OF WHICH IS PARALLEL WITH AND 12 FEET NORTHERLY MEASURED AT RIGHT ANGLES FROM THE SOUTH LINE THEREOF AND WHICH SOUTH LINE IS DESCRIBED AS FOLLOWS: BEGINNING ON THE SOUTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM EMMA E. MALVANEY TO ERNEST BERGMAN, ET UX, DATED JANUARY 18, 1940, RECORDED FEBRUARY 03, 1940, IN BOOK 527 OF OFFICIAL RECORDS, PAGE 223, AT THE SOUTHWEST CORNER OF PARCEL ONE ABOVE; THENCE FROM SAID POINT OF BEGINNING, SOUTH 88° 48' WEST ALONG SAID SOUTH LINE, 261.42 FEET TO THE CENTER LINE OF THE COUNTY ROAD KNOWN AS DEL HOMBRE LANE.

APN: 148-170-022-5

TRACT 5:

PARCEL ONE

PORTION OF THE RANCHO LAS JUANTAS, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO LAWRENCE P. LARSEN, ET UX, RECORDED JULY 6, 1938, BOOK 463, OFFICIAL RECORDS, PAGE 409, DISTANT THEREON NORTH 83 DEGREES 45' WEST, 130 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE FROM SAID POINT OF BEGINNING ALONG THE EXTERIOR LINES OF SAID LARSEN PARCEL, AS FOLLOWS: SOUTH 83 DEGREES 45' EAST, 130 FEET; SOUTH 7 DEGREES 10' WEST 125 FEET AND NORTH 83 DEGREES 45' WEST, 130 FEET TO A POINT WHICH BEARS SOUTH 7 DEGREES 10' WEST FROM THE POINT OF BEGINNING; THENCE NORTH 7 DEGREES 10' EAST, 125 FEET TO THE POINT OF BEGINNING.

PARCEL TWO

A RIGHT OF WAY (NOT TO BE EXCLUSIVE) AS AN APPURTENANCE TO PARCEL ONE ABOVE FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS, PEDESTRIANS AND ANIMALS AND AS A RIGHT OF WAY FOR WATER, GAS, OIL AND SEWER PIPE LINES AND FOR TELEPHONE, ELECTRIC LIGHT AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR UNDERGROUND CONDUITS TO CARRY SAID LINES OVER AND UNDER A STRIP OF LAND 20 FEET IN WIDTH, THE NORTH LINE OF WHICH IS PARALLEL WITH AND 20 FEET NORTHERLY (MEASURED AT RIGHT ANGLES) FROM THE SOUTH LINE THEREOF AND WHICH SOUTH LINE IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL ONE IN THE DEED FROM NORMAN M. FORCE, ET UX, TO ALEXANDER PAUL BUCHERT, ET UX, DATED MAY 5, 1959, RECORDED JUNE 5, 1959, IN BOOK 3387 OF OFFICIAL RECORDS, PAGE 296; THENCE FROM SAID POINT OF BEGINNING SOUTH 83 DEGREES 45' EAST ALONG THE SOUTH LINE OF SAID BUCHERT PARCEL (3387 OR 296) 104.66 FEET TO THE WEST LINE OF THE PARCEL OF LAND DESCRIBED AS PARCEL ONE IN THE DEED FROM RUTH A. WRIGHT TO JOSEPH J. KIRBY, ET UX, DATED AUGUST 31, 1956, RECORDED SEPTEMBER 24, 1956, IN BOOK 2848 OF OFFICIAL RECORDS, PAGE 296.

PARCEL THREE

A RIGHT OF WAY (NOT TO BE EXCLUSIVE) AS AN APPURTENANCE TO PARCEL ONE ABOVE FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS, PEDESTRIANS AND ANIMALS, AND AS A RIGHT OF WAY FOR WATER, GAS, OIL AND SEWER PIPE LINES AND FOR TELEPHONE, ELECTRIC LIGHT AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR UNDERGROUND CONDUITS TO CARRY SAID LINES OVER AND UNDER A STRIP OF LAND 20 FEET IN WIDTH THE NORTH LINE OF WHICH IS PARALLEL WITH AND 20 FEET NORTHERLY (MEASURED AT RIGHT ANGLES) FROM THE SOUTH LINE THEREOF AND WHICH SOUTH LINE IS THE ENTIRE SOUTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM JACK D. PAULSON, ET AL, TO CORRELL M. JULIAN, ET UX,

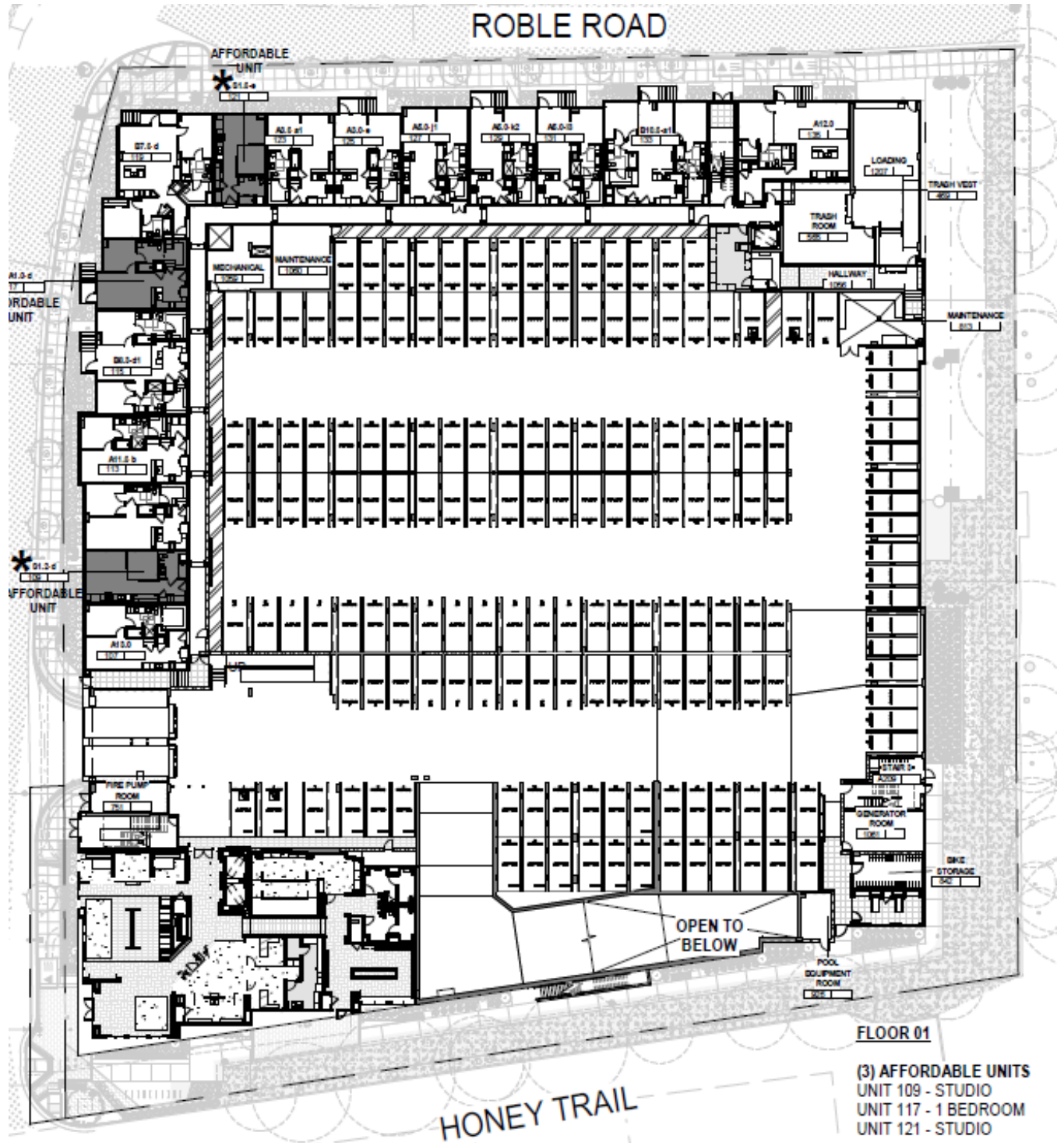
DATED AUGUST 31, 1950, RECORDED SEPTEMBER 22, 1950, IN BOOK 1637 OF
OFFICIAL RECORDS, PAGE 358.

PARCEL FOUR

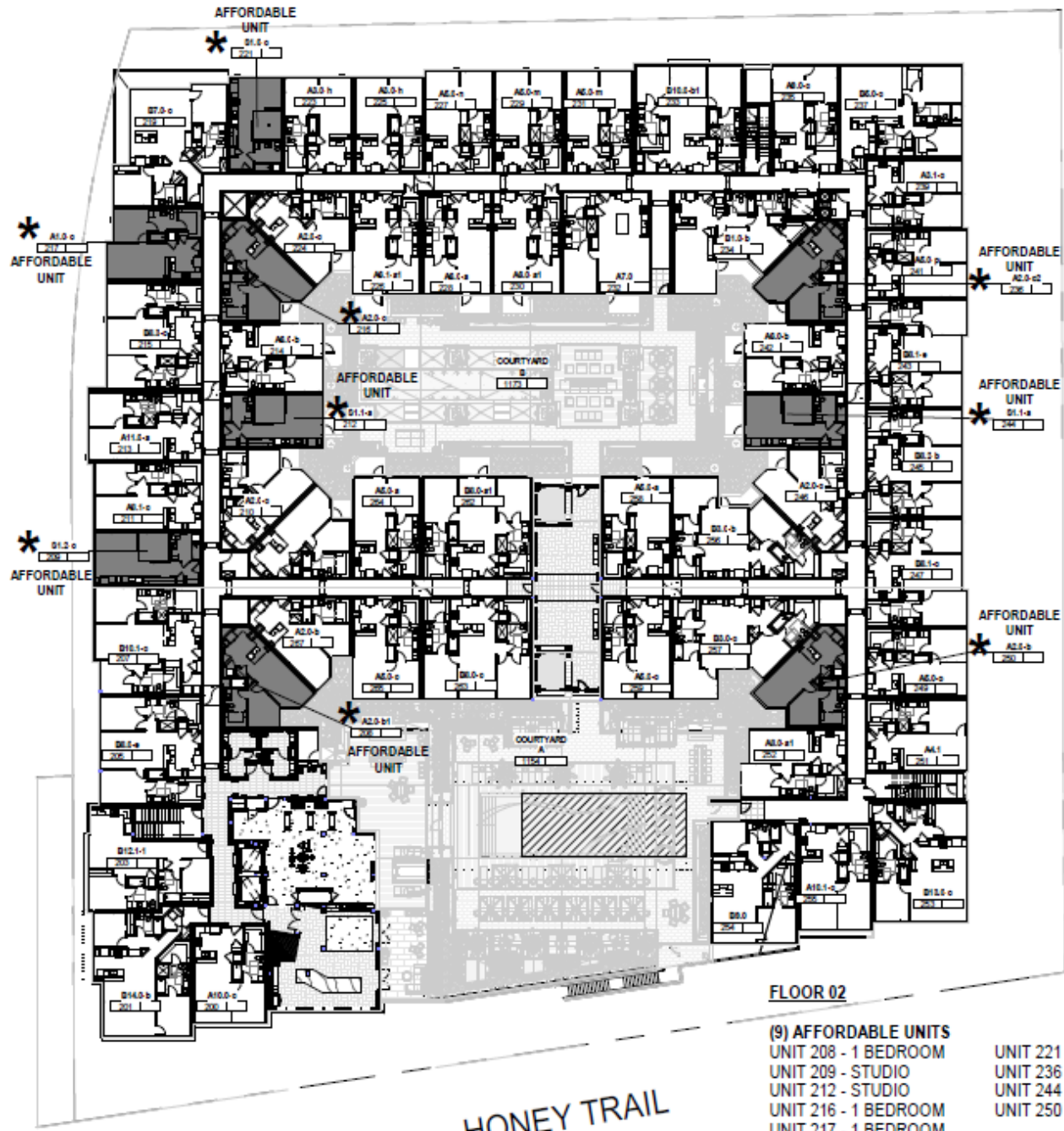
AN EASEMENT FOR RIGHT OF WAY AND WALL MAINTENANCE AND INCIDENTS
THERE TO AND DESCRIBED IN THAT CERTAIN GRANT OF EASEMENT AND WALL
MAINTENANCE AGREEMENT BY AND BETWEEN RELIANCE DEVELOPMENT
GROUP AND C. P. DUNCAN AND JUDITH DUNCAN RECORDED OCTOBER 22, 1993
INSTRUMENT NO. 93-298148.

