

**FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE LP16-2031, WARE MALCOMB (APPLICANT) – CP LOGISTICS WILLOW PASS, LLC (OWNER)**

FINDINGS

A. Growth Management Performance Standards

1. Traffic: The warehouse project is projected to generate 17 AM peak period and 19 PM peak period vehicle trips, and as evaluated in the Mitigated Negative Declaration (MND), will not significantly increase existing traffic levels in the area. The increase in traffic on Evora Road and Willow Pass Road due to the project will not significantly affect the operation of either street.

2. Water: The project site is in the service area of the Contra Costa Water District. The Water District has stated that water service is provided by the Willow Pass Business Park ground water service and irrigation water is be provided from the Contra Costa Canal, pursuant to its agreement with the Willow Pass Business Park. The Water District has stated that in the event ground water service is not reliable, the project will be required to obtain treated water service. In this situation, the applicant is required to comply with the requirements of the Water District.

3. Sanitary Sewer. Sanitary sewer service at the project site is provided by the Delta Diablo Sanitary District. The project site is not hooked up to Sanitary District facilities; however, based on the characteristics of warehouse use and the 39 employees that will be employed on the site as projected in the MND, no significant increase in demand for sanitary sewer service is expected from the new warehouse. The applicant will apply for sanitary sewer service with the District and pay all appropriate fees for the service. Also, the applicant is required to submit building plans to the Sanitary District prior to submitting a building permit application to the County.

4. Fire Protection: The project site is in the service area of the Contra Costa County Fire Protection District. The warehouse project will meet all current Fire Protection District requirements including provision of adequate access roadways, an adequate and reliable water supply, fire hydrants and an automatic fire sprinkler system in the warehouse, and therefore, the new warehouse will not adversely affect the provision of fire protection services. Project plans will be reviewed by the Fire Protection District for compliance with its requirements.

5. Public Protection: The project includes exterior lighting of the driveway, parking

areas, and truck stalls. Some of the light standards will remain lit at night for security. As discussed in the MND, the security lighting will have a maximum illuminance in the north parking lot of 1.02 fc, in the east parking lot of 1.00 fc, and in the truck loading area of 0.27 fc, and will be consistent with recommended levels of lighting for safety of commercial/industrial building exterior areas. Thus, the warehouse will not significantly increase the demand for police service facilities or personnel.

6. Parks and Recreation: The warehouse project does not include any residential development. To the extent that future employees of the warehouse choose to move into the Bay Point area, there will be an increase in use of area parks. Parks in Bay Point include nine parks administered by the Ambrose Recreation and Park District. The Park District is funded through an assessment district that includes all properties in Bay Point, including the project site. These parks provide recreational facilities such as playgrounds and baseball fields, picnic and barbecue areas, and youth and adult recreational programs. Given the amount of available park space and the project's relatively small indirect addition to the Bay Point area population (estimated to be a maximum of 133 persons, which is one percent of the 22,473 persons living in Bay Point in 2015), the project will not significantly increase population in the area, and therefore, will not significantly increase the demand for parks or recreational facilities. Further, payment of Park Impact fees will be required prior to the issuance of building permits. The fees will be used to purchase land and develop parks and recreation facilities within this area of the County.

7. Flood Control and Drainage: The project site is not located within a flood-prone area as determined by the FEMA, the Federal Emergency Management Agency. As evaluated in the MND, the drainage improvements for the Willow Pass Business Park, including the drainage swales, detention basin, and seasonal freshwater pond, were sized conservatively, assuming industrial land use and associated infiltration/runoff rates across the entire area, and will accommodate development of a warehouse of this size on the project site. These facilities have been constructed and serve both the existing Willow Pass Business Park and the project site. The project stormwater drainage system will direct all runoff to vegetated areas and small onsite bio-retention basins. The project system will then direct remaining runoff to the existing drainage improvements. As a result, the warehouse project will not substantially alter the drainage pattern of the site or area. The site has a slope of two percent and slopes generally to the southwest. The project includes C.3 compliant storm drainage facilities including vegetated areas and bio-retention basins will collect stormwater, allow percolation into the ground, and convey excess runoff to drainage swales that will lead to a detention basin inlet at the southwest corner of the project site. Calculated storm

water runoff from the project site has been included in plans for the overall subdivision. The storm water runoff calculations have been reviewed by the Public Works Department. Accordingly, no flood control or risk assessment is required.

