



COUNTY OF SAN BENITO
RESOURCE MANAGEMENT AGENCY
PLANNING AND BUILDING INSPECTION SERVICES

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NOTICE OF DECISION

PERMIT NO.: TSM 14-91

DATE: May 18, 2016

OWNER/APPLICANT: John Brigantino, San Benito Realty Inc.

LOCATION: North and west of the intersections of Southside Road and Hospital Road,
San Benito County, CA

APN: 020-280-022, 020-280-041, 020-280-043, and 020-320-007

IN ACCORDANCE WITH THE PROVISIONS OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, A VESTING TENTATIVE SUBDIVISION MAP IS HEREBY GRANTED TO THE ABOVE LISTED ASSESSOR'S PARCEL NUMBERS TO ALLOW FOR THE SUBDIVISION OF UP TO 200 RESIDENTIAL UNITS, PARKS, AND OPEN SPACE. APPROVAL GRANTED BY THE PLANNING COMMISSION, THE 18TH DAY OF MAY, 2016 WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL.

IMPORTANT NOTICE: Attention is called to the provisions of Section 25.47.001, of the County Code which reads in part: "Any person aggrieved by any decision of the Planning Director or designated appointee made under the provisions of this title may, within ten (10) days from the date of such decision, appeal, to the Planning Commission. The appeal shall be in the form of a written notice filed in duplicate with the County's Planning Department and shall set forth specially the grounds for the appeal. **The deadline to appeal this approval is May 24, 2016.**"

CEQA Findings:

Finding 1: That an Environmental Impact Report ("EIR") regarding the proposed project was prepared, circulated and certified as adequate by the Board of Supervisors.

Evidence: An Environmental Impact Report ("EIR") was prepared, circulated and certified as adequate by the Board of Supervisors on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. Mitigation measures were identified in the EIR, and have been incorporated into the proposed Conditions of Approval for this vesting TSM application. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR.

Finding 2: That there are no substantial changes proposed in the vesting TSM that would require major revisions of the EIR due to the involvement of significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Evidence: The EIR was certified on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, that in the intervening two months since the EIR was certified, there has not been a substantial increase in any significant environmental effects or a substantial increase in the severity of the significant effects identified in the EIR, and that therefore, there are no substantial changes proposed in the vesting TSM due to the involvement of significant environmental effects or a substantial increase in the severity of the significant effects identified in the EIR.

Finding 3: That there are no substantial changes in the circumstances under which the Project is proposed to be undertaken that would require major revisions to the EIR due to the involvement of significant environmental effects or a substantial increase in the severity of previously identified significant effects,

Evidence: The EIR was certified on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, that in the intervening two months since the EIR was certified, there has not been an involvement of significant environmental effects or a substantial increase in the severity of the significant effects identified in the EIR, and that therefore, there are no substantial changes in circumstances under which the vesting TSM is proposed to be undertaken that would require major revisions to the EIR.

Finding 4: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing the vesting TSM would have one or more significant effects not discussed in the EIR.

Evidence: The EIR was certified on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, that in the intervening two months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that the vesting TSM would have one or more significant effects not discussed in the EIR.

Finding 5: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing significant effects previously examined in the EIR would be substantially more severe than shown in the EIR.

Evidence: The EIR was certified on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, that in the intervening two months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the

exercise of reasonable diligence at the time the EIR was certified, showing that significant effects previously examined in the EIR would be substantially more severe than shown in the EIR.

Finding 6: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the project proponents declined to adopt the mitigation measure or alternative.

Evidence: The EIR was certified on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, that in the intervening two months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the project proponents declined to adopt the mitigation measure or alternative.

Finding 7: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the Project proponents declined to adopt the mitigation measure or alternative.

Evidence: The EIR was certified on March 8, 2016 for the proposed Project, which expressly contemplated the proposed vesting TSM. The Planning Commission has evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and has determined that the proposed vesting TSM is consistent with the Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, that in the intervening two months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the Project proponents declined to adopt the mitigation measure or alternative.

Subdivision Findings:

Finding 1: That the proposed map (TSM 14-91) is consistent with the General Plan and any applicable specific plan.

Evidence: *The Project site is located within the Residential Mixed (RM) land use designation under the County's General Plan Land Use Element. The Planning Commission previously reviewed and recommended adoption of General Plan consistency findings pertaining to the Sunnyside Estates Project, which were subsequently adopted by the Board of Supervisors, as Exhibit B of Ordinance No. 944. The General Plan consistency findings are hereby reaffirmed and incorporated herein by reference. The San Benito County RMA, Building and Planning Division and the San Benito County Planning Commission evaluated the proposed vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91 and have determined that TSM 14-91 is in substantial compliance with all applicable aspects of the Project entitlements, including, without limitation, Zone Change Petition No. 14-181,*

which establishes the R-1 zoning designation on the Project site, and is consistent with the underlying RM general plan land use designation. The RM designation allows mixed-use developments that include residential, retail, and office uses, and allows single-family uses at a density of up to 20 dwelling units per acre. The proposed vesting TSM includes the creation of 200 lots for residential development on 44.4 acres and thus the proposed density of 4.5 dwelling units per acre is consistent with the General Plan designation for which it is located.

Finding 2: That the design or improvements of the proposed subdivision is consistent with the General Plan and any applicable specific plan.

Evidence: *The San Benito County RMA, Building and Planning Division and San Benito County Planning Commission evaluated the proposed amended vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91 and have determined that TSM 14-91 is in substantial compliance with all applicable aspects of the Project entitlements, including Zone Change Petition No. 14-181, which establishes the R-1 zoning designation on the Project site, and is consistent with the underlying RM general plan land use designation. The design and improvements of the proposed subdivision map are consistent with the applicable sections of the San Benito County Code. The Project proposes road right-of-way, drainage improvements, water piping, and other infrastructure to serve the Project. These have been reviewed by the appropriate County departments and the Planning Commission and have been determined to be consistent with the design standards set forth in the San Benito County Code.*

The Planning Commission previously reviewed extensive General Plan consistency findings pertaining to approval of the Sunnyside Estates Project, which findings were subsequently adopted by the Board of Supervisors, as Exhibit B to Ordinance No. 944. The General Plan consistency findings are hereby reaffirmed and incorporated herein by reference. In particular, the General Plan's Public Facilities Element, Policies 1.1 through 1.13 describe improvement design standards for infrastructure and public services; staff has determined the subdivision design and improvements described in TSM 14-91 are consistent with the above mentioned policies. The General Plan's Circulation Element, Policies 1.2 through 2.6 describe improvement design standards for road improvements and requirements for new development within the County; the improvements set forth in the proposed map have been determined to be consistent with all of the above mentioned policies.

Finding 3: That the site is physically suitable for the type of development.

Evidence: *The San Benito County Board of Supervisors certified the EIR, adopted the Zone Change, and thus determined that the site is physically suitable for the type of development proposed. Staff and the Planning Commission evaluated the proposed vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91, and have determined that the type of development described in the map is consistent with that described certified EIR and the underlying RM General Plan land use designation.*

Finding 4: That the site is physically suitable for the proposed density of development.

Evidence: *The San Benito County Board of Supervisors certified the EIR, adopted the Zone Change, and thus determined that the site is suitable for the density of development proposed. Staff and the Planning Commission evaluated the proposed vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91, and have determined that the density of*

development described in the map is consistent with that described in the certified EIR and the underlying RM General Plan land use designation.

Finding 5: That 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.

Evidence: *The EIR evaluated potentially significant impacts to biological resources and proposed mitigation measures designed to reduce the potential impacts to a less than significant level. The Project incorporates the mitigation measures from the approved Sunnyside Estates EIR, including those pertaining to biological impacts. Therefore, the Board of Supervisors previously determined, as set forth in Board Resolution 2016-11, that the proposed improvements, with mitigation measures incorporated, will not have a significant impact on either fish or wildlife or their habitats. Staff and the Planning Commission evaluated the proposed amended vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91, and have determined that the design of the subdivision and proposed improvements are consistent with that described in the certified EIR. The findings and determinations regarding potential impacts to biological resources and mitigation of those impacts are set forth in Board Resolution Nos. 2016-11, and are incorporated herein by reference.*

Finding 6: That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Evidence: *The EIR evaluated potentially significant impacts pertaining to public health and proposed mitigation measures designed to reduce the potential impacts to a less than significant level. The Project incorporates the mitigation measures from the approved Sunnyside Estates EIR, including those affecting public health. Therefore, the Board of Supervisors previously determined, as set forth in Board Resolution 2016-11, that the proposed improvements, with mitigation measures incorporated, will not cause serious public health problems. Staff and the Planning Commission evaluated the proposed amended vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91, and have determined that the design of the subdivision and type of improvements are consistent with that described in the certified EIR. The findings and determinations regarding potential impacts to public health and mitigation of those impacts are set forth in Board Resolution Nos. 2016-11, and are incorporated herein by reference.*

Finding 7: That 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.

Evidence: *Staff and the Planning Commission evaluated the proposed amended vesting tentative subdivision map and all associated materials provided in connection with the application for TSM 14-91, and have determined that any easements for public access or use have been identified on the tentative map and shall be maintained.*

Finding 8: Subject to Section 66474.4 of the Government Code, that the land is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that the resulting parcels following a subdivision of that land are not too small to sustain their agricultural use.

Evidence: *The Project site is not subject to a Land Conservation Act (Williamson Act) contract. Although the Project site has historically been used for intensive agriculture, approximately 32.8 acres (in the southern portion of the site) is used for the production of hay, and approximately 12.4 acres (in the northern portion of the site) are comprised of fallow walnut orchards. These low intensity agricultural uses are not significant and the lots proposed as part of TSM 14-91 would be too small to sustain their*

agricultural use. The certified EIR also evaluated potential impacts to agricultural resources and identified any feasible mitigation.

Finding 9: Subject to Section 66474.6 of the Government Code, that the discharge of waste from the proposed subdivision into an existing community sewer system would not result in violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.

Evidence: *The proposed parcel(s) are proposed to be connected to the Hollister Water Reclamation Facility. As part of the approval process for the Sunnyside Estates project, the EIR confirmed that the Hollister Water Reclamation Facility had the capacity to serve the Project. Service provision as proposed will need to be reviewed and approved by LAFCO and the City of Hollister prior to site development.*

1. **Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this amended vesting tentative subdivision map and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [RMA]
2. **Conformity to Plan:** The development and use of the Project site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission and by the Board of Supervisors in their approval of the Sunnyside Estates Project. Any increase, change, or modification in the nature or intensity of the land use on the Project site shall be subject to further Planning Commission review and approval in accordance with applicable laws. [RMA]
3. **Compliance Documentation:** Prior to recordation of any and all Final Map(s), the subdivider shall submit to the County Resource Management Agency ("RMA") a summary response in writing establishing compliance with these conditions of approval, including dates of compliance and referencing documents or other evidence of compliance. [RMA]
4. **Assessment:** Prior to recordation of any and all Final Map(s), the subdivider shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the Final Map at issue is recorded. [RMA, Assessor]
5. **Recordation:** The subdivider shall submit a Final Map or multiple final maps to the County and the Final Map(s) shall be considered by the San Benito County Board of Supervisors, following review and approval by the County RMA and recorded with the County Recorder. The Vesting Tