

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

Considering an Appeal, Upholding the)
Planning Commission Decision, with)
Modifications to the Conditions of)
Approval, and Approving a General)
Development Plan, Vesting Tentative)
Map, Conditional Use Permit and Hillside)
Development Permit for the Hetfield)
Estates Project, a seven-lot Single)
Family Residential Subdivision)

Resolution No. 43 - 2014

WHEREAS, in December 2005, an application for a Conceptual Development Plan (CDP 02-05) was submitted for review to allow the development of six single-family residential lots on a 58.2 acre property (the "Property"), with individual lots ranging in size from 41,826 square feet (0.96 acres) to 59,930 square feet (1.38 acres) plus one remainder parcel of 51.45 acres for common area; and

WHEREAS, on November 17, 2008, the Planning Commission adopted a Mitigated Negative Declaration (MND) and approved the proposed project; and

WHEREAS, in December 2008, the Planning Commission approvals, including adoption of the MND were appealed to the Town Council; and

WHEREAS, on January 14, 2009, the Town Council upheld the appeal and denied, without prejudice, the Planning Commission decision and directed that a Focused Environmental Impact Report (EIR) be prepared for the project; and

WHEREAS, on January 14, 2011, a Draft Focused EIR was prepared by Mills Associates and was released for public review for a 45-day period; and

WHEREAS, during the public comment period, on March 7, 2011, the Planning Commission held a public hearing on the Draft EIR and the project, wherein public comments were received and considered; and

WHEREAS, on March 23, 2012, a Final EIR was released for public review, including responses to comments received at the public hearing and during the public comment period; and

WHEREAS, on April 2, 2012 and June 4, 2012, the Planning Commission held a public hearing regarding certification of the Final EIR and approval of the Conceptual Development Plan; and

WHEREAS, the Final Environmental Impact Report concluded that all potentially significant impacts of the project could be mitigated to a less than significant level and that there were no significant and unavoidable impacts; and

WHEREAS, the applicant was directed to provide more information about the 8-lot alternative that was evaluated in the “Alternatives” chapter of the EIR as this was shown to be the “Environmentally-Superior Alternative” in the EIR and this information was incorporated into Staff Reports for the April 2, 2012 and June 4, 2012 Planning Commission public hearings; and

WHEREAS, at the public hearings for the project, the Planning Commission discussed the elimination of one lot from the 8-lot alternative in order to further reduce exposure to landslide hazards; and

WHEREAS, it was noted by Staff that, with the exception of Mitigation Measures 3.1-1A, 3.1-1C, and 3.1-3A, all mitigation measures identified for the 6-lot project would otherwise be applicable to the 8-lot and 7-lot alternatives; and

WHEREAS, on July 16, 2012, the Planning Commission certified the Hetfield Estates Environmental Impact Report, which identified that significant environmental impacts may result from the project, but that mitigation measures could reduce the impacts to a less-than-significant level, and adopted a Mitigation Monitoring and Reporting Program (“MMRP”); and

WHEREAS, as required by the “Guidelines for Interpreting and Implementing the Moraga Open Space Initiative” (as amended by Town Council Resolution No. 6-99), Section III.C, on July 16, 2012, the Planning Commission approved an increase in density from one unit per 20 acres to not more than one unit per 5 acres based on findings that the proposed development is consistent with specific criteria listed below and approved the CDP with the seven lot alternative (the “Project”); and

WHEREAS, on October 8, 2013, John Wyro of the Wyro Company (applicant) and Robert E. Lipson and Sandy Gage (owners) filed an application for a General Development Plan, Vesting Tentative Map (Subdivision 9051), and Conditional Use Permit to develop the seven (7) single family residential lots on the Property; and

WHEREAS, at the request of the Town, the application was modified to include a Hillside Development Permit; and

WHEREAS, in accordance with MMC Chapter 8.48, the General Development Plan (GDP) is required to be consistent with the approved Conceptual Development Plan, and accordingly, the GDP is consistent with the approved Project in terms of number of lots, overall site plan, development footprint and other aspects; and

WHEREAS, the CDP considered, in concept, the provision of an Emergency Vehicle Access (EVA) as a project component, but the alignment of the EVA was not specified or analyzed in detail in the EIR; and

WHEREAS, a CEQA Addendum was prepared and presented as part of the Staff Report for the February 3, 2014 Planning Commission meeting and public hearing to analyze changes to the project since approval of the CDP, including the alignment of the proposed EVA, and the Addendum concludes that no new significant impacts were identified because specific measures from the adopted MMRP would apply to the EVA to mitigate any potential impacts ("EIR Addendum"); and

WHEREAS, public hearing notices were mailed to all property owners within 500 feet of the subject property on February 6, and February 21, 2014, and the notice was posted at various public locations and at the project site; and

WHEREAS, on February 18, 2014, the Planning Commission held a public hearing and received testimony from the applicant and interested parties, and continued the hearing to a date certain of March 3, 2014, at which the Planning Commission received additional public testimony.

WHEREAS, on March 3, 2014, the Planning Commission held a public hearing and took testimony and approved the General Development Plan, Vesting Tentative Map, Conditional Use Permit and Hillside Development Permit; and

WHEREAS, in their approval, the Planning Commission revised the project to require the dedication of an easement for an Emergency Vehicle Access (EVA), but not to require the applicant to construct the EVA; and

WHEREAS, on March 13, 2014, two appeals of the Planning Commission were separately filed by Councilmember Dave Trotter, and Councilmember Mike Metcalf; and

WHEREAS, on April 23 and May 21 2014 the Town Council held a public hearing accepting testimony from the appellant, the applicant and the public, and discussed the appeal; and

NOW, THEREFORE, BE IT RESOLVED, BASED ON THE STAFF REPORT, WRITTEN MATERIALS, ORAL AND WRITTEN TESTIMONY AND ALL OTHER INFORMATION PRESENTED, THAT:

PART I: CALIFORNIA ENVIRONMENTAL QUALITY ACT REVIEW AND FINDINGS

A. The Town Council makes the findings set forth below with respect to the EIR Addendum:

- i. The Addendum was prepared in accordance with all legal requirements, including CEQA Guidelines section 15164(b).
- ii. The Addendum reflects the independent judgment and analysis of the Town as the lead agency for the project.
- iii. Based on substantial evidence in the whole record before the Town, the revisions with respect to the EVA do not make substantial changes to the Project

or substantial changes with respect to the circumstances under which the Project would be undertaken which would require revisions to the Final EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects and there is no new information that would require preparation of a subsequent or supplemental EIR under CEQA Guidelines Section 15162.

iv. As only minor technical changes or additions were required to the Final EIR, the Addendum was prepared in accordance with all legal requirements, including CEQA Guidelines Section 15164.

v. The mitigation measures described in the Final EIR and MMRP are within the jurisdiction of the City to adopt, and will be implemented by the applicant.

B. The Town Council hereby approves and adopts the Addendum. The documents and other materials that constitute the record of proceedings upon which the Planning Commission has based its decision are located in and may be obtained from the Town of Moraga Planning Department at 329 Rheem Boulevard in Moraga.

PART II: GENERAL FINDINGS

The Town Council further makes the general findings set forth below:

A. As set forth in Parts III, IV, V and VI below, the project meets the criteria of the Moraga Municipal Code and the General Plan, since it would comply with all applicable findings for approval of the Conditional Use Permit, General Development Plan, Vesting Tentative Map, and Hillside Development Permit, and with regard to increase in density pursuant to the Moraga Open Space Ordinance.

B. The project approved by the Planning Commission has been revised to require dedication and construction of an Emergency Vehicle Access (EVA) from the end of the access roadway to the Moraga Ranch Trail, and the dedication of an easement for the remaining portion of the EVA to the property line adjoining Sanders Ranch and the potential future construction of the EVA on such property. The Town Council finds that inclusion of such EVA will provide for enhanced public safety and access for emergency vehicles, including a potential secondary connection to the Sanders Ranch subdivision.

C. The project provides private off-street parking in excess of that required by the Municipal Code, and off-street parking that adequately serves the project and trail users.

PART III: FINDINGS TO APPROVE A CONDITIONAL USE PERMIT

The Town Council of the Town of Moraga makes the following findings to approve a Conditional Use Permit for seven single-family residential units pursuant to Moraga Municipal Code Section 8.52.110:

A. The proposed use is appropriate to the specific location:

The project site is located south of Sanders Drive, at the southern terminus of Hetfield Place that intersects Sanders Drive. Other nearby land uses include open space to the south and single-family residences to the north, east, and west. The project is entirely undeveloped open space at the present time, and is separated from residential uses to the north by the thick riparian vegetation along Larch Creek which forms the northern boundary of the site. Residences to the east and west are farther from the area proposed for development. New residential development will occur in the lower elevations of the site, set back from Larch Creek and behind existing tree cover. The distance and intervening vegetation, as well as the limited number of clustered lots, and similarity to adjacent single family residential uses, will result in a development compatible with nearby residential uses as well as surrounding open space that will be preserved as part of the project. The site has a designation of MOSO Open Space in both the General Plan and Zoning Ordinance and is designated as MOSO "high risk" due to landslide hazards. However, the applicant has requested, and the Town Council has approved, removal of the site from the "high risk" designation based on corrective grading that will be completed and that has been addressed in geotechnical studies reviewed by the Town and determined to adequately address landslide hazards.

B. The proposed use is not detrimental to the health, safety, and general welfare of the Town:

The previously certified EIR evaluated the safety of the proposed project and the environment relative to geological and soils conditions. Conditions 40 through 52 address fire safety and fire access. Condition 169 addresses use of hazardous materials. Condition 141 addresses reduction of dust emissions during construction. Conditions 21, and Conditions 161 through 166 address landscaping and reduced lighting. Conditions 32, 33, 34, 35, 38 and 39 address protection/replacement of onsite open space, habitat protection and wetlands. Conditions 30-31 address geotechnical and soils issues.

C. The proposed use will not adversely affect the orderly development of property within the Town:

The project is a proposed low-density single family residential development, located adjacent to existing developed single family residential neighborhoods. The property to be developed is located at the end of an existing street that connects to the neighboring residential area. The MOSO designation allows for residential uses as proposed, and the density of the project was previously found by the Town to be acceptable, in findings adopted pursuant to approval of the CDP.

D. The proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town:

As conditioned, the proposed use is consistent with the surrounding uses. In addition, conditions of approval will ensure the proposed use will not conflict with the scale, design and density of nearby residential uses. Conditions 58 and 59 require the applicant to repair any damage to public streets resulting from construction or construction equipment. Conditions 14, 38 and 123 require the project site to be protected in a naturalized state until the project is constructed or to be landscaped and maintained. Condition 13 requires bonding to restore the site should there be a substantial delay between grading and installation of above-ground infrastructure and construction of new homes. Consequently, it is not expected to have an adverse effect on property values or revenue sources within the Town.

E. The proposed use is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan:

The proposed project is consistent with General Plan Policies LU1.1, CD4.3 and H1.4 regarding compatibility with existing neighborhoods, as detailed in findings B and C, above. The proposed project will be compatible with Policies LU1.2 and LU1.5 regarding densities, as the proposed density will be less than 1 unit per 5 acres, the maximum allowable in MOSO lands. The project is consistent with Policy LU1.6 regarding minimum lot sizes. The project is also consistent with Policy OS1.4 since it would allow public use of private open space and Policy OS2.8 regarding protection of onsite trees, since it would minimize disturbance within the riparian corridor and more forested portions of the site.

F. The proposed use will not create a nuisance or enforcement problem within the neighborhood:

Condition 26 requires regular maintenance of the project site, including daily removal of trash and litter on and around the premises, including along the sidewalk and in landscaped areas. **Conditions 146 through 152** require noise control during construction.

G. The proposed use will not encourage marginal development within the neighborhood:

Individual homes constructed within the subdivision will be subject to Design Review and the adopted Design Guidelines. The project limits gross square footage of homes to ensure compatibility with nearby residences. Landscaping will be incorporated into the project and evaluated at the time of Design Review. **Condition 19** requires specific setbacks and useable yard space to ensure a quality living environment for project residents.

H. The proposed use will not create a demand for public services within the Town beyond that of the ability of the Town to meet in the light of taxation and spending restraints imposed by law:

Construction of 7 new single-family homes will not place undue burdens on services and facilities within the Town of Moraga. The project will be served by public water and wastewater systems; police protection services will be

provided by the Town; and, the Moraga-Orinda Fire District will provide fire service. New property tax revenue will help to offset the cost of providing services, as will payment of impact fees in accordance with the Town's adopted fee programs.

I. The proposed use is consistent with the Town's approved funding priorities:

The project has no impact on the Town's funding priorities. All conditions of approval shall be installed and maintained by the applicant. In addition, **Condition 7** requires the applicant to reimburse the Town for all costs associated with processing and permitting the proposed use; and **Condition #3** requires that the Applicant pay for the cost of monitoring compliance with the Conditions of Approval and the Mitigation Monitoring and Reporting Program of the EIR.

PART IV: FINDINGS TO APPROVE THE GENERAL DEVELOPMENT PLAN

The Town Council of the Town of Moraga makes the following findings to approve the GDP for the Project pursuant to Moraga Municipal Code Section 8.48.110:

A. The proposed use is appropriate to the specific location:

The project site is located south of Sanders Drive, at the southern terminus of Hetfield Place that intersects Sanders Drive. Other nearby land uses include open space to the south and single-family residences to the north, east, and west. The project is entirely undeveloped open space at the present time, and is separated from residential uses to the north by the thick riparian vegetation along Larch Creek which forms the northern boundary of the site. Residences to the east and west are farther from the area proposed for development. New residential development will occur in the lower elevations of the site, set back from Larch Creek and behind existing tree cover. The distance and intervening vegetation, as well as the limited number of clustered lots, and similarity to adjacent single family residential uses, will result in a development compatible with nearby residential uses as well as surrounding open space that will be preserved as part of the project. The site has a designation of MOSO Open Space in both the General Plan and Zoning Ordinance and is designated as MOSO "high risk" due to landslide hazards. However, the applicant has requested, and the Town Council has approved, removal of the site from the "high risk" designation based on corrective grading that will be completed and that has been addressed in geotechnical studies reviewed by the Town and determined to adequately address landslide hazards.

B. The proposed use is not detrimental to the health, safety, and general welfare of the Town:

The previously certified EIR evaluated the safety of the proposed project and the environment relative to geological and soils conditions. Conditions 40 through 52 address fire safety and fire access. Condition 169 addresses use of hazardous materials. Condition 141 addresses reduction of dust emissions during construction. Conditions 21, and Conditions 161 through 166 address

landscaping and reduced lighting. Conditions 32, 33, 34, 35, 38 and 39 address protection/replacement of onsite open space, habitat protection and wetlands. Conditions 30-31 address geotechnical and soils issues.

C. The proposed use will not adversely affect the orderly development of property within the Town:

The project is a proposed low-density single family residential development, located adjacent to existing developed single family residential neighborhoods. The property to be developed is located at the end of an existing street that connects to the neighboring residential area. The MOSO designation allows for residential uses as proposed, and the density of the project was previously found by the Town to be acceptable, in findings adopted pursuant to approval of the CDP.

D. The proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town:

As conditioned, the proposed use is consistent with the surrounding uses. In addition, conditions of approval will ensure the proposed use will not conflict with the scale, design and density of nearby residential uses. Conditions 58 and 59 require the applicant to repair any damage to public streets resulting from construction or construction equipment. Conditions 14, 38 and 123 require the project site to be protected in a naturalized state until the project is constructed or to be landscaped and maintained. Condition 13 requires bonding to restore the site should there be a substantial delay between grading and installation of above-ground infrastructure and construction of new homes. Consequently, it is not expected to have an adverse effect on property values or revenue sources within the Town.

E. The proposed use is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan:

The proposed project is consistent with General Plan Policies LU1.1, CD4.3 and H1.4 regarding compatibility with existing neighborhoods, as detailed in findings B and C, above. The proposed project will be compatible with Policies LU1.2 and LU1.5 regarding densities, as the proposed density will be less than 1 unit per 5 acres, the maximum allowable in MOSO lands. The project is consistent with Policy LU1.6 regarding minimum lot sizes. The project is also consistent with Policy OS1.4 since it would allow public use of private open space and Policy OS2.8 regarding protection of onsite trees, since it would minimize disturbance within the riparian corridor and more forested portions of the site.

F. The proposed use will not create a nuisance or enforcement problem within the neighborhood:

Condition 26 requires regular maintenance of the project site, including daily removal of trash and litter on and around the premises, including along the

sidewalk and in landscaped areas. **Conditions 146 through 152** require noise control during construction.

G. The proposed use will not encourage marginal development within the neighborhood:

Individual homes constructed within the subdivision will be subject to Design Review and the adopted Design Guidelines. The project limits gross square footage of homes to ensure compatibility with nearby residences. Landscaping will be incorporated into the project and evaluated at the time of Design Review. **Condition 19** requires specific setbacks and useable yard space to ensure a quality living environment for project residents.

H. The proposed use will not create a demand for public services within the Town beyond that of the ability of the Town to meet in the light of taxation and spending restraints imposed by law:

Construction of 7 new single-family homes will not place undue burdens on services and facilities within the Town of Moraga. The project will be served by public water and wastewater systems; police protection services will be provided by the Town; and, the Moraga-Orinda Fire District will provide fire service. New property tax revenue will help to offset the cost of providing services, as will payment of impact fees in accordance with the Town's adopted fee programs.

I. The proposed use is consistent with the Town's approved funding priorities:

The project has no impact on the Town's funding priorities. All conditions of approval shall be installed and maintained by the applicant. In addition, **Condition 7** requires the applicant to reimburse the Town for all costs associated with processing and permitting the proposed use; and **Condition #3** requires that the Applicant pay for the cost of monitoring compliance with the Conditions of Approval and the Mitigation Monitoring and Reporting Program of the EIR.

J. The GDP is substantially consistent with the previously approved CDP.

The project is substantially the same in terms of site plan, lotting plan, amount of grading, site amenities and other features, to the previously approved project, and reflects the same number of units. Other than refinement of the EVA alignment, and minor modifications to the grading plan to reflect the approved 7-lot plan, no other significant changes have been made.

PART IV: FINDINGS TO APPROVE THE VESTING TENTATIVE MAP

In accordance with Government Code Section 66474, the Moraga Town Council hereby makes the following findings for approval of the Vesting Tentative Map 9051:

A. The proposed map is consistent with the General Plan

The General Plan Land Use Diagram identifies the land that is the subject of this subdivision as OS-M, MOSO Open Space lands. The proposed use of the land for residential uses at a density of 1 unit per 8.3 acres is consistent with the General Plan land use designation.

B. The design and improvement of the proposed subdivision, as conditioned, is consistent with the General Plan.

The following General Plan policies illustrate the consistency of this project with the General Plan:

The proposed project would be compatible with Policy LU1-1 in terms of not impacting existing residential neighborhoods. The project would largely be screened from the nearby Sanders Drive neighborhood by heavy tree plantings along Larch Creek.

The project would comply with Policy CD4.3 related to ensuring that new development reflects the size, scale, height, and character of existing development.

The project will be within the density limits established by the General Plan (Policy LU1.2 and LU1.5).

Lot sizes will be within minimum lot sizes established (LU1.6).

The project would comply with slope restrictions identified in Policy LU1.8, grading limitations as per Policy PS4.10, and the policy related to retaining walls (Policy PS4.11).

Underground utilities will be installed in accordance with Community Design (CD) policy CD1.8.

Maintenance of hillside areas would occur in compliance with Policy PS4.12 via the establishment of a Geologic Hazard Abatement District (GHAD).

C. The site is physically suitable for the type of development.

The Town of Moraga Planning Commission approved the CDP in 2012. The project was also reviewed at that time by the Town's Geologist given the presence of active landslides on the site. The project was also subject to an Environmental Impact Report which was done by professionals such as geologists, biologists, and planners. The site was determined to be and is suitable for this type of development.

D. The site is physically suitable for the proposed density of development.

The CDP was approved in 2012 by the Town at the same density as what is now proposed as part of the GDP and VTM and the site remains physically suitable for the density proposed.

E. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because numerous conditions of approval address habitat and wildlife issue.

The project was subject to an Environmental Impact Report which identified necessary mitigation measures to reduce potential environmental impacts to a level of less than significant. These measures are included in the MMRP, which is included in the conditions of approval. In addition, compliance with the conditions of approval will ensure that there will not be substantial environmental damage or avoidable injury to fish or wildlife or their habitat.

F. The design of the subdivision or type of improvements is not likely to cause serious public health concerns.

All construction is in compliance with the California Building Code which in part addresses issues of public health. The project was also the subject of an EIR, which determined there are no significant effects that cannot be mitigated pursuant to the approved MMRP.

G. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because prior to this project no such easements existed.

The project is in construction entirely on private property. Existing onsite easements existed related to public trails and these would not be impacted by the proposed subdivision. New trails will be created that connect to existing onsite trails.

PART VI: FINDINGS TO APPROVE THE HILLSIDE DEVELOPMENT PERMIT

The Town Council of the Town of Moraga makes the following findings to approve a Hillside Development Permit pursuant to MMC Chapter 8.136.070:

A. Each of the following factors was considered by the Town Council in reviewing the application for a Hillside Development Permit: slope, soil instability, drainage, soil characteristics, seismic factors, existing and future residential development, view shed, access, potential traffic congestion, fire risk, noise, glare, wildlife, dust and impact on existing vegetation.

An Environmental Impact Report was prepared and certified for the project, that included analysis of the above environmental factors including natural and geologic hazards, the characteristics and impacts associated with existing and proposed residential development on this site; aesthetic impacts including impacts of and from the site, and on neighboring residences; traffic and circulation; wildland fire; construction and operational noise; air quality and biological resources.

B. The site plan shall provide an appropriate living space on a site consistent with the site's constraints in relation to the review and approval criteria set forth in this section.

The site plan will create 7 residential lots, each of which would accommodate a home of up to 4,000 square feet, and which include ample living space and private and common open space.

C. A building site which is adjacent to a steep slope not abutting a ridge shall be located at the lowest possible elevation on the site.

The project will cluster the proposed development at the lower portion of the site, as far south as possible while avoiding Larch Creek. It leaves the majority of the site, which is also at higher elevations and includes steeper slopes, as open space.

D. Residential development that is adjacent to a steep downslope shall be designed so that the principal and accessory structures blend with the topography.

The project incorporates contour grading that will reflect and conform to the existing natural topography and avoids large retaining walls. The future homes, whose size is limited by Conditions of Approval, will be subject to design review to ensure that they blend with the surrounding topography. Condition of Approval #21 requires use of earth-tone paint colors and finishes to better blend with the adjacent natural landscape.

PART VII: PROJECT APPROVALS

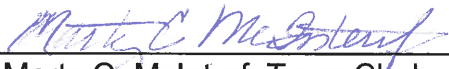
Based on the record before the Town Council and the findings set forth above, the Town Council of the Town of Moraga hereby considered the appeal, upholds the Planning Commission decision, with modifications to the conditions of approval, and approves a General Development Plan, Vesting Tentative Map, Conditional Use Permit and Hillside Development Permit for the Hetfield Estates Project, a seven-lot single family residential subdivision, subject to the conditions of approval listed in Exhibit A and effective upon the adoption of this resolution.

PASSED AND ADOPTED by the Town Council of the Town of Moraga at a special meeting on May 21, 2014, by the following vote:

AYES: Mayor Chew, Vice Mayor Wykle, Councilmembers Arth and Trotter
NOES: None
ABSTAIN: None
ABSENT: Councilmember Metcalf



Ken Chew, Mayor

Attest: 
Marty C. McInturf, Town Clerk

**Town Council Resolution 43-2014
Exhibit 1**

**CONDITIONS OF APPROVAL
Hetfield Estates General Development Plan, Vesting Tentative Map, Conditional
Use Permit and Hillside Development Permit**

Planning Standard Conditions and Project-Specific Conditions

1. This approval authorizes the following, as approved by the Town of Moraga Town Council on May 21, 2014: Hetfield Estates General Development Plan (GDP), Vesting Tentative Subdivision Map (VTM), Conditional Use Permit (CUP) and Hillside Development Permit. The approvals would allow for development of seven (7) single-family homes on individual lots, one common area parcel, and associated improvements.
2. Further approvals necessary to allow development of the site include, but may not be limited to a Precise Development Plan, Final Map, Improvement Plans, Building Permit Plans, Landscape Plans and Grading Plans. All such plans shall be in substantial conformance with the approvals listed in Condition #1, above, as approved by the Town Council on May 21, 2014 and more fully described in the Resolution and its Exhibits and as modified by these conditions of approval. Conditions of Approval required at subsequent project stages need not be satisfied prior to approval of the Precise Development Plan or Final Map, but shall continue to be required at subsequent development stages as provided herein, unless a Condition or the timing for its satisfaction is modified at the request of the Applicant and with the approval of the Planning Commission, or approved by the Town as otherwise specified herein.[CDP COA No. 7 and 9]
3. EIR Mitigation Compliance. All required mitigation measures identified in the certified Environmental Impact Report (SCH# 2009022086) ("EIR") shall be implemented and monitored in accordance with the adopted Mitigation Monitoring and Reporting Program (MMRP). The mitigation measures identified by Mills Associates in the final Mitigation Monitoring and Reporting Plan (March 23, 2012) of the Final EIR and as stipulated in the Mitigation Monitoring and Reporting Program adopted by the Planning Commission at its July 16, 2012 meeting shall be implemented. The applicant shall fund a Town-contracted individual to monitor compliance with mitigation measures and conditions of approval. During grading and construction activities, a sign shall be posted on the site with the name and contact information for the mitigation and condition compliance officer. [CDP COA No. 8 and 89]
4. Applicant Responsible for Compliance with Conditions. The applicant shall ensure compliance with all of the conditions specified in these Conditions of Approval, including submittal to the Town required approval signatures at the times specified. Notice of failure to comply with any condition shall be provided to the applicant by

the Town, and a reasonable opportunity to gain compliance provided. Applicant's failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the permit.[CDP COA No. 2]

5. Prior to approval of the Precise Development Plan (PDP), the Applicant or its successors shall provide a plan for the implementation of and verification of implementation of the Conditions of Approval. [CDP COA No. 97]
6. Town staff (including authorized agents) shall have the right to enter the subject property to verify compliance with these conditions. The holder of any permit associated with this project shall make the premises available to Town staff during regular business hours and shall, upon request, make records and documents available to Town staff as necessary to evidence compliance with the terms and conditions of the permit.
7. Where compliance with the conditions of approval or applicant initiated changes to the Hetfield Estates Subdivision requires additional staff work, that time shall be billed at the Town's established billing rates at the time any such additional staff work may be required.
8. All new improvements constructed on the site shall be in compliance with all local State and federal laws, statutes, ordinances, regulations, rules, orders, judgments, decrees, permits, approvals and the like requirements applicable thereto and in force at the time thereof ("applicable law"). "Local, State and federal" applicable law shall include without limitation, the applicable law of the Town of Moraga; Contra Costa County; Moraga Orinda Fire District, Bay Area Air Quality Management District, San Francisco Bay Area Regional Water Quality Control Board; California Department of Fish and Wildlife, US Army Corps of Engineers; State of California; and United States of America.
9. Throughout all of the various phases of project construction, existing public streets, trails, sidewalks, and bike lanes must be maintained in a safe and usable condition or a safe alternate route or detour provided if closure is necessary due to construction. Such closures or detours shall be addressed as part of a Town-approved Construction Management Plan or Traffic Management Plan for the project. Trails, bike lanes and sidewalks shall be constructed at the same time as any or all adjacent roadway segments are constructed.
10. Documentation of Remedial Actions. Applicant shall document if any remedial actions are necessary for landslides that are not proposed for disturbance but that are within 100 yards of ground disturbance. This is especially true for mapped Landslide 1. Documentation shall be submitted to the Town Geologist who shall review and approve prior to applicant undertaking remedial actions.
11. Timing of Future Approvals. Design Review shall be required for the residences and for the design of the access roadway bridge. Prior to approval of individual Design

Review applications and building permits for any custom residences, approval of a Precise Development Plan shall be obtained.

12. A Grading Permit (pursuant to MMC 14.04.031) shall be obtained prior to, or in conjunction with the review and approval of the Final Map and Precise Development Plan. [Modified CDP COA No. 10]
13. Bond. The applicant shall prepare a "Bond Study" prior to approval of the Final Subdivision Map. The Bond Study shall be subject to Town review and approval and shall address the following (at a minimum): costs such as re-grading the site to more natural contours and removal of paving and retaining walls if reasonable progress to construct at least one single-family home within 2 years of approval of the grading permit has not been made; landscaping of site to restore graded areas; slide repair and corrective grading to eliminate any risks for adjoining neighbors; completion of the site access road, bridge, storm drainage system and erosion control improvements if applicable; and other similar items. Time limits can be extended under unusual circumstances as allowed by the Town Planning Director and/or Town Engineer. The "Bond Study" shall identify the items that will be covered by the bond, the amount to be deposited, and conditions for use of bond funds. Seed money shall also be provided to allow repairs if any damage occurs in association with Landslide 1, 5 or 6. Bond requirements shall be stipulated at the time of Final Subdivision Map approval. Bond money shall be available prior to issuance of the grading permit. Separate bonds may be required a) for completion of improvements, and b) for site restoration of the site if not developed per the timelines specified in this Condition.[CDP COA no. 11]
14. Tree and Shrubbery Plantings. Shrub and/or tree plantings (minimum height at maturity of 5 feet) shall be planted at the northern edge of all lots with graded slopes that will be visible from homes on Sanders Drive as shown in the GDP/VTM. These include Lots 1, 2 and 3. Trees shall be planted from no smaller than 15-gallon containers within one month of conclusion of corrective grading. This landscaping can be removed when individual lot designs are finalized and accepted and this landscaping would not be subject to the replacement ratios for trees removed from the site. Trees and shrubs planted prior to installation of irrigation systems shall be hand watered until water pipes and an automatic irrigation system are installed and operational to provide for watering.[CDP COA No. 13]
15. Roads. At the time of grading, a private onsite access road shall be constructed to Town and Moraga-Orinda Fire District (MOFD) standards and shall be maintained by the Applicant until a Homeowners' Association is established and sufficiently funded. The private road shall provide public access and shall not be gated. Subdivision improvements (including roads) shall be reviewed at the time of the Final Subdivision Map application to ensure compliance with improvements shown at the time of the Vesting Tentative Map. [Modified CDP COA No. 14]

16. Trails and Trail Gates. No locked gates or other barriers limiting pedestrian and bicyclist access to onsite trails designated for public access shall be allowed. Trails shall be multi-use, i.e. allowing both bicyclists and pedestrians (per EBRPD request). Barriers may be allowed for cattle grazing and to prevent unauthorized motorized use of a future Fire Trail or EVA or the Common Area Parcel. The trails shall be designed and installed by the applicant, and maintained by the applicant until the responsible entity (HOA or GHAD) is established, sufficiently funded, and able to assume maintenance responsibilities. [Modified CDP COA No. 16]
17. Home Sizes. Homes shall be limited in size to a maximum of 4,000 gross square feet (including garages) and shall be built within the building envelopes shown on the General Development Plan. All homes shall be subject to Design Review Board review and approval to ensure compatibility with neighboring residences and consistency with applicable Design Guidelines.[CDP COA No. 40]
18. Story Poles. At the time of Design Review, story poles for all homes (with ridgelines taped) shall be required. Story poles shall be placed no later than two weeks prior to the scheduled DRB meeting. [Modified CDP COA No. 45]
19. Development Standards: Homes within the project shall conform to the following development standards:
 - a. Usable Yard Space. Usable yard space (having minimum dimensions of 25 ft. by 40 ft.) shall be provided for each lot.
 - b. Setbacks. The following minimum setbacks shall apply for purposes of determining building envelope, but shall not be considered a maximum; setbacks beyond the minimums specified below may be required as part of design review if justified by specific design or lot-specific conditions.
 - i. Side Yard: Minimum 10 ft.;
 - ii. Rear yard setbacks: Minimum 10 ft. from the retaining walls for the 3:1 graded slopes.
 - c. Front yard setbacks: Minimum of 15 feet from the edge of the street right-of-way, calculated as an average for all lots.
 - d. Lot Size. None of the lots for individual homes shall be smaller than 15,000 square feet or larger than 27,000 square feet. The "common area" parcel that shall be retained as permanent open space shall be approximately 54 acres.
20. Building Colors. Color selection for building exteriors and roofs shall be restricted to colors that blend with the landscape during the dry season (i.e., earthtones, tans and light browns).[Modified CDP COA No. 61]
21. Visual Measures. To minimize reflective light and glare, and ensure long-term maintenance of visual quality, design, materials and illumination shall be subject to Design Review Board review and approval, and Project shall implement the following prior to Final Design Review:
 - a. Use non-reflective exterior material and finishes.
 - b. Ensure that all exterior lighting shall be reflected downward. No monument signs are allowed, lit or unlit. Any lighting shall be dark sky compliant, in

accordance with industry standards such as those established by the Illuminating Engineering Society of North America (IESNA).

- c. Provide safety lighting that incorporates low voltage/low lumosity lighting and/or treatments designed to reduce the amount of spillover into surrounding areas.[Modified CDP COA No. 62 and 101]
22. Green Building. The design review for the Precise Development Plan shall include a review of its Green Building Program components, which shall demonstrate how it is expected the project will obtain a score of 90 points (at a minimum) pursuant to the Town's "Build it Green Program" and demonstrating energy efficiency and sustainability beyond current code requirements. Photovoltaic panels shall be offered to buyers as an option.[Modified CDP COA No. 64]
23. Guest Parking. No less than 2 guest parking spaces shall be provided on each lot, in addition to the minimum number of covered and uncovered parking spaces ordinarily required for single family home by the Moraga Municipal Code. Guest parking may be provided as tandem spaces set within the driveway. [Modified CDP COA No. 19]
24. Street Parking. A minimum of 7 on-street parking spaces, including four spaces along the access roadway, and three spaces within the cul-de-sac, shall be provided and shall be identified prior to approval of the Final Subdivision Map, and which shall provide overflow guest parking as well as parking for trail users. Signage shall be posted saying "No Overnight Parking" where on-street parking is provided. The Applicant may, at applicant's discretion, revise the parking plan to provide additional parking within the street prior to the cul de sac subject to the review and approval of the Town of Moraga. These spaces may be in lieu of the spaces now shown in the parking bay on the plan and shall number at least three (3) for an on-street total of at least seven (7) spaces. [Modified CDP COA No. 20]
25. Water Conservation. The Project Applicant and/or property owners shall comply with applicable water conservation requirements including, but not limited to:
 - a. The Project Applicant shall comply with the Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495) including installation of drought-tolerant landscaping and water efficient irrigation systems within residential outdoor yards that include efficient sprinkler heads or drip irrigation.
 - b. Installation of ultra-low flow toilets and other water-efficient fixtures, as required by the California Building Code.
 - c. The Project Applicant shall commit to additional Demand Reduction Measures, commensurate with the amount of the project's water demand, or as specified in the Town's "Build it Green Program". [Modified CDP COA No. 57]

26. Maintenance of Common Area Facilities. Applicant and/or Homeowners' Association shall maintain all common areas such as streets, drainage facilities, stormwater treatment areas and any retaining walls not specifically located on individual properties unless this responsibility is identified as part of the GHAD Plan. This shall include litter control.
27. HOA. Creation of a "Homeowners' Association" (HOA) shall be required for maintenance of common facilities. The HOA shall be established prior to the approval of the first building permit. The Homeowner's Articles of Incorporation and Conditions, Covenants and Restrictions (CC&R's) shall be submitted for review and approval by the Town Attorney. The Homeowners' Association (HOA) shall maintain all private streets at a minimum Pavement Condition Index of 70 as determined using the Metropolitan Transportation Commission (MTC) Pavement Management Condition (PMC) Rating System rating system. The HOA shall undertake the responsibilities of the landscape lighting and distribution of common areas such as bridge and roadway lighting. [Modified CDP COA No. 38 and 93]
28. Access Road to Debris Bench. The PDP shall show the access road to the debris bench.[Modified CDP COA No. 47]
29. The 3:1 Slope Area. Any landscape plans for the area in which 3:1 slopes will result from grading within private lots shall be reviewed by the Town's geotechnical engineer to ensure that plantings will be appropriate for the area and will not undermine the geologic stability of the slope, and that irrigation provisions will be adequate for the same reason. Such review shall occur at the time of Design Review. [Modified CDP COA No. 43]

Other Special Conditions

30. Repair of Slides and Final Geotechnical Work. A detailed geotechnical study shall be completed prior to approval of the Final Subdivision Map. Additional geotechnical studies may be required at the time of Design Review. During grading, the applicant's geologist and the Town's geologist shall be on the site to monitor excavations and to verify that all slide hazards have been remediated as documented in the most recent geotechnical study. A minimum of a 20-foot setback shall be maintained for any disturbance in the vicinity of slides that are not stabilized as part of the corrective grading unless mitigation measures that have been reviewed and approved by the Town are incorporated in the project plans. No land disturbance shall be allowed in this setback area. At time of Precise Development Plan (PDP), further geological borings may be required at the request of the Town Geologist. Such borings may be large diameter borings (vs. core borings) assuming that safety for drilling operators will not be compromised due to presence of groundwater and chances of "caving" conditions. [Modified CDP COA No. 41 and 44 and 83]
31. The Project Applicant shall request and the Town shall form, or annex into, a Geologic Hazard Abatement District (GHAD) or other Town-designated entity, to

be funded in perpetuity by the property owners within the project through district assessments, with initial funding by the Project Applicant. The GHAD shall be established prior to the first building permit and shall be funded by the developer until homeowners can be assessed the GHAD fees. A "GHAD Plan" shall be submitted by the applicant prior to approval of the Final Subdivision Map to address the following items. Either the GHAD or the HOA may own the open space parcel and management and maintenance responsibilities and funding structured accordingly and agreements pertaining thereto subject to review by the Town of Moraga to ensure conformance with these Conditions of Approval. The GHAD Plan shall address the following:

- a. The GHAD shall have its own district engineer and other qualified professional consultants, including a qualified ecologist/biologist.
 - b. Except as otherwise assigned to the HOA, the GHAD shall be responsible for the following management, monitoring and maintenance tasks within lands under its ownership or control: (i) geotechnical stability and erosion control; (ii) stormwater control and water quality basins; (iii) open space grazing, fire protection and control, trails and EVA; and (iv) intermittent drainage, seasonal wetlands, seeps and biological resources
 - b. GHAD obligations shall include compliance with the final (i) Geotechnical Study, (ii) Drainage Plan, (iii) Open Space Management Plan, (iv) Public Trail System Plan, (v) Fire Protection Plan, (vi) Wetland/Special-Status Species Plan, (vii) Revegetation Plan, and (viii) Conservation Easement (or other appropriate deed restriction). All of the above plans shall be completed prior to approval of the Final Map.
 - c. Pre-formation costs of the GHAD shall be paid by the Project Applicant.
 - d. Except for functions assigned to the HOA, the GHAD shall provide sufficient funding, in perpetuity, for the estimated costs of the following functions for which it is responsible including: (a) monitoring and annual reporting, (b) weeding, trail maintenance, erosion control and repair, grazing management, and fence repair, and (c) development of a Plan of Control. Funding sources for the GHAD may include seed money provided by the Project Applicant, annual contributions from homeowners, and income from grazing leases.
 - e. The actions of the GHAD in meeting its responsibilities, including the adequacy of permanent funding from the Project Applicant and future homeowners, shall be subject to review, direction and control by the GHAD Board of Directors. Alternatively, the Project Applicant shall establish an endowment to provide for its maintenance and monitoring. No grading or building permits shall be issued by the Town until the funding sources have been agreed upon and secured. [Modified CDP COA No. 50 and 83 and 86]
- 32. Conservation Easement for Open Space Parcel.** The Common Area Parcel (approximately 54 acres of the project area) as shown on Sheet 1 of 6 of the GDP application shall be preserved in a Conservation Easement, or alternate type of deed restriction approved by the Town Attorney, as open space managed and preserved by the GHAD or HOA. The form of the Conservation Easement shall be approved by the Town Attorney and the Easement shall be recorded with the Final Subdivision Map. [Modified CDP COA No. 52 and 86]

33. Conservation Easement Area. Habitats within the Conservation Easement shall be monitored in the spring and fall for no less than five years following installation of fencing. Prior to issuance of building permits, an education brochure shall be produced for future homeowners describing the purpose of the conservation easement and other mitigation measures, the species and habitats being protected, prohibited activities, and homeowner responsibilities. This issue shall be addressed as part of the Open Space Management Plan. [Modified CDP COA No. 74]
34. Onsite Open Space. The Common Area Parcel of the property shall be subject to an Open Space Management Plan for the Project that may include grazing of the undeveloped approximately 54 acres of the property as a means of fire protection and open space preservation. The Open Space Management Plan, prepared by a qualified ecologist who is either selected by the Town, or whose work shall be subject to peer review by a Town-selected consultant,, shall be consistent with resource agency permit conditions and shall allow for public trail access as otherwise specified in these Conditions of Approval. The Plan shall be consistent with and incorporate the Fire Protection Plan. The following information shall be included as part of a final Open Space Management Plan that shall be completed prior to approval of the Final Map:
- a. A total of approximately 54 acres of grassland, scrub and oak woodland shall be designated as a permanent conservation easement, or other suitable deed restriction, and conveyed to the GHAD or HOA as approved by the Town, USFWS and CDFG for preservation in perpetuity;
 - b. The onsite riparian area within the conservation easement area shall be protected from grazing by a permanent wildlife-passable fence to exclude livestock from the channel banks;
 - c. Existing springs within any areas proposed for grazing shall be fenced with wildlife passable fencing to exclude livestock. If access to water is required, water may be piped from the springs to water troughs outside of the enclosure fencing;
 - d. Restrictions on vehicle access shall be identified, and long-term risk management and other criteria as required by the Fire Marshal shall be addressed; and
 - e. No grazing shall be allowed within 350 feet of the western property boundary. [Modified CDP COA No. 7 and 79 and 80]
35. Wetlands. The Wetland Mitigation Plan (as defined in the MMRP) shall be reviewed by the Town biologist monitor prior to submittal to the USACE, CDFG, and RWQCB for approval. Approval of the Wetland Mitigation Plan from applicable agencies shall occur prior to approval of the Final Map and submittal of the Wetland Mitigation Plan to the Town shall occur prior to Final Map approval. All wetland mitigation measures identified in the adopted MMRP shall be completed. The jurisdictional wetlands (recreated and preserved) shall be incorporated in the final landscape plan and mitigation implemented under the direction of a qualified

restoration ecologist for the project. The GHAD or HOA shall be responsible for long-term management of jurisdictional wetlands. All restored jurisdictional wetlands, along with an appropriate upland buffer, shall be placed in a permanent Conservation Easement, or similar deed restriction, in favor of the Town or appropriate third party entity, preserved in perpetuity, and managed by the GHAD or HOA.[Modified CDP COA No. 53 and 73]

36. **Public Trails.** A public trail shall be constructed to Town standards between the end of the (access road) cul-de-sac, within the Emergency Vehicle Access Easement (EVAE) and extending to the intersection of Fire Trail # 41-7 as shown on the attached exhibit "Potential Fire Trails".. Public trail use and maintenance, including use and maintenance of the Fire Trail if and when constructed shall be addressed as part of the Open Space Management Plan. The Open Space Management Plan shall include a final Public Trail System Plan. The Geologic Hazard Abatement District (GHAD) or HOA once formed shall be responsible for public trail maintenance and control. [CDP COA No. 54]
37. **Encroachments.** Pedestrian encroachments (e.g., informal paths) leading from the pedestrian trail into the Larch Creek riparian corridor shall be avoided. Trailheads at both ends shall be marked and shall include informational signage to stipulate that pets must be leashed and that off-trail travel by foot or bicycle is prohibited. No trash cans shall be provided at trailheads or along trails as they can become attractive nuisances for wildlife and require increased human activity. [CDP COA No. 55]
38. **Habitat Protection.** In order to prevent the incremental degradation of preserved habitats, the following measures shall be followed:
 - a. Areas not proposed for grading shall be protected from construction disturbance and existing vegetation left intact. Construction fencing shall be installed to delineate the areas subject to disturbance and to protect native vegetation outside the limits of grading;
 - b. Soil and other debris shall not be stockpiled in areas outside of areas not designated for grading or disturbance;
 - c. Glare from security night lighting on private property shall be minimized by facing lights (pathway and parking lights, etc.) toward developed portions of the project and not toward native wildlife habitat or open space areas. All lighting shall be shielded to face downwards and towards the interior of individual lots.
 - d. Habitats within the Common Area Parcel shall be managed according to the final Open Space Management Plan.
 - e. Human encroachment and predation by domestic pets shall be minimized by the designation of trail access, informative signage regarding the sensitive nature of the native habitats and wildlife, homeowner education, and restrictions on pet access. [CDP COA No. 56]

39. Restoration Verification. All disturbed areas shall be visited by a restoration ecologist after one rainy season has passed since seeding. Site visits should be made during the spring, and each site shall be visited at least once. Sites shall be monitored for the revegetation. Sites that fail to show suitable vegetative cover shall be noted and mapped, and shall be re-seeded in the fall. The restoration ecologist shall make notes on the occurrence of particularly noxious non-native plant species, and make recommendations for their eradication. The selection of the restoration ecologist is subject to Planning Department review and approval, as are recommendations made by the ecologist. [CDP COA No. 87]
40. The project shall include dedication of an Emergency Vehicle Access Easement (EVAE) from the end of the (access road) cul de sac to the Moraga Ranch Trail, and dedication of an easement from this point to the Sanders Ranch property line with the final alignment to be shown on the Precise Development Plan, which alignment may be relocated to match the existing alignment of Fire Trail #41-7 as shown in the Exhibit on Page 39 of these Conditions of Approval. As described in COA #36, a six-foot hiking trail shall be constructed within the EVAE from Hetfield Place to the intersection of Fire Trail #41-7. Funding for future construction of a 16-foot wide dirt fire trail ("Fire Trail" or "EVA") from the end of the Hetfield Place cul-de-sac to the Sanders Ranch property line shall be provided by the applicant.

Funding and construction of the Fire Trail shall be subject to the following requirements:

- a. The amount of the required funding shall be based on a cost estimate approved by the Town, and shall include all costs for engineering, design, grading and construction of the trail in accordance with specifications identified in these Conditions of Approval, and may account for expected inflation in cost over a ten year period based on the Construction Cost Index.
- b. The applicant shall be responsible for the installation of necessary additional gates and fences, to be installed in accordance with COAs #51 and 116, to avoid unauthorized motor vehicle access, at the time the Fire Trail is constructed. Payment of required funds for construction of the Fire Trail shall be made to the applicable project GHAD (or the Town or other entity designated by the Town Council). Payment shall be made prior to issuance of the first building permit, unless alternate timing is approved by the Town based on timing of GHAD formation.
- c. The Fire Trail shall be constructed a) if so approved by the Town Council or b) if the Sanders Ranch Homeowners Association agrees to complete a connection of the Fire Trail to Sanders Ranch Road, during a period that shall end no later 10 years after issuance of the first building permit. The funds shall be held by the GHAD (or the Town or other entity designated by the Town Council) for a period of ten years. During this period the GHAD Manager (or other appropriate responsible agent for another designated entity) shall be required to submit a formal request to the Sanders Ranch

Homeowners Association (SRHOA) as to whether the SRHOA is willing to complete a connection of the Fire Trail from the Hetfield property line with Sanders Ranch to Sanders Ranch Road. Such request to the SRHOA shall be submitted no later than 30 days following issuance of the first building permit, and not less than once every two years thereafter, and a copy of the request provided to the Town. (For example, if the first building permit is issued on October 15 2015, a request to the SRHOA shall be submitted no later than November 15, 2015, and again no later than September 15, in the years 2017, 2019, 2021, 2023 and 2025.) In the tenth year, such request shall be made no later than six months prior to the expiration of the ten year period, and shall include notice of the date upon which the funding will no longer be available. Upon expiration of the ten year period, the GHAD (or Town or other entity designated by the Town Council) may re-assign the funds for other allowable purposes, but which shall generally be to the benefit of publicly-accessible facilities such as the on-site trails and open space.

- d. In the event that the cost to construct the Fire Trail is less than the fund amount held by the GHAD, excess funds may be returned to the GHAD, for the above-described purposes. In the event that the cost to construct the Fire Trail is greater than the fund amount held by the GHAD, the Project HOA shall be responsible for the remaining costs. The requirement to fund these potential additional costs shall be included in the project CC&Rs.

MOFD Conditions and Fire Protection Measures

41. Prior to the issuance of a building permit, the Moraga-Orinda Fire Protection District shall review and approve the final plans. Sufficient access for fire equipment shall be provided and requirements for visible addressing shall be met. The applicant shall submit the design review fee to the Fire District prior to obtaining approval. [Modified CDP COA No. 32]
42. Water Supply. The developer shall provide an adequate and reliable water supply for fire protection. The project shall comply with the 2013 Fire Code Chapter 5, Section 507 (or as subsequently updated) regarding fire flow requirements, including Appendix B MOFD Ordinance 13-01. Fire flow calculations shall be designed by a fire protection engineer or a C-16 licensed contractor. [CDP COA No. 21]
43. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives at the site
44. Fire sprinklers shall be installed in single family dwellings in accordance with MOFD Ordinance 10-04 and NFPA 13 or as revised and amended as of the time of building permit application.
45. Fire hydrants shall be installed at the required distances for residential structures. [Modified CDP COA No. 23]

46. Fire apparatus access shall conform to MOFD Standard 2013.503. Fire apparatus roadways in excess of 150 feet in length shall make provisions for approved fire apparatus turnarounds.
47. The developer shall maintain access roadways (other than the Emergency Vehicle Access [EVA]) with all-weather driving surfaces (asphalt, concrete or road pavers) of not less than 20 feet of unobstructed width. Adequate access for fire protection shall be maintained during construction. [Modified CDP COA No. 24]
48. Fire Alarm and notification devices shall be UL listed and comply with NFPA 72.
49. Proposed Fire Trail (EVA) and Fire Apparatus Roadways. Fire apparatus roadways (public, private streets, roads and in some instances driveways used for vehicle access) shall extend to within 150 feet of any portion of an exterior wall of the first story of any building. Fire apparatus roadways in excess of 150 feet in length shall make provisions for approved fire apparatus turnarounds. Fire apparatus roadways shall be capable of supporting the imposed weight of fire apparatus (40,000 pounds) and shall be provided with a paved or concrete surface (except for the EVA on the site). Vehicular use of the EVA shall be restricted to emergency vehicle access only.

At such time that an EVA is constructed, where the EVA crosses a seasonal wetland area with drainage, the EVA shall be constructed to support the weight of 15 tons. [Modified CDP COA No. 28 and 33]

50. Fire Hydrants. The developer shall provide fire hydrants as specified by East Bay Municipal Utility District and the Fire District. Final utility map with hydrant locations shall be submitted to the Fire District for final approval. All hydrants shall be wet barrel, standard steamer type (1-4.5" and 1-2.5") outlet. [Modified CDP COA No. 23]
51. All electronic gates crossing Fire District accessways shall comply with ASTM F2200.
52. Vegetation Management. The applicant shall maintain all vegetation in accordance with the requirements of the Moraga-Orinda Fire District for the common open space and lot areas until the GHAD and Homeowners Association are established and sufficiently funded. Private lot vegetation management will be the responsibility of individual private lot owners as each acquires their respective lots. [Modified CDP COA No. 30]
53. Fire Protection Plan. A Fire Protection Plan shall be included as part of the Open Space Management Plan and shall be approved by the Town prior to approval of the Final Map. Firefighting equipment access shall be provided to all areas of the project site in accordance with fire access standards of the Fire District and the adopted Uniform Fire Code and the time of project approval. The Fire Protection Plan shall include the following provisions:

- a. All housing shall be constructed with fire resistant exterior materials and fire retardant roofing and include interior sprinklers.
- b. Landscaping around homes shall be designed to minimize the interface between grassland areas and residences (e.g., fire resistant vegetation).
- c. An annual inspection report for compliance shall be submitted to the Fire Marshal for approval. Annual inspection fees shall be paid by the GHAD or HOA.
- d. Consistency with the Town's emergency evacuation plan.
- e. Limitations on use of the EVA including restrictions on vehicle access to emergency vehicles only.[Modified CDP COA No. 30 and 31 and 79]

Public Works/Engineering Standard Conditions of Approval and Conditions Specific to Project Related to Roadways, Grading, and Utilities

54. If the cost of the project will be more than \$250,000 the applicant shall submit a Construction and Demolition Debris Recycling Waste Management Plan waste management plan as required by MMC Section 8.156.080 prior to the issuance of the building permit. The plan shall include a quantitative estimate of recyclable material(s), a list of recyclers to be used for the project, a schedule for submitting receipts to the Planning Department and a description of how the recycling will be accomplished. The applicant shall also submit a deposit in compliance with MMC Section 8.156.070 to ensure completion of the waste management plan and submittal of the receipts from disposal and recycling facilities for the project. The amount of the deposit is calculated as a percentage of the projects total cost in accordance with the following table:

Project Total Cost	Percent of Total Cost	Required Deposit
10,000 – 500,000	2.00	\$200 – \$10,000
500,001 – 1,000,000	1.75	\$8,750 – \$17,500
1,000,001 – 2,000,000	1.50	\$15,000 – \$30,000
2,000,001 – 5,000,000	1.25	\$25,000 – \$62,500
Above 5,000,000	1.00	\$50,000 and up

The deposit may be cash, a certificate of deposit requiring both the signature of the applicant and the Town for release or a letter of credit. The applicant is responsible to make sure that contractors working on the project follow the waste management plan and submit the receipts from disposal and recycling facilities for the project, otherwise the deposit cannot be returned.

The project is not required to submit a Construction and Demolition Debris Recycling Waste Management Plan unless the cost of the project exceeds \$250,000.00. Nevertheless, the Town encourages all applicants to divert fifty-percent (50%) of all project waste from landfills by reuse and/or recycling. The applicant should review the Contra Costa Builder's Guide for a listing of the

materials that can be recycled and the places where they can be recycled.
[Modified CDP COA No. 76 and 102]

55. Within three months of completion of construction, a site plan showing the final "as-built" location of any subdrains installed on any portion of the lot and all drainage inlets and outlets shall be submitted to the Town Engineer and Planning Director.

Public Streets and Public Utility Connections:

56. The subdivision shall conform to the provisions of the Subdivision Ordinance (Title 9) as adopted and amended by the Town of Moraga with exceptions as noted and approved by the Town in these Conditions of Approval.
57. Improvement plans prepared by a registered Civil Engineer shall be submitted, if necessary, to the Public Works Department along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Public Works Department.
58. Any curb and gutter cracked and displaced during construction shall be removed and replaced no later than three months after issuance of final certificate of occupancy for the new homes, unless alternate timing is approved by the Town. 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.
59. Sanders Drive, which will serve as the primary construction access route, shall be assessed in terms of paving conditions prior to grading or construction. After grading is complete, a "post-construction" paving study shall be completed and the applicant and/or HOA shall be responsible for restoring Sanders Drive to its "pre-construction" condition. Following the completion of corrective grading, the applicant shall complete the Sanders Drive improvements within 3 months unless site lot improvements are underway within this time. If lot improvements are undertaken within 3 months of corrective grading, the Sanders Drive improvements can be undertaken at the completion of the lot improvements. If grading is completed more than 12 months prior to the start of home construction, an interim paving study shall be completed on Sanders Drive and the paving shall be restored to "pre-grading stage" conditions.
60. Paving repairs on streets, if necessary, shall to be edge ground and overlaid with 2" of class 2 A.C. from street centerline to the new driveway curb cut and gutter.
61. All work to be undertaken within the public right-of-way shall be shown on the construction plans (i.e. storm drain, joint utility trench, curb and gutter improvements, etc.) and reviewed by the town engineer. All new utility distribution facilities including electric, telephone and cable television systems shall be installed underground from point of connection. Prior to undertaking any work within the

public right-of-way, an encroachment permit shall be obtained from the Public Works Department.[Modified CDP COA No. 94]

62. All on-site subdivision improvements, including public utilities and drainage systems that will be privately maintained, shall be installed prior to the occupancy of any home in the subdivision unless alternate timing is approved by the Town Engineer.

Utilities/Undergrounding:

63. Applicant shall underground all new utility distribution facilities. The 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. Individual lateral connections to existing public streets shall be avoided where possible.[Modified CDP COA No. 22 and 95]
64. To reduce hazards from underground utility line breakage, flexible conduits and piping shall be utilized in fill areas where settlement or earthquake movements could cause a break in service lines. To reduce earthquake hazards, manual shut-off valves for gas and water lines shall be installed, and in accordance with the appropriate utility agency's requirements.
65. If relocation of Pacific Gas and Electric facilities becomes necessary, such relocation shall be done at the applicant's expense.
66. The applicant shall comply with requirements of the Telephone and Television Service Providers for underground installation of telephone and television service as follows:
 - a. The applicant shall be responsible for furnishing and installing conduit for the service connection wire or cable.
 - b. The applicant shall provide and pay the cost of the underground supporting structure (usually a trench) for the buried wire or cable to be used for the service connections.
 - c. The applicant may collect any allowable reimbursements available from CPUC tariffs or other programs.
67. Water Service. If required by East Bay Municipal Utility District, a main extension shall be installed at the property owners' expense, to serve the proposed development. Final plans for the main extension will be prepared by EBMUD and are subject to review and approval by EBMUD prior to installation of the new line. The applicant shall be responsible for payment of all fees levied by EBMUD associated with preparation and review of such plans for water connections for which the applicant is responsible.

68. The applicant shall comply with the requirements of East Bay Municipal Utility District's (EBMUD) for water-efficiency measures. (Also see Condition 25 that requires the applicant to comply with the California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495)).

Central Contra Costa Sanitary District:

69. The applicant shall comply with the requirements of the Central Contra Costa Sanitary District (CCCSD) for sanitary sewer connections. These requirements include but are not limited to the following:
- a. Prior to the issuance of a grading permit or working on the existing public sewer the applicant must contact CCCSD.
 - b. CCCSD requires gravity sewers in preference to pumped systems and locations in the public right-of-way or easements.
 - c. CC&Rs shall assign responsibility for operation and maintenance of the side sewers to individual homes to the respective homeowner(s).
 - d. Toxic substances such as gasoline, oil, paint, and pesticide residue are prohibited from being introduced into the CCCSD sewer system.
 - e. The applicant shall submit construction plans involving work on the public sewer for review and approval by CCCSD, prior to applying for a building permit.
 - f. The applicant shall pay Facilities Capacity Fees to CCCSD at the time of connection to the sewer system.
 - g. The applicant shall be responsible for installation of side sewers to the homes.
 - h. The requirements listed in the CCCSD "Hillside and Creek Area Sewer Policy" shall be followed when construction plans are prepared.
 - i. The applicant shall secure a will serve letter that addresses transmission capacity. [Modified CDP COA No. 58 and 85]
70. The use of sanitary sewer easement surfaces shall be limited to paving, shrubbery, gardens and other landscaping, excluding trees. Parallel surface drainage ways and permanent structures including, but not limited to, buildings, swimming pools, decks, and retaining walls are not permitted within the easement area. These limitations shall be reflected in the CC&Rs for the subdivision.
71. The applicant shall comply with the following requirements if directional drilling of the sewer line is allowed by CCCSD to avoid disturbance to onsite drainages or Larch Creek:
- a. Construction shall be undertaken during the dry season and no grading shall occur between October 15 and April 15;
 - b. Undercrossings shall meet with California Department of Fish and Wildlife (CDFW) standards and permits for riparian habitat disturbance shall be obtained from CDFW if needed.

Private Streets:

72. Access Roadways. Except as otherwise specified for the EVA, if constructed in the future, all public access (but privately maintained) roadways shall be constructed with all-weather driving surfaces (asphalt, concrete or road pavers) of not less than 20 feet of unobstructed width. Access roads shall not exceed 20 percent grade, shall have a minimum inside turning radius of 28 feet and a 48 foot outside diameter and must be capable of supporting the imposed loads of fire apparatus. Roadways that are 20 feet wide shall be posted as NO PARKING on both sides of the roadway as outlined in the California Vehicle Code for fire access. (Parking may be provided within designated "bulb outs" outside of the 20 foot road width, as shown in the approved plans.) The proposed bridge must be built to CalTrans' H-20 Design Standard. [Modified CDP COA No. 96]
73. Private Road and Gates. No road gates on Hetfield Place where it connects to the onsite private road shall be allowed. Hetfield Place shall be privately maintained and insured to protect liability. A private road maintenance plan shall be submitted and approved prior to issuance of a Grading Permit. While the road shall be privately maintained, public access shall be permitted. [CDP COA No. 26]
74. The Private Street is being conditionally approved based on the accuracy of the information shown on the tentative map. Approval of the private street shall become effective upon final map approval.
75. Private street names are subject to modification prior to final map approval, and shall be approved by the Planning Director.
76. The applicant shall dedicate a private street right-of-way and install complete street improvements for the internal private street as shown on the tentative map. Streetlights are not required as part of this project.
77. A Public Access Easement (PAE), Public Utility Easement (PUE), East Bay Municipal Utility District Easement (EBMUD), Sanitary Sewer Easement (SSE) and Emergency Vehicle Access Easement (EVAE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, gas, electrical and communication facilities.
78. The HOA shall be responsible for the maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Homeowners' Association (HOA).
79. The design of the private street shall conform to the following standards and is subject to review and approval by the Town Engineer prior to final map approval:
- a. Grading and drainage improvements shall generally conform to applicable public street standards

- b. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a thirty-year pavement design life. In no case shall the traffic index be less than 5.5.
 - c. Asphalt concrete surfacing shall be treated with a seal coat of the type and amount required by the Town Engineer. Pavement design sections shall be subject to approval of the Town Engineer.
 - d. The new private street in the subdivision shall be constructed to the specifications in the Town's Subdivision Ordinance, but not including standard sidewalks. An exception has been granted to allow a minimum width of 20 feet for the travelway (width at parking bays is 28 feet, and 24 feet at the bridge). A decomposed granite 6-foot wide public path shall be adjacent to the private street. Any further changes in the Town Street Construction Standards prior to approval of the Subdivision Improvement Plans shall be applicable.
 - e. Rolled curbs shall be provided where feasible and acceptable to the Town Engineer.
80. The applicant shall submit signing and striping plans for traffic control devices to the Town's Public Works Department for approval at the time improvement plans and Final Map are submitted to the Town. The cost of review by the Town's Engineering Consultant shall be borne by the applicant. The following signs shall be included:
- a. The improvement plans shall include the installation of a stop sign at Hetfield Place at its intersection with Sanders Drive per the Town of Moraga Public Works standards.
 - b. The improvement plans shall include the installation of a stop sign and sign reading, "Not a through Street" at the southbound intersection of Hetfield Place and Sanders Drive.[Modified CDP COA 25]

Restricted Development Areas:

81. The CC&Rs shall include notification to each property owner of any restricted development areas (e.g. open space easements, conservation easements, high hazard areas, utility easements, drainage easements) located on their property and within common areas. The notification shall inform future property owners of specific restrictions on use and development associated with each such area, including but not limited to prohibition of structures, pervious surfaces, parking and similar uses as required by these Conditions of Approval, EIR Mitigations, or by applicable utilities and agencies.[Modified CDP COA No. 34]

Maintenance of Facilities:

82. The HOA shall covenant and be responsible for the maintenance, in perpetuity, of the following, in addition to any other facilities specifically noted in other Conditions of Approval. Such maintenance shall exclude all facilities otherwise specified to be maintained by the GHAD:
- a. Common area landscaping.
 - b. Landscaping and retaining walls within the Common Area Parcel.
 - c. The Private Road, as indicated in these conditions of approval.
 - d. Drainage and water quality features and facilities as indicated in these conditions of approval other than those maintained by the GHAD.
 - e. Retaining walls located on HOA owned property.
83. A maintenance plan of operation for all HOA-maintained facilities shall be submitted for Public Works review, prior to recordation of the Final Map. The Town will not accept these properties or facilities for ownership or maintenance.

Drainage Conditions:

84. Drainage facilities shall be designed in accordance with the Town's Subdivision Ordinance and Public Works standards. All storm waters entering or originating within the subject property shall be collected and conveyed to the nearest adequate man-made drainage facility or natural watercourse. As documented in the EIR, the project, with incorporation of on-site drainage improvements would not exceed the downstream drainage capacity of Larch Creek. An exception has been granted to allow clearing the natural channels in the areas of the proposed bridge. Detailed drainage plans shall be submitted to the Public Works Department for review and approval prior to approval of the improvement plans. Final pipe sizes shall be reviewed and approved by the Public Works Department upon submittal of improvement plans. The applicant shall also pay the required fee for storm drain improvements as specified in the Town's adopted fee schedule; such payment is considered adequate to address project impacts to downstream drainage facilities.
85. On-Site Detention and Drainage. Detention shall be provided through oversized stormwater pipes and buried detention facilities, with outfall to Larch Creek. In order to determine whether or not there will be a net increase to off-site peak flows and volumes for the 7-Lot Project, an Expanded Master Drainage Plan (Drainage Plan) shall be prepared based upon and at the time of the Precise Development Plan (which shall specifically identify all impervious surfaces, define the collection system, detention cells and outlets, and detail all BMPs). The Drainage Plan shall comply with the following Performance Standards:
- a. Provide parallel hydrologic and hydraulic analyses and calculations of existing pre-development and of proposed post-development runoff flows and volumes from all tributary areas accounting for all changes in runoff characteristics and drainage area;
 - b. Clearly identify differences between existing and proposed conditions by providing at identical or equivalent geographic points in the watersheds

directly comparable tables of runoff analysis, tabulation of characteristics, and drainage maps;

- c. Demonstrate that the detention and BMP facilities have the required capacity and can be constructed at the proposed sites without exceeding grading, landscape and other project criteria;
- d. Show that any uncontrolled overflow of the facilities due to blockage or other malfunction will follow an identified flow path to the major channels and will result in no more than nuisance flooding;
- e. Demonstrate that individual lot grading will direct all drainage from the building pads to the street or to the storm drainage system on the site. No overland drainage from the pads or street shall be discharged directly into Larch Creek, the fills or natural slopes;
- f. Confirm capacity of the existing system and evaluate whether the project's contribution exceeds the capacity of the existing (plus planned) drainage facilities, or contain those contributions in acceptable storm drains or non-erodible open channels;
- g. Confirm that any increase in the velocity and duration of erosive flows in the natural and recreated drainage ways within the project and downstream of project facilities do not aggravate erosion from storm runoff of 2-, 10- and 100-year average recurrence (50% through 1% annual probability);
- h. If the project's contribution to the existing peak flows and volumes exceeds capacity of the existing (plus planned) facilities (both on and off site) the Drainage Plan shall identify required drainage enhancements and long term (in perpetuity) funding for these enhancements. Numeric hydrologic modeling for the project will be performed in conformance with the Contra Costa County Flood Control Standards and Contra Costa Clean Water Program (CCCWP) C.3 Hydromodification Requirements. The modeling will verify that final hydrologic mitigation measures reduce 2-, 10- and 100-year average recurrence flow rates to pre-development levels at points of discharge and do not aggravate erosion in existing downstream channels for smaller flow rates as defined by the CCCWP C.3 Hydromodification standards. These enhancements shall include:
 - i. Either additional on-site detention facilities which can be demonstrated to preclude any increase in the flows and volumes to pre-project conditions and thereby preclude increased flooding and erosion risks; and/or,
 - ii. As part of the Drainage Plan reviewed and approved by the Town of Moraga prior to approval of the grading permit, the Applicant shall demonstrate that the existing springs and seeps are not dependent on the recharge from the developed area. However, if found to be dependent, a supplemental water supply shall be provided, possibly necessitating further environmental analysis and review by the Town of Moraga. [Modified CDP COA No. 51]

- 86.** All of the storm drain system facilities including pipes, catchment, bio-retention facilities, storm drain outfall and other structures are to be private, and will remain in

the ownership of the HOA and maintained by the GHAD or HOA, except that the HOA will be responsible for any needed replacement of storm drain facilities.

87. The applicant shall submit to the Town copies of any plans and reports provided to regulatory agencies, (e.g. California Fish and Wildlife (Streambed Alteration Agreement), US Fish and Wildlife Service, Army Corps of Engineers, the Regional Water Quality Control Board, etc.,) if required, for permits associated with work within creek channels. Proof of the compliance of any conditions associated with such permits shall also be submitted to the Planning Director.
88. The applicant shall comply with all permitting requirements of the Regional Water Quality Control Board (RWQCB) for work within the stream channel including filing a Notice of Intent (NOI) with the RWQCB if such permits are required or determined to be necessary. Undercrossings for water and wastewater lines shall meet with California Dept. of Fish and Wildlife (CDFW) standards and permits for riparian habitat disturbance shall be obtained from CDFW if needed; and, construction shall comply with CCCSD's Hillside and Creek Area Sewer Policy.
89. The applicant shall construct drainage improvements to satisfy the collect and convey provisions of the Subdivision Ordinance prior to issuance of a Building Permit.
90. The property owner shall be aware that the creek banks on the site are potentially unstable. The property owner shall execute a recordable agreement with the Town which states that the applicant/developer and the property owner and the future property owner(s) will hold harmless the Town of Moraga and the Contra Costa County Flood Control and Water Conservation District in the event of damage to the on-site and off-site improvements as a result of creek-bank failure or erosion.
91. Applicant shall prevent storm drainage from draining across the driveway(s) in a concentrated manner.
92. A private storm drain easement shall be dedicated over any proposed storm drain line traversing the site.

Creek Structure Setbacks and Creek Protection:

93. Applicant shall relinquish "development rights" over that portion of the site that is within the structure setback area of Larch Creek, except for the construction of facilities shown on the approved improvement plan, such as those associated with bridge crossings and trails. The structure setback area shall be determined by using the criteria outlined in Chapter 914-14, "Rights of Way and Setbacks," of the Contra Costa County Subdivision Ordinance, as adopted by the Town of Moraga. "Development rights" shall be conveyed to the Town by grant deed however, the Town will not accept these properties for ownership or maintenance, except as otherwise agreed for specific properties and facilities. The structure setback area may be reduced subject to the review of Public Works and the review and approval

of the Planning Director, based on a hydrology and hydraulic study and geotechnical analysis of the soil which shows that the creek banks will be stable and non-erosive with the anticipated creek flows. The hydrology and hydraulic study shall be based upon the ultimate development of the watershed.

94. The applicant shall show the creek structure setback line on the Final Map in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" of the Contra Costa County Subdivision Ordinance Code, as adopted by the Town of Moraga, and consistent with Attachment E.2 (Creek Setback Exhibit) of the February 18, 2014 Planning Commission Staff Report.
95. Creek Corridor and Public Trail. The public easement along the south side of Larch Creek shall be immediately adjacent to and attached to the paved onsite access road and shall allow both pedestrian and bicycle access. This 6-ft. wide path shall be composed of decomposed granite. During construction of this trail, orange fencing and straw bales shall be used on the creek side of the easement to prevent erosion and sedimentation and to minimize disturbance of the creek corridor. No equipment shall disturb any areas outside of the designated easement. Any retaining walls for lots or the onsite access road shall be subject to Design Review Board review and approval and shall not be placed closer than 60 feet to the centerline of the creek and retaining walls within 100 ft. of the creek centerline shall be landscaped to screen the walls from offsite locations (with vines or other mechanisms). [Modified CDP COA No. 46]
96. Creek Protection. The Larch Creek corridor shall be fenced during all of construction activity and erosion control measures shall be implemented in accordance with an approved Stormwater Pollution and Prevention Plan (SWPPP). [CDP COA No. 35]

Water Quality and National Pollutant Discharge Elimination System (NPDES)

97. Project construction shall be done in accordance with all applicable provisions of the Federal Clean Water Act, which protects the quality of surface waters through the National Pollution Discharge Elimination System (NPDES). Prior to issuance of a building permit, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP), subject to approval of the Public Works Department. The applicant shall provide evidence to the Town of the State Water Resources Control Board (SWRCB) approval of the SWPPP. Storm water discharges shall be in accordance with the Town of Moraga NPDES permit. A copy of the Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the Public Works Department and be kept at the construction site.
98. NPDES compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in accordance with the Town of Moraga and Contra Costa Clean Water Program for the site's storm water drainage:

- Minimize the amount of directly connected impervious surface area.
 - Stenciling all storm drain inlets "No Dumping, Drains to Creek" (or similar) using thermoplastic tape.
 - 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.
 - Other alternatives comparable to the above as approved by Public Works.
 - Shallow roadside and on-site swales.[Modified CDP COA No. 99]
- 99.** Prior to issuance of a building permit, the project applicant shall prepare a "source control program" to remove non-point source pollutants before they are picked up by storm water runoff during the future operation of the project. A registered civil engineer (or other licensed professional acceptable to the Town) shall prepare the source control program, subject to approval by the Public Works Department. The program shall include the following provisions:
- a. A pavement maintenance program, which consists of regular surface cleaning for the new driveway and parking area.
 - b. Labeling all catch basins "No Dumping-Drains to Creeks" (or similar). Mark all storm drains with signs to prohibit improper disposal of any hazardous materials such as cleaning solvents, pesticides and herbicides.
 - c. Strictly limiting the use of non-biodegradable fertilizers or pesticides in the landscape maintenance program.
- 100.** CC&Rs for the subdivision shall require:
- a. Materials such as gasoline, oil, sand, paint, pesticide residues, or other toxic substances are prohibited from being introduced into the storm drain system or the CCCSD sewer system.
 - b. Lot owner shall maintain his/her lot in a non-hazardous condition with regard to drainage.
 - c. Collected storm drainage originating from roof downspouts and paved areas shall not be discharged across sidewalks or out of driveways.
 - d. The discharge of chlorinated water from swimming pools and spas into storm drains or creek channels is prohibited. (All water from swimming pools and spas shall be discharged to the CCCSD sewer system in accordance with their requirements.)
 - e. Distribution of public information items regarding the Clean Water Program to buyers at time of sale.
- 101.** Prior to the issuance of a certificate of occupancy for the first residence, the applicant shall submit a written agreement for a street sweeping program and a storm water system cleaning program to the town engineer for review and approval. The HOA shall be responsible for the maintenance of the private road, and drainage facilities located within common areas and open space easements, except for those to be maintained by the GHAD. Such facilities shall be subject to the following maintenance schedule, which may be reflected in a consolidated plan of maintenance and operation for the project::

- a. The private road must be swept a minimum of six times per year and whenever dirt and debris is on the private drive or as determined by the Town's Public Works Department. One private drive sweeping shall be required for individual properties in late September.
- b. All catch basins and storm drain pipes shall be cleaned two times per year including once in September.
- c. Inspection and clearing of the storm drain inlets, ditches, and creeks shall occur once every year, in September.
- d. The program shall give authority to the Town to enter onto the site to verify that the program is being implemented

Conditions Related to Provision C.3: Stormwater Control for New and Redevelopment:

102. 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), specifically in respect to Provision "C.3" in the NPDES permit.

103. Stormwater. Stormwater from roofs, patios, streets and sidewalks shall be treated before reaching creeks or public storm drain system. Stormwater from naturally vegetated areas (hillsides, landscapes, etc.) does not need to be treated and may be routed to the stormwater system or creeks directly. The two types of run-off should not be mixed. Bios ales may be used to treat runoff from paved surfaces. The construction plans shall include detailed stormwater treatment plans to reflect the specifics of the treatment facilities areas.

This project shall fully comply with the Town's Stormwater Management and Discharge Control Ordinance, the Stormwater C.3 Guidebook, and the requirements of the Regional Water Quality Control Board. As part of these requirements, the applicant shall incorporate Integrated Management Practices (IMPs) or Best Management Practices (BMPs) to the maximum extent practicable into the design of this project, implement them, and provide for perpetual operation and maintenance for all treatment IMP/BMPs.[Modified CDP COA No. 36]

104. A Preliminary Stormwater Control Plan dated October 18, 2013 was reviewed and determined to be preliminarily complete. Although the Stormwater Control Plan has been determined to be preliminarily complete, it is subject to revision during the preparation of improvement plans, as necessary, to bring it into full compliance with C.3 stormwater requirements. The applicant shall submit to the Public Works Department a final Stormwater Control Plan that has been certified and stamped by a licensed Civil Engineer, Architect, or Landscape Architect for the review and approval of the Public Works Department.[Modified CDP COA No. 37]

105. All construction plans (including, but not limited to, site, improvement, structural, mechanical, architectural, building, grading and landscaping plans) shall comply

with the preliminarily approved Stormwater Control Plan (SWCP) or any subsequently revised SWCP, the Town's Stormwater Management and Discharge Control Ordinance, the "C.3 Guidebook" and the requirements of the Regional Water Quality Control Board. All construction plans shall include details and specifications necessary to implement all measures of the SWCP, subject to the review and approval of the Public Works Department. To insure conformance with the SWCP, the applicant shall submit a completed "Construction Plan C.3 Checklist" indicating the location on the construction plans of all elements of the SWCP as described in the "C.3 Guidebook."

106. 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.
107. All water quality features shall be located within privately maintained storm drain or open space easements to allow Town access for any future inspection and/or maintenance purposes.
108. The applicant shall provide a Stormwater Control Operation and Maintenance (O&M) Plan for the review of the Public Works Department, and record an Operation and Maintenance Agreement, including any necessary rights-of-entry, prior to recording of the Final Map.
109. The HOA and GHAD financial/operating plan(s) shall include provisions to insure that all costs associated with the Operation & Maintenance, administration and reporting of water quality features (including costs associated with all required Town administration, inspection and reporting) will be addressed in perpetuity. Cost estimates for the complete financing and perpetual maintenance of the water quality features proposed shall be provided for the review and approval of the Public Works Department. This estimate shall include all long term costs associated with these water quality features including, but not limited to, Operation and Maintenance, financing, inflation indexing, and replacement costs.
110. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall provide an Operation and Maintenance (O&M) plan and execute any agreements identified in the SWCP, which pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs.

Grading Conditions:

General Grading Conditions/Prior to Commencement of Grading

111. All grading operations shall be conducted in accordance with the conditions listed in this section and in conformance with the approved grading plan. An application for a grading permit, developed in accordance with applicable Town approvals, shall be made to the Contra Costa County Building Inspection Department, and shall be

accompanied by the requisite number of plan sets, documentation of earthwork quantities and fees in accordance with County requirements.

112. The applicant shall apply for and pay all appropriate fees for the grading permit, erosion control permit, plan checks and inspections and any other applicable fees.
113. The final grading plan shall be reviewed and approved by the Town Engineer prior to filing the Final Map and improvement plans. The grading plan shall be consistent with the recommendations of the Geotechnical Investigation and shall be signed for conformity by the applicant's soils engineer.
114. Prior to the issuance of a grading permit by Contra Costa County, a certificate of insurance shall be provided to the Town to verify that both the applicant and the grading contractor have public liability insurance. The amount and type of insurance shall be reviewed by the Town and shall be sufficient to cover damages that may result from the grading operation.
115. Grading operations shall occur between April 15 and October 15, in order to avoid seasonal rainfall, except as allowed outside this period in accordance with provisions of the Grading Ordinance. All erosion control measures shall be installed and deemed operational by the project engineer, the Contra Costa County grading inspector and Town Engineer prior to October 1. [Modified CDP COA No. 67]
116. Grading. No grading shall occur prior to approval of a grading permit. It is expected that all graded material will be balanced on site but this shall be verified at the time of the grading permit, at which time the applicant shall verify the maximum amount of off haul of any cut material from the site and the truck trips associated with any dirt removal, information on number of truck trips, and length of time of off haul shall be posted on the site in a location visible from the Hetfield Drive access point so that neighbors are aware of trucks associated with onsite grading activities. Contractor contact information shall also be posted if neighbors wish to register any complaints. All grading activity shall be monitored and daily records maintained that shall be provided to the Town of Moraga on a monthly basis. All excavations (keyways, benches, etc.) for the landslide removals shall be mapped and approved by the applicant's Certified Engineering Geologist and shall be reviewed by the Town's Consulting Engineering Geologist. Approval of corrective and site preparation grading shall be separate from individual lot grading for home construction. [Modified CDP COA No. 42]
117. Cut and Fill. Cut and fill material shall be balanced on-site to the maximum extent feasible. If the proposed project requires export or import of more than 500 cubic yards of dirt, a hauling permit shall be required in accordance with PC Resolution 46-82. However, even if the volume of the export or import is less than 500 cubic yards, a hauling permit shall also be required, subject to review and approval by the Town Engineer.[CDP COA No. 48]

- 118.** CDFW and RWQCB Approvals. Prior to the issuance of grading permits by the Town of Moraga, the Project Applicant shall provide evidence of the required approvals from the CDFW and RWQCB in terms of impacts to Larch Creek and onsite wetlands. [CDP COA No. 70]
- 119.** Prior to issuance of a County grading permit, the project applicant shall prepare a Construction Management Plan (CMP), subject to review and approval by the Public Works Director. The CMP shall provide the following information:
- a. A project staging plan to maximize the on-site storage of materials and equipment;
 - b. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hours; lane closure proceedings; signs, cones and other warning devices for drivers; and designation of construction access routes;
 - c. Permitted construction hours;
 - d. Location of construction staging;
 - e. Identification of parking areas for construction employees, site visitors, and inspectors, including on-site locations and along Hetfield Place;
 - f. Provisions for street sweeping to remove construction-related debris on public streets; and
 - g. Designation of an on-site construction manager as a contact for the Town and the public.
 - h. Requirements for public notification for construction and grading activity that may block or impede access to driveways. The CMP shall require best efforts to ensure that access to private driveways can occur at all times, but if this is not possible, notice shall be provided to affected property owners at least 48 hours in advance of any blockage and its expected hours and duration.

The above list reflects the minimum required contents of the CMP. The Town may determine that other provisions, necessary to satisfy required Conditions of Approval or EIR Mitigation Measures should be included in the CMP.

- 120.** Two weeks prior to commencement of the project's grading operation, notice shall be sent to residents in the vicinity to inform them of the date of the start-up of the grading. The notice shall include the telephone number of the construction supervisor and/or other responsible parties who may be contacted regarding the grading operation. A copy shall be sent to the Planning and Public Works Directors.
- 121.** Prior to commencement of the grading operation, a survey (such as a videotape) of the condition of Sanders Drive and other local streets to be used by the construction equipment shall be performed by the applicant and provided to the town engineer for review. The survey shall include roads along proposed haul route(s) or any alternate route(s) that are proposed to be utilized by the hauling operation. Any off-site damage to public streets, including but not limited to potholes, depressions, spalling, curb and gutter cracks, traffic striping and pavement messages that become illegible, obliterated, or a hazard, which is determined by the town engineer to be the result of the construction operation shall

be corrected by the applicant at the applicant's expense. A copy of all pre-project survey work documentation shall be provided to the Public Works Department prior to commencing work, and is subject to Town verification and approval of the survey findings. At its option, the Town may require the applicant to execute a bonded road improvement agreement to assure the roadway repairs.[Modified CDP COA No. 27]

- 122.** Prior to the commencement of the grading operation, a pre-work meeting shall be held with the grading contractor, a representative of the applicant, the project geotechnical engineer, the project engineer, the town engineer, the town's consulting geotechnical engineer, the planning director, the Contra Costa County grading inspector, and the various utility agencies. The purpose of the meeting shall be to review the conditions of approval and to advise the individuals performing the work of the requirements of the Town.
- 123.** Within one year of the effective date of the Final Map, the applicant shall submit a Declaration of Deed Restrictions for each lot in a form satisfactory to the Town Attorney. The Declaration shall be reviewed by the Planning Director and recorded with the title of each lot. A copy of the recorded Declaration of Deed Restrictions shall be filed with the Town of Moraga. The Declaration of Deed Restrictions shall include the recommendations and exhibits from the project geotechnical engineer's reports:
- a. Recommended structural setbacks from the bottom and top of slopes, including the minimum setback requirements from the toe of the landslide features identified on the building site.
 - b. The maintenance responsibilities required of the lot owner include annual inspection and cleaning of both surface and subsurface drainage facilities each September.
 - c. A site plan showing the "as-built" location of any subdrains installed on any portion of the lot and all drainage inlets and outlets.
- 124.** Existing trees, plants and grasses in the area to be graded shall be left undisturbed, except as needed for weed control and fuels management, until the grading is ready to commence. Tree removal may be authorized by the Town prior to commencement of grading if so doing would reduce potential impacts to nesting birds and other species. Additional security deposits may be required in conjunction with such an authorization, at the discretion of the Town.
- 125.** Retaining Walls and 3:1 Slopes. At the time of grading, slopes shall be 3:1 as shown in the grading plan for the CDP, and retaining walls shall not be constructed until design review has occurred. Retaining walls shall be subject to Design Review Board review and approval. At minimum, such retaining walls shall be consistent with the Design Guidelines, screened from view by the recommended shrubbery and tree plantings. Retaining wall height shall be minimized to the maximum extent possible, but shall not exceed five feet in height. [CDP COA No. 39]

During Grading Operations

- 126.** The grading contractor and the applicant shall be responsible for preventing spills of soil, rock or other debris onto the Town's streets. If any spills occur, the grading contractor and the applicant will be required to immediately clean up the spill and repair any damage to the streets to the satisfaction of the Public Works Department and the grading inspector. Pavement and/or base rock apron (stabilized construction entrance) shall be provided at the entrance to the site to minimize dirt carried onto the Town streets. Specifications for the pavement or base rock apron (stabilized construction entrance) shall be provided to the Public Works Department for review and approval prior to installation. Streets in the vicinity of the site shall be swept clean of soil at least weekly to reduce the accumulation of dirt during the grading operations. The Town may request more frequent sweeping if determined necessary.
- 127.** Parking of grading equipment, tractor tread vehicles and all construction vehicles and equipment on public streets is prohibited. These vehicles shall be delivered to the property by trailer and kept on site during grading and construction operations. Limited exceptions to this condition may be granted by the Public Works Department, or Planning Director for specific construction activities or project phases (such as prior to construction of the bridge crossing) where short-term staging of equipment on public streets is shown to be necessary.
- 128.** The applicant shall generally require construction employee vehicles to be parked on-site, within an established onsite "staging area" for vehicles. Employee parking along Sanders Drive and Hetfield Place may be allowed with permission from the Town for a limited and specified duration (e.g. during early grading, prior to establishment of the on-site staging area).
- 129.** The applicant shall provide phone numbers for its grading contractor and other responsible individuals so that the Town can contact these people at any time during the day or night, seven days of the week, in the event that emergency repairs to the erosion control measures or other measures to conform with grading-related conditions of approval are needed.
- 130.** The applicant shall retain a civil engineer or licensed land surveyor to periodically perform surveying during the grading operations.
- 131.** The applicant shall retain a geotechnical engineer and an engineering geologist to periodically observe the grading operation. All cut and fill slopes shall be observed during and at the completion of grading to determine if adverse conditions exist. Should adverse conditions be determined to exist, the appropriate remedial measures shall be implemented. The proposed remedial measures shall be submitted to the Town Engineer and the Town's consulting geotechnical engineer for review and comment. Final approval shall be issued by the Planning Director.
- 132.** When deemed appropriate by the Town Engineer and/or grading inspector, a meeting shall be attended by the grading contractor, a representative of the applicant, the project geotechnical engineer, the project engineer, the Public Works

Department, the Town's consulting geotechnical engineer, the Planning Director, the County grading inspector and representatives of the various utility agencies. The purposes of the meeting shall be to discuss the progress of the grading operations, scheduling of required site observations by the Town's representatives/consultants, difficulties and/or unanticipated adverse conditions encountered.

133. The Town Engineer or designee and the Town's consulting geotechnical engineer shall periodically monitor excavations and filling operations, and review any design modifications proposed during grading, and review all record drawings and the grading completion report. The cost of this peer review shall be borne by the applicant.
134. The applicant's grading contractor shall take precautions to see that topsoil is not inadvertently utilized as fill. This material shall be spread over building pad areas following grading to assist in the establishment of a vegetative cover.
135. Grading operations shall not hinder the safe movement of pedestrians and vehicles along adjacent public streets.

Following Completion of Grading

136. Following the completion of the grading operations, the Town Engineer, County grading inspector and Town's consulting geotechnical engineer shall verify that the building envelopes are located in accordance with the approved grading plans and the building envelope elevations conform to the plans.
137. Prior to the final grading inspection, the project civil engineer shall prepare a record drawing showing, at a minimum: the limits of grading; the invert elevations of surface and subsurface drainage facilities and inlets, outlets, cleanouts, and access ports; the locations and depths of keyways; and the finished rough graded pad elevations. The project engineer shall also prepare a maintenance plan and schedule for all drainage facilities. The record drawing and maintenance plan shall be submitted to the Public Works Department and is subject to review and approval by the Town Engineer. The maintenance plan for drainage facilities may be developed and submitted as part of a consolidated maintenance plan of operations.
138. The project geotechnical engineer shall prepare a grading completion report following grading of the site. The grading report shall be submitted to the Planning Director, Town Engineer and the Town's consulting geotechnical engineer for review and approval no later than 60 days after grading work is completed, unless the Town approved alternate timing. A copy of the report shall be provided to the GHAD and HOA. The report shall include the following information:
 - a. A summary of construction observations;
 - b. Adverse conditions encountered and the implemented remedial measures;

- c. Testing performed during grading. Describing the methods of fill replacement and the results of density testing;
- d. Certification that the grading operations were in accordance with the project geotechnical engineer's recommendations and the approved grading plan;
- e. Re-evaluation of slope stability and erosion hazards on the site after the completion of grading;
- f. The geotechnical engineer's specific recommendations for maintenance by the property owners to achieve long-term stability of the hillside areas;
- g. Recommendations for maintaining drainage facilities and landscaping, including proper watering consistent with soil conditions; and
- h. The geotechnical constraints on construction on the property, such as recommended setbacks from the top or bottom of graded slopes.

139. The final grading plan shall include the following notes or details:

- a. Individual trees to be preserved near the limits of grading and construction shall be protected by temporary fencing around the drip line and root zone of each tree, as determined by a certified arborist, to prevent soil compaction, tree damage, or inadvertent removal. Such measures shall reflect those recommended in the applicant's September 2013 arborist report.
- b. No grading, trenching, storage or stockpiling of earth, compaction of soil, change in ground elevation or paving shall be done within the drip line of trees that are to be saved. These limitations may be modified at the recommendation of a certified arborist if it can be determined that allowing certain construction activities in proximity to a tree to be retained would still allow for it to be maintained in healthy condition.

140. Subsequent grading necessary beyond that associated with the initial development and construction of the project, exceeding 50 cubic yards shall require a grading permit from the town, with peer review of the applicant's geotechnical report by the town's consulting geotechnical engineer, and Design Review Board approval. The CC&Rs shall reflect this restriction.

Erosion and Dust Control Conditions:

141. The applicant and their grading contractor shall be responsible to prevent erosion of soil due to the grading operations. If inspection by the Town shows evidence that sediments have been carried off-site, then the applicant and their contractor shall be required to immediately clean up the deposits attributed to the grading project and to correct the cause of the off-site sediment deposition.[Modified CDP COA No. 67]

142. Construction dust control measures consistent with mitigation measures specified in the Environmental Impact Report and the MMRP shall be implemented.[Modified CDP COA No. 69]
143. An Erosion Control Plan shall be submitted as one of the selected Best Management Practices (BMPs) as outlined in Moraga's Storm Water Management Plan (SWMP). The applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) and an erosion and sediment control plan for both the period during and after construction. The SWPPP, erosion and sediment control plans are subject to review and approval by the Public Works Department and/or the grading inspector, prior to the issuance of a grading permit. The California Storm Water Best Management Practice Handbook and the ABAG Manual of Standards for Erosion and Sediment Control Measures will be used to evaluate the Erosion Control Plan.
144. A deposit, in the form of a security, to ensure implementation of the SWPPP and erosion and sediment control plan shall be required because of the close proximity of a creek to the project site. The amount of the deposit shall be based upon an estimate for the cost of installation of the SWPPP as specified in Section 14.28.010 of the Grading Ordinance
145. The erosion control facilities shall be maintained until all improvements are completed and project landscaping or a heavy growth of grass is established on all exposed slopes. A minimum of 4,000 pounds per acre of straw mulch or alternative acceptable to the Public Works Department shall be placed on all slopes where grass is not firmly established each year before October 1. Erosion control facilities must be maintained after every storm and as needed in between storms, and replaced whenever necessary.
146. Exposed slopes shall be landscaped or hydroseeded with a mixture of annual grasses, native grasses and wildflowers (except as limited by the MMRP), no later than October 1 of the year during which the exposed slope has been created, in anticipation of the rainy season. This applies to rough graded slopes as well as areas where grading has been completed. The landscaped or hydroseeded areas shall be maintained to ensure adequate plant growth and rooting. If an area is disturbed after hydroseeding, then the area shall be revegetated, or protected from erosion by other approved methods. [Modified CDP COA No. 67]

Noise: Conditions pertaining to Construction and Grading Related Noise

147. Noise-generating construction activities and grading shall take place only between the hours of 8:00 AM and 5:00 PM on weekdays. Construction activities within private and public street improvements shall be limited to the hours of 8:00 AM and 4:00 PM Monday through Friday. Grading work may be permitted by the Planning Director during a weekend if the grading is deemed necessary by the project geotechnical engineer due to a potentially hazardous and unforeseen condition that requires immediate attention. Other construction, such as interior work on homes may also be permitted outside of these hours with the approval of the Planning Director.

148. All construction equipment operated at the project site shall be equipped with manufacturer's standard noise control devices (i.e., mufflers, intake silencers, and/or engine enclosures). Newer equipment shall be used whenever possible.
149. Equipment used for project construction shall have hydraulically or electrically powered impact tools (e.g., jack hammers, pavement breakers, and rock drills) whenever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used. This muffler can lower noise levels from the exhaust up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, thereby achieving a further reduction of 5 dBA. Quieter procedures shall be used such as drilling rather than impact equipment, whenever feasible.
150. Construction staging areas, maintenance yards and other construction-oriented operations shall be located as far as reasonably possible from noise-sensitive receptors.
151. Stationary noise generating equipment, such as air compressors and concrete pumpers, shall be located as far away from adjacent residences and noise-sensitive receptors as possible. If they must be used near existing homes, they shall be adequately muffled.
152. Grading equipment and trucks used for project construction shall utilize the best available noise control techniques to maintain noise levels within the following standards shown in the Table, below:

RECOMMENDED NOISE LIMITS FOR CONSTRUCTION EQUIPMENT

Equipment Type	Leq at 50 Ft., dBA	Equipment Type	Leq at 50 Ft., dBA
Air Compressor	75	Loader	75
Backhoe	75	Pneumatic Tool	80
Concrete Mixer	75	Pump	75
Dozer	75	Scraper	80
Generator	75	Shovel	75
Grader	75	Truck	75
Jack Hammer	75		

153. As part of the Construction Management Plan, developer/applicant shall include a construction noise management plan that identifies measures to be taken to minimize construction noise on surrounding developed properties. Specific noise management measures shall be included in the project plans and specifications.

Construction Conditions:[Modified CDP COA No. 78]

- 154.** Applicant shall furnish proof to Public Works 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. Such proof shall be furnished prior to Final Map, issuance of grading permit, or commencement of construction, whichever occurs first. [Modification of CDP COA 85]
- 155.** Prior to issuance of grading permit, the Applicant shall post a cash deposit with the Town of Moraga for emergency cleanup during construction. The amount of the deposit shall be satisfactory to the Town as determined by the Town Engineer.[CDP COA No. 12]
- 156.** Notification. The project applicant and/or project contractor shall notify neighbors located adjacent to the construction site of the construction schedule in writing. Notification shall be at least one week prior to commencement of grading/construction.
- 157.** Disturbance Coordinator. The applicant and/or project contractor shall designate a "noise disturbance coordinator" (subject to Town of Moraga approval) who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be posted in a conspicuous location at the construction site and included in any notices sent to neighbors regarding the construction schedule.
- 158.** Debris. During construction, debris, waste dirt, or rubble shall not be deposited on adjacent habitats designated as open space areas.
- 159.** Staging. Staging areas for construction equipment, for construction occurring after installation of the bridge, shall be screened or located out of sight of neighbors to the north to the extent feasible. Storage areas shall be fenced with solid slat fencing to screen construction materials from view and for security purposes. Landscaping may also be required for the fenced area. The staging area location and fencing shall be approved by the Planning Director. (Also see Condition of Approval #127 regarding staging of construction equipment and vehicles on public streets).
- 160.** Applicant shall locate any vehicular construction entrance gates a minimum 40 feet from the edge of pavement to allow vehicles to queue without obstructing through traffic. Sufficient area shall be provided outside any gate to allow a vehicle to turn around and re-enter Sanders Drive in a forward direction.
- 161.** Applicant shall only be permitted access at the locations shown on the approved site/development plan.

Landscaping

- 162.** Landscaping shall be designed to comply with the California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495).
- 163.** Native and protected trees designated for removal shall be replaced at the ratio of 3:1 (i.e., 3 new trees for every 1 tree removed). A final tree removal and replanting plan shall be submitted and approved by the Town prior to issuance of a grading permit, and shall be substantially in conformance with the landscape plan that is part of these approvals. The plan shall reflect protective measures such as fencing to protect trees in the vicinity of construction activity but proposed to be preserved. The removal of other trees not included on the approved tree removal list, proposed for future removal by the HOA, GHAD or private homeowners shall require issuance of a Tree Removal Permit, in accordance with the Moraga Municipal Code. Such tree removal shall be mitigated at the same ratio as that specified above.
- 164.** Landscape buffering and screening shall be with broadleaf deciduous and evergreen trees and shrubs planted so as to replicate the natural vegetation groupings on and adjacent to the site. The landscape for the access street will be comprised of native evergreen and deciduous trees and shrubs, including oak trees, for a native woodland appearance. That landscape shall be in natural vegetation groupings, carefully designed to screen the houses and streets from the view of the Sanders Drive neighborhood. These details in the final landscape design shall be provided with the Final Subdivision Map and approved by the Planning Commission.
- a. Landscaping shall supplement existing vegetation along Larch Creek with medium-sized broadleaf deciduous and native evergreen trees, but the tree species shall not grow so tall as to block upper hillside and skyline views from Sanders Drive.
 - b. The proposed debris benches at the upper reaches of new lots shall include low lying landscape at the perimeter that is consistent with the open views of the landscape plan for the project but that does not preclude access for maintenance of the debris benches.
 - c. Invasive non-native plant species known to invade wetlands and natural areas shall not be used in either the subdivision or individual lot landscaping. Under no circumstances shall the revegetation of graded or filled areas include any species appearing on the California Invasive Plant Council's Invasive Plant Inventory (available at http://www.cal-ipc.org/pest_plant_list/). A deed restriction to this effect shall be recorded on each lot prior to the recordation of the final subdivision map and its enforcement monitored and controlled by the HOA and GHAD. [Modified CDP COA No. 60]

- 165.** Minor modifications to the approved landscaping plan may be approved by the Zoning Administrator; substantial changes may be referred to the Design Review Board for review and approval, at the discretion of the Zoning Administrator.
- 166.** New landscaping shall comply with the Moraga-Orinda Fire District's Fire Safe Landscaping guidelines.
- 167.** The property owner shall comply with annual weed abatement requirements from the Moraga-Orinda Fire District to provide a fire break between the open acreage and adjacent single family homes. If disking of the soil or mowing of the grass is not possible due to steep slopes, then alternatives such as grazing should be considered to reduce the potential fire hazard.

Other Conditions

- 168.** This entitlement and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest. Subsequent approvals shall be subject to additional conditions of approval.
- 169.** Applicant shall indemnify, hold harmless and defend (with legal counsel chosen by Town ("Counsel")) the Town, its officials, employees and representatives (the "Town Indemnitees") from and against any and all claims, damages, liabilities, actions or proceedings, including any CEQA challenge, arising out of the Town's approvals associated with the application for the Hetfield Estates Subdivision and Environmental Impact Report (the "Project Approvals"). Applicant shall also pay all filing court costs and similar out-of-pocket expenses required for Town and applicant to defend Litigation. [CDP COA No. 90]
- 170.** Hazardous Materials. The project applicant shall comply with all Federal, State and local laws regarding use of hazardous materials at construction sites.[Modified CDP COA No. 68]
- 171.** School Fees. The Applicant/Owner agrees to pay to the School District the maximum fee authorized by law for the construction and/or reconstruction of school facilities. The applicable fee shall be the fee established by the School District that is in effect at the time of the issuance of a building permit. Specifically, the Applicant/Owner agrees to pay any and all fees and charges and comply with any and all dedications or other requirements authorized under Section 17620 of the Education Code; Chapter 4.7 (commencing with Section 65970) of the Government Code; and Sections 65995, 65995.5 and 65995.7 of the Government Code. [CDP COA No. 82]
- 172.** Disclosure to Homebuyers. The Applicant/Owner shall disclose to the homebuyer in the Conditions, Covenants, and Restrictions and in the Department of Real Estate Public Report that pedestrian trails and staging areas are planned in and around the project area, and that the public use associated with such trails and recreational facilities (and the private roads and EVA) will be present during various times,

including but not limited to evening and nighttime hours. Disclosure of geologic hazards including remediated, non-remediated and high hazard areas shall also be provided. [CDP COA No. 84]

- 173. Time Limit on GDP and VTM Approval.** The project approval shall remain in effect for two years from the date of approval of the General Development Plan by the Planning Commission and Conditions shall apply to the Vesting Tentative Map (VTM) and time limits in accordance with the VTM as allowed by State law. If a Precise Development Plan application is not submitted to the Town for processing prior to the expiration date and the Applicant has not demonstrated substantial progress towards development of the project, the approval shall be considered null and void. The Applicant/Owner may file an application for extension with the Planning Department for an extension not less than 30 days prior to the expiration date of the General Development Plan, along with appropriate fees and necessary submittal requirements. The Conditional Use Permit shall have the same expiration date as the General Development Plan and Vesting Tentative Map.[Modification of CDP COA No. 88]
- 174. Consultant Costs.** If the Town utilizes the services of consultants to prepare special studies or provide specialized design review or inspection services for the project, the Applicant shall reimburse the Town for actual costs it incurs in utilizing these services, including administrative costs for town personnel. A deposit for these services shall be provided prior to initiating review of the General Development Plan, or any other subsequent plans and maps for the project submitted to the Town by the Applicant and requiring Town review. [CDP COA No. 91]
- 175. Town Inspection.** No final inspection shall be performed by the Town for any residence until the landscaping is installed or a bond is issued to the Town for the value of the landscape improvements, in an amount as determined by the Town.[CDP COA No. 92]
- 176. Encroachment Permit.** The Applicant shall obtain an encroachment permit from the Town prior to performing any work within the public right-of-way.
- 177. Public Transit.** Prior to the issuance of the first certificate of occupancy, the Applicant shall provide brochure information to all new home buyers that promotes the use of public transit. [CDP COA No. 98]
- 178. Failure of the applicant or any successor to comply with any of the conditions of this resolution or applicable provisions of the Town of Moraga Municipal Code or the laws, rules and regulations of any other governmental entity having jurisdiction over any of the activities conducted on the site may be cause for the commencement of proceedings to revoke this use permit.** The failure by the Town to proceed against the applicant or any successor for any violation shall not constitute or be deemed a waiver of the Town's right to proceed against the applicant for any subsequent violation. Nothing in this use permit shall limit in any manner the authority to the

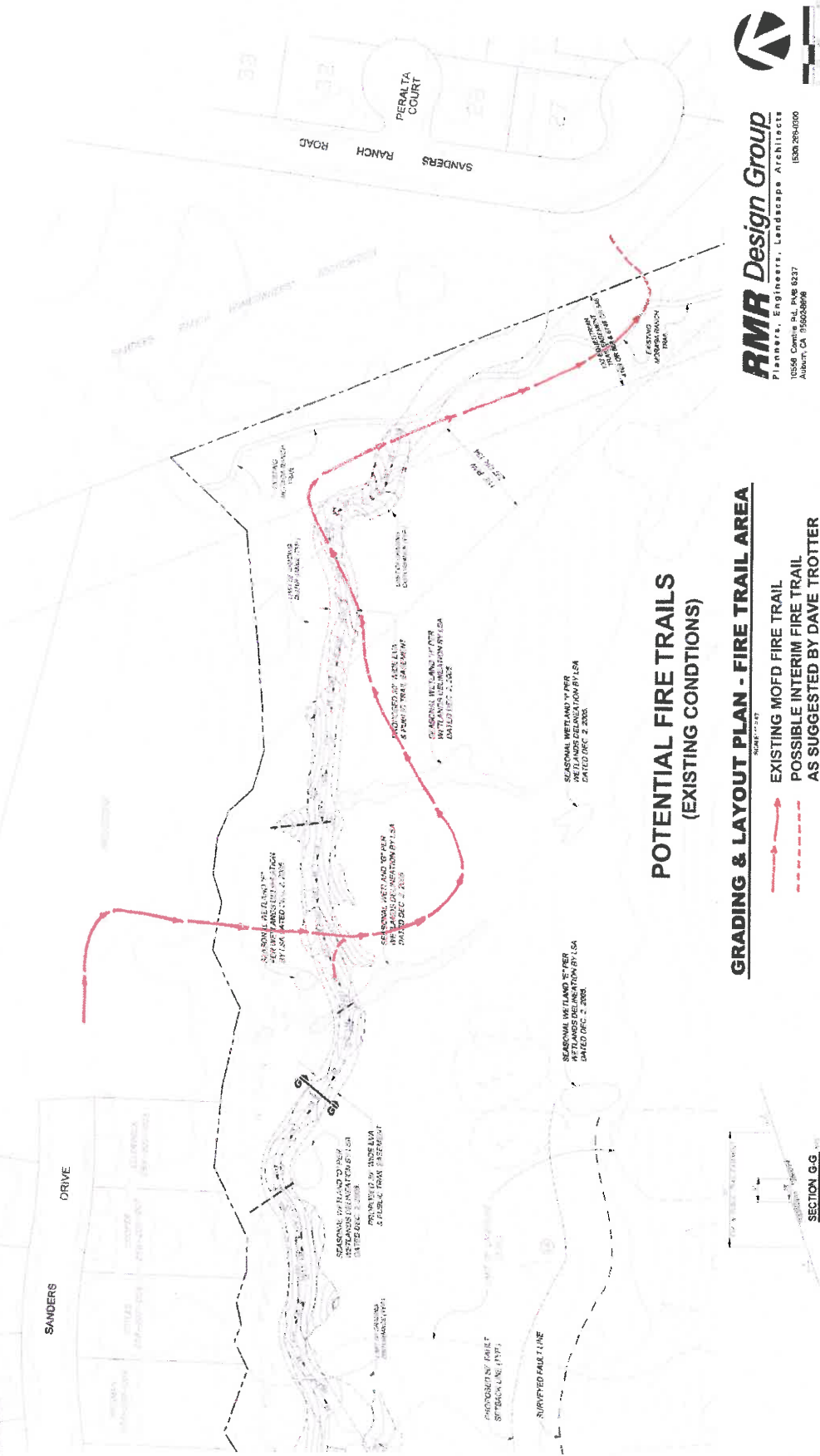
Town of Moraga to apply and/or enforce any provisions of the Municipal Code to this use permit.[Modification of CDP COA No. 102 and all of CDP COA No. 103]

179. This entitlement and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest. Subsequent approvals shall be subject to additional conditions of approval.[CDP COA No. 104]

180. Conditions of Approval shall be printed on the initial sheet(s) of each plan set submitted for a building permit or grading permit pursuant to this permit. Such Conditions shall include all relevant conditions of subsequent approvals including the Precise Development Plan, Final Map and Design Review, The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable"

HETFIELD ESTATES
SUBDIVISION 9051
GENERAL DEVELOPMENT PLAN &
VESTING TENTATIVE MAP
MORAGA, CALIFORNIA
DATE: OCTOBER 18, 2013

DATE: OCTOBER 18, 2013
REVISED: MARCH 14, 2014



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