**B. Land Use Permit Findings**

The following are required findings for the approval of a land use permit for the warehouse at the Evora Road site.

1. The proposed project shall not be detrimental to the health, safety and general welfare of the county.

Project Finding: Construction of the warehouse at the Evora Road property will not require construction or improvement of any roadways in the area. Construction will occur on land in the L-I Light Industrial District and in the LI Light Industry General Plan land use designation that accommodates the warehouse type of land use. Operation of the warehouse facility is compatible with the existing land uses in the area, including the Willow Pass Business Park and other nearby facilities. The project will not impede access through the site to the Business Park's water storage tank.

With full implementation of landscaping, the warehouse will be shielded from offsite views including views from Highway 4.

The warehouse will be constructed on a vacant site and will have security lighting, and thereby will improve the general safety of the project vicinity.

2. The proposed project shall not adversely affect the orderly development within the County or the community.

Project Finding: The warehouse site is located on a site that had previously been approved for a Frito Lay distribution center. Construction of the warehouse at this location adjacent to the Willow Pass Business Park is consistent with the intended use of the site and with applicable General Plan policies and General Plan and zoning development standards. The warehouse facility does not produce significant amounts of noise, glare, or vibrations. Thus, the project will not impede future use of surrounding, developable vacant properties.

3. The proposed project shall not adversely affect the preservation of property values and the protection of the tax base within the county.

Project Finding: Construction and operation of the warehouse on the currently vacant light industrial site will increase the property value of the site, Placing an active commercial-industrial use on this site will enhance existing and future developments in this area. As designed, the warehouse facility will be compatible with the Willow Pass Business Park and other nearby properties in the vicinity.

4. The proposed project shall not adversely affect the policy and goals as set by the General Plan.

Project Finding: The warehouse will provide an important warehouse operation adjacent to the major state highway linking the northern portion of the East Bay with Northern Waterfront area of Contra Costa County. The warehouse project with the attached Conditions of Approval will be compatible with the Light Industry policies and the goals of the General Plan, and thereby, will enhance the viability of light industrial and commercial uses in the vicinity. The project, as conditioned, will be consistent with the General Plan Scenic Route policies, and will maintain the scenic qualities along this portion of Highway 4. The project will also be consistent with the General Plan Roadway policies and will not impede the function of Highway 4 or Willow Pass Road.

5. The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.

Project Finding: The project, as conditioned, will not create a nuisance and/or enforcement problem. The Conditions of Approval require the site, including the security lighting, to be maintained in an orderly manner, and that landscape plantings around the warehouse building be maintained for the life of the project.

6. The proposed project shall not encourage marginal development within the neighborhood.

Project Finding: Approval of the land use permit will not change the established uses in the vicinity. Construction and operation of the warehouse will extend sanitary sewer service onto the project site; however, this extension of service has been anticipated since the annexation of this area into the Delta Diablo Sanitary District's jurisdiction in 2002. The site is included in an agreement between the Contra Costa Water District and the Willow Pass Business Park, whereby potable water will be provided by two wells and water for landscape irrigation will come from the nearby Contra Costa Canal. The

project is sited on a currently vacant but developable light industrial site. Other vacant, developable light industrial sites exist within the adjacent Willow Pass Business Park; however, development of these parcels have been anticipated in the approvals for the Business Park. Other nearby developable land is within the Concord Naval Weapons Station. The Naval Weapons Station was decommissioned in 2005 and is currently a major reuse project of the City of Concord.

7. That special conditions or unique characteristics of the subject property and its location or surroundings are established.

Project Finding: The project site has been approved for a Frito Lay distribution center in Land Use Permit LP01-2018. Prior to the approval, the property was graded in 2002 to accommodate construction on the site. The warehouse project with the attached Conditions of Approval will be consistent with the intended use of the site, will enhance the nearby Willow Pass Business Park, will improve the general safety of the vicinity by replacing a vacant site with an active warehouse operation with security lighting for safety. With full implementation of its landscaping, the warehouse facility will be compatible with the nearby Business Park and will not adversely alter views along this section of Highway 4.

### C. Environmental Findings

1. A draft Mitigated Negative Declaration/Initial Study was prepared for the project. The public review comment period for the draft MND started on March 2, 2021 and ended on April 7, 2021. One comment email was received during the public review period for the draft MND.

2. A Final MND has been prepared that includes the comment email received on the draft MND, comment summary, response to the comment received, and one staff-initiated edit of the text of the MND.

3. The staff response in the Final MND to the comment received on the draft MND do not result in any changes to the draft MND. The Final MND includes one staff-initiated edit of the text of the revised draft MND; the correction does not affect any impacts, mitigation measures, or findings in the revised draft MND.

4. On the basis of the whole record before it, including the revised draft MND and Final MND, the Board of Supervisors finds that:

- There is no substantial evidence that the project with the proposed mitigation

measures will have a significant effect on the environment;

- The MND, consisting of the draft MND and Final MND, reflects the County's independent judgement and analysis;
- The MND is adequate and complete; and
- The MND has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA guidelines.

5. A Mitigation Monitoring Program has been prepared, based on the identified significant environmental impacts and mitigation measures in the MND. The mitigation measures in the Mitigation Monitoring Program are included in the Conditions of Approval.

CONDITIONS OF APPROVAL FOR COUNTY FILE LP16-2031

Project Approval

Land Use Permit

1. This Land Use Permit application is APPROVED for the construction and operation of a warehouse, consisting of the following elements:
  - A 98,460 square foot, 42 feet six-inch tall warehouse structure;
  - A driveway that wraps around the warehouse;
  - Parking along the east, north, and west sides of the building that provide 140 parking spaces, including five accessible spaces and 12 electric vehicle charging stations;
  - 18 truck loading bays along the southern elevation of the building;
  - Seven long term and five short term bicycle parking spaces;
  - Exterior lighting consisting of building-mounted lights and lighting poles;
  - Eight perimeter and parking lot bio-retention basins and other stormwater drainage improvements that connect to existing onsite drainage swales and the existing offsite detention basin; and
  - Landscape plantings along in the parking areas, along the edges of the project site, and around the building on the west, north, and east elevations.
  
2. The Land Use Permit approval described above is granted based on the following information and documentation:
  - Land Use Permit application submitted to the Department of Conservation and Development, Community Development Division (CDD) on July 14, 2016;
  - Project Plans prepared by Ware Malcomb submitted on July 14, 2016;
  - Conceptual Site Plan prepared by Ware Malcomb submitted on May 13, 2020;
  - Stormwater Control Plan prepared by Laugenour and Meikle submitted on February 6, 2017; and
  - Evaluation of Existing Drainage Facilities for Evora Road Industrial Center by Laugenour and Meikle submitted on February 23, 2017.

3. Any change from the approved plans shall require review and approval by the CDD and may require the filing of an application to modify this Land Use Permit.

#### Compliance Report

4. At least 45 days prior to issuance of a grading or building permit, whichever occurs first, the applicant shall provide a report on compliance with the conditions of approval for the review and approval by the CDD. The fee for this application is a deposit of \$1,500.00 that is subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

Except for those conditions administered by the Public Works Department, the report shall list each conditions followed by a description of what the applicant has provided as evidence of compliance with that condition. A copy of the permit conditions of approval may be obtained from the CDD.

#### Child Care

5. If the project will have (a) 100 or more employees or (b) 15,000 gross square feet or more of non-residential area, the project shall comply with the requirements of the Child Care Ordinance. Prior to the issuance of a building permit, a proposed program shall be submitted for the review and approval of the CDD.

#### Archaeology

6. The following measures shall be implemented during project construction.
  - A. A program of on-site education to instruct all construction personnel in the identification of prehistoric and historic deposits shall be conducted by a certified archaeologist prior to the start of any grading or construction activities.
  - B. If archaeological materials are uncovered during grading, trenching, or other on-site excavation, all work within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American tribe that has requested consultation and/or demonstrated interest in the project site, have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s) if deemed necessary.



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

#### Construction

All construction activity shall comply with the following restrictions, which shall be included in the construction drawings.

8. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
9. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
10. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
11. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
12. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to

4:00 PM.

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

New Year's Day (State and Federal)

Birthday of Martin Luther King, Jr. (State and Federal)

Washington's Birthday (Federal)

Lincoln's Birthday (State)

President's Day (State and Federal)

Cesar Chavez Day (State)

Memorial Day (State and Federal)

Independence Day (State and Federal)

Labor Day (State and Federal)

Columbus Day (State and Federal)

Veterans Day (State and Federal)

Thanksgiving Day (State and Federal)

Day after Thanksgiving (State)

Christmas Day (State and Federal)

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

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

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

#### Air Quality Construction Control Measures

The construction control measures listed below shall be implemented during project construction and shall be included in the construction drawings:

14. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to three minutes.

15. Clear signage shall be provided for construction workers at all access points.
16. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
17. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
18. 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.
19. All vehicle speeds on unpaved roads shall be limited to 15 mph.
20. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
21. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
22. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
23. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
24. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
25. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).

26. Limit traffic speeds on unpaved roads to 15 mph.
27. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
28. Replant vegetation in disturbed areas as quickly as possible.
29. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
30. Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas.
31. Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
32. Limit the area subject to excavation, grading and other construction activity at any one time.

#### Application Costs

33. The Land Use Permit application was subject to an initial deposit of \$2,700.00 that was paid with the application submittal, plus time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid at the time of submittal of a grading or building permit application, or within 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 2013/340, where a fee payment is over 60 days past due, the application shall be charged interest at a rate of ten percent (10%) from the date of approval. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance.

#### Indemnity

34. 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 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.

MITIGATION MEASURES FROM THE MITIGATION MONITORING PROGRAM APPLIED AS CONDITIONS OF APPROVAL FOR COUNTY FILE LP16-2031

The applicant shall comply with the following Conditions of Approval, which are required to implement and complete the Mitigation Measures identified in the Mitigated Negative Declaration and included in the Mitigation Monitoring Program for Land Use Permit LP16-2031.

Aesthetics

35. Aesthetics 1: The following measures are intended to ensure full implementation of the Afghan pine landscaping along the southern edge of the driveway south of the warehouse structure.

1. Final Landscaping and Irrigation Plan: Prior to issuance of a grading or building permit, whichever occurs first, the applicant shall submit a final landscaping and irrigation plan prepared by a licensed arborist or landscape architect for review and approval by the CDD. The plan shall provide for the planting of a minimum of 35 Afghan pine trees of a minimum 24-inch box size. Consideration shall be given to adequate screening of the future warehouse from offsite viewpoints. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's Water Efficient Landscape Ordinance, if the County's Ordinance has been adopted. Verification of compliance with the Water Efficient Landscape Ordinance shall accompany the plan. The plan shall also include an estimate prepared by a licensed landscape architect, arborist, or landscape contractor of the materials and labor costs to complete the improvements (accounting for supply, delivery, and installation of trees and irrigation). The plan shall be implemented prior to final building inspection.
2. Required Security to Assure Completion of Plan Improvements: A security deposit shall be required to ensure that the approved landscaping and irrigation plan is implemented and that the Afghan pines become established. Prior to the issuance of a grading or building permit, whichever occurs first, the applicant shall submit a security that is acceptable to the CDD. The security shall be the amount of the approved cost estimate described in mitigation measure #1 above plus a 20% inflation surcharge.
3. Initial Deposit for Processing of Security: The applicant shall pay fees to cover all staff time and materials costs for processing the required security. At the time

of submittal of the security, the applicant shall pay an initial processing fee deposit of \$100.00.

4. Duration of Security: When the landscaping and irrigation have been installed, the applicant shall submit a letter to the CDD to be composed by the landscape architect, arborist, or landscape contractor, verifying that the installation has been completed in accordance with the approved landscaping and irrigation plan. The County may retain the security for up to 24 months beyond the date of receipt of this letter.

At 12 and 24 months following completion of implementation of the plan, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. The report shall be submitted for review by the CDD and shall include any additional measures necessary for preserving the health of the trees. These measures shall be implemented by the applicant. Any Afghan pine tree that dies within the first two years of being planted shall be replaced by another Afghan pine tree of the same size.

#### Biological Resources

36. Biology 1: The following measures are required to preclude or reduce to less than significant levels, adverse impacts on western burrowing owls.