APN: 148-170-037-3

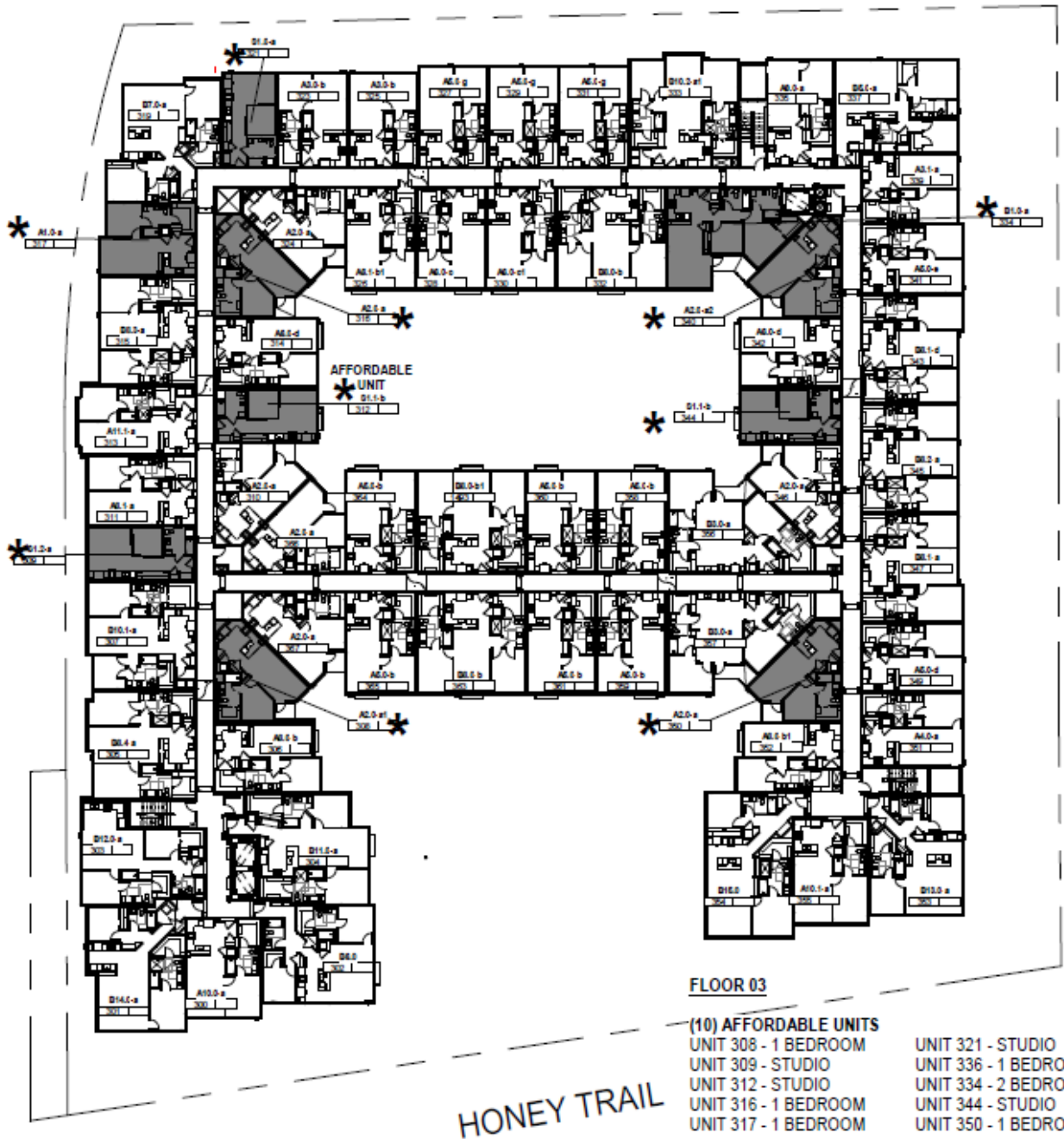
EXHIBIT B
Inclusionary Housing Plan



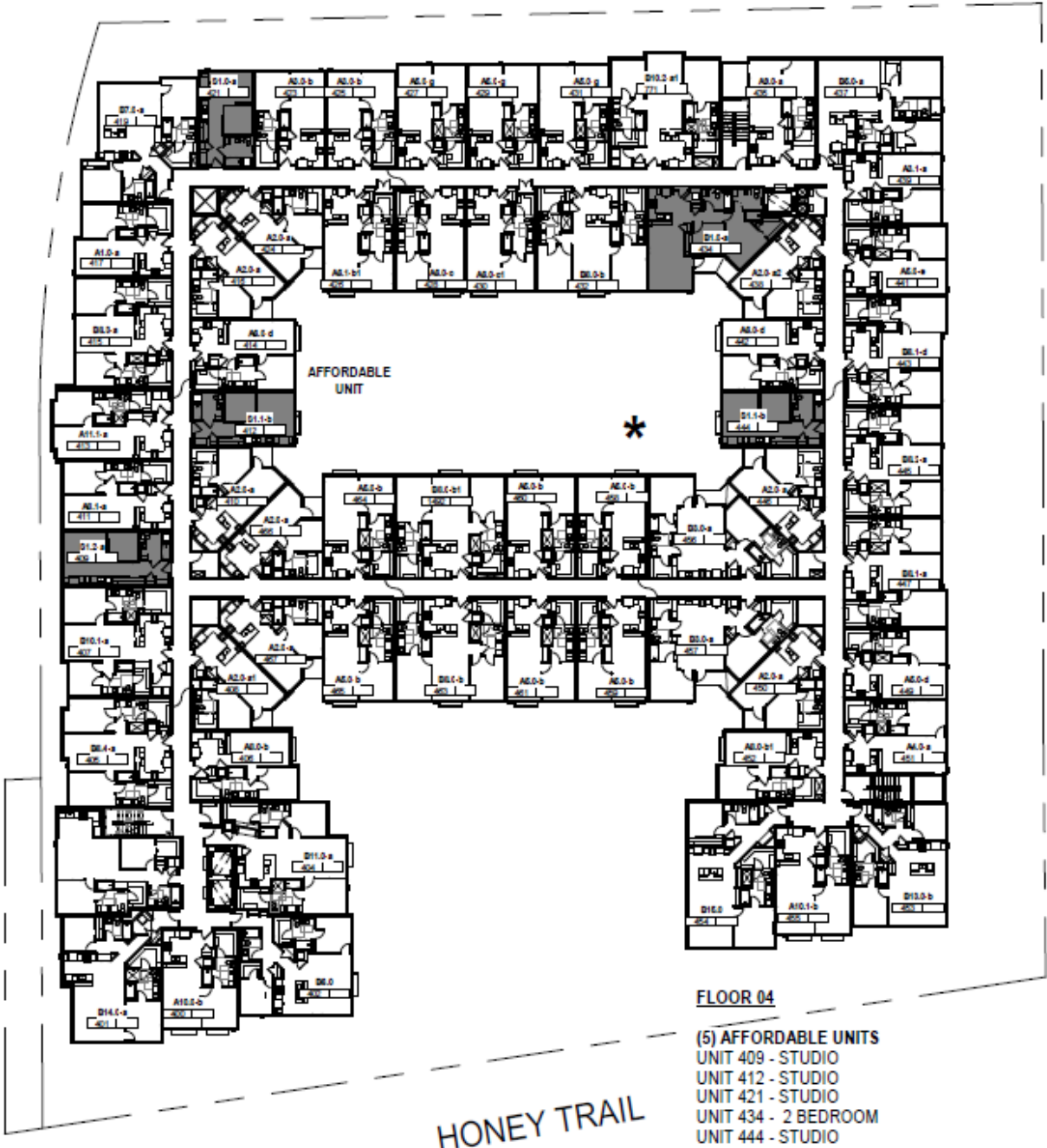
ROBLE ROAD



ROBLE ROAD



ROBLE ROAD



FLOOR 04
(5) AFFORDABLE UNITS
UNIT 409 - STUDIO
UNIT 412 - STUDIO
UNIT 421 - STUDIO
UNIT 434 - 2 BEDROOM
UNIT 444 - STUDIO

HONEY TRAIL

EXHIBIT C Density Bonus Request



HANOVER COMPANY

November 6, 2018

Jennifer Cruz, Senior Planner
Contra Costa County
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553

Re: Del Hombre Density Bonus and Waiver of Development Standards

Dear Ms. Cruz:

The applicant for the project at 3050 Del Hombre Lane requests the density bonus and concessions described below per California Senate Bill No. 1818. The 2.4 gross-acre (2.37 net-acre) proposed project site is a 5-parcel assemblage consisting of three vacant lots and two single family homes located on the southeast corner of Del Hombre Lane and Roble Road, adjacent to the Pleasant Hill/Contra Costa Centre BART transit village. The applicant seeks a land use change from Multiple-Family Very High (44.9 du/acre) to Multiple Family Very High – Special (99.9 du/acre).

The proposed project will contain 284 apartments (7% studios, 63% 1-bedroom and 30% 2-bedrooms) in a six-story podium apartment community, located within steps of the Contra Costa Centre BART station. A total of 36 units will be set aside as affordable. If the project is delivered in phases, the affordable units will be delivered in the proportionate amount of all units delivered.

Per Contra Costa County's inclusionary policy, the project will provide 36 affordable units, representing 15% of the 237 units allowed by the proposed Multifamily Special High land use district. By providing five percent of units (12 total) as affordable to very low income households, the applicant is eligible for the state density bonus of 20%, increasing the total unit count of the project from 237 to 284.

Density Bonus – Concession

By providing five percent of units as affordable to very low income households, the project is also eligible for one development incentive or concession. The applicant will utilize this concession to provide the remaining ten percent (24 total) of additional affordable units as affordable to moderate income households.

Density Bonus – Parking Standards

SB 1818 provides that projects eligible for the State Density Bonus will not be required to provide residential parking in excess of 1 per bedroom. The project's current unit mix contains 369 bedrooms. The project proposes 380 off-street parking spaces, in excess of the requirement under SB 1818.

Density Bonus – Development Standards

156 DIABLO ROAD, SUITE 220, DANVILLE, CA 94526
www.hanoverco.com

SB 1818 also provides for an unlimited number of waivers for development standards that prohibit the project from delivering the proposed number of affordable units. Contra Costa County Off-Street Parking Ordinance Section 82-16.404(b)(1)(c) requires driveway aisle widths of 25 feet for spaces with an angle of parking of ninety degrees. The applicant seeks to waive this development standard and instead provide driveway aisle widths of 24 feet. Should the applicant be required to provide 25 feet driveway aisle widths, the applicant will lose one row of parking on both the basement level (26 spaces) and floor one (21 spaces) for a total loss of 47 spaces. If the project is required to conform to the 25 feet driveway widths, the loss of 47 spaces would result in a corresponding loss of affordable units.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Youdall", is written over a light green rectangular background.

Scott Youdall
Hanover Company

EXHIBIT D
INCOME CERTIFICATION FORM

TENANT INCOME CERTIFICATION

Effective Date: _____
 Move-In Date: _____
 (MM-DD-YYYY)

Initial Certification Recertification Other _____

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ TCAC#: _____ BIN#: _____
 Address: _____ If applicable, CDLAC#: _____
 Unit Number: _____ # Bedrooms: _____ Square Footage: _____

PART II. HOUSEHOLD COMPOSITION

Vacant (Check if unit was vacant on December 31 of the Effective Date Year)

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	Student Status (Check One)	Last 4 digits of Social Security #
1				HEAD		FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
2						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
3						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
4						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
5						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
6						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
7						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$ _____	\$ _____	\$ _____	\$ _____

Add totals from (A) through (D), above TOTAL INCOME (E): \$ _____

PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$ _____	\$ _____
Enter Column (H) Total		Passbook Rate		
If over \$5000 \$ _____ X		0.06%	= (J) Imputed Income	
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	
			\$ _____	\$ _____

(L) Total Annual Household Income from all Sources [Add (E) + (K)] \$ _____

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 \$

Unit Meets Federal Income Restriction at:
 60% 50%
 Or Federal A.I.T. at:
 80% 70% 60% 50%
 40% 30% 20%

Current Federal LIHTC Income Limit x 140%:
 \$ _____

Current Federal LIHTC Income Limit per Family Size: \$ _____

Household Income exceeds 140% at recertification:
 Yes No

If Applicable, Current Federal Bond Income Limit per Family Size: \$ _____

Household Income as of Move-in: \$ _____

Unit Meets State Deeper Targeting Income Restriction at:
 Other _____%

Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Monthly Rent: \$ _____
 Monthly Utility Allowance: \$ _____
 Other Monthly Non-optional charges: _____

Federal Rent Assistance: \$ _____ *Source: _____
 Non-Federal Rent Assistance: \$ _____ (*0-8)
Total Monthly Rent Assistance: \$ _____

GROSS MONTHLY RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) \$

- *Source of Federal Assistance
 1 **HUD Multi-Family Project Based Rental Assistance (PBRA)
 2 Section 8 Moderate Rehabilitation
 3 Public Housing Operating Subsidy
 4 HOME Rental Assistance
 5 HUD Housing Choice Voucher (HCV), tenant-based
 6 HUD Project-Based Voucher (PBV)
 7 USDA Section 521 Rental Assistance Program
 8 Other Federal Rental Assistance
 0 Missing

Maximum Federal LIHTC Rent Limit for this unit: _____

If Applicable, Maximum Federal & State LIHTC Bond Rent Limit for this unit: _____

Unit Meets Federal Rent Restriction at: 60% 50%
 Or Federal A.I.T. at: 80% 70% 60%
 50% 40% 30%
 20%

** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation; Section 8 Loan Management; Section 8 Property Disposition; Section 202 Project Rental Assistance Contracts (PRAC)

If Applicable, Unit Meets Bond Rent Restriction at: 60% 50%

Unit Meets State Deeper Targeting Rent Restriction at: Other: _____%

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?
 Yes No

If yes, Enter student explanation* (also attach documentation)

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

Enter 1-5

PART VIII. PROGRAM TYPE

Identify the program(s) for which this household's unit will be counted toward the property's occupancy requirements.

Select one of the following.

- 9% Allocated Federal Housing Tax Credit (including TCEP)
- 4% Allocated Federal Housing Tax Credit (including TCEP)
- Tax-Exempt Bond

Select all that apply.

- HOME (including TCAP)
- CDBG
- Other HUD, including 202, 811, and 236
- National Housing Trust Fund
- USDA Rural Housing Service, including 514, 515, and 538
- Other state or local housing programs

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

- 1 – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
- 2 – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” apply to this category.
- 3 – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- 4 – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent:
 - 4a – Asian India 4e – Korean
 - 4b – Chinese 4f – Vietnamese
 - 4c – Filipino 4g – Other Asian
 - 4d – Japanese
- 5 – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands:
 - 5a – Native Hawaiian 5c – Samoan
 - 5b – Guamanian or Chamorro 5d – Other Pacific Islander

- 6 – Other
- 7 – Did not respond. **(Please initial below)**

Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.

The Following Ethnicity Codes should be used:

- 1 – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as “Latino” or “Spanish Origin” apply to this category.
- 2 – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- 3 – Did not respond. **(Please initial below)**

Disability Status:

- 1 – Yes
 If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):
 - A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used, please see 24 CFR 100.201, available at <http://fairhousing.com/legal-research/hud-regulations/24-cfr-100201-definitions>.
 - “Handicap” does not include current, illegal use of or addiction to a controlled substance.
 - An individual shall not be considered to have a handicap solely because that individual is a transgender.
- 2 – No
- 3 – Did not respond **(Please initial below)**

Resident/Applicant: I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____
 (HH#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Enter the type of tenant certification: Initial Certification (move-in), Recertification (annual recertification), or Other. If other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual income recertification's, this effective date should be no later than one year from the effective date of the previous (re)certification.
Move-In Date	Enter the most recent date the household tax credit qualified. This could be the move-in date or in an acquisition rehab property, this is not the date the tenant moved into the unit, it is the most recent date the management company income qualified the unit for tax credit purposes.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
TCAC#	Enter the project number assigned to the property by TCAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: CA-2010-123
BIN #	Enter the building number assigned to the building (from IRS Form 8609).
Address	Enter the physical address of the building, including street number and name, city, state, and zip code.
If applicable, CDLAC#	If project is awarded 4% bonds please enter the project number assigned to the property by CDLAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: 16-436
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
Square Footage	Enter the square footage for the entire unit.
Vacant Unit	Check if unit was vacant on December 31 of requesting year. For example, for the collection of 2011 data, this would refer to December 31, 2011.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following definitions:

H	Head of Household	S	Spouse	U	Unborn Child/Anticipated Adoption or Foster
A	Adult Co-Tenant	O	Other Family Member		
C	Child	F	Foster child(ren)/adult(s)		
L	Live-in Caretaker	N	None of the above		

Date of Birth	Enter each household member's date of birth.
Student Status	Check FT for Full-time student, PT for Part-time student, or N/A if household member is not a student and question does not apply.
Last Four Digits of Social Security Number	For each tenant 15 years of age or older, enter the last four digits of the social security number or the last four digits of the alien registration number. If the last four digits of SSN or alien registration is missing, enter 0000. For tenants under age 15, social security number not required, although please enter 0000.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. If individual household member income is provided, list the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 0.06% and enter the amount in (J), Imputed Income.

Row (K)	<i>Enter the greater of the total in Column (I) or (J)</i>	
Row (L)	<i>Total Annual Household Income From all Sources</i>	<i>Add (E) and (K) and enter the total</i>

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current LIHTC Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 50% or 60% set aside.
Current Bond Income Limit per Family Size	Enter the Current most restrictive Move-in Income Limit for the household size – specifically, the max income limit incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.

Household Income at Move-in	For recertifications only. Enter the household income from the move-in certification.
Household Size at Move-in	Enter the number of household members from the move-in certification.
Current Federal LIHTC Income Limit x 140%	For recertifications only. Multiply the current LIHTC Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the LIHTC Income Limit per Family Size at Move-in date (above), then the available unit rule must be followed.
Unit Meets Federal Income Restriction at or Federal A.I.T. at	Check the appropriate box for the income restriction that the household meets according to what is required by the federal set-aside(s) for the project.
Unit Meets State Deeper Targeting Income Restriction at	If your agency requires an income restriction lower than the federal limit, enter the percent required.

Part VI - Rent

Tenant Paid Monthly Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Federal Rent Assistance	Enter the amount of rent assistance received from a federal program, if any.
Non-Federal Rent Assistance	Enter the amount of non-federal rent assistance received, if any.
Total Monthly Rent Assistance	Enter the amount of total rent assistance received, if any.
Source of Federal Rent Assistance	If federal rent assistance is received, indicate the single program source.
Monthly Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Monthly Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Monthly Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. The total may NOT include amounts other than Tenant Paid Rent, Utility Allowances and other non-optional charges. In accordance with the definition of Gross Rent in IRC §42(g)(2)(B), it may not include any rent assistance amount.
Maximum LIHTC Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent limit for the federal 50% or 60% set aside.
Maximum LIHTC Bond Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.
Unit Meets Federal Rent Restriction at or Federal A.I.T. at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal set-aside(s) for the project.
Unit Meets Bond Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal and state law for the project.
Unit Meets State Deeper Targeting Rent Restriction at	If your agency requires a rent restriction lower than the federal limit, enter the percent required.

Part VII - Student Status

If all household members are full time* students, check “yes”. Full-time status is determined by the school the student attends. If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Part VIII – Program Type

Select the program(s) for which this household’s unit will be counted toward the property’s occupancy requirements. One response from the first column must be selected.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner’s representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Complete this portion of the form at move-in and at recertification’s (only if household composition has changed from the previous year’s certification).

Tenant Demographic Profile

Complete for each member of the household, including minors. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.

Resident/Applicant Initials

All tenants who wish not to furnish supplemental information should initial this section. Parent/Guardian may complete and initial for minor child(ren).

EXHIBIT E

D.1



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: August 11, 2020

Subject: Del Hombre 284-Unit Apartment Project near the Pleasant Hill/Contra Costa Centre BART Station (District IV)

RECOMMENDATION(S):

1. OPEN the public hearing on the Del Hombre Apartment Project, RECEIVE testimony, and CLOSE the public hearing.
2. DENY the appeals filed on County File #MS18-0010.
3. CERTIFY that the environmental impact report prepared for the Del Hombre Apartment Project was completed in compliance with the California Environmental Quality Act (CEQA), was reviewed and considered by the Board of Supervisors before Project approval, and reflects the County’s independent judgment and analysis.
4. CERTIFY the environmental impact report prepared for the Del Hombre Apartment Project.
5. ADOPT the CEQA findings for the Project.
6. ADOPT the mitigation monitoring and reporting program for the Project.
7. ADOPT the statement of overriding considerations for the Project.
8. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.
9. SPECIFY that the Department of Conservation and Development, located at 30 Muir Road, Martinez, CA, is the custodian of the documents and other material which constitute

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/11/2020** APPROVED AS RECOMMENDED OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 11, 2020

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jennifer Cruz, (925) 674-7790

cc:

the record of proceedings upon which the decision of the Board of Supervisors is based.

RECOMMENDATION(S): (CONT'D)

10. ADOPT Resolution No. 2020/212, amending the General Plan to change the land use designation of the subject property from Multiple-Family Residential-Very High (MV) to Multiple-Family Residential-Very High Special (MS) (County File #GP18-0002).
11. ADOPT Ordinance No. 2020-17, rezoning the subject property from Single Family Residential (R-15) and Planned Unit District (P-1) to Planned Unit District (P-1) (County File #RZ18-3245).
12. APPROVE a variance from the 5-acre minimum lot size requirement of the Planned Unit District (P-1) to allow the rezoning of the subject 2.4-acre property.
13. APPROVE a 20 percent density bonus, the requested concession to allow 24 units be affordable to moderate-income households as opposed to low-income households, and the requested reduction in development standard to allow a driveway aisle width of 24 feet.
14. APPROVE the Preliminary and Final Development Plan, including the associated tree removal program (County File #DP18-3031).
15. APPROVE the vesting tentative map for the Project and approve the requested exception from Title 9 offsite collect and convey diversion requirements, (County File #MS18-0010).
16. APPROVE the findings in support of the Project.
17. APPROVE the Project conditions of approval.
18. APPROVE the Del Hombre Apartment Project.

FISCAL IMPACT:

The applicant has paid the necessary application deposits and is obligated to pay supplemental fees to cover all additional costs associated with the application process.

BACKGROUND:

*****TO VIEW THE COMPLETE BACKGROUND TO THIS BOARD ORDER, PLEASE SEE ATTACHMENT ONE.*****

Project Summary

The project, known as the “Del Hombre Apartments” involves the development of a 6 story, 284-unit apartment building on an approximately 2.4-acre site located on Del Hombre Lane between Roble Road and Honey Trail in the Walnut Creek/Contra Costa Centre area of the County. The project includes a General Plan Amendment to designate the project site to Multiple-Family Very-High Special (MS) density, a rezone of the property to a Planned Unit District (P-1), a minor subdivision to combine the five parcels into one parcel, and a final development plan to allow the construction of a six-story podium apartment building consisting of 284 units. The project also includes a variance to the lot size for rezoning a less than 5-acre property to P-1 and an exception from Title 9 for drainage requirements. The project will include demolition of the existing residential buildings, removal of approximately 161 trees and work within the dripline of approximately 27 trees, and grading of approximately 29,000 cubic yards. The project also seeks a density bonus and concessions for moderate income units and to the parking aisle width.

The project approvals considered by the Planning Commission also included a variance for a reduced setback. Upon further review of the Planned Unit District Ordinance, the requirement for the public road setback pursuant to CCC Section 82-12.402 would not apply since the project proposes a rezoning of the property to P-1 where the standards, regulations, limitations and restrictions which are either more or less restrictive than those specified elsewhere in the zoning ordinance are applied through approval of a Development Plan. (CCC Section 84-66.1404).

The Department of Conservation and Development (DCD) determined that an Environmental Impact Report (EIR) was required for the project and distributed a Notice of Preparation (NOP) on October 29, 2018. The Draft EIR (DEIR) was released for public review on September 10, 2019 and was available for public review and comment for a period of 60 days, through November 15, 2019. A public hearing to receive comments on the DEIR was held before the Zoning Administrator on October 7, 2019. The responses to the comments received during the DEIR comment period are addressed in the Final EIR (FEIR). The FEIR and the mitigation monitoring and reporting program (MMRP) were made available to the public on May 15, 2020.

County Planning Commission Hearing

On May 27, 2020, the project was heard at the County Planning Commission (CPC). The CPC opened the hearing, received testimony from neighbors, closed the hearing, approved the Minor Subdivision (County File #MS18-0010) and recommended approval of the General Plan Amendment, rezoning, and final development plan to the Board of Supervisors. The CPC also certified the environmental impact report (EIR) and recommended that the Board of Supervisors also certify the EIR. Comments heard during the CPC hearing included traffic and emergency access concerns, density, parking, consistency with the neighborhood, air quality, and greenhouse gas emissions. These comments were also previously addressed in the Final Environmental Impact Report (FEIR).

There was a 10-day appeal period for the approval of the vesting tentative map. Two appeals were filed with the County.

Appeal Points

On June 5, 2020, Contra Costa Citizens in Favor of Reasonable Growth by Amy Zeller of 1293 Honey Trail, Walnut Creek 94597 filed an appeal of the project. Below are the appeal points and Staff's response.

Appeal Point #1: Variance findings cannot be made to allow rezoning of property to P-1.

Staff's Response: Findings to support the variance to the minimum 5-acre lot size requirement were provided in the CPC staff report and can be found under the Project

Findings Section attached to this report. The County previously rezoned other properties in the unincorporated Walnut Creek area to P-1 that were smaller than 5 acres. Additionally, the surrounding area consists of a number of P-1 zoned properties that are less than the required 5 acres. The Housing Element in the County's General Plan calls for the removal of the 5-acre minimum lot requirement for the P-1 zoning.

Appeal Point #2: Project is not consistent with the General Plan Policy 3-8 and the Transportation and Circulation Element (General Plan Goal 5-I and Policies 5-14, 5-18) and Goal-1 of the Housing Element.

Staff's Response: The County's General Plan Policy 3-8 promotes infill of already developed areas and preference is given to vacant and underused sites within urbanized areas, which have necessary utilities installed. The project site is consistent with this policy since portions of the site are vacant and underutilized, and is surrounded by existing multiple family development. The Utilities Section in the Draft EIR indicated that the project site would adequately be served by the existing utilities and the sanitary and water agencies also would have the capacity to serve the project.

General Plan Goal 5-I encourages the use of transit. The project site is approximately 500 feet east of the Pleasant Hill/Contra Costa Centre BART Station. The project is consistent with this goal and provides accessibility to the BART Station and bus transit. Thus, this project is an example of a transit-oriented infill development located on an underutilized site.

General Plan Policy 5-14 states that physical conflicts between pedestrians, bicyclists, and vehicular traffic shall be minimized. General Plan Policy 5-18 further states that the design and the scheduling of improvements to arterials and collectors shall give priority to intermodal safety over other factors including capacity. The DEIR identified Coggins Drive at Las Juntas Way intersection to degrade to an unacceptable level of service (LOS) F in the morning peak-hour. A proposed mitigation measure to restrict parking on the north side of Las Juntas Way between Coggins Drive and Del Hombre Lane could allow restriping within the existing right-of-way to provide a left-turn pocket and a through-right shared lane. This improvement would result in LOS D operations (31 seconds) for vehicles, reducing the vehicle impact to a less-than-significant level. However, the Iron Horse Regional Trail crosses this intersection where there are high levels of pedestrian and bicycle activity. Therefore, this improvement could increase vehicle/bicycle/pedestrian conflicts, causing a secondary impact by restriping to provide an additional vehicle lane. In addition, the inclusion of this left-turn pocket would conflict with numerous polices (e.g., Complete Streets, General Plan), as well as general best practices in transit-oriented development planning. Specifically, this improvement would conflict with General Plan Policy 5-18, which prioritizes safety over vehicle capacity. Therefore, this left-turn pocket would not be included as part of the project and this intersection would continue to operate at an unacceptable level of service for vehicles in the morning peak-hour under Opening Year with Project Conditions (DEIR page 3.15-51). Although the LOS impact to Opening Year with the project at Coggins

Drive at Las Juntas Way intersection would be significant and unavoidable, a statement of overriding consideration has been prepared and can be found in the attached CEQA Findings section and the project remains consistent with General Plan Policy 5-14 and 5-18.

Appeal Point #3: It is not in the public interest to amend the General Plan per Government Code Section 65358(a).

Staff's Response: Adoption of the proposed General Plan Amendment (GPA) is in the public interest. The Bay Area suffers from a severe housing shortage and severe traffic congestion. Adoption of the proposed GPA will more than double the subject site's development potential and allow for 284 multiple-family residential units in various income categories to be constructed directly adjacent to rail and bus transit. Furthermore, the proposed project presents an opportunity to maximize the potential of an underutilized infill site near the Pleasant Hill/Contra Costa Centre BART Station. The subject site currently consists of five small parcels. Combining them into one larger development allows for a more cohesive design approach and significantly increases unit yield.

Appeal #4: Changing the land use designation to Multiple-Family Residential-Very High Special (MS) from Multiple-Family Residential-Very High (MV) is not appropriate. The proposed density is not consistent with immediate surrounding uses.

Staff's Response: The project is to allow a General Plan Amendment from MV to MS and to rezone the property to a Planned Unit District. Staff has made the necessary General Plan and rezoning findings to support the project, which are attached to this report. The project site is surrounded with various multiple-family developments that range from 2-4 stories immediately to the south, north, and east. The Avalon Walnut Creek development, which is approximately 500 feet southwest of the project site is approximately six stories. Overall, the project is consistent with existing developments in the area and also seeks approval of a 20% density bonus as allowed under the State's density bonus law [Government Code Section 65915(b)].

Appeal #5: The proposed main entrance for the project will be served by a dead-end street (Del Hombre Lane), which will cause a traffic nightmare. Del Hombre Lane is at its maximum capacity serving too many residential units.

Staff's Response: Vehicular access to the project site would be provided by a new driveway on Del Hombre Lane that provides access to the proposed parking garage. Based on the existing traffic volumes on Del Hombre Lane and the projected project volumes, this roadway is projected to operate with minimal delay for vehicles (DEIR page 3.15-58).

Appeal #6: The proposed density of the project will further cause vehicle conflicts with those seeking to use the Iron Horse Trail from either Las Juntas Way or Del Hombre Lane.

Staff's Response: The DEIR evaluated the bicyclist and pedestrian facilities (DEIR page 3.15-22). The DEIR determined that the project would not conflict with adopted policies, plans, or programs regarding bicycle facilities, or otherwise decrease the safety performance of such facilities. Thus, the operational impacts related to circulation system performance in terms of bicycle facilities would be less than significant. Moreover, the project would include pedestrian facilities along both sides of the project frontage on Del Hombre Lane, Roble Road, and Honey Trail. New sidewalks will be located on Del Hombre Lane and Roble Road. A new crosswalk is also proposed on the south leg of Del Hombre Lane at Las Juntas/Roble Road in addition to the reconstructed curb ramps on the southeast corner of the intersection. On the southern end of the project site, a new curb ramp would be constructed on Del Hombre Lane off set from the existing curb ramp on the west side of the street connecting to the existing Iron Horse Trail across Del Hombre Lane from the project site. The proposed crosswalk design does not align with the existing curb ramp to Del Hombre Lane and Iron Horse Trail, which represents a potentially significant impact. However, Mitigation Measures Trans-1c and Trans-1d requires that the crosswalk design be updated to align with existing roadway and trail facilities and to include a lighting plan for the pedestrian path. These mitigation measures would reduce the operational impacts related to circulation for pedestrian facilities to a less than significant level.

Appeal #7: The project is not consistent with CEQA Guidelines Section 15604.3, since no VMT analysis was performed.

