

Attachment C

Project Conditions of Approval

CONDITIONS OF APPROVAL FOR COUNTY FILES #CDGP20-00001, #CDRZ20-03255, #CDMS20-00007, #CDDP20-03018, #CDLP20-02038 (SPIEKER SENIOR CONTINUING CARE RETIREMENT COMMUNITY)

Administrative

1. These conditions of approval pertain to the Spieker Senior Continuing Care Retirement Community project ("Project"), as approved under County Files #CDGP20-00001, #CDRZ20-03255, #CDMS20-00007, #CDDP20-03018, and #CDLP20-02038.
2. **Tentative Map approval is granted** to reconfigure the two parcels that comprise the project site from approximately 13 and 17 acres in area, to 25 and 5 acres in area with refined legal descriptions. No approval for the subdivision of either parcel is granted as part of this permit.
3. **Preliminary and Final Development Plan approval is granted** to allow the construction of a Continuing Care Retirement Community (CCRC) consisting of the following primary components:
 - a. 354 independent living units and amenities for residents not needing daily assistance;
 - b. a health care center for 100 residents and non-residents requiring daily assistance or medical attention;
 - c. a maintenance building;
 - d. associated drainage, access, and utility improvements;
 - e. amenities including a swimming pool, tennis courts, gym, auditorium, restaurants, bar, theatre, library, and clubhouse; and
 - f. approximately 225,000 cubic yards of cut and approximately 150,000 cubic yards of fill grading activities resulting in a net export of 75,000 cubic yards of soil from the site.
4. **Land Use Permit approval is granted** to allow the sale of alcoholic beverages for onsite consumption within the proposed clubhouse.
5. **Tree Permit approval is granted** to allow the removal of up to 353 trees.
6. **The issuance of a Business License is granted. Prior to commencing operation of the continuing care retirement community (CCRC),** the applicant shall obtain a Business License from the County Treasurer-Tax Collector. The applicant shall obtain a Property Use Verification from the CDD **prior to obtaining a business license.**

Consistency

7. Approval of the Tentative Map, Preliminary and Final Development Plan, Land Use Permit, and Tree Permit are contingent upon the Board of Supervisors also approving the General Plan Amendment (#CDGP20-00001) and Rezoning (#CDRZ20-03255) elements of the Project.

8. The Tentative Map, Preliminary and Final Development Plan, Land Use Permit, and Tree Permit approvals mentioned above are based on and as generally shown on the following documents:
 - a. Application received by the CDD on August 3, 2020;
 - b. Tentative Parcel Map and civil plans of BkF Engineers received by the CDD on December 22, 2020;
 - c. Landscape plans of Gates and Associates received by the CDD on October 8, 2020;
 - d. Architectural plans of KTG Y received by the CDD on October 8, 2020; and
 - e. Modified Villa Configuration Plan and Seven Hills School Boundary Section Drawings of Gates and Associates received by the CDD on November 17, 2022.
 - f. Exhibit of Offer of Land Dedication received by the CDD on November 22, 2022

Approval Duration

9. The Tentative Map approval is granted for a period of three years, which may be extended upon proper request for extension, and review and approval of the CDD.

Indemnity

10. 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 applications for a land use entitlement, the County's discretionary approvals for the Project, 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 when those Liabilities accrue. The scope of indemnity provided by the Applicant is more specifically described in the Indemnification Agreement.

Fees

11. This Project is subject to initial application deposits of \$5,200 for the General Plan Amendment, \$7,000 for the Rezoning, \$5,000 for the Tentative Map Review, \$500 for the Development Plan, and \$5,500 for the Land Use Permit, which were paid with the application submittals, plus time and materials costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due under applicable County laws and regulations must be paid **prior to recordation of the Parcel Map, issuance of a building permit, within 60 days of the permit's effective date, or prior to use of the 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 from the date of approval, the application shall be charged interest at a rate of ten percent (10%). The Applicant may obtain current costs by contacting the Project planner.

If the Applicant owes any additional costs, a bill will be sent to the Applicant shortly after permit issuance.

12. **No later than five days after project approval**, the applicant shall pay the California Department of Fish and Wildlife (CDFW) CEQA filing fee of \$3,539.25 and a County Clerk processing fee of \$50. A Notice of Determination, which commences the running of a 30-day statute of limitations for CEQA purposes, cannot be filed absent payment of these fees.
13. In the event that the County elects to use a third-party consultant to assist in the monitoring of environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program (MMRP) and other requirements of these conditions, then the Applicant shall be responsible for payment of all actual fees associated with the consultant's contract.

Compliance Report

14. **Prior to recordation of the Parcel Map, CDD stamp-approval of plans for issuance of a building or grading permit, or commencement of construction-related activities, whichever occurs first**, the Applicant shall submit an application for Condition of Approval compliance verification to confirm compliance with conditions relevant to that event. The initial deposit for a project of this size is \$10,000, which is subject to staff time and materials costs. Should staff costs exceed the deposit, additional payment will be required in accordance with applicable laws and regulations. The Applicant shall submit a report in compliance with the conditions of approval set forth herein for review and approval of the CDD. The report shall list each condition followed by a description of what has been provided as evidence of compliance with that condition. The CDD may reject the report if it is not reasonably comprehensive with respect to the applicable requirements for the requested approval, and the Applicant shall re-submit this compliance verification with changes made in response to comments received by the CDD.

Cardroom

15. No license or permit for establishment of a cardroom, as defined in Section 52-3.103 of the County Ordinance, [or any other related games or activities] is granted under this permit. **Prior to CDD stamp approval of plans for issuance of a building permit to construct the apartment style building**, the applicant shall submit a revised floor plan that redesignates the use of the "card room" currently shown on the first-floor plan.

Special Events

16. No portion of the facility shall be leased, rented, or otherwise offered to the general public for the hosting of special events.

State Permits/Licenses

17. **Prior to entering into continuing care contracts with potential residents**, the facility operator is responsible for obtaining a Permit to Accept Deposits/Certificate of Authority from the California Department of Social Services (CDSS).
18. **Prior to final inspection for occupancy of the apartment-style building, single-story buildings, or health center**, the facility operator shall provide the CDD with a copy of a state-issued Residential Care Facility for the Elderly License.

Alcohol Sales

19. This approval is for the sale of alcohol for on-site consumption within the clubhouse only.
20. **Prior to final building inspection of the building in which alcohol sales will be administered**, the applicant shall provide evidence to the CDD that a license has been obtained or is under review by the California Department of Alcoholic Beverage Control for the alcohol sales approved under this permit. All required permits from the California ABC shall remain current and in good standing for the life of the approved alcohol sales use.
21. **Within thirty days from the commencement of alcohol sales**, the applicant shall provide evidence to the CDD that the facility has been registered with the Alcohol and Tobacco Tax and Trade Bureau.

Trees

22. **Prior to any tree removal**, the applicant shall obtain the necessary grading permits for all proposed site preparation and roadway or structural improvements.
23. Removal of trees that have been rated by the consulting arborist as being in "Fair" or "Good" condition and that are not located within areas identified for permanent improvements (i.e., buildings, roadways, drainage facilities) or grading activities, shall be prohibited.

Prior to CDD stamp-approval of plans for issuance of a building or grading permit or any ground disturbance at the site, whichever occurs first, the applicant shall provide the CDD with the following information and documents:

- An updated tree removal plan (Sheets C2.1 and C2.2) that removes the existing site contours, and that includes grading limits and the building envelope for all proposed permanent improvements;
- A tree removal inventory including the identification number (as provided in the consulting arborist's report) of all trees proposed for removal at the site, the condition of each tree, and the reason for the proposed tree removal (e.g., within building or grading envelope, poor condition, dead)

24. Required restitution for Approved Tree Removal – The following measures shall be implemented to provide restitution for the protected trees that have been approved for removal.
- a. Tree Restitution Planting/Irrigation Plan: **Prior to recordation of the Parcel Map**, the Applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the CDD. The plan shall identify protected trees that are to be removed or preserved, and shall provide for the planting of trees equal in number to the quantity proposed for removal in compliance with Condition of Approval #23 immediately above. The quantity of oak trees to be replanted under the plan shall equal or exceed the quantity proposed for removal. All restitution plantings shall be a minimum 15 gallons in size. The plan shall comply with the Water Efficient Landscapes Ordinance (County Code Chapter 82-26) and verification of such shall accompany the plan. The plan shall be accompanied by an estimate, prepared by a licensed landscape architect, arborist, or landscape contractor, of the materials and labor costs to complete the improvements (accounting for purchase and installation of trees and any necessary irrigation).
 - b. Required Security to Assure the Completion of Plan Improvements: **Prior to recordation of the Parcel Map**, the Applicant shall submit a security (e.g., bond, cash deposit or other financial instrument) that is acceptable to the CDD. The security shall include the amount of the approved cost estimate for replacement and planting, *plus* a 20% inflation surcharge.
 - c. Initial Fee Deposit for Processing of a Security: The County Ordinance Code requires that the Applicant pay fees for all time and materials costs of staff for processing a landscape improvement security. At the time of submittal of the security, the Applicant shall pay a deposit of \$200.
 - d. Timing of Planting Plan Implementation: **Prior to final inspection of the 354th independent living unit or CDD stamp approval of plans for the issuance of building permits to allow vertical construction of the Health Center, whichever occurs first**, the consulting arborist shall verify that all replacement trees and related irrigation proposed within the boundaries of the proposed 25-acre parcel for the independent living units, have been installed. Replacement tree and related irrigation proposed within the boundaries of the 5-acre health center parcel shall be installed **prior to final inspection of the health center building**.
 - e. Duration of Security: **Prior to final inspection of the health center building**, the consulting arborist shall verify that all required replacement trees have been properly planted, and when verified, notify the CDD in writing. The security shall be retained by the County for a minimum on 12 months, and up to 24 months, beyond the date of receipt of the written verification of installation. A prerequisite of releasing the bond between 12 and 24 months shall be to have the Applicant arrange for the consulting arborist to inspect all required replacement trees and to prepare a report on the trees' health. In the event the

CDD determines that the required replacement trees have been damaged or have died, then the CDD may require that all or part of the security be used to provide for replacement of the dead or damaged tree(s).

- f. 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 below. However, the integrated plan shall identify each designated replacement tree required to replace removed trees, and that are intended to satisfy this condition. The estimate required pursuant to Subsection-(a) above shall only cover materials and labor associated with the implementation of the required tree restitution, and not the full Final Landscape Plan.
25. **Prior to grading, trenching, filling, or any other ground disturbing activity within the dripline of any tree identified for preservation**, the applicant shall provide an arborist report detailing measures to be implemented during construction activities to ensure the continued vitality of the tree.
26. **Prior to the start of any clearing, stockpiling, trenching, grading compaction, paving, or change in ground elevation**, the applicant shall install fencing at the dripline or other area as determined by an arborist, of all trees adjacent to or in the area to be altered. **Prior to the issuance of grading or building permits**, the fences shall be inspected, and the location thereof approved by the consulting arborist or appropriate County staff.
27. No grading, compaction, stockpiling, trenching, paving, or change in ground elevation shall be permitted within the dripline of a tree to be preserved unless indicated on 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 operations. The arborist shall have the authority to require protective measures to protect the roots. Upon completion of grading and construction, the consulting 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.
28. No parking or storing of vehicles, equipment, machinery, construction materials, or construction trailers, and no dumping of oils or chemicals shall be permitted within the dripline of any tree to be preserved.

Final Landscape Plan

29. **Prior to recordation of the Parcel Map or CDD stamp approval of plans for issuance of a building or grading permit, whichever occurs first**, a final landscape and irrigation plan shall be submitted to the CDD for review and approval. The plan shall be designed in general accord with the preliminary landscape plans of Gates and Associates received by the CDD on October 8, 2020. The Final Landscape Plan shall be compliant with the County's Water Efficient Landscapes Ordinance (Chapter 82-26).

30. **Prior to any tree removal, stamp-approval of plans for the issuance of a grading permit, or any ground disturbance activity that may impact existing trees, whichever occurs first**, the applicant shall provide evidence to the County that any necessary permits have been obtained from the City of Walnut Creek for tree removal or trimming proposed within the city limits.
31. Where feasible, all construction contractors shall limit impacts to the roots of off-site trees that may encroach upon the subject property and construction areas.

Signage

32. The Applicant shall submit a detailed sign program for review and approval of the CDD. The sign program may be submitted and approved in parts. A preliminary sign program including provisions for monument signs and signs related to the independent living units shall be submitted and approved by the CDD **prior to stamp-approval of plans for issuance of building permits for the first building containing independent living units**. A Final Sign program with provisions addressing signs for the health center shall be submitted and approved **prior to CDD stamp approval of plans for issuance of building permits for health center improvements**. The Final sign program shall be consistent with the County's Sign Ordinance (Chapter 88-6).

Transportation and Parking Demand Management (TDM)

33. 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 for review and approval of the CDD. The TDM Program shall comply with the standards of the County TDM Ordinance and shall identify single-occupancy automobile trip reduction strategies as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies. Trip reductions strategies may include, but not be limited to, the following:
 - a. Pedestrian and bicycle improvements, onsite or offsite, to connect to existing and planned pedestrian and bicycle facilities, nearby transit stops, services, schools, shops, etc., in accordance with County policies and plans;
 - b. Provision of or enhancements to transit amenities near the project site
 - c. Information to be distributed regarding:
 - i. transit, carpool, vanpool, rideshare, TNC (e.g. Uber, Lyft), "Guaranteed Ride Home," and micromobility (e.g. bikeshare, scooter share) services,

- ii. pedestrian and bicycle connections to off-site destinations (e.g. transit stops/stations, commercial areas, schools, and community amenities (e.g. parks, community center), and
 - iii. incentives, promotions, and events that support single-automobile trip reduction.
- d. On-site amenities that reduce demand for external automobile trips (e.g. bicycle parking, showers/locker rooms, fitness center, childcare services).
 - e. Compliance with a future County VMT/TDM ordinance.
 - f. Participation in a future County VMT fee program.

34. As part of the applicant's TDM program submittal, the applicant shall provide a plan detailing the location of at least 90 long-term bicycle parking spaces.

Financial Assistance Program for Independent Living Units

35. The applicant has agreed to establish and implement a financial assistance program (the "Program") for the independent living units proposed as part of the Project. The Program will include the following components:

A. The facility operator will establish an annuity for the purpose of providing ongoing subsidies to lower-income households that would not otherwise have the financial means to live in the facility. The facility operator will fund the annuity by depositing, concurrently with issuance of a certificate of occupancy for the Project's first independent living unit, \$2,000,000 into a separate account established solely for this purpose. The facility operator will provide monthly fee subsidies to Program participants utilizing funds from the annuity. Prior to occupancy of any independent living units, the County and the applicant or facility operator will establish specific administrative guidelines covering the use and investment of the annuity which shall serve to implement the following Program objectives:

1. The facility operator will use commercial best efforts to market independent living units and the Program to lower-income households and provide monthly fee subsidies to Program participants, with a target occupancy rate of 10% of the Project's independent living units.
2. The Program shall be designed to be available and utilized for a period of 20 years from the first deposit into the annuity account.
3. The annuity shall retain any accrued interest. The applicant or facility operator will use best business practices in investment of the annuity funds.

- B. The facility operator will operate the Program to comply with the following standards:
1. Residents participating in the Program shall reside in independent living apartments dispersed throughout the facility and have access to all on-site amenities that are available to residents not participating in the Program.
 2. The construction quality and exterior design of the independent living units occupied by Program participants must be comparable to those of similar units occupied by residents not participating in the Program.
- C. Annually, the facility operator will provide the County a report detailing the use and accounting of the annuity, the number of Program participants that the facility operator has admitted under the Program during the previous calendar year, the annual incomes of the participant households, and the annual incomes of other households that may be qualified as Moderate-, Lower- or Very Low-Income Households. In the event the facility operator fails to meet the targets set forth in Section A, the facility operator will provide the County a written plan for meeting those targets in the future.
- D. The facility operator will be solely responsible for marketing the Program to qualified households. When feasible, the facility operator will grant priority preference to Program applicants as follows:
1. Households qualified as Very Low-Income Households, as defined in Government Code section 50105.
 2. Households qualified as Lower-Income Households, as defined in Government Code section 50079.5.
 3. Households then currently residing in Contra Costa County.
 4. Households no longer residing in Contra Costa County, but that did reside in Contra Costa County within six months of their application submittal or did reside in Contra Costa County continuously for at least ten years immediately prior to no longer residing in the county.
 5. Households with a principal care giver, or with a child, stepchild, grandchild, parent, sibling, spouse, or domestic partner, then currently residing in Contra Costa County.
 6. Households with a principal care giver, or with a child, stepchild, grandchild, parent, sibling, spouse, or domestic partner, then currently working in Contra Costa County.
 7. All other households.
- E. The County and facility operator may jointly elect to extend or increase the annuity to make additional independent living units available for application of this

Program and/or to increase the subsidy provided to target-income households that occupy independent living units within the Project.

- F. If the facility operator fails to meet the target occupancy rate of 10% of the Project's independent living units for five consecutive years and fails to expend \$500,000 from the annuity for monthly fee subsidies during the same period, the facility operator shall pay to the County an amount equal to the then-remaining balance of the annuity.

Community Benefits Agreement

36. The applicant has agreed to enter into a Community Benefits Agreement with the County to make an annual community benefits contribution to the County to benefit the local community, including areas within the unincorporated Contra Costa County and the City of Walnut Creek near the Project. The agreement will detail the timing and amount of the agreed-upon community benefit payments. Prior to filing the Parcel Map for the project, the applicant shall provide the CDD with an executed copy of the Community Benefits Agreement between the applicant and County.

Conversion to For Sale or For Rent Units

37. Any future conversion of any approved independent living units to for-sale units or rental units shall require a modification to the approved Final Development Plan, subject to review and approval by the County. Any future proposal to convert any approved independent living units shall be evaluated for compliance with all applicable federal, State, and local laws and regulations, including all applicable County zoning requirements.

Climate Action Plan Consistency

38. **Prior to CDD stamp-approval of plans for issuance of building permits for any independent living unit building or the health center**, the applicant shall provide evidence (construction plan details/notes) that the proposed building meets or exceeds minimum applicable standards listed in Table-E.1 (Standards for CAP Consistency – New Development) of the County Climate Action Plan's Appendix-E, as follows:

- a. All appliances and insulation installed by the project sponsor shall be rated high efficiency.
- b. All buildings shall meet standards to be solar ready as defined by the California Building Code.

Aesthetics

39. A lighting plan for any proposed exterior lighting shall be submitted to the Contra Costa County Department of Conservation and Development, Community Development Division for review and approval and include the following **(MM AES-4.1)**:
- a. Exterior lighting must be directed downward and away from adjacent properties and public/private right-of way to prevent glare or excessive light spillover. Lighting bulbs must be limited to low intensity lights, including lighting for identification purposes.
 - b. No free-standing light poles (except those used within building interior courtyards and for internal roadway lighting) will be allowed within the project site. Landscaping lights must be limited to ground-level for walking/safety purposes.
 - c. If any lighting is proposed for the construction staging area, lighting must also be directed downward and away from adjacent properties. Lighting intensity may not be greater than what is reasonably required to safely illuminate the staging area.

Building and Retaining Wall Color and Materials Palette

40. The exterior of all proposed buildings and retaining walls shall be composed of materials that naturally are or that have otherwise been finished in earth tones, similar to those shown on the approved architectural plans. **Prior to CDD stamp approval of plans for issuance of a building permit for construction of the health center, buildings to house independent living units, or any retaining walls**, the applicant shall submit a color palette and materials sample for review and approval of the CDD.

Air Quality

41. Enhanced BAAQMD Best Management Practices: The project shall implement the Bay Area Air Quality Management District's (BAAQMD's) recommended best management practices (BMPs) and additional measures to reduce construction equipment exhaust emissions. These measures shall include the following **(MM AIR-1.1)**:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times a day and at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content shall be verified by lab samples or moisture probe.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using a wet power vacuum street sweeper at least once per day. The use of dry power sweeping shall be prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.

- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. Use interior coatings with no more than 88 grams per liter volatile organic compounds (VOC) (i.e., ROG) and exterior coatings with no more than 132 grams per liter VOC (i.e., ROG) to reduce daily emissions by at least 12 percent. Coating must also meet or exceed BAAQMD requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). Alternatively, the project could submit a plan to demonstrate that overall VOC content of architectural coatings would be at least 12 percent below BAAQMD requirements.
- h. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.
- i. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.
- j. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.
- k. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- l. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- m. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6- to 12-inch compacted layer of wood chips, mulch, or gravel, and (2) washing truck tires and construction equipment **prior to leaving the site.**
- n. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

Recycled Water for Construction and Dust Control

- 42. If available within a reasonable distance from the project site, recycled water shall be used for construction and dust control activities.

43. Selection of Construction Equipment: **Prior to the issuance of any demolition, grading, and/or building permits**, the project applicant shall retain a qualified consultant to develop a plan demonstrating that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 72 percent reduction in diesel particulate matter (DPM) exhaust emissions or greater and a fleet-wide average 16 percent reduction in NOX or greater. This is the minimum reduction required to reduce the project impacts (i.e., NOX emissions and cancer risk) to a less than significant level. The feasible plan to achieve this reduction would include the following (**MM AIR-1.2**):
- a. All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 interim engines. Where Tier 4 equipment is not available, exceptions could be made for equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

Biological Resources

44. Pre-Construction Bat Surveys: A pre-activity survey for roosting bats shall be conducted at the two valley oaks (*Quercus lobata*) that support suitable roost habitat near the northeastern and southeastern corners of the project site **within 30 days prior to the onset of ground-disturbing activities**. A qualified biologist will conduct a survey to look for evidence of bat use within suitable habitat. If evidence of use is observed, or if high-quality roost sites (e.g., a tree with a large cavity) are present in areas where evidence of bat use might not be detectable, an evening visual survey combined with a nighttime acoustic survey shall be conducted to determine if roosting bats are present and to identify the specific location of such bats. If no roosting bats are located, project work can continue as Planned.

If a maternity roost is detected, a disturbance-free buffer zone (determined by a qualified biologist) shall be implemented during the maternity roost season (March 15–August 31). No project-related activities shall take place within the buffer during the maternity season.

If an active non-breeding bat roost is located, project work shall be redesigned to avoid removal or disturbance of the occupied tree. No buffer from the roost shall be necessary during the nonmaternity season (September 1–March 14). If the roost tree itself must be removed, bats shall be passively excluded from roost habitat with one-way devices, or trees will be removed using a two-step tree removal process. The two-step process shall be initiated if exclusion with one-way devices is not feasible due to height of the roost. For the two-step process, trees shall be removed over a two-day period. On day 1, all non-suitable limbs shall be removed, and on day 2, the remainder of the tree shall be removed.

Removing trees in this way creates disturbance that encourages bats to vacate the tree before the potential habitat is removed. Either method shall be monitored by a qualified

biologist with knowledge of bat ecology and experience with bat exclusion methods. **(MM BIO-1.1)**

45. Pre-construction surveys for western burrowing owl shall be conducted in accordance with the March 7, 2012, CDFW Staff Report on Burrowing Owl Mitigation. If preconstruction surveys find active nests avoidance and minimization guidelines (such as site surveillance, buffers, translocation, artificial burrows, or habitat replacement) must be developed **prior to the start of construction** in accordance with the March 7, 2012, CDFW memo, and through consultation with CDFW. **(MM BIO-1.2)**

46. Avoidance and Nesting Inhibition: To the extent feasible, construction activities (or at least the commencement of such activities) shall be scheduled to avoid the nesting season. If construction activities are scheduled to take place outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code shall be avoided. The nesting season for most birds in Contra Costa County extends from February 1 through August 31.

If construction activities will not be initiated until after the start of the nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project shall be removed **prior to the start of the nesting season** (e.g., prior to February 1). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the project due to the presence of active nests in these substrates. **(MM BIO-1.3)**

47. Pre-Construction Bird Surveys: If not possible to schedule construction activities between September 1 and January 31, pre-construction nesting bird surveys shall be completed by a qualified biologist no more than seven days before construction begins. During this survey, the biologist or ornithologist shall inspect all trees and other possible nesting habitats in and within 250 feet of the project boundary.

If an active nest is found in an area that would be disturbed by construction, the biologist shall designate an adequate buffer zone (typically 300 feet for raptors and 100 feet for other species) to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW). The buffer would ensure that nests shall not be disturbed until the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Department of Conservation and Development, **prior to the removal of trees and issuance of a grading permit or demolition permit.** **(MM BIO-1.4)**

48. Avoidance and Minimization: **Prior to the start of construction** the property owner or project sponsor shall clearly delineate riparian habitat to be avoided with fencing around

the dripline of the riparian canopy. Further indirect impacts to riparian habitat shall be avoided by implementing the following measures during construction (**MM BIO-2.1**):

- a. Existing native vegetation shall be retained by removing only as much vegetation as necessary to accommodate the new road. Any vegetation removed shall be replaced per MM BIO-2.2 below.
- b. Temporary disturbance or removal of riparian vegetation shall not exceed the minimum necessary to complete the work. Any vegetation removed shall be replaced per MM BIO-2.2 below.
- c. Exposed soil shall be controlled by stabilizing slopes (e.g., with erosion control blankets) and protecting channels (e.g., using silt fences or straw wattles).
- d. Site ingress/egress locations shall be stabilized (e.g., with erosion control blankets).

49. Compensatory Mitigation for Permanent Loss of Riparian Habitat: For areas that are not able to be avoided, the property owner or project sponsor shall restore or enhance an equivalent area at a 2:1 (mitigation:impact) ratio, on an acreage basis (or as otherwise directed by a regulatory agency with regulatory authority over impacts to riparian habitat on the site). **Prior to issuance of a grading permit**, the applicant shall prepare a Riparian and Aquatic Habitat Mitigation and Monitoring Plan (Riparian and Aquatic HMMP) for aquatic and riparian habitat creation as a means of compensatory mitigation. The Riparian and Aquatic HMMP shall be prepared by a qualified restoration ecologist and shall provide, at a minimum, the following items:

- a. Habitat impacts summary and proposed habitat mitigation actions.
- b. Goals of the restoration to achieve no net loss.
- c. The location of the mitigation sites and existing site conditions.
- d. Mitigation design including:
 - Proposed site construction schedule.
 - Description of existing and proposed soils, hydrology, geomorphology and geotechnical stability.
 - Site preparation and grading plan.
 - Invasive species eradication plan.
 - Soil amendments and other site preparation.
 - Planting plan (plant procurement/propagation/installation).
 - Maintenance plan.
- e. Monitoring measures, and performance and success criteria. At a minimum, success criteria shall include at least 70 percent cover by native, woody riparian vegetation by year five.
- f. Monitoring methods, duration, and schedule.
- g. Contingency measures and remedial actions.
- h. Reporting measures.

The mitigation shall be deemed complete and the applicant released from further responsibilities when the final success criteria have been met, or when the mitigation is

deemed complete as determined by applicable regulatory/resource agencies. **(MM BIO 2.2)**

50. Construction Best Management Practices: The central drainage and associated seasonal wetlands that are to be avoided by the project design will be protected from construction activities through implementation of best management practices (BMPs) such as installing silt fencing between jurisdictional waters and project related activities, locating staging and laydown areas away from potentially jurisdictional features, and isolating construction work areas from any identified jurisdictional features. In addition, site stormwater treatment features must be designed consistent with the California Regional Water Quality Control Board, San Francisco Bay Region, Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit as described above, and shall be placed in locations to treat runoff from the developed portion of the site before entering avoided wetlands. To the extent feasible, existing site drainage patterns in the vicinity of avoided wetlands shall be preserved to prevent indirect alterations to surface hydrology that may contribute to supporting the wetlands. **(MM BIO-3.1)**
51. Compensatory Mitigation for Permanent Loss of Wetlands: To compensate for the perennial drainage and seasonal wetlands that will be permanently impacted by extension of Kinross Drive to the project site, the project proponent shall implement one of the following, in agreement with United States Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB) as per permit requirements. **(MM BIO-3.2)**
- a. Acquisition of equivalent wetlands and waters at a nearby site at a ratio of 2:1, on an acreage basis;
 - b. Purchase of mitigation credits at a mitigation bank;
 - c. Enhancement of seasonal wetlands and the perennial drainage to be preserved in the central portion of the site, as well as creation of seasonal wetland habitat in the bioretention facilities proposed on site, at a ratio of 2:1, on an acreage basis;
 - d. An alternative to be agreed upon with the USACE and RWQCB.
52. To avoid encroachment within identified wetlands areas, the rip-rap aprons proposed under the clear-span bridge shall be relocated either outside the areas designated as jurisdictional by the Army Corps of Engineers, or further east to the general location of the culverted crossing that will be removed.
53. Construction Worker Training: Worker Awareness Training for cultural resources shall be provided to members of the construction excavation and grading team. Training shall consist of the preparation of an alert sheet that would provide guidance and procedures in the event of an unexpected discovery of cultural materials with photographs of typical artifact that shall be exposed coupled with a briefing of the construction crew. **(MM CUL-2.2)**

54. Undiscovered Archaeological Resources: If evidence of an archaeological site or other suspected cultural resource as defined by CEQA Guideline Section 15064.5, including darkened soil representing past human activity (“midden”), that could conceal material remains (e.g., worked stone, worked bone, fired clay vessels, faunal bone, hearths, storage pits, or burials) is discovered during construction related earth-moving activities, all ground-disturbing activity within 50 feet of the resources shall be halted and the County Department of Conservation and Development be notified. The project sponsor shall hire a qualified archaeologist to conduct a field investigation. The County shall consult with the archaeologist to assess the significance of the find. Impacts to any significant resources shall be mitigated to a less-than-significant level through data recovery or other methods determined adequate by a qualified archaeologist and that are consistent with the Secretary of the Interior’s Standards for Archaeological documentation. Any identified resources shall be recorded on the appropriate DPR 523 (A-J) form and filed with the NWIC. **(MM CUL-2.2)**
55. Report of Archaeological Resources: If archaeological resources are identified, a final report summarizing the discovery of cultural materials shall be submitted to the County Department of Conservation and Development **prior to issuance of certificate of occupancy**. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the monitoring and testing program, a list of the resources found and conclusion, and a description of the disposition/curation of the resources. **(MM CUL-2.3)**
56. Human Remains: If human remains are discovered during project construction, all ground-disturbing activity within 100 feet of the resources shall be halted and the County Department of Conservation and Development and the Contra Costa County coroner shall be notified immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California’s Health and Safety Code. If the remains are determined by the County coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The project sponsor shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the NAHC. As necessary, the archaeologist may provide professional assistance to the Most Likely Descendant, including the excavation and removal of the human remains. Contra Costa County shall be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of State law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project sponsor shall implement approved mitigation, to be verified by Contra Costa County and as determined appropriate by the NAHC, before the resumption of ground-disturbing activities within 100 feet of where the remains were discovered. **(MM CUL-3.1)**

Geology and Soils

57. Design-level Geotechnical Compliance: The applicant shall prepare a site-specific, design-level geotechnical investigation for the project. The design-level geotechnical report shall include, but not be limited to, the following considerations:

- a. The 2019 CBC classification of the site as being located in Site Class B or C shall be determined. Building foundations, retaining walls, and structural framing requirements will be impacted by the Site Classification.
- b. The central portion of the site is underlain by artificial fill and colluvial soils that are more than 17 feet deep. The liquefaction potential of these underlying soils shall be evaluated.
- c. More detailed evaluation of the excavation characteristics of the sandstone and claystone bedrock underlying the site shall be performed. The excavation characteristics of the bedrock will impact cut grading and excavations for underground utilities and foundations.
- d. Final recommendations for grading shall be provided, including permanent and temporary slope inclinations, differential fill thickness for building pads, fill construction, and the extent of colluvial and artificial soil removal.
- e. The impacts from the on-site expansive soils on proposed structures, pavements, and flatwork shall be addressed.
- f. The design and construction of valley drains and subdrains in fill keyways and benches shall be addressed.
- g. Potential water seepage through rock fractures, daylighting from cut slopes and into utility trenches shall be assessed.
- h. Pseudostatic seismic loads will need to be incorporated into the design of retaining walls which will be more than six feet tall, as specified in the CBC.

All recommendations by the engineering geologist and/or geotechnical engineer shall be incorporated into the final design. Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the project design phase, shall be incorporated in the project. All foundations and other project structures that require building permits must be compliant with the provisions of the California Building Code. Construction drawings for the project, including seismic design factors, shall be subject to technical review and approval by the Contra Costa Department of Conservation and Development **prior to issuance of construction permits. (MM GEO-1.1)**

58. Paleontological Monitoring: Construction activities involving excavation or other soil disturbance within the project site shall be required to retain a qualified Paleontological Monitor as defined by the Society for Vertebrate Paleontology (SVP) (2010) equipped with necessary tools and supplies to monitor all excavation, trenching, or other ground disturbance. Monitoring will entail the visual inspection of excavated or graded areas and trench sidewalls. In the event that a paleontological resource is discovered, the monitor will have the authority to temporarily divert the construction equipment around the find until it is assessed for scientific significance and collected. **Prior to issuance of a grading**

permit a copy of the executed contract or other evidence that paleontological monitoring services have been retained, shall be provided to the County for review.

Prior to beginning construction activities, the Principal Paleontologist shall attend a preconstruction meeting to identify specific areas on the project site where paleontological monitoring will be required and shall provide training to construction personnel on how to identify potentially significant fossils. The Principal Paleontologist will periodically assess monitoring results and if no significant fossils have been exposed after fifty percent of excavation, the Principal Paleontologist may determine that monitoring is no longer necessary. **(MM GEO-6.1)**

59. Inadvertent Discovery of Fossils: If fossils are discovered during excavation, the Principal Paleontologist or his/her designated representative will make a preliminary taxonomic identification and determine if the find is significant. For significant/ potentially significant fossil finds, the Paleontologist shall provide a written recommendation to the Contra Costa Department of Conservation and Development if further action is required, and provide recommended measures for any further evaluation, fossil collection, or protection of the resource. Any subsequent paleontologic work shall be approved by the Contra Costa Department of Conservation and Development and completed as quickly as possible to avoid damage to the fossils and delays in construction schedules. At a minimum, for significant fossils, the paleontological staff will assign a unique field number to each specimen identified; photograph the specimen and its geographic and stratigraphic context along with a scale near the specimen and its field number clearly visible in close-ups; record the location using a global positioning system (GPS), record the field number and associated specimen data (identification by taxon and element, etc.) and corresponding geologic and geographic site data (location, elevation, etc.) in the field notes and in a daily monitoring report; stabilize and prepare all fossils for identification, and identify to lowest taxonomic level.

Upon completion of fieldwork, all significant fossils collected shall be prepared to a point ready for curation. Preparation shall include the careful removal of excess matrix from fossil materials and stabilizing and repairing specimens, as necessary. Following laboratory work, all fossil specimens will be identified to the lowest taxonomic level, cataloged, analyzed, and delivered to an accredited museum repository for permanent curation and storage. The cost of curation is assessed by the repository and is the responsibility of the project proponent.

A report to be submitted to the repository museum documenting the results of the paleontological mitigation monitoring efforts associated with the project shall be prepared by the Principal Paleontologist. The report shall include a summary of the field and laboratory methods, an overview of the project site geology and paleontology, a list of taxa recovered, an analysis of fossils recovered and their scientific significance, and recommendations. **(MM GEO-6.2)**

Hazards and Hazardous Materials

60. Conduct Asbestos and Lead Surveys Prior to Demolition. **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-2.1)**
61. PCB Screening Assessment. **Prior to the issuance of demolition permits for the existing residences and associated structures**, the applicant shall submit a PCB Screening Assessment Form with their permit application.⁵⁵ If on-site buildings do contain PCBs that exceed threshold limits, the project applicant shall follow applicable federal and state laws, which may include reporting to such agencies as the EPA, RWQCB, and DTSC, who may require additional sampling and abatement of PCBs consistent with state and federal requirements. **(MM HAZ-2.2)**

Hydrology and Water Quality

62. In accordance with Division 914 of the Contra Costa County 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 review by the County Public Works Department, and possibly 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 and the Contra Costa County Flood Control and Water Conservation District for review and approval that demonstrates the adequacy of the on-site drainage system and the downstream drainage system. The 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. **(MM HYD-3.1)**

Noise

63. A Construction Noise Management Plan shall be prepared by the construction contractor and implemented **prior to the start of and throughout construction** to reduce noise impacts on the nearby existing land uses. The plan shall establish the procedures the

contractor will take to reasonably minimize construction noise at the nearby existing land uses. The plan shall include, but not be limited to, the following measures to reduce construction noise levels as low as practical (**MM NOI-1.1**):

- a. Restrict noise-generating activities including construction traffic at the construction site or in areas adjacent to the construction site to the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday, with no construction allowed on federal and State weekends and holidays.
- b. Potential contractors shall be requested to submit information on their noise management procedures and demonstrate a successful track record of construction noise management on prior projects.
- c. The selected contractor will equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- d. The selected contractor will prohibit unnecessary idling of internal combustion engines.
- e. The selected contractor will locate stationary noise generating equipment such as air compressors or portable power generators as far as practical from sensitive receptors.
- f. The selected contractor will utilize "quiet" air compressors and other stationary noise sources where technology exists.
- g. The selected contractor shall limit the allowable hours for the delivery of materials or equipment to the site and truck traffic coming to and from the site for any purpose to Monday through Friday between 8:00 a.m. and 5:30 p.m.
- h. The selected contractor will establish construction staging areas and material stockpiles at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction to a distance of at least 75 feet, as is feasible.
- i. The selected contractor will designate a project liaison that will be responsible for responding to noise complaints during the construction phase. The name and phone number of the liaison will be conspicuously posted at construction areas and on all advanced notifications. This person will take steps to resolve complaints, including periodic noise monitoring, if necessary. Results of noise monitoring will be presented at regular project meetings with the project contractor, and the liaison will coordinate with the contractor to modify any construction activities that generated excessive noise levels to the extent feasible.
- j. The selected contractor will hold a preconstruction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and noise coordinator) are completed.
- k. **Prior to the initiating of each phase of the project (e.g. grading, construction)** neighboring property owners within 300 feet of construction activity shall be notified in writing of the construction schedule and **at least 2 weeks prior to loud**

noise-generating activities. Notification will include the nature and estimated duration of the activity.

- I. A qualified acoustical professional shall be retained to address noise concerns, and if needed, to determine if construction noise levels at adjacent property lines are consistent with the findings of the certified EIR. Corrective actions shall be taken to reduce construction noise if inconsistencies are identified. Temporary noise barriers shall be installed during construction phases involving earth moving equipment (e.g., grading operations) where they would be effective in reducing the construction noise impact, when directly adjoining sensitive receptors, such as at the Seven Hills School. An eight-foot plywood noise barrier could reduce noise levels by at least 5 dBA.
64. **Prior to the issuance of building permits**, mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet 50 dBA Leq during daytime hours and 40 dBA Leq during nighttime hours. A qualified acoustical consultant shall be retained by the project applicant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures necessary to reduce noise to comply with the noise limits at all adjacent noise sensitive land uses. Noise reduction measures could include, but are not limited to, locating equipment away from noise sensitive locations, selection of equipment that emits low noise levels and/or installation of noise barriers such as enclosures and parapet walls to block the line of sight between the noise source and the nearest receptors. If properly designed and controlled, the combined worst-case noise level due to the operation of on-site noise sources including the project parking lots, mechanical equipment, and maintenance building operations would not be substantially increased with the project and would remain below the 60 dBA Ldn noise and land use compatibility thresholds established for residential land uses by Contra Costa County and the City of Walnut Creek. **(MM NOI-1.2)**
65. The project shall implement the following measures to minimize vibration impacts from construction activities **(MM NOI-2.1)**:
- a. Avoid the use of vibratory rollers and other heavy construction equipment within 20 feet of existing structures.
 - b. Place operating equipment on the construction site as far as possible from vibration sensitive receptors.
 - c. Use smaller equipment within 20 feet of the perimeter property lines adjoining off site structures to minimize vibration levels below the limits.
 - d. Select demolition methods not involving impact tools within 100 feet of the perimeter property lines adjoining off-site structures.
 - e. Avoid dropping heavy objects or materials near vibration sensitive locations.
 - f. A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the County by the contractor. This list shall be used to identify equipment and activities that would potentially

generate substantial vibration and to define the level of effort required for continuous vibration monitoring.

Child Care

66. In accordance with Chapter 82-22 (Child Care Facilities) of the County Ordinance Code the developer shall mitigate the need for four additional infant child care spaces created by the proposed development via one or a combination of the following methods:
- a. The developer may contribute funds directly to family child care providers in the Walnut Creek area to encourage providers to care for infants. The submitted funds are intended for use in training or the purchase of infant equipment. The fund contribution amount shall be sufficient to train a sufficient number of additional staff or to purchase enough equipment to substantially meet the additional infant child care demand created by the proposed development. The fund amount shall be subject to review and approval of CoCoKids and the Community Development Division.
 - b. The developer may contract with the CoCoKids to recruit and train additional family child care providers, with a special focus on recruiting providers to provide infant care. The proposed contract shall be submitted for review and approval of the Community Development Division.

PUBLIC WORKS CONDITIONS OF APPROVAL

Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on tentative map submitted to the Department of Conservation and Development on December 22, 2020.

UNLESS OTHERWISE NOTED, COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.

67. The drainage, road, and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the vesting tentative map received by the Department of Conservation and Development, Community Development Division, on December 22, 2020.
68. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the City of Walnut Creek for any improvements constructed within the corporate limits of the City. City review includes review and inspection fees, and security for all improvements required by the Environmental Impact Report's Mitigation Measures and the conditions of approval for this entitlement.

Public Streets (North San Carlos Drive/Seven Hills Ranch Road/Kinross Drive)

69. The applicant shall coordinate with the City of Walnut Creek to determine what frontage or road improvements, roadway dedications, or right of way acquisitions, may be required by the City. Based on the project description and environmental review, these improvements are anticipated to include:
- a. Extend Kinross Drive to provide primary access to the project site. Kinross Drive is a two-lane collector street located within the Walnut Creek city limits. The extension of Kinross Drive would be constructed within a 50-foot right-of-way that was previously dedicated to the city. The proposed extension of Kinross Drive will transition as it approaches the project from two-lanes to three-lanes, two lanes for ingress.
 - b. Kinross Drive improvements include constructing sidewalk on the northeast side and installing landscaping on the southwest side.
70. Vehicular entrance gates shall be located such that vehicles can queue without obstructing through traffic.

Land Dedication for Potential Future Use by the County for Flood Control, Restoration and/or Trail Development

71. **Prior to filing of the Parcel Map**, the property owner shall convey to the County, by separate instrument, an irrevocable offer of dedication in fee for public purposes, including flood control, drainage, restoration, open space, and/or public trails, in the County's sole discretion, of the approximately 2.4-acre area, depicted in the attached Exhibit A, along the western boundary of the project site. The form of the irrevocable offer of dedication shall be subject to review and approval by the CDD. The irrevocable offer of dedication shall be recorded concurrently with, or prior to, recordation of the parcel map.

Access to Adjoining Property

Proof of Access

72. Applicant shall furnish proof to the County 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.
73. Applicant shall furnish proof to the County Public Works Department that legal access to the property is available from Kinross Drive, North San Carlos Drive and Seven Hills Ranch Road.

Easement Vacation

74. Applicant shall furnish proof to the County Public Works Department that all existing easements in conflict with proposed improvements are being relocated or have been abandoned, quitclaimed, vacated, or otherwise extinguished by the easement holder(s).

Encroachment Permit

75. Applicant shall obtain an encroachment permit from the City of Walnut Creek, if necessary, for construction of improvements within the right-of-way of Kinross Drive or other City rights of way.

Private Roads

76. Applicant shall construct the on-site roadway system to current County private road standards with a minimum travel way width of 20 feet, or as otherwise required by the Fire Marshal.
77. Applicant shall ensure that emergency and refuse collection vehicles are able to maneuver through the proposed development and construct a paved turnaround at the end of all the proposed private roads.
78. Applicant shall furnish proof to the County Public Works Department that legal access to the property is available from Kinross Drive, North San Carlos Drive and Seven Hills Ranch Road.

Emergency Vehicle Access

79. Emergency vehicle access (EVA) shall be provided via a gated, fire district compliant entrance extending from the health care center to North San Carlos Drive at the north end of the project site.
80. The project shall improve North San Carlos Drive from the proposed EVA gate to the Heather Farm Dog Park to meet fire district standards. These improvements fall under the purview of the City of Walnut Creek.
81. A supplemental gated EVA shall also be provided from the internal access road to the extension of Seven Hills Ranch Road at the southwest end of the site.

Pedestrian Facilities

82. The proposed secondary emergency vehicle access points at North San Carlos Drive and Seven Hills Ranch Road should be designed to allow use by residents and employees of the facility accessing the site as pedestrians and bicyclists.

83. 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.
84. The EVA access points located on the north and south ends of the project site shall be equipped with gates allowing pedestrian and bicycle access. Residents and employees shall be provided with keycards allowing for access via these gates upon request.

Parking

85. 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 County Public Works Department.

Utilities/Undergrounding

86. Applicant shall underground all new and existing utility distribution facilities. Applicant 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.

Countywide Street Light Financing

87. **Prior to filing the Parcel Map**, the property owner(s) shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

Sub-regional Park Maintenance Financing

88. Prior to filing the Parcel Map, the property owner shall request and pay all associated costs relative to annexation to County of Contra Costa Community Facilities District No. 2022-1 (Contra Costa Centre Area – Park Maintenance).