1. A preconstruction survey for western burrowing owls shall be conducted if work onsite will take place between February 1 and August 31. CDFW Staff Report 2012 (California Department of Fish and Game, Staff report on burrowing owl mitigation. March 7, 2012. 15 pages plus appendices.) states that take avoidance (preconstruction) surveys shall be conducted 14 days prior or less to initiating ground disturbance. As burrowing owls may recolonize a site after only a few days, time lapses between project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance to ensure absence. If no owls are found during these surveys, no further regard for the burrowing owl would be necessary.
2. Burrowing owl surveys shall be conducted by walking the entire project site and (where possible) in areas within 150 meters (approx. 500 feet) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. Pedestrian survey

transects shall be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be 7 meters to 20 meters and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the surveyor's ability to detect burrowing owls thus, avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. To avoid impacts to owls from surveyors, owls and/or occupied burrows shall be avoided by a minimum of 50 meters (approx. 160 ft.) wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows shall be avoided during all seasons.

3. If burrowing owls are detected on the site, the following restricted activity dates and setback distances are required, as recommended in CDFW Staff Report 2012.
  - a. From April 1 through October 15, low disturbance and medium disturbance activities shall have a 200-meter buffer while high disturbance activities shall have a 500-meter buffer from occupied nests.
  - b. From October 16 through March 31, low disturbance activities shall have a 50-meter buffer, medium disturbance activities shall have a 100-meter buffer, and high disturbance activities shall have a 500-meter buffer from occupied nests.
  - c. No earth-moving activities or other disturbance shall occur within the aforementioned buffer zones of occupied burrows. These buffer zones shall be fenced as well. If burrowing owls were found in the project area, a qualified biologist shall delineate the extent of burrowing owl habitat on the site.
4. In accordance with CDFW Staff Report 2012, if burrowing owls were found nesting onsite, credits shall have to be purchased from a mitigation bank to offset the project's habitat loss on the burrowing owl. This shall be developed in coordination with CDFW and CDD.

Condition of Approval 36 – Biology 1.4 is satisfied through implementation and completion of Condition of Approval #69.

37. Biology 2: The following measures are required to preclude or reduce to less than significant levels, adverse impacts on California horned larks and loggerhead



shrikes.

1. If project site grading or construction will take place during the nesting season (February 1 through August 31), a nesting survey should be conducted on the project site and within a zone of influence around the project site 15 days prior to commencing with the work. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations or noise (for example, along the pond and detention basin and adjacent slopes).

Condition of Approval 37 – Biology 2.1 is satisfied through implementation and completion of Condition of Approval #70.

2. If the California horned lark and/or loggerhead shrike are identified nesting on the project site or within a zone of influence, a non-disturbance buffer of 100 feet shall be established or as otherwise prescribed by a qualified ornithologist after observing the birds and determining how acclimated they are to disturbance. The buffer shall be demarcated with orange construction fencing. The ornithologist shall prepare a report on the finding(s) and implementation of mitigation(s) to CDD.
  3. Nesting buffers shall be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1, the qualified ornithologist conducting the nesting surveys should prepare a report that provides the details about the nesting outcome and the removal of the buffers. This report should be submitted to the CDD prior to the time that nest protection buffers are removed.
38. Biology 3: Prior to issuance of a grading or building permit, whichever occurs first, the applicant shall submit a final landscaping and irrigation plan prepared by a licensed arborist or landscape architect for review and approval by the CDD. The plan shall not include any plant species identified as invasive. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's Water Efficient Landscape Ordinance, if the County's Ordinance has been adopted. Verification of compliance with the Water Efficient Landscape Ordinance shall accompany the plan. The plan shall be implemented prior to final building inspection.

39. Biology 4: The following measures are required to preclude or reduce to less than significant levels, adverse impacts on the onsite riparian habitat associated with the grassy swales.

1. Prior to issuance of a grading or building permit, whichever occurs first, the applicant shall submit a final landscaping and irrigation plan prepared by a licensed arborist or landscape architect for review by the County's Peer Review Biologist and review and approval by the CDD. The plan shall be designed to protect and preserve the onsite riparian habitat associated with the grassy swales, including the established riparian trees.
2. Prior to the issuance of a grading or building permit, whichever occurs first, the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the CDD and by the Department of Public Works. The SWPPP shall include, at a minimum, placement of silt fencing and wildlife friendly hay wattles (i.e., wattles without monofilament netting) around the perimeter of the project site wherever the grassy swales occur prior to initiating site work. Orange construction fencing shall also be installed between the grassy swales, offsite detention basin and mitigation pond and the project site to ensure that construction equipment is not driven into these sensitive habitats. The construction fencing shall be shown on all construction documents.

40. Biology 5: The following measures are required to preclude or reduce to less than significant levels, adverse impacts on nesting birds. The measures may be implemented concurrently with the measures in Biology 2 above.

1. If project site grading or construction will take place during the nesting season (February 1 through August 31), a nesting survey should be conducted on the project site and within a zone of influence around the project site 15 days prior to commencing with the work. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations or noise (for example, along the pond and detention basin and adjacent slopes).
2. If common (non-special status) birds are identified nesting on or adjacent to the project site, a non-disturbance buffer of 75 feet shall be established or as otherwise prescribed by a qualified ornithologist. The buffer should be demarcated with orange construction fencing. The ornithologist shall prepare a report on the finding(s) and implementation of mitigation(s) to CDD.

3. If special-status passerine birds are identified nesting on the project site or within a zone of influence, a non-disturbance buffer of 100 feet shall be established or as otherwise prescribed by a qualified ornithologist after observing the birds and determining how acclimated they are to disturbance. The buffer shall be demarcated with orange construction fencing. The ornithologist shall prepare a report on the finding(s) and implementation of mitigation(s) to CDD.
4. Nesting buffers shall be maintained until August 1st unless a qualified ornithologist determines that young have fledged and are independent of their nests at an earlier date. If buffers are removed prior to August 1, the qualified ornithologist conducting the nesting surveys should prepare a report that provides the details about the nesting outcome and the removal of the buffers. This report should be submitted to the CDD prior to the time that nest protection buffers are removed.

Condition of Approval 40 – Biology 5 is satisfied through implementation and completion of Conditions of Approval #71 and 72.

## Energy

Energy mitigation measures Greenhouse Gas 1 and Greenhouse Gas 2 are included below as Conditions of Approval #47 and 48, respectively.

## Geology and Soils

41. Geology 1: Prior to issuance of construction permits the project sponsor shall provide evidence of plan review and approval by the project geotechnical engineer. The recommendations for site grading contained in the approved grading plans shall be followed during construction unless modifications are specifically approved in writing by the Building Inspection Division of the Department of Conservation and Development.
42. Geology 2: Borehole logs indicate the existing pad soils consist of medium stiff to stiff clays containing variable amounts of silt, sand, and gravel. These materials are characterized by slow permeability. The applicant shall submit a follow-up geotechnical report that specifically addresses the planned design of the bio-retention basins, and their proximity to planned improvements.

43. Geology 3: During grading and soils preparation work (i.e. lime treatment of soils) the geotechnical engineer shall provide observation and testing services. The intent of this geotechnical monitoring is to (i) verify that geotechnical recommendations are properly interpreted and implemented by the contractor, (ii) view exposed conditions during grading/ soil preparation work to ensure that field conditions match those that were the basis of the geotechnical design report, and (iii) provide supplement recommendations during construction, should they be warranted.
44. Geology 4: (1) Prior to the issuance of the first building permit, the geotechnical engineer shall certify that all site preparation work is in compliance with recommendations in the approved geotechnical report. (2) During foundation and drainage-related work the geotechnical engineer shall provide observation services to ensure the geotechnical recommendations are properly implemented by the contractor.
45. Geology 5: Prior to requesting a final building inspection of the warehouse structure, the project sponsor shall submit a letter-report from the geotechnical engineer documenting the observation and testing services performed during final grading/ foundation work/ lot drainage. The report of the geotechnical engineer shall also provide a professional opinion on the consistence of the as-graded/ as-built project with recommendations in the approved geotechnical report.
46. Geology 6: The report of the Corrosion Engineer shall also be provided prior to requesting the final building inspection of the warehouse.

#### Greenhouse Gas Emissions

47. Greenhouse Gas 1: Prior to the issuance of a building permit, the applicant shall show on the plans or otherwise demonstrate how the project design would, at a minimum, meet all applicable standards of the 2016 California Building Standards Code including the installation of high-efficiency appliances and insulation, to satisfy Reduction Measures EE1 and RE1 of the County's Climate Action Plan. The plan shall be subject to review and approval by the CDD.
48. Greenhouse Gas 2: Prior to the final building inspection, the applicant shall demonstrate on the site plans that the project's anticipated emissions of GHGs would be reduced by at least 31.54 MTCO<sub>2</sub>e/yr. The required reduction may be

achieved through the inclusion of additional measures, which may include, but not be limited to the following:

- Exceed the energy efficiency measures of the current Title 24 Building Energy Efficiency Standards Code or CALGreen;
- Electrify loading docks and/or require idling-reduction systems for heavy-duty trucks;
- Provide end of trip facilities such as showers and changing spaces to encourage community by bicycle;
- Install and operate on-site renewable energy (such as solar panels);
- Install low-flow water fixtures in exceedance of applicable local standards;
- Incorporate measures from the Bay Area Commuter Benefits Program, such as providing a subsidy to reduce or cover employee's monthly transit or vanpool costs, providing a free or low cost transit service for employees, or incorporating an alternative commuter benefit that would effectively reduce single-occupancy commute trips.

The calculations shall be provided to the CDD for review and approval.

#### Noise

49. Noise 1: The following noise reduction measures shall be implemented during project construction and shall be included on all construction plans.

1. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
2. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
3. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

4. All construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on state and federal holidays on the calendar dates that these holidays are observed by the state or federal government as listed below:
- o New Year's Day (State and Federal)
  - o Birthday of Martin Luther King, Jr. (State and Federal)
  - o Washington's Birthday (Federal)
  - o Lincoln's Birthday (State)
  - o President's Day (State and Federal)
  - o Cesar Chavez Day (State)
  - o Memorial Day (State and Federal)
  - o Independence Day (State and Federal)
  - o Labor Day (State and Federal)
  - o Columbus Day (State and Federal)
  - o Veterans Day (State and Federal)
  - o Thanksgiving Day (State and Federal)
  - o Day after Thanksgiving (State)
  - o Christmas Day (State and Federal)

Condition of Approval #49 (Noise-1) is satisfied through implementation and completion of Conditions of Approval #8, 9, 12, and 13.

PUBLIC WORKS CONDITIONS OF APPROVAL FOR LAND USE PERMIT LP16-2031

The applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the County 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, Community Development Division, on July 14, 2016.

The applicant shall comply with the following conditions of approval prior to issuance of a building permit and prior initiation of the use proposed under this permit.

General Requirements

50. 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 July 14, 2016.

51. The applicant shall submit improvement plans prepared by a registered civil engineer to the Public Works Department and pay appropriate review and inspection fees in accordance with the County Ordinance and these conditions of approval. The below conditions of approval are subject to the review and approval of the Public Works Department. Any necessary traffic signing and/or striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Frontage/On-Site/Off-Site)

52. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along Evora Court and the cul-de-sac at the end of Evora Road. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.

Access to Adjoining Property

Proof of Access

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

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

Encroachment Permit

54. 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 Evora Road.

Road Alignment/Intersection Design/Sight Distance

55. The applicant shall grade, trim vegetation, widen pavement as necessary and realign Evora Court to provide sight distance for a design speed of 45 miles per hour at the intersection with Evora Road.

Private Roads

56. The applicant shall construct the onsite and off-site roadway system (including Evora Court, the private access road from Evora Road to the project site) from Evora Road to current County private road standards with a minimum traveled width of 16 feet, with 2-foot wide paved shoulders and with minimum 5-foot wide sidewalk on one side, within a minimum 25-foot access easement.

Parking

57. Parking shall be prohibited on one side of Evora Court (private access road from Evora Road to the project site) 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 Evora Court subject to the review and approval of the Public Works Department.

Utilities/Undergrounding

58. All new utility distribution facility services shall be installed underground. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures as a part of the Improvement Plan submittals for the project. The composite



drawings and/or utility improvement plans shall be signed by a licensed civil engineer.

Drainage Improvements:

Collect and Convey

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

Miscellaneous Drainage Requirements:

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

61. 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):

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

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

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention basins) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permits.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Other alternatives comparable to the above as approved by the Public Works Department.
- Shallow roadside and on-site swales.
- (Community Development) Distribute public information items regarding the Clean Water Program and lot specific IMPS to buyers.
- Filtering Inlets.
- (Community Development) The applicant shall sweep the paved portion of the site at least once a year between September 1<sup>st</sup> and October 15<sup>th</sup> utilizing a vacuum type sweeper. Verification (invoices, etc.) of the sweeping shall be provided to the County Clean Water Program Administrative Assistant at 255 Glacier Drive, Martinez CA 94553 (925) 313-2238).
- (Community Development) Trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.

Stormwater Management and Discharge Control Ordinance:

63. 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 issuance of a building permit. 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.

64. 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).

65. 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.
66. Prior to, issuance of a building permit, 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.
67. Prior to, issuance of a building permit, 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.
68. 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.

CONDITIONS OF APPROVAL FOR LAND USE PERMIT LP16-2031 REQUESTED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE TO AUGMENT CERTAIN MITIGATION MEASURES FROM THE MITIGATION MONITORING PROGRAM FOR COUNTY FILE LP16-2031

Biological Resources

Western Burrowing Owl Habitat Loss

69. Compensatory burrowing owl mitigation lands was purchased in October 2004 for this site as part of the Thomas/DeNova Industrial Subdivision Project (*Amendment No. 2 – Exhibit 1, Exhibit J-1, Haera Wildlife Conservation Bank, Contract #HWCB-04-12, California Department of Fish and Game, Ref. No. 1802-2002-004-03*). In addition and in accordance with CDFW Staff Report 2012, if burrowing owls were found nesting onsite, credits shall have to be purchased from a mitigation bank at a minimum of 3:1 (mitigation:loss) ratio to offset the project's habitat loss on the burrowing owl. This shall be developed in coordination with CDFW and the CDD.

California Horned Lark and Loggerhead Shrike

70. If project site grading or construction will take place during the nesting season (February 1 through August 31), a nesting survey should be conducted on the project site and within a zone of influence around the project site within 5 days of the initiation of construction activities. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations or noise (for example, along the pond and detention basin and adjacent slopes).

Nesting Birds

71. If project site grading or construction will take place during the nesting season (February 1 through August 31), a nesting survey should be conducted on the project site and within a zone of influence around the project site within 5 days of the initiation of construction activities. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations or noise (for example, along the pond and detention basin and adjacent slopes).

72. If nesting birds are found, then no work shall be initiated until nest-specific buffers have been established by the qualified biologist, in consultation with CDFW and CDD. The buffer area(s) shall be fenced off from work activities and avoided until

the young have fledged, as determined by the qualified biologist. Active nests within or adjacent to the project site shall be monitored by the qualified biologist daily throughout the duration of project activities for changes in bird behavior or signs of distress related to project activities. If nesting birds are showing signs of distress or disruptions to nesting, then that nest shall have the buffer immediately increased by the qualified biologist until no further interruptions to breeding behavior are detectable.

ADVISORY NOTES

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

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

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

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

B. The applicant shall submit building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a building permit or proceeding with the project.

C. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.

D. The applicant must submit building plans to the Contra Costa County Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.

E. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Delta Diablo Sanitary District.

F. The applicant must comply with the requirements of the Contra Costa Water District.

G. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.

H. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the East Contra Costa Regional Fee & Finance Authority/ Regional Transportation Development Impact Mitigation (ECCRFFA/RTDIM) and Bay Point Areas of Benefit as adopted by the Board of Supervisors.

I. The applicant shall be aware that a Deferred Improvement Agreement (Recorders number 2003-0587784) has previously been executed, which is bound to this property and remains in full effect. The Deferred Improvement Agreement executed is for the following improvements:

1. Realign the access road to intersect Evora Road at a 90-degree angle. This shall include all necessary work to realign the access road to intersect Evora Road at a 90-degree angle including constructing new curb, sidewalk, necessary longitudinal and transverse drainage, pavement widening and transitions along the frontage of Evora Road.
2. The applicant shall provide a sidewalk along at least one side of the private access road serving the site (MM).
3. The applicant shall construct a sidewalk on the north side of Evora Road from Willow Pass Road to the proposed access to the project site (MM).
4. Street lights shall be installed on Evora Road between Willow Pass Road and the proposed access. The final number and location of the lights shall be determined by the Public Works Department, Engineering Services Division.
5. At the time the deferred improvement agreement is called up, property owner shall submit improvement plans, prepared by a registered civil engineer, to Public Works and pay appropriate fees in accordance with County Ordinances and this deferred improvement agreement.

J. 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.