Staff's Response: New CEQA guidelines section 15064.3 states that the vehicle miles traveled (VMT) analysis do not take effect until July 1, 2020 unless the lead agency adopts them earlier. The County had not adopted VMT thresholds at the time the DEIR was prepared. However, the County has determined that the 15 percent reduction recommended by OPR is an appropriate significance threshold for the project given in the recommendation in the OPR's Technical Advisory document.

VMT analysis was conducted and determined that the project is expected to generate 11.4 VMT per capita per day, which is more than 15 percent below both the regional (15.3 VMT) and local (18.0 VMT) average. Absent adopted local thresholds, the recommended OPR threshold for residential uses was applied; new developments that have an estimated VMT of 15 percent below existing regional and city VMT per capita (household or home-based) would be considered less than significant. Therefore, based on the OPR Criteria, the project is consistent with the intent of SB 743 to promote development that reduces vehicle travel and the VMT impact is less than significant (FEIR page 3-49).

Appeal #8: Density bonus should not be granted because of the unmitigated environment impacts the project will cause.

Staff's Response: The DEIR identified an impact to Coggins Drive at Las Juntas Way

intersection and a mitigation measure required a left-turn pocket. However, this would create a secondary impact to pedestrians and bicyclists crossing from the nearby Iron Horse Regional Trail. The inclusion of the left-turn pocket mitigation measure conflicts with a number of policies (e.g., Complete Streets, General Plan). To prioritize safety over capacity, a statement of overriding consideration was prepared to support the significant and unavoidable impact. All other impacts identified in the DEIR are mitigated to a less than significant level. Additionally, findings to support the proposal for a 20% density bonus were made. This infill project located next to transit will add to the County's housing inventory and remains consistent with the goals and policies of the County's general plan.

Appeal #9: Project is under parked and occupants and guests will use parking in adjacent townhome and apartments.

Staff's Response: Parking for occupants and guests will be provided on-site. The project provides 380 spaces and exceeds the State's requirement of 373 spaces per Government Code Section 65915(p)(1). At 380 spaces, there are 96 more parking spaces than apartment units. Therefore, the project will provide an adequate number of parking spaces.

Appeal #10: The location of passenger loading and unloading zone is problematic as it borders Honey Trail (single access point or entrance to development) on south side of project.

Staff's Response: The plans have been routed to and reviewed by the Public Works Department and the Fire District. Neither agency has indicated that the passenger loading and unloading zone would be a concern. Further, the location of these loading and unloading zone were analyzed in the DEIR which determined that the project would not result in a conflict with roadway geometric design (DEIR page 3.15-61).

Appeal #11: The lack of appropriate setbacks and the mass of the project will give a wall or fortress appearance with little or no aesthetic appeal.

Staff's Response: The project includes a rezone of the project site to P-1, which allows standards that are either more or less restrictive than those specified elsewhere in the zoning ordinance (CCC Section 84-66.1404). The project provides an emergency vehicle access at the rear of the property, which places the building closer to Del Hombre Lane and consistent with other similar developments in the area. The building ranges from four to six stories and the design elements of the building incorporate stepped rooflines utilizing different roofing materials, staggered exteriors to add depth and variation to the exterior of the building. The closest portion of the building to the property line would be along Del Hombre Lane at approximately 4- 9 feet. This side of the building would primarily be six stories and reduces to five stories on the northwestern corner and four stories on the southwestern corner. There would be landscaping along Del Hombre Lane to break up the mass of the building. Additional street trees will also be located along Roble Road and the building on this side would be setback 15 feet from the property line.

The eastern portion of the building will be setback 30 feet from the eastern property line near the Avalon Walnut Ridge apartments and the existing tree landscape from the adjacent property provides a buffer between both properties. The southern portion of the building along Honey Trail will be setback 20 feet from the property and is four stories. The building façade on the southern side is broken up since the pool courtyard is located between the southwestern and southeastern corners of the building.

Appeal #12: The following are suggested project revisions:

- Reduced density by keeping current General Plan designation of MV to allow 130 units, including a density bonus;
- Building stepped back to reduce massing and to provide landscape buffer to protect existing tree line along Honey Trail;
- Main driveway should be 26 feet and not 24 feet;
- Main entrance on Roble Road, which has two way street or access or extend Del Hombre to Treat.

Staff's Response:

The suggestion to reduce the density by keeping the current MV General Plan designation would reduce the number of market rate and affordable units. Thus, the recommended number of units would not meet the project's objective of providing the housing needed in Contra Costa County on an underutilized site that is next to transit.

As mentioned in Appeal #10, the building will be four stories as viewed from Honey Trail, will be approximately 20 feet away along the southern property line that abuts Honey Trail, and there are existing trees that buffer the project from Honey Trail. Additional landscape will also be provided along the southern portion of the building.

According to CCC Section 82-16.404(a)(2), the access drive must measure at least twelve feet wide if it will be used for one-way traffic, and at least twenty feet wide if it will be used for two-way traffic. The access driveway is approximately 24 feet wide and meets this requirement. However, within the parking garage, the project proposes parking spaces at 90 degrees, which requires two way travel to have 25-foot aisle width [CCC Section 82-16.404(b)(1)(c)]. The project proposes a 24-foot-wide parking aisle width within the garage, and therefore has requested a reduction of this development standard as an incentive per Government Code Section 65915(e) of the State's Density Bonus Law.

The project proposes the entrance to the site on Del Hombre Lane. As such, the traffic impact study and the Draft EIR analyzed the Del Hombre Lane access and not Roble Road. Roble Road is a private road that will be used for emergency vehicle access to the site. The suggestion to extend Del Hombre Lane to Treat Boulevard would not be feasible, especially since the Iron Horse Regional Trail crosses that area.

The appellant also provided as an exhibit a letter from Adams Broadwell Joseph & Cardozo dated May 27, 2020 addressed to the County Planning Commission. The concerns indicated in this letter are addressed in the appeal points below.

On June 8, 2020, Adams Broadwell Joseph & Cardozo of 601 Gateway Boulevard, Suite 1000, South San Francisco filed an appeal of the vesting tentative map. The appellant also provided, as an exhibit, a letter from Adams Broadwell Joseph & Cardozo dated May 27, 2020 addressed to the County Planning Commission. The County's consultant FirstCarbon Solutions (FCS) has prepared a written response related to the Greenhouse Gases and Air Quality comments that is included as an attachment to this report. The appeal points are addressed below incorporating FCS' responses to the comments.

Appeal #1: The EIR uses incorrect and unsupported Greenhouse Gases (GHG) thresholds to support its GHG analysis. The EIR fails to support the use of its GHG threshold with any evidence, except for the vague statement in the Final EIR (FEIR) that this is the "substantial progress threshold." Without substantial evidence justifying the County's use of the 2030 threshold, the EIR cannot be approved as satisfying CEQA's requirement of disclosure and analysis.

Staff Response: As noted on page 3.7-42 of the DEIR, the thresholds of significance provided in the 2017 Bay Area Air Quality Management District (BAAQMD) California Environmental Quality Act (CEQA) Guidelines were established based on meeting the 2020 GHG targets set forth in Assembly Bill (AB) 32. AB 32 targets are based on 2020 GHG reduction goals. The 2017 BAAQMD CEQA Guidelines contain the following thresholds for GHG emissions: For land use development projects (including residential, commercial, industrial, and public land uses and facilities), the threshold is (1) compliance with a Qualified GHG Reduction Strategy; or (2) annual emissions less than 1,100 metric tons per year of carbon dioxide equivalent (CO₂e); or (3) 4.6 metric tons CO₂e/service population/year (residents + employees).

As the project would be developed and become operational post-2020, it is appropriate to identify thresholds that address post-2020 GHG reduction targets. This was noted in the DEIR and reaffirmed in the FEIR. The 2017 Scoping Plan provides an intermediate target that is intended to achieve reasonable progress towards goals for 2050 under Executive Order S-3-05. The BAAQMD had not updated their recommended GHG emissions thresholds to address target reductions past year 2020, at the time the DEIR or FEIR were published. However, consistent with current State directives, the updated target identified and addressed in the DEIR requires an additional 40 percent reduction in GHG emissions by year 2030. Applied to the BAAQMD quantitative thresholds based on 2020 AB 32 GHG reduction goals, this would equate to 660 metric tons (MT) carbon dioxide equivalent (CO₂e) per year by year 2030 or 2.6 MT CO₂e per year per service population (SP) by year 2030.

The GHG analysis for the project (summarized in Impact GHG-1 of the DEIR) assessed emissions for the operational years of 2022 and 2030. As noted in both the DEIR and FEIR, the total project emissions in these years were analyzed against the 2020 BAAQMD efficiency threshold of 4.6 MT CO₂e/SP/year and the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year. The project's estimated GHG emissions

for the 2022 operational year were shown because 2022 is used as the operational year throughout the DEIR. Given that BAAQMD's most current and formally adopted thresholds include the 4.6 MT CO₂e/SP/year, it is appropriate that the DEIR compare the project's full buildout emissions in 2022 against an applicable adopted threshold. The DEIR and FEIR both note the 4.6 MT CO₂e/SP/year threshold is one of the three GHG thresholds recommended in the 2017 BAAQMD CEQA Guidelines. The 2017 BAAQMD CEQA Guidelines provides substantial evidence to support the use of the 4.6 MT CO₂e/SP/year threshold. Although the reference to 2017 BAAQMD CEQA Guidelines was included in the DEIR, the DEIR and the FEIR clearly identify that the buildout year assumed for the project (2022) would be beyond the target year (2020) for which the AB 32 Scoping Plan established the 4.6 MT CO₂e/SP/year threshold. To further address this issue, the project's emissions in year 2030 were compared against the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year. GHG impacts were found to be less than significant under both scenarios.

The DEIR and FEIR contain substantial supporting evidence for use of the 2.6 MT CO₂e/SP/year. As described in detail above and noted in the DEIR and the FEIR, the projected efficiency threshold of 2.6 MT CO₂e/SP/year was based on the existing 4.6 MT CO₂e/SP/year adopted BAAQMD threshold and adjusted to reflect Senate Bill 32 (SB 32) 2030 GHG reduction goals. Below is an excerpt from page 3.7-42 of the DEIR.

BAAQMD's project-level significance threshold for operational GHG generation was deemed appropriate to use when determining the project's potential GHG impacts. The thresholds suggested by BAAQMD are as follows:

- Compliance with a Qualified GHG Reduction Strategy, or
- 1,100 MT CO₂e per year, or
- 4.6 MT CO₂e per service population (employees plus residents) per year.

It should be noted that the BAAQMD's thresholds of significance was established based on meeting the 2020 GHG targets set forth in the AB 32 Scoping Plan. For developments that would occur beyond 2020, the service population threshold of significance was adjusted to a "substantial progress" threshold that was calculated based on the SB 32 target of 40 percent below 1990 levels and the forecasted 2030 service population.

In addition, California Executive Order B-30-15 (which established the GHG emissions reduction target of 40 percent below 1990 levels by 2030) and SB 32 (which gave the California Air Resources Board [ARB] the statutory responsibility to include the 2030 target previously contained in Executive Order B-30-15 in the 2017 Scoping Plan Update) are described in the Section 3.7.3-Regulatory Framework of Section 3.7, Greenhouse Gas Emissions, of the DEIR. The FEIR reaffirms the use of the 2.6 MT CO₂e/SP/year threshold and restates some of the supporting evidence for the threshold provided in the DEIR. Although a detailed calculation and in-depth explanation for how the 4.6 MT CO₂e/SP/year threshold was adjusted to reflect the SB 32 target of 40 percent

below 1990 levels and the forecasted 2030 service population, the DEIR and FEIR justified the selection of the 2.6 MT CO₂e/SP/year with substantial evidence. More details on the specifics of how the BAAQMD's 4.6 MT CO₂e/SP/year threshold of significance was adjusted to a "substantial progress" threshold that was calculated based on the SB 32 target of 40 percent below 1990 levels and the forecasted 2030 service population can be found in the "Final White Paper Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California.", authored in 2016 by the Association of Environmental Professionals.

Appeal #2: The FEIR relies on the BAAQMD's significance threshold of 4.6 MT CO₂e/service population (SP) to evaluate 2022 GHG emissions from the project. There are two problems with this use: first, the BAAQMD advises agencies not to rely on its GHG thresholds as the District [BAAQMD] is in the process of updating them. Further, assuming it is still valid, it is valid only until 2020. The project will not be operational until 2022 and probably will not be fully occupied until several years later.

Staff's Response: As described in the DEIR, further addressed in responses to comments in the FEIR, and explained above in the response to Appeal Point #1, the project's generation of GHG emissions were analyzed against both the 2020 BAAQMD efficiency threshold of 4.6 MT CO₂e/SP/year for the 2022 operational year and the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year for the 2030 operational year. Consistent with the rest of the CEQA document, emissions at full buildout were shown in the 2022 operational year. Assessing emissions at full buildout in the earliest year of operations represents a reasonably worst-case scenario, as emissions are expected to decrease over time for the same activities because of improvements in technology and more stringent regulatory requirements.

As described in the DEIR, the FEIR, and the response to Appeal Point #1 above, the thresholds provided in the 2017 BAAQMD CEQA Guidelines are the most current and formally adopted thresholds available. In numerous comment letters and other correspondence with the BAAQMD on the issue, the BAAQMD is merely recommending that CEQA documents address post-2020 GHG reduction targets for projects proposed to be developed and become operational post-2020. Although the BAAQMD has stated that they are in the process of updating their thresholds, they have yet to publish updated recommended thresholds at the time the GHG analysis for the EIR was completed or at the time FCS prepared the Memorandum. As described above, post-2020 GHG reduction goals were addressed in Impact GHG-1 by evaluating project emissions for the 2030 scenario against the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year for the 2030 operational year. For disclosure purposes, emissions for full project buildout in the 2022 operational year were also included and compared against the 4.6 MT CO₂e/SP/year threshold. The regulations that have gone into effect as a result of the State's and the County's effort to meet the AB 32 2020 GHG reduction goal would remain in effect in the year the project's emissions were assessed in 2022. As the project is not expected to be fully operational until 2022 at the earliest, modeling emissions for the 2022 year is more appropriate than modeling emissions for the 2020

year and the use of the 4.6 MT CO₂e/SP/year threshold for the year 2022 is appropriate as described above.

Appeal #3: The DEIR fails to note the removal of the on-site vegetation would significantly reduce the potential carbon sequestration at the project site.

Staff's Response: Carbon sequestration is the process of capturing and storing atmospheric carbon dioxide. California Emissions Estimator Model (CalEEMod) does include options in the modeling to account for carbon sequestration. However, there are many factors that affect the amount of carbon sequestration from vegetation (vegetation type, the amount of water the vegetation receives, the age of the vegetation). As noted on Page 3.7-41 of the DEIR, data are insufficient to accurately determine the impact that existing plants on-site have on carbon sequestration. Because of the numerous variables that go into quantifying carbon sequestration and the wide range of factors that can be used in quantifying carbon sequestration, any estimates quantifying the net change would be highly speculative. As described in more detail under Appeal Point #4, pursuant to BAAQMD guidance, carbon sequestration does not need to be included in either the baseline or when considering the project's generation of GHG emissions, and, therefore, not quantifying a change in carbon sequestration would not result in a significant GHG impact. However, further detail is provided regarding carbon sequestration associated with the proposed project under Appeal Point #4.

Appeal Point #4: The EIR does not address the increase in GHG emissions from the clearing of trees and the subsequent loss of sequestration at the site. When properly included, Dr. Clark calculated that the resulting increase in GHG emissions would be 263 MT CO₂/yr in 2030, bringing the project's total 2030 GHG emissions to 2,187 MT CO₂e/yr. Using the EIR's service population of 823 people, the project's GHG emissions generation will be 2.7 MT CO₂e/service population/year, which exceeds the EIR's stated 2030 GHG emission threshold of 2.6 MT CO₂e/service population/year.

Staff's Response: The estimate of the change in carbon sequestration provided in the comment letter does not accurately reflect the change in carbon sequestration that would be expected from implementation of the project. The comment letter incorrectly asserts that new on-site trees and on-site landscaping would not result in carbon sequestration. The 20-year estimate referred to by Dr. James Clark specifically refers to the amount of time suggested to allow the ecosystem to return to the level of biomass, stable soil, and litter pools of an undisturbed state. Furthermore, CalEEMod includes an option in the modeling specifically to account for the planting of net new trees and assumes a 20-year active growth period when accounting for the carbon sequestration rate. Impacts stemming from GHG emissions contribute to a global impact, so a loss of carbon sequestration at one site can be offset by an increase of carbon sequestration at another site. Therefore, the net change in carbon sequestration from the implementation of the project does not need to be restricted to the project site.

The comment letter also inaccurately states the removal of vegetation on the project site

would result in an increase in the project's GHG emissions. The removal of carbon sequestration is not equivalent to the generation of GHG emissions. As recommended in the 2017 BAAQMD CEQA Guidelines, only the project's net generation in GHG emissions were estimated and compared against the applicable thresholds of significance in the GHG analyses included in the EIR. The specific guidance provided in the 2017 BAAQMD CEQA Guidelines is provided in Table 4-2 of the memorandum prepared by FCS. According to CEQA Guidelines 15064.7(c)(d), lead agencies are directed to "consider thresholds of significance previously adopted by other public agencies." Further, using the environmental standards as thresholds of significance established by subject area experts, such as BAAQMD, "promotes consistency in significance determinations and integrates environmental review with other environment planning and regulation" throughout the region.

The guidance related to quantifying GHG emissions and comparing GHG emissions to applicable thresholds is specifically only for the project's generation of GHG emissions. Furthermore, the 2017 BAAQMD CEQA Guidelines provide the following information when considering the appropriate baseline.

If a proposed project involves the removal of existing emission sources, BAAQMD recommends subtracting the existing emissions levels from the emissions levels estimated for the new proposed land use. This net calculation is permissible only if the existing emission sources were operational at the time the Notice of Preparation (NOP) for the CEQA project was circulated (or in the absence of an NOP when environmental analysis begins), and would continue if the proposed redevelopment project is not approved. This net calculation is not permitted for emission sources that ceased to operate, or the land uses were vacated and/or demolished, prior to circulation of the NOP or the commencement of environmental analysis. This approach is consistent with the definition of baseline conditions pursuant to CEQA.

As noted in the BAAQMD's recommendations for establishing a baseline for the purposes of CEQA and estimating emissions, only existing sources of emissions are of concern. Pursuant to BAAQMD guidance, carbon sequestration does not need to be included in either the baseline or when considering the project's generation of GHG emissions, and, therefore, not quantifying a change in carbon sequestration would not result in a significant GHG impact.

Although a change in carbon sequestration does not equate to a generation of GHG emissions and is not required to be included as part of the sources used to estimate the project's net generation GHG emissions for comparison against the applicable thresholds, the following analysis has been provided for informational purposes.

Dr. Clark calculated that the resulting increase in GHG emissions would be 263 MT CO₂/yr in 2030, which would bring the project's total 2030 GHG emissions to 2,187 MT CO₂e/yr. Dr. Clark's reasoning and methodology is summarized below.

The CalEEMod analysis, relied on in the FEIR, includes a default GHG

accumulation per acre factor for trees of 111 MT CO₂/acre.’ Additional GHG would be stored in the understory. The FEIR did not include the increase in GHG emissions from clearing vegetation from the site. The resulting increase in GHG emissions from removing the vegetation are (2.37 acres)(111 MT CO₂/acre) = 263 MT CO₂/yr. Thus, the total year 2030 GHG emissions are 1,924 + 263 = 2,187 MT CO₂e/yr.

The calculations in the comment letter were based on the removal of 2.37 acres of vegetation at 111 MT CO₂/acre. The factor of 111 MT CO₂/acre is the value provided in CalEEMod for a change in vegetation for the “forest land, trees” vegetation land use type and vegetation land use subtype. Using this methodology, Dr. Clark’s calculations should be adjusted by a factor of 32.3 percent (based on 61 net trees removed with 189 trees currently on-site)^[1] Multiplying 263 MT CO₂e/yr—the emissions assumed in the comment letter—by 32.3 percent results in 84.9 MT CO₂e/yr. Including an additional 84.9 MT CO₂/year would bring the project’s operational GHG emissions to 2,476 MT CO₂e/year in 2022 and 2,009 MT CO₂e/year in 2030. Using a service population of 823 employees plus residents, the project would generate approximately 3.0 MT CO₂e per service person per year in the year 2022 and 2.4 MT CO₂e per service person per year in the year 2030 in terms of total (amortized construction plus operational) project GHG emissions. Therefore, the project would not exceed the BAAQMD’s threshold of 4.6 MT CO₂e/service population/year for the 2022 GHG emissions or the 2.6 MT CO₂e/service population/year for the 2030 GHG emissions even if the additional emissions were included. Therefore, the GHG impact related to the project’s net generation of GHG emissions would remain less than significant.

Available vegetation land use types under CalEEMod’s land use change options include forest land, cropland, grassland, wetlands, and others. Under the forest land type, the available land use subtypes include trees or scrub. The options available in CalEEMod using the change in land use type method are provided in Table 11.1 of Appendix D of the CalEEMod User’s Guide.

As shown in Table 11.1 of Appendix D of the CalEEMod User’s Guide, the annual CO₂ accumulation per acre factor for “forest land, trees” is 111 MT CO₂/acre and is markedly higher than the other land use options available. Therefore, the revised estimate of an additional 84.9 MT CO₂e/yr from a change in carbon sequestration provides a conservative estimate.

Alternatively, the project’s change in carbon sequestration can be calculated in CalEEMod using the factors for “sequestration” rather than the “land use change” method described above. Table 11.2 of Appendix D of the CalEEMod User’s Guide shows the CO₂ sequestered in units of MT/tree/year.

Table 1: Difference in Annual Carbon Sequestration (CO₂/year) from Implementation of the Project

Given Data (as Provided by CalEEMod)	Calculations
--------------------------------------	--------------

Species	CO ₂ Sequestered (MT/tree/year)	Annual CO Sequestration Without the Project Based on 189 Trees (MT CO ₂ /year)	Annual CO Sequestration With the Project Assuming 128 Trees (MT CO ₂ /year)	Difference in Annual Carbon Sequestration (MT CO ₂ /year)
Aspen	0.0352	6.6528	4.5056	2.1472
Soft Maple	0.0433	8.1837	5.5424	2.6413
Mixed Hardwood	0.0367	6.9363	4.6976	2.2387
Hardwood Maple	0.0521	9.8469	6.6688	3.1781
Juniper	0.0121	2.2869	1.5488	0.7381
Cedar/Larch	0.0264	4.9896	3.3792	1.6104
Douglas Fir	0.0447	8.4483	5.7216	2.7267
True Fir/Hemlock	0.0381	7.2009	4.8768	2.3241
Pine	0.0319	6.0291	4.0832	1.9459
Spruce	0.0337	6.3693	4.3136	2.0557
Miscellaneous	0.0354	6.6906	4.5312	2.1594
Maximum Difference in Annual Carbon Sequestration for the Project (MT CO₂/year)				3.1781

As noted in Table 1, the maximum CO₂ per year due to a change in carbon sequestration resulting from implementation of the proposed project would be 3.1781 MT CO₂/year using the CalEEMod factors for sequestration. Including an additional 3.2 MT CO₂/year would bring the project's operational GHG emissions to 2,394 MT CO₂e/year in 2022 and 1,927 MT CO₂e/year in 2030. Using a service population of 823 employees plus residents, the project would generate approximately 2.9 MT CO₂e per service person per year in the year 2022 and 2.3 MT CO₂e per service person per year in the year 2030 in terms of total (amortized construction plus operational) project GHG emissions.

Therefore, the project would not exceed the BAAQMD's threshold of 4.6 MT CO₂e/service population/year for the 2022 GHG emission or the 2.6 MT CO₂e/service population/year for the 2030 GHG emissions and the project's net generation of GHG emissions would remain less than significant.

Considering that the project's net GHG emissions would remain under the applicable thresholds if either method were applied to calculate the change in GHG emissions resulting from a change in carbon sequestration, including GHG emissions from the loss of carbon sequestration would not result in a significant GHG impact.

[1] The project site has 189 trees; therefore Dr.'s Clarks calculation of 2.37 acres of vegetation being removed is used as a proxy for 189 of 189 being removed. The project would remove 161 trees and plant 100 new trees, resulting in a net reduction of 61 trees. Therefore, the assumption that 189 trees of 189 trees would be removed does not provide an accurate representation of the change in emissions from a change in vegetation.

Appeal Point #5: The DEIR and FEIR contain significantly different and conflicting estimates of water demand, with no explanation for the differences. The DEIR and FEIR have significantly different projected water demands, with the DEIR projecting 55.23 Mgal/yr and the FEIR projecting 30.169 MG/yr. This change in calculation has a marked impact on the projected GHG emissions from the project, and the EIR must disclose the justification behind this reduction before it can be approved under CEQA.

Staff's Response: A review of the "Air Quality, GHG Emissions, and Energy Supporting Information" appendix material included in the DEIR and FEIR (DEIR Appendix B and FEIR Appendix C) reveals the water consumption assumed to estimate GHG emissions did not change in the FEIR compared to the DEIR; both versions project 30.169 MG/yr of unmitigated water consumption for purposes of estimating GHG emissions. As noted in Section 3.7, Greenhouse Gas Emissions, of the DEIR, project water consumption was based on the CalEEMod default factors, with an adjustment for compliance with regulations that would be in place by the start of 2020. This methodology was disclosed in the DEIR and was further supported and explained in response to comments in the FEIR. These estimates account for compliance with the latest building standards, which have significantly decreased the amount of water typically consumed in new residences built in California over time. The estimates are also specific to the region and are explained in detail in the CalEEMod User Guide. The number 55.23 million gallons/year estimate referred to in the comment letter is from Section 3.17, Utilities and Service Systems, and not from Section 3.7 Greenhouse Gas Emissions, or the appendix materials that support Section 3.7. The estimate provided in the Utilities and Service Systems section is based on historical data from the Contra Costa County 2015 Urban Water Management Plan, which overestimates water consumption for new residences, as they would be based on averages from residences built in past that would include homes with older appliances.

The comment letter recommends a usage rate of 92 gallons per capita be used to estimate GHG emissions based on the California Water Resources Control Board water conservation production reports from 2019. However, this average per capita usage for residential development does not consider the type of residential development. Water usage varies widely based on the type of residential development (i.e. single-family home versus multi-family apartment). Because this usage rate does not specify the type of residential development assessed, it is not applicable to this project and should not be used to estimate GHG emissions.

Appeal Point #6: The FEIR maintains that its water consumption analysis was accurately modeled to include "Apply Water Conservation Strategy" because it incorporated Green Building Code Standards and the Water Efficient Land Use Ordinance. However, the FEIR does not identify how these standards will lead to the reduction of water consumption.

Staff's Response: During the comment period, a comment was received that stated that

the “compliance with Green Building Code or the California Model Water Efficient Landscape” was not sufficient to justify use of the “Apply Water Conservation Strategy” in CalEEMod. In response to this comment, the FEIR included clarification that the project would comply with California Green Building Standards (CALGreen) and the California Model Water Efficient Landscape Ordinance. This was noted in Chapter 2, Project Description, and the clarification was included in Section 3, Errata, of the FEIR.

The CalEEMod model used for the GHG analysis would not otherwise account for reductions in water use resulting from project compliance with these mandatory measures unless “Apply Water Conservation Strategy” was manually included in the model as “mitigation” per the structure/naming of CalEEMod. However, this would be part of the project design and the applicant would be required to adhere to these measures. Specifically, “Apply Water Conservation Strategy” was included to reflect compliance with CALGreen and the California Model Water Efficient Landscape Ordinance. Energy savings from water conservation resulting from CALGreen for indoor water use and California Model Water Efficient Landscape Ordinance for outdoor water use are not automatically included in CalEEMod and need to be entered in manually. The Water Conservation Act of 2009 mandates a 20 percent reduction in urban water use that is implemented with these regulations, which is the source behind the 20 percent reduction from compliance. CALGreen (California Code of Regulations [CCR] Title 24, Part 11 code) provides means for conserving water use indoors, outdoors, and in waste-water conveyance (Division 4.3 Water Efficiency and Conservation). The project would be required to adhere to all applicable measures. Benefits of the water conservation regulations are applied in the CalEEMod mitigation component through the “Apply Water Conservation Strategy.” Table 1 demonstrates the project applicability of these regulations as well as the reduction source and the percent reduction in 2022 and 2030.

Table 1: Reductions from Greenhouse Gas Regulations

Regulation	Project Applicability	Reduction Source	Percent Reduction in 2022 and 2030
Green Building Code Standards	The project will include water conservation features required by the Green Building Code Standards such as low flow plumbing fixtures, insulated hot water, Energy Star appliances, and high efficiency water heaters.	CalEEMod “mitigation” component	20 percent ¹
Water Efficient Land Use Ordinance	The project landscaping will comply with the regulation by focusing on drought-tolerant, native species, utilizing weather based smart irrigation controllers, and installing efficient drip watering	CalEEMod “mitigation” component	20 percent ²

systems.

Notes:

The source of the percentage reductions from each measure are from the following sources:

1 California Green Building Standards Code

2 California Water Plan Update 2018 (California Department of Water Resources [CDWR] 2018)

Therefore, use of the Apply Water Conservation Strategy in the CalEEMod model accurately represents the project's compliance with existing ordinances and building standards. The use of the Apply Water Conservation Strategy in the unmitigated scenarios accurately reflects this reduction as part of the project design and is accurately modeled in CalEEMod. Furthermore, the CalEEMod input was disclosed in the DEIR and FEIR through the inclusion of the CalEEMod output files included as part of the "Air Quality, GHG Emissions, and Energy Supporting Information" appendix (DEIR Appendix B and FEIR Appendix C).

Appeal Point #7: The FEIR increased unmitigated mobile source emissions by 3% in 2020 and 2030, relative to estimates in the DEIR. Further, the FEIR indicates that revised mobile source GHG emissions decrease from 1,644 MT CO₂e/yr in 2022 to 1,305 MT CO₂e/yr in 2030 (as opposed to 1,599 MT CO₂e/yr in 2022 to 1,269 MT CO₂e/yr in 2030 as disclosed in the DEIR). However, the FEIR does not reveal the basis for the increase relative to the DEIR nor the decrease from 2022 to 2030. Thus, the major source of the project's GHG emissions is unsupported.

Appeal Point #8: GHG emissions from mobile sources depend on the fleet mix, miles travelled, and vehicle emission factors. A review of the CalEEMod output files in DEIR Appendix B and FEIR Appendix C indicate that the fleet mix and miles traveled are disclosed in the CalEEMod modeling Appendices and did not change between the DEIR and FEIR. Thus, the only factor that could have changed is the emission factors in MT CO₂e per mile travelled. The DEIR and FEIR both fail to disclose the GHG emission factors assumed for mobile sources in 2022 and 2030. Thus, the major source of GHG emissions for the project is unsupported.

Staff's Response to Appeal Points #7 and 8: Compared to the DEIR, the following assumptions did not change in the FEIR:

- Fleet mix (in any operational run);
- Miles traveled based on trip type (in any operational run);
- Trip type percentages; and,
- Trip purpose percentages.

Compared to the DEIR, the following assumptions did change in the FEIR:

- The trip rate applied to Sunday trips.

As discussed in the FEIR starting on Page 3-44, the mobile-source emissions for both the 2022 and 2030 scenarios increased in the FEIR compared to the DEIR. As also noted in

the FEIR, these revisions were made in response to comments. A comment received on the DEIR asserted that Sunday trips were underestimated for the operational phase. As described in the FEIR, the operational modeling was revised in response to this comment. The commenter had asserted that the inputs used to represent Sunday trips in the DEIR underestimated the trips because they were less than the trips used in the Transportation Impact Assessment (TIA). The air quality and GHG analysis in the DEIR used the Institute of Transportation Engineers (ITE) Trip Generation Manual 10th Edition Trip Rates for the ITE Land Use Category 220, applied a 20 percent reduction for additional use of alternative modes of transportation, and applied a 5 percent increase to account for ridesharing trips. The analysis in the DEIR used the methodology consistent with the TIA to determine the project-specific trip rates to apply in the CalEEMod modeling for weekday, Saturday, and Sunday trips. Because the applicable ITE trip rate for Sunday trips is less than the applicable ITE trip rate for weekday trips, the projected trips for Sunday utilized in the modeling were less than the trips projected for weekdays and Saturdays. In response to the comment, the modeling was revised in the FEIR so that the reduction for the use of alternative modes of transportation was not applied to Sunday trips. To reflect this change, the specific “Sunday” trip rate was changed in the CalEEMod inputs from 5.34 trips per dwelling unit to 6.59 trips per dwelling unit. Both 5.34 trips per dwelling unit and 6.59 trips per dwelling unit are non-default values; therefore, both of these inputs to the CalEEMod model are included in the “Non-Default Data” data table of the appropriate CalEEMod output files. These CalEEMod output files were included as part of the “Air Quality, GHG Emissions, and Energy Supporting Information” appendix (DEIR Appendix B and FEIR Appendix C). Furthermore, the difference in overall vehicle miles travelled resulting from these changes can also be seen by comparing the “Trip Summary Information” sections of the appropriate operational CalEEMod output files. No other changes were made to the inputs affecting mobile-source emissions in the FEIR compared to the DEIR. The differences in the estimated project-generated operational emissions resulting from these changes were disclosed in the Errata, included as Section 3 of the FEIR.

As described above, the only difference in the CalEEMod inputs associated with operational mobile-source emissions in the FEIR compared to the DEIR included the increased trip rates applied to Sunday trips in all operational CalEEMod runs. Therefore, although individual trip lengths did not change, the overall projected vehicle miles travelled increased in the FEIR compared to the DEIR, an increase that does not affect the conclusions in the DEIR and FEIR. The comment letter incorrectly concluded that “the only factor that could have changed is the emission factors in MT CO_{2e} per mile travelled.”

Furthermore, the commenter incorrectly states that “the DEIR and FEIR both fail to disclose the GHG emission factors assumed for mobile sources in 2022 and 2030.” The emission factors used to estimate GHG emissions from mobile-source emissions did not change in the FEIR compared to the DEIR. As noted in the DEIR, CalEEMod version 2016.3.2 was used to estimate project emissions for both the DEIR and the FEIR. No changes were made to the default emissions factors to estimate GHG emissions in either

the 2022 or 2030 operational year. As previously mentioned, the complete CalEEMod output files used to estimate GHG emissions were included in the “Air Quality, GHG Emissions, and Energy Supporting Information” appendix (DEIR Appendix B and FEIR Appendix C). Any changes to non-default values are shown in the output files. FCS reviewed the operational output files included in DEIR Appendix B and FEIR Appendix C, and no changes were made to the default emission factors in any operational run used to estimate emissions in either the DEIR or the FEIR. The operational runs used the default mobile-source emission factors and the fleet mixes for the operational year analyzed. As noted in Section 3.2, Air Quality, of the DEIR and disclosed in every operational output file included in DEIR Appendix B and FEIR Appendix C, project emissions were assessed for a project in Contra Costa County. Therefore, the GHG emissions factors used to estimate GHG emissions for mobile-source emissions in the 2022 and 2030 scenarios were both disclosed and supported in both the DEIR and FEIR.

Appeal Point #9: Additionally, the DEIR assumed GHG emissions from processing project waste would be reduced by 74%, from 66 MT CO₂e/yr to 49 MT CO₂e/yr by complying with AB 341. However, as Dr. Cla

CONSEQUENCE OF NEGATIVE ACTION:

In the event that the proposed project is not approved, the applicant will not obtain approval of the required General Plan Amendment, Rezoning, Minor Subdivision, and Development Plan entitlements needed to allow development of the proposed 284-unit apartment project in the unincorporated Walnut Creek area.

CLERK'S ADDENDUM

Speakers: Ted Asrigadue, Walnut Creek; Michael Samson, Walnut Creek; Julie, Walnut Creek; Tom Hanson, Business Manager, IBEW Local 302; Lisa Lombardi, Walnut Creek; Tom Lawson, Steamfitters Local 159; Amy Felix, Conco; Don Pelligrudo, Walnut Creek; Jeff Peckham, Waldon Home Improvement District; Kristin; John Kreutzer, Pleasant Hill.

Written commentary provided by: Nirit Lotan, Adams Broadwell Joseph and Cardozo, on behalf of Contra Costa Residents for Responsible Growth; Scott Youdall, The Hanover Company (applicant); Rachel Mansfield-Howlett, Attorney at Law, on behalf of Contra Costa Citizens in Favor of Reasonable Growth; John Kreutzer, Pleasant Hill; Amy Zeller (appellant); Anita Bottari; Natalia Jdanova; Dina Varella, Walnut Creek; Chet Paulinellie, Walnut Creek; Lisa Lombardi, Walnut Creek; Walnut Square Homeowners Association, Walnut Creek. **APPROVED the recommendations as set forth in the Board Order; and added a Condition of Approval for the applicant to place in its documentation soliciting bids for the subcontractor "Bidder plans to provide labor from the nine county Bay Area. This will be given additional consideration as part of the overall award process for this project. Please be prepared to address the consideration as part of your bid."**

ATTACHMENTS

Del Hombre 284-Unit Apartment Project Complete Board Order

CONDITIONS OF APPROVAL FOR THE HANOVER COMPANY (APPLICANT) AND CHARLES & JUDITH DUNCAN, CHRISTINA & HAIGOUSH HEIDI KOHLER, TIM & TOSHIKO MCKEEN, 3000 DEL HOMBRE HOLDINGS LLC, RECO INVESTORS, LLC (OWNERS): COUNTY FILES #GP18-0002, RZ18-3245, MS18-0010, DP18-3031

Project Approval

1. The Vesting Tentative Map and Final Development Plan for a 284-unit apartment project on an assemblage of five parcels into one parcel 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 August 16, 2018;
 - Revised Vesting Tentative Map for MS18-0010 and Revised Final Development Plans for DP18-3031 received on February 21, 2020;
 - Preliminary Geotechnical Investigation Report, prepared by Engeo, dated April 6, 2018;
 - Preliminary Stormwater Control Plan, prepared by BKF Engineers, dated February 10, 2020;
 - Arborist Report, prepared by Hort Science | Bartlett Consulting dated May 9, 2019; and
 - Child Care Needs Assessment and Mitigation Plan prepared by Coco Kids dated January 2019.

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

- *2.37 acres for the rezoning of the property to P-1*
(where five acres is required for residential use)
- ~~*4-9 feet public road setback*~~
(where 10 feet is required)

Approval is granted to allow for the following exception that meet the requirements of Section 92-6.002 of the County Ordinance Code:

- Exception to Collect and Convey Requirements

Concession is granted for the following:

- Develop and rent 24 units at an affordable rent to moderate income households, and 12 units at an affordable rent to very low income households (See COA #7).

Reduction in development standards is granted for the following:

- State density bonus parking ratio; 380 off-street parking spaces provided for this project. (See COA #7 and 19).
- A reduction in development standards to allow a driveway aisle width of 24 feet, per plans (COA #7 and 21).

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

2. This subdivision is approved contingent upon approval of a general plan amendment request, County File #GP18-0002 from Multiple-Family Residential-Very High Density (MV) to Multiple-Family Residential-Very High Special Density (MS) and a rezoning request, County File #RZ18-3245 from Single-Family Residential (R-15) and Planned Unit District (P-1) to P-1. If either, the general plan amendment or the rezoning application is not approved, then this approval shall be null and void.

Application Fees

3. The applications submitted were subject to an initial deposit of \$8,500 for General Plan Amendment, \$32,921 for rezoning, \$4,800 for minor subdivision, and \$4,700 for the final development plan. 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 Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. 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.

Indemnity

4. The applicant shall enter into an Indemnification Agreement with the County, and the Applicant shall indemnify, defend (with counsel reasonably acceptable to the County), and hold harmless the County, its boards, commissions, officers, employees, and agents (collectively "County Parties") from any and all claims, costs, losses, actions, fees, liabilities, expenses, and damages (collectively, "Liabilities") arising from or related to the Project, the Applicant's application for a land use permit, the County's discretionary approvals for the Project, including but not limited to changes in the urban limit line, the County's actions pursuant to the California Environmental Quality Act and planning and zoning laws, or the construction and operation of the Project, regardless of whether those Liabilities accrue before or after Project approval.

Compliance Report

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

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

6. This Final Development Plan Permit includes approval of the design for the 284-unit apartment building. Any changes to the approved plans stated above must be submitted for review and approval of CDD, and may require the submittal of an application, if deemed necessary.

Inclusionary Housing and Density Bonus

7. This project is subject to Chapter 822-4, Inclusionary Housing Ordinance. Terms and definitions regarding the Inclusionary Housing Ordinance are pursuant to this chapter. Pursuant to Section 822-4.402(c) of the County Ordinance Code, in a residential development of 237 rental units, at least fifteen percent of the rental units shall be developed and rented as inclusionary units.

The applicant, owner, and/or developer (Applicant) is required to construct 36 inclusionary units for the project. The Applicant has submitted an Inclusionary Housing Plan dated April 24, 2017, which proposes to construct and rent 24 moderate income housing units and 12 very low income housing units.

The Applicant submitted a density bonus request dated November 8, 2018, which proposed to construct five percent of the total units of the housing development for very low income households for a twenty percent density bonus pursuant to Government Code 65915(b)(1)(B), one concession, a request for parking ratio standards pursuant to Government Code 65915(p), and a reduction of development standards pursuant to Government Code 65915(e). A 237 unit rental housing project with a twenty percent density bonus would allow the 284 unit housing development.

Density Bonus – Concession/Incentive

Pursuant to Government Code 65915, the Applicant may request one project concession/incentive for providing five percent of the total units of a housing development for very low income households (five percent is equal to 12 very low income units) within the development. For use of the earned concession, the Applicant requested to provide the remaining 24 inclusionary units as moderate

income units instead of lower income units, as required by the County Inclusionary Housing Ordinance.

The County accepted the Applicant's request to develop and rent 24 units at an affordable rent to moderate income households, and 12 units at an affordable rent to very low income households.

Density Bonus – Parking Ratio

Pursuant to Government Code 65915(p), the Applicant is proposing 380 off-street parking spaces for this project, per plans.

Density Bonus – Reduction in Development Standards

Pursuant to Government Code 65915(e), the Applicant is requesting a reduction in development standards to allow a parking driveway aisle width of 24 feet, per plans.

Inclusionary Housing and Density Bonus Developer Agreement

8. **At least 90 days prior to the recordation of the Parcel Map or CDD stamp-approval of plans for issuance of building permits or grading permits for any portion of the residential development, whichever occurs first**, the Applicant shall execute an Inclusionary Housing and Density Bonus Housing Agreement (Agreement), form to be provided by the County, with the County pursuant to Chapter 822-4 Inclusionary Housing, Chapter 822-2 Density Bonus, and Government Code 65915 to ensure that 24 of the approved units are affordable to and occupied by a moderate income household and 12 of the approved units are affordable to and occupied by a very low income household.

The 36 on-site inclusionary units identified will include:

- 21 Studio units at Moderate Income (120 percent AMI)
- 3 One-bedroom units at Moderate Income (120 percent AMI)
- 8 One-bedroom units at Very Low Income (50 percent AMI)
- 4 Two-bedroom units at Very Low Income (50 percent AMI)

Affordable rents shall be determined annually by the County. It shall be adjusted for household size.

The continued affordability of all very low and moderate income rental units shall remain restricted and affordable to the designated groups for fifty-five (55) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

Definitions

Terms and definitions used in these conditions of approval may be found in the above-referenced County Ordinance Codes and Government Code.

- A. Affordable rent - means a rent, including a reasonable utility allowance determined by the Department of Conservation and Development Director, that does not exceed the following calculations pursuant to Health & Safety Code section 50053:

Moderate income: 120 percent AMI, adjusted for assumed household size, multiplied by 30 percent and divided by 12.

Very low income: 50 percent AMI, adjusted for assumed household size, multiplied by 30 percent and divided by 12.

- B. Inclusionary Unit - means a rental unit that is required to be rented at an affordable rent to the households specified in Section 822-4.402.
- C. Moderate Income Households – means households earning up to 120 percent of the area median income for Contra Costa County as adjusted for family size as defined in Section 50093 of the California Health & Safety Code.
- D. Very Low Income Households – means a household whose income does not exceed the very low income limits applicable to Contra Costa County adjusted for household size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.

General

9. The following are general terms for the granting of density bonus and the Inclusionary Housing Ordinance.
 - A. The Applicant hereby represents, warrants, and covenants that it will cause the Agreement to be recorded in the real property records of Contra Costa County, California, and in such other places as the County may reasonably request. The Applicant shall pay all fees and charges incurred in connection with any such recording. The recording of the Agreement shall occur after the acceptance of the document by the County and prior to the recordation of a Parcel Map or filing of a building permit, whichever occurs first.
 - B. The County will provide to the Applicant income certification forms to be completed by the renters. The income levels of all very low and moderate income household applicants for units in the project shall be certified prior to initial occupancy and annually thereafter and records shall be maintained by the Applicant over the entire term of the period of affordability.
 - C. The 36 inclusionary units in the project shall be available for rent on a continuous basis to members of the general public who are income eligible. The Applicant shall not give preference to any particular class or group of persons in renting the units, except to the extent that the units are required to be rented to very low income and moderate income households. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the rent of any unit in the Project nor shall the Applicant or any person claiming under or through the Applicant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of renters of any unit or in connection with employment of persons for the construction of the project.
 - D. In addition to any other marketing efforts, the very low income and moderate income units shall be marketed through local non-profit, social service, faith-based, and other organizations that have potential renters as clients or constituents. The Applicant shall translate marketing materials into Spanish

and Chinese. A copy of the translated marketing materials and marketing plan shall be submitted to the Department of Conservation and Development **prior to the marketing of the inclusionary units and on an annual basis with the annual report.**

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

- E. Upon violation of any of the provisions of the Agreement by the Applicant, the County may give written notice to the Applicant specifying the nature of the violation. If the violation is not corrected to the satisfaction of the County within a reasonable period of time, not longer than thirty (30) days after the date the notice is deemed received, or within such further time as the County determines is necessary to correct the violation, the County may declare a default under this Agreement. Upon declaration of a default or if the County determines that the Applicant has made any misrepresentation in connection with receiving any benefits under this Agreement, the County may apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate.

Development Standards

10. The inclusionary units are subject to the standards of Section 822-4.412 of the County Ordinance.
11. All inclusionary units must be constructed and occupied prior to or concurrently with the market rate units within the same residential development.

Location

12. Inclusionary units must be dispersed throughout the residential development and have access to all on-site amenities that are available to market rate units.

Annual Reporting and Compliance Review

13. **Prior to the initial occupancy of each inclusionary unit**, the Applicant shall submit to the Department of Conservation and Development, for review and approval, forms and documentation that demonstrates the tenants of the inclusionary units are qualified as a very low income or a moderate income household. **A hold shall be placed on the final inspection of the building permit** until the documentation has been deemed adequate by the Department of Conservation and Development.

14. **After the initial occupancy of the inclusionary units**, the Applicant shall submit an annual compliance review report to the Department of Conservation and Development for all inclusionary units. The report must include the name, unit number, household size, and income of each person occupying inclusionary units identify the number of bedrooms and monthly rent or cost (including utility allowance) of each inclusionary unit. Tenants in rental housing developments shall provide consent to the owners to allow these disclosures. **The annual compliance review report is due April 1.**

15. The Applicant is responsible for keeping the Department of Conservation and Development informed of the contact information of the owner or designee who is responsible for maintenance and compliance with this permit and how they may be contacted (i.e., mailing and email addresses, and telephone number) at all times.
 - A. **Prior to the recordation of the Parcel Map or CDD stamp-approval of plans for issuance of building permits**, the Applicant shall provide the name of the contact representing the owner of the property for permit compliance and their contact information.

 - B. **Should the contact subsequently change (e.g. new designee or owner), within 30 days of the change**, the Applicant shall issue a letter to the Department of Conservation and Development with the name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedures to revoke the permit.

Park Impact Fee

16. **Prior to issuance of a building permit for the multiple-family residential building**, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

Park Dedication Fee

17. **Prior to issuance of a building permit for the multiple-family residential building**, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

Child Care

18. The applicant shall mitigate the need for the additional child care spaces created by the proposed development via one or a combination of the following methods:
- The developer shall contribute the funds to CocoKids to recruit and train additional family child care providers, with special focus on recruiting provides to provide infant/toddler and school-age care. The fund amount shall be subject to review and approval of CocoKids and the CDD.
 - The developer shall contribute the funds directly to child care center located adjacent to elementary schools in the area to improve and expand facilities to provide care for school-age children. The fund amount shall be subject to review and approval of CocoKids and the CDD.
 - The developer shall contribute the funds directly to family child care providers in the area within two miles of the development to encourage providers to care for infants, toddlers, and school-age children. These funds may be used for training or the purchase of infant equipment. The fund amount shall be subject to review and approval of CocoKids and the CDD.
 - **Prior to issuance of a building permit for the multiple-family residential building**, the developer shall pay a fee of \$400 per unit to the

County, with the intent to support or expand child care in the geographical region as needed. The fee for this development would total \$113,600.

Parking

19. Approval is granted for a total of 380 spaces (373 spaces required) provided on two levels of parking pursuant to Government Code Section 65915.p(1).
20. A total of 75 bicycle spaces shall be provided, consisting of 56 long-term bicycle spaces and 19 short-term bicycle spaces.
21. Approval is granted for a reduction of a parking driveway aisle width of 24 feet (25 feet required) pursuant to Government Code Section 65915(e).

Transportation Demand Management (TDM) Program

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

Police Protection

23. **Prior to CDD stamp-approval of plans for issuance of a building permit for the multiple-family residential building**, the applicant shall pay the pro-rata share of the annual cost of the Resident Deputy (consistent with the 2020 costs paid by the participating apartments), plus an annual CPI adjustment, currently managed by the Contra Costa Centre Association.

Signage

24. **At least 30 days prior to submittal of a building permit for signage**, a detailed sign program shall be submitted for the review and approval of CDD.

Biological Resources

25. The following measures shall be implemented prior to demolition, construction activities, or tree removal:

- A qualified wildlife Biologist shall conduct surveys for special-status bats during the appropriate time of day to maximize detectability to determine if bat species are roosting near the work area no less than 7 days and no more than 14 days prior to tree removal, beginning ground disturbance and/or construction. Survey methodology may include visual surveys of bats (e.g., observation of bats during foraging period), inspection for suitable habitat, bat sign (e.g., guano), or use of ultrasonic detectors (Anabat, etc.). Visual surveys shall include trees within 0.25 mile of project construction activities. The type of survey will depend on the condition of the potential roosting habitat. If no bat roosts are found, then no further study is required.
- If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts.
- If roosts are determined to be present and must be removed, the bats shall be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures shall be developed prior to implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but cannot reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young).
- If roosts cannot be avoided or it is determined that construction activities may cause roost abandonment, such activities shall not commence until permanent, elevated bat houses have been installed outside of, but near the construction area. Placement and height shall be determined by a qualified wildlife Biologist, but the height of the bat house will be at least 15 feet. Bat houses will be multi-chambered and will be purchased or constructed in accordance with CDFW standards. The number of bat houses required will

be dependent upon the size and number of colonies found, but at least one bat house will be installed for each pair of bats (if occurring individually), or of sufficient number to accommodate each colony of bats to be relocated.

(MM BIO-1a)

26. The following measures shall be implemented for construction work during the nesting season (February 15 through August 31):

- If construction or tree removal is proposed during the breeding/nesting season for migratory birds (typically February 15 through August 31), a qualified Biologist shall conduct pre-construction surveys for northern harrier, pallid bat, Townsend's big-ear bat, and other migratory birds within the construction area, including a survey buffer determined by a qualified Biologist based on professional experience, no more than 14 days prior to the start of ground disturbing activities in the construction area.
- If an active nest is located during pre-construction surveys, USFWS and/or CDFW (as appropriate) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified Biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 300 feet around an active raptor nest and 50-foot radius around an active migratory bird nest) or alteration of the construction schedule.
- A qualified Biologist shall delineate the buffer using nest buffer signs, ESA fencing, pin flags, and or flagging tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently. **(MM BIO-1b)**

Tree Removal

27. A Tree Replacement Plan shall be submitted to and approved by Contra Costa County Department of Conservation and Development prior to the removal of trees, and/or prior to issuance of a demolition or grading permit. The Tree Replacement Plan shall designate the approximate location, number, and sizes of

trees to be planted. Trees shall be planted prior to requesting a final inspection of the building permit. **(MM BIO-5a)**

Restitution for Tree Removal

28. Required Restitution for Approved Tree Removal: The following measures are intended to provide restitution for the removal of 161 code-protected trees:

- A. Tree Restitution Planting and Irrigation Plan: **Prior to the removal of trees or CDD stamp-approval of plans for issuance of building permits (e.g. demolition, grading or building), whichever occurs first**, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of CDD. The plan shall provide for the planting of **100 24-inch boxed trees or larger**. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's Ordinance, if one is adopted. The plan shall be accompanied by an estimate prepared by a licensed landscape architect or arborist of the materials and labor costs to complete the improvements on the plan. **The plan shall be implemented prior to final building inspection of the building.**
- B. Required Security to Assure Completion of Plan Improvements: **Prior to removal of trees or CDD stamp-approval of plans for issuance of building permits (e.g. demolition, grading or building, whichever occurs first**, the applicant shall submit a security (e.g. bond, cash deposit) that is acceptable to the CDD. The bond shall include the amount of the approved cost estimate, *plus* a 20% inflation surcharge.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs of staff for processing the landscape improvement security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.
- D. Duration of Security: The security shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time the final inspection for the apartment building was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist

to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s).

- E. Integration with Final Landscape Plan: The tree restitution planting and irrigation plans described in subsection (a) above may be incorporated as part of the Final Landscape Plan required pursuant to Condition #35 below. However, the planting plan shall identify the replacement trees required to replace removed protected trees, which are intended to satisfy this condition. In addition, the provided estimate shall only cover materials and labor associated with the implementation of the required tree restitution, and not for the full landscape plan.

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

Contingency Restitution Should Altered Trees Be Damaged

30. Trees to be Preserved but Altered – Pursuant to the conclusions of the arborist report, proposed improvements within the root zone of approximately 27 code-protected trees noted on the site plan to be preserved have been determined to be feasible and still allow for preservation provided that the recommendations of the arborist are followed. Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity nevertheless damages these trees, the applicant shall provide the County with a security (e.g. bond, cash deposit) to be submitted **prior to construction activities or CDD stamp-approval of plans for issuance of a building permit (e.g. demolition, grading or building), whichever occurs first**, to allow for replacement of trees intended to be preserved that are significantly damaged by construction activity.

- A. Extent of Possible Restitution Improvements – The planting of **fifteen trees, 15-gallons in size** in the vicinity of the affected trees, or equivalent planting contribution, and subject to prior review and approval of CDD.

- B. Determination of Security Amount: The security shall submitted for all of the following costs:
- i. Preparation of landscape/irrigation plan by a licensed landscape architect or arborist, which shall comply with the State’s Model Water Efficient Landscape Ordinance;
 - ii. Labor and materials estimate for planting the potential number of trees and related irrigation improvements that may be required, prepared by a licensed landscape contractor; and
 - iii. An additional 20% of the total of the above amounts to address inflation costs.
- B. Initial Deposit for Processing of Security – The County Ordinance requires that the applicant cover all time and material costs of staff for processing a tree protection security. The applicant shall pay an initial fee deposit of \$200 at time of submittal for each security.
- C. Duration of Security: The security shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of the security and from the time the final inspection for the apartment building was approved. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees’ health. In the event that CDD determines that the tree intended to be protected has been damaged by development activity, and CDD determines that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then CDD may require that all part of the security be used to provide for mitigation of the damaged tree(s).

Tree Protection

31. Tree protection guidelines shall be implemented during construction through the clearing, grading, and construction phases as outlined in the arborist report prepared by HortScience dated May 9, 2019 and shall be stated on the face of the construction plans. **(MM BIO-5b)**

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

Landscaping

35. **Final Landscaping Plan: At least 30 days prior to CDD stamp-approval of plans for issuance of a grading permit or building permit, a final landscape and irrigation plan shall be submitted to the CDDD for review and approval.** The landscaping plan shall conform to the State's Model Water Efficient Landscape Ordinance or the County's Ordinance, if one is adopted. **Prior to requesting a final inspection**, the approved landscaping shall be installed and evidence of the installation (e.g., photos) shall be provided for the review and approval of CDD.

Lighting

36. Proposed exterior lighting shall be directed downward and away from adjacent properties and public/private right-of-way to prevent glare or excessive light spillover. **(MM AES-4)**

Air Quality

37. During construction, the following Best Management Practices (BMP), as recommended by the BAAQMD, shall be implemented and stated on the face of the construction plans:

- Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day, or more as needed.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads and surfaces shall be limited to 15 miles per hour.
- All roadways, driveways, and sidewalks shall be paved as soon as possible.
- 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. Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign shall be posted with the telephone number and person to contact both at Contra Costa County and at the office of the General Contractor regarding dust complaints. This person shall respond and take corrective action within 2 business days of a complaint or issue notification. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. **(MM AIR-2)**

38. During construction activities, all off-road equipment with diesel engines greater than 50 horsepower shall meet either United States Environmental Protection Agency or California Air Resources Board Tier IV Interim off-road emission

standards. The construction contractor shall maintain records concerning its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number. **(MM AIR-3)**

Cultural Resources

39. An archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for archaeology should inspect the site once grubbing and clearing are complete, and prior to any grading or trenching into previously undisturbed soils. This may be followed by regular periodic or "spot-check" historic and archaeological monitoring during ground disturbance as needed, but full-time archaeological monitoring is not required at this time. In the event a potentially significant cultural resource is encountered during subsurface earthwork activities, all construction activities within a 100-foot radius of the find shall cease and workers should avoid altering the materials until an archaeologist has evaluated the situation. The project applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Potentially significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. The archaeologist shall make recommendations concerning appropriate measures that will be implemented to protect the resource, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Any previously undiscovered resources found during construction within the project site shall be recorded on appropriate California DPR 523 forms and shall be submitted to Contra Costa County Department of Conservation and Development, the Northwest Information Center, and the State Historic Preservation Office, as required. **(MM CUL-1)**
40. If during the course of construction activities there is accidental discovery or recognition of any human remains, the following steps shall be taken:
1. There shall be no further excavation or disturbance within 100 feet of the remains until the County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is

required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the Most Likely Descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resource Code Section 5097.98.

2. Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the project site in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.
 - The descendant identified fails to make a recommendation.
 - The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Additionally, California Public Resources Code Section 15064.5 requires the following relative to Native American Remains:

- When an initial study identifies the existence of, or the probable likelihood of, Native American Remains within a project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop a plan for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American Burials with the appropriate Native Americans as identified by the Native American Heritage Commission. **(MM CUL-3)**

Geology and Soils

41. At least 60 days prior to issuance of construction permits or installation of utility improvements, the project applicant shall submit a design-level geotechnical report that provides geotechnical recommendations for the project based on adequate subsurface exploration, laboratory testing, and engineering analysis. The design-level geotechnical report shall address the following:

- Grading, including removal of existing undocumented fill
- Consolidation settlement
- Analysis of liquefaction potential, including estimating total settlement and differential settlement and surface manifestation of liquefaction
- Foundation design
- Measures to protect improvements from relatively shallow water table
- Further evaluation of expansive soils and corrosion potential of soils, including measures to protect improvements that are in contact with the ground from this hazard
- Exploration, testing, and engineering analysis to provide recommendations pertaining to foundation design, including retaining walls and pavement design
- Evaluation of the drainage design
- Address temporary shoring and support of excavations
- Provide updated California Building Code seismic parameters
- Outline recommended geotechnical monitoring

Prior to issuance of building permits, the project Geotechnical Engineer shall review construction drawings to ensure that the grading, drainage, and foundation plans are consistent with recommendations and specifications in the design level geotechnical report.