Drainage Improvements

Collect and Convey

89. 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.
90. Storm drain infrastructure that traverses or directly discharges to facilities within the City of Walnut Creek will be subject to compliance with the City of Walnut Creek's Minimum Drainage Design Standards. Permits, plan review, and inspection shall be coordinated with the City.
91. Any revisions to the proposed drainage infrastructure shown on the tentative parcel map shall be subject to review and approval by the CDD and County Public Works Department prior to implementation.

Miscellaneous Drainage Requirements

92. The applicant shall submit hydrology and hydraulic calculations showing the adequacy of the onsite drainage system and the downstream drainage system.
93. Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

Wetlands Protection

94. The applicant shall relinquish "development rights" over that portion of the site that is within the area of the enhanced wetlands delineated on the site plan, or as otherwise required by State or Federal regulatory agencies. "Development Rights" shall be conveyed to the County by grant deed.

National Pollutant Discharge Elimination System (NPDES)

95. 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 area) as reviewed and approved by the County Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permit.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Shallow roadside and on-site swales.
- 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.
- Shared trash bins shall be sealed to prevent leakage OR shall be located within a covered enclosure.
- Other alternatives comparable to the above as approved by the County Public Works Department.

Stormwater Management and Discharge Control Ordinance

96. The applicant shall submit a final Storm Water Control Plan (SWCP) and a Stormwater Control Operation and Maintenance Plan (O+M Plan) to the County 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 the Parcel Map**. All time and materials costs for review and preparation of the SWCP and the O+M Plan shall be borne by the applicant.
97. 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).
98. Stormwater management facilities shall be subject to inspection by the County Public Works Department; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
99. **Prior to filing the Parcel Map**, the property owner(s) shall enter into a Stormwater Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for and related to the operation and maintenance of the stormwater facilities, and grant access to relevant public agencies for inspection of stormwater management facilities.
100. **Prior to filing the Parcel Map**, the property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Stormwater Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of stormwater facilities by property owners.

101. 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.

Construction Activities

102. **Prior to the start of construction-related activities**, the applicant shall prepare a Traffic Control Plan (TCP), including a haul route, for the review and approval of the County CDD and, as applicable, the City of Walnut Creek. The TCP shall incorporate the following elements:
- a. All construction traffic shall utilize Kinross Drive, except that: (1) Seven Hills Ranch Road may be utilized initially to facilitate access for construction of a temporary connection to Kinross Drive; and (b) Seven Hills Ranch Road and North San Carlos Drive may be utilized, subject to required applicable County and/or City permits to complete those utility and access improvements as specifically required to serve the Project pursuant to the Final Development Plan and as shown on the approved construction documents.
 - b. Construction traffic shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, with no construction allowed on Federal and State holidays and weekends and holidays.
 - c. Parking for construction workers shall be identified in the TCP. Except as may be necessary to accommodate specifically approved construction activities, all worker parking shall be directed to an appropriate onsite location, separated from noise-sensitive receptors nearest the project site by at least 75 feet.
 - d. Construction staging areas shall be identified for material stockpiles and equipment storage at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction to a distance of at least 75 feet where feasible.
 - e. The applicant shall require their selected contractor to designate a TCP administrator who shall be identified and accessible via phone and email to the County and City throughout all phases of construction and shall perform the following functions: (1) Enforce the provisions of the approved TCP with respect to all phases of construction; (2) Respond within 24 hours to address any concerns communicated by the County, and by the City for work within the City; (3) Monitor truck traffic activity and compliance with the TCP's designated travel

routes, including placing flagmen to direct traffic movements as may be needed for safety purposes and to ensure that approved routes are utilized (such as avoiding use of the private segment of Kinross Drive); and (4) Communicate on a regular basis with the qualified acoustical professional retained to monitor construction noise pursuant to the Mitigation Monitoring and Reporting Plan (MMRP), and work with the County to implement any needed adjustments to the TCP for compliance with MMRP requirements.

103. The applicant shall survey the baseline pavement condition on access roads and haul routes to be used **prior to the commencement of any work on site**. The survey shall include a video tape of the roadways.

104. The applicant shall prepare an analysis to estimate the wear the hauling operation will cause to the pavement during construction of the project and to estimate the cost of restoring pavement on any roads, easements, and/or rights-of-way to meet or exceed pre-project conditions. **Prior to issuance of the first Building Permit** the applicant shall execute a bonded road improvement agreement to assure the roadway repairs. The amount shall be subject to approval by the County Public Works Department and/or the City of Walnut Creek, as applicable, based on the jurisdiction of the facility in question,

105. **Within 6 months following construction of the project**, the applicant shall construct repairs necessary to restore any roads, easements, and/or rights-of-way to meet or exceed pre-project conditions.

Drainage Area Fee Ordinance

106. A small portion of the project lies within formed Drainage Area 8. The applicant shall comply with the drainage fee requirements for Drainage Area 8 as adopted by the Board of Supervisors. The fee shall be paid **prior to filing of a parcel map (if deemed necessary) or prior to building permit issuance, whichever occurs first**.

Sub-regional Park Maintenance Financing

107. **Prior to filing the Parcel Map**, the property owner(s) shall annex the subject property into County of Contra Costa Community Facilities District No. 2022-1 (Contra Costa Centre Area – Park Maintenance). All associated costs relative to the request and processing of the annexation shall be borne by said owner(s).

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

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

Pursuant to Government Code Section 66000 *et seq.*, the Applicant has the opportunity to protest fees, dedications, reservation, or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this Project is approved. If the 90th day falls on a day that the DCD is closed, then the protest must be submitted by the end of the next business day.

- B. The Applicant should be aware of applicable expiration dates and renewing requirements **prior to recording the Parcel Map**.

- C. It is unlawful to engage in business in the unincorporated area of the County without first procuring a business license from the County Tax Collector following CDD approval of this application.

- D. **Prior to commencement of the use approved under this permit and approval**, the Applicant may wish to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed Project:

- County Building Inspection Division
- Central Contra Costa Sanitary District
- California Department of Fish and Wildlife
- City of Walnut Creek
- Contra Costa Water District
- United States Army Corp of Engineers
- Regional Water Quality Control Board

- E. 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. Payment is required **prior to issuance of a building permit**.
- F. 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 of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- G. 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.
- H. This project may be subject to the requirements of the State Regional Water Quality Control Board. It is the applicant's responsibility to determine if a permit is required.
- I. The Stormwater Control Plan has been determined to be preliminarily complete, it remains subject to future revision, as necessary, during preparation of improvement plans to bring it into full compliance with C.3 stormwater requirements.

EXHIBIT A TO CONDITIONS OF APPROVAL



OFFER OF DEDICATION AREA
LENGTH: 1,860± LINEAR FEET
AREA: 2.4± ACRES
WIDTH: VARIES 20' - 100'±