All grading, excavation and filling shall be conducted during the period of 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 Grading Inspection Section, and the review and approval of the Department of Conservation and Development, Community Development Division.

A 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 construction. Similarly, a hold shall be placed on the final building inspection until the Geotechnical Engineer submits a report documenting the monitoring services provided and implementation of all applicable recommendations. The final grading and construction plans for the project shall be reviewed by the project Geotechnical Engineer. Grading and construction activities shall meet the requirements of the recommendations included in the design-level geotechnical study. **(MM GEO-1)**

42. A qualified paleontological monitor (as defined by the Society of Vertebrate Paleontology) retained by the project proponent shall be present during all phases of ground disturbance in excess of 15 feet below the existing ground surface or to the depth of Pleistocene deposits, whichever is greater. The role of the paleontological monitor shall be limited to monitoring of known or inferred Pleistocene deposits. This may be followed by regular periodic or "spot-check" paleontological monitoring during ground disturbance as needed, but full-time monitoring is not required at this time. In the event that Pleistocene fossils or fossil-bearing deposits are discovered during construction activities, excavations within a 100-foot radius of the find shall be temporarily halted or diverted. The applicant's construction contractor shall notify a qualified paleontologist to examine the discovery, and shall notify the Department of Conservation and Development within 24 hours of the discovery. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of construction activities on the discovery. The plan shall be submitted to the Department of Conservation and Development, Community Development Division for review and approval prior to implementation. The applicant shall adhere to the recommendations in the approved plan. **(MM GEO-6)**

Greenhouse Gas Emissions

43. Prior to issuance of building permits, the applicant shall prepare ~~and submit a~~ Climate Action Plan (CAP) Development Checklist completed for the project ~~to the County of Contra Costa that demonstrates to the County's satisfaction that~~ demonstrates the project would be constructed and operated to be consistent with measures required in the CAP Development Checklist. The checklist shall be submitted to the Department of Conservation and Development, Community Development Division. **(MM GHG-2)**

Hazard and Hazardous Materials

44. Prior to the issuance of demolition permits for the two existing residences and associated structures, the applicant shall retain a licensed professional to conduct asbestos and lead paint surveys. These surveys shall be conducted prior to the disturbance or removal of any suspect asbestos-containing materials and lead-based paint, and these materials shall be characterized for asbestos and lead by a reliable method. All activities involving asbestos-containing materials and lead-based paint shall be conducted in accordance with governmental regulations, and all removal shall be conducted by properly licensed abatement contractors. **(MM HAZ-1)**

Hydrology and Water Quality

45. In accordance with Division 914 of the Ordinance Code, the project applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system that conveys the stormwater to a natural watercourse. Any proposed diversions of the watershed shall be subject to hearing body approval. Prior to issuance of a grading permit, the applicant shall submit improvement plans for proposed drainage improvements, and a drainage report with hydrology and hydraulic calculations to the Engineering Services Division of the Public Works Department for review and approval that demonstrates the adequacy of the in-tract drainage system and the downstream drainage system. The applicant shall verify the adequacy at any downstream drainage facility accepting stormwater from this project between the site and the outfall of the downstream storm drain system to the Walnut Creek Channel prior to discharging runoff. If the downstream system(s)

is not adequate to handle the Existing Plus Project condition for the required design storm, improvements shall be constructed to make the system adequate. The applicant shall obtain access rights to make any necessary improvements to off-site facilities.

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); and

Submit a Final Stormwater Control Plan 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 (Division 1014) prior to issuance of a building permit. Improvement Plans shall be reviewed to verify consistency with the Final Stormwater Control Plan and compliance with Provision C.3 of the County's NPDES Permit and the County's Stormwater Management and Discharge Control Ordinance (Division 1014)

(MM HYD-3)

Noise

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

- The construction contractor shall ensure that all equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
- The construction contractor shall ensure that unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes) is prohibited.
- The construction contractor shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
- At all times during project grading and construction, the construction contractor shall ensure that stationary noise-generating equipment shall

be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from adjacent residences.

- The construction contractor shall ensure that the construction staging areas shall be located to create the greatest feasible distance between the staging area and noise-sensitive receptors nearest the project site.
- Restrict noise-generating construction activities (including construction-related traffic, excluding interior work within the building once the building envelope is complete) at the project site and in areas adjacent to the project site to the hours of 7:30 a.m. to 5:00 p.m., Monday through Friday, unless otherwise approved by CDD, with no construction allowed on weekends, federal and State holidays, as listed below: **(MM NOI-1)**

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

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

Federal Holidays <http://www.opm.gov/fedhol>
California Holidays <http://www.edd.ca.gov/eddsth.htm>

47. A pre-construction meeting shall be held to confirm that all noise mitigation measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed prior to the start of construction.

48. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of demolition, grading, and construction activities.
49. To reduce potential traffic and BART noise impacts, prior to issuance of building permits, the applicant shall submit evidence to the satisfaction of the Department of Conservation and Development, Community Development Division to demonstrate that the project includes a code compliant mechanical ventilation system that would permit windows to remain closed for prolonged periods. **(MM NOI-2)**

Transportation

50. Prior to issuance of building permits, the applicant shall prepare and submit a Construction Traffic Control Plan. The plan shall include the following items. The approved plan shall be implemented during construction.
- Project staging plan to maximize on-site storage of materials and equipment
 - Permitted construction hours
 - Location of construction staging
 - Identification of parking areas for construction employees, site visitors, and inspectors, including on-site locations
 - Provisions for street sweeping to remove construction related debris on public streets
 - A set of comprehensive traffic control measures including preparation of traffic control plans, as needed; scheduling of major truck trips and deliveries to avoid peak-hours; lane closure proceedings; signs, cones, and other warning devices for drivers; and designation of construction haul routes.
 - Survey of the pavement condition on roadways to be used as part of haul route prior to the commencement of any work on site. The survey shall include a video tape of the roadways. The applicant shall complete any remedial work prior to initiation of use and provide a bond assuring completion of the remediation work, the amount which shall be deemed sufficient by the Public Works Department.
 - The applicant shall provide a pavement analysis for those roads along the proposed haul routes or any alternate route(s) that are proposed to be utilized by hauling operation. This study shall analyze the existing pavement conditions and determine what impact the hauling operation will have over

the construction period of the project. The study shall provide recommendations to mitigate identified impacts. **(MM TRANS-1a)**

51. Prior to requesting a final inspection, the following improvements shall be installed on Las Juntas Way between Coggins Drive and Del Hombre Lane:

- The Iron Horse Trail crossing of Las Juntas Way shall be enhanced with one or more of the following measures, as approved by the Public Works Department:
 - Advance stop bars
 - Narrowed travel lanes
 - Curb extensions
 - Improved crosswalk lighting
 - A pedestrian/bicyclist actuated trail crossing warning device,
 - Other similar measures as approved by the Public Works Department.**(MM TRANS-1b)**

52. Prior to requesting a final inspection, the project applicant shall install a crosswalk across Del Hombre Lane, with curb ramps on either end. The crosswalk's eastern curb ramp shall be located south of the parking garage entry for the project and north of the corner of Del Hombre Lane and Honey Trail Lane. The applicant will work with the Public Works Department on the optimal location to serve pedestrians while minimizing impacts to existing trees on the west side of Del Hombre Lane. **(MM TRANS-1c)**

53. Prior to issuance of building permits, the applicant shall prepare and submit plans to the Contra Costa County Public Works Department depicting street lighting along the project frontages to provide a lit pedestrian path of travel along the project frontage, connecting to the Iron Horse Trail. The approved plans shall be incorporated into the project. **(MM TRANS-1d)**

PUBLIC WORKS
CONDITIONS OF APPROVAL FOR PERMIT DP18-3031/MS18-0010

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 submitted to the Department of Conservation and Development on February 21, 2020.

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

General Requirements:

54. In accordance with Section 92-2.006 of the Ordinance Code, this development 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 Site Plan received by the Department of Conservation and Development, Community Development Division, on February 21, 2020.
55. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the 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.

Roadway Improvements (Del Hombre):

56. The applicant shall construct curb, 8-foot sidewalk, necessary longitudinal and transverse drainage, street lighting, and pavement widening and transitions along the frontage of Del Hombre, as shown on sheets C.3.0 and C.5.0 of the Site Plan received by the Department of Conservation and Development, Community Development Division, on February 21, 2020. The applicant shall construct face of curb a minimum of 14 feet from the road centerline.

57. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Del Hombre Lane and Roble Road. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doweled into existing improvements.

58. The applicant shall construct a street-type connection with 20-foot radii curb returns in lieu of standard driveway depressions at the private Driveway on Del Hombre Lane.

~~59. The applicant shall install the following safety related improvements or other similar measures as approved by the Public Works Department on Las Juntas Way between Coggins and Del Hombre:~~

- ~~— Advance stop bars~~
- ~~— Narrowed travel lanes~~
- ~~— Curb extensions~~
- ~~— Improved crosswalk lighting~~
- ~~— A pedestrian/bicyclist actuated trail crossing warning device~~

~~Curb ramps shall be designed and constructed in accordance with current County standards. Truncated domes shall be installed on all curb ramps.~~

Access to Adjoining Property:

Proof of Access

60. The applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

61. The applicant shall furnish proof to the Public Works Department that legal access to the property is available from Roble Road.

Encroachment Permit

62. The applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of driveways or other improvements within the right-of-way of Del Hombre and Las Juntas Way.

Right-of-way Vacation (Transfer from BART to County)

63. The applicant shall apply for the vacation of Del Hombre currently owned by BART and pay the appropriate fees for the transfer from BART to County.

Site Access

64. The applicant shall only be permitted access at the locations shown on the approved site/development plan.

Road Alignment/Intersection Design/Sight Distance:

Sight Distance

65. The applicant shall provide sight distance at the on-site driveways and Del Hombre for a design speed of 30 miles per hour. The applicant shall trim vegetation, as necessary, to provide sight distance at these driveways. Any new landscaping, signs, fencing, retaining walls, or other obstructions proposed at the driveways shall be setback to ensure that the sight lines are clear.

Private Roads (Roble Road):

66. The applicant shall construct the portions of Roble Road along its property to current County private road standards with a minimum traveled width of 28 feet, within a 45+/- foot access easement as proposed on the vesting tentative map. An 8-foot sidewalk (width measured from curb face) shall be constructed as shown on sheets C.3.0 and C.5.0 of the Site Plan received by the Department of Conservation and Development, Community Development Division, on February 21, 2020. Although the proposed on-site roadway is shown as private, the pavement structural section shall conform to County public road standards.

Road Dedications:

67. The property owner shall convey to the County, by Offer of Dedication, the right-of-way necessary for the planned future width of 12 feet along the frontage of Del Hombre.

Landscaping:

68. The applicant shall submit four sets of landscape and automatic irrigation plans and cost estimates, prepared by a licensed landscape architect, to the Public Works Department for review and to the CDD for review and approval, prior to filing of the Parcel Map. The applicant shall pay appropriate fees in accordance with County Ordinance.

69. All landscaping to be maintained by the property owner shall be submitted to the CDD for review and approval.

Pedestrian Facilities:

Pedestrian Access

70. 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.

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

Parking:

72. "No Parking" signs shall be installed along Del Hombre subject to the review of the Public Works Department and the review and approval of the Board of Supervisors.

73. 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:

74. The applicant shall underground all new and existing utility distribution facilities. 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.

Maintenance of Facilities:

75. The applicant shall insure that all public and private street lights, landscaping, and any retaining walls on-site be privately maintained in perpetuity. A maintenance plan of operation for all common areas and perimeter walls/fences shall be submitted for Public Works Department review. The County will not accept these properties or facilities for ownership or maintenance

76. Prior to final occupancy, the property owner(s) shall establish a new maintenance entity (CFD) for direct and incidental costs for the maintenance of streets and trails in the project area. The applicant shall be aware that this annexation process must comply with State Proposition 218 requirements that state the property owner must hold a special election to approve annexation. This process takes approximately 4 to 6 months to complete.

Drainage Improvements:

Collect and Convey

77. 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)

78. The applicant shall be permitted an exception for "offsite collect and convey" diversion requirements and the use of a pump system. Prior to issuance of a grading permit, the applicant shall submit improvement plans for proposed drainage improvements, and a drainage report with hydrology and hydraulic calculations to the Engineering Services Division of the Public Works Department for review and approval that demonstrates the adequacy of the in-tract drainage system and the downstream drainage system. The applicant shall verify the adequacy of any downstream drainage facility accepting stormwater from this project between the site and the outfall of the downstream storm drain system to the Walnut Creek Channel prior to discharging runoff. If the off-site conveyance system or ultimate drainage facility or natural watercourse to which stormwater is proposed to be diverted is inadequate, the applicant shall be responsible for all costs related to the construction and/or right-of-way acquisition related to any necessary improvements to make the system adequate. The applicant shall comply with the drainage fee requirements for Drainage Area 44B as adopted by the Board of Supervisors prior to filing of the Parcel Map with this application if the exception for diversion is granted by the hearing body.

Miscellaneous Drainage Requirements:

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

80. The applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

National Pollutant Discharge Elimination System (NPDES):

81. The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for

municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II).

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

- Minimize the amount of directly connected impervious surface area.
- 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.
- Shallow roadside and on-site swales.
- Distribute public information items regarding the Clean Water Program and lot specific IMPs to buyers.
- Other alternatives comparable to the above as approved by Public Works Department.

Stormwater Management and Discharge Control Ordinance:

82. 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 Parcel 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.

83. 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).
84. 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.
85. Prior to final occupancy, 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.
86. Prior to final occupancy, 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.
87. Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.

ADVISORY NOTES

ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED IN ORDER TO

INFORM THE APPLICANT OF ADDITIONAL REGULATIONS, ORDINANCES, AND REQUIREMENTS THAT MAY BE APPLICABLE TO THE PROPOSED PROJECT.

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

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

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

- B. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central County Area of Benefit as adopted by the Board of Supervisors.
- C. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.
- D. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- E. This project is subject to the development fees in effect under County Ordinance as of September 5, 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 specified in the conditions of approval.

F. The applicant shall comply with the requirements of the following agencies:

- Department of Conservation and Development, Building Inspection Division
- Contra Costa County Fire Protection District
- Central Contra Costa Sanitary District
- Contra Costa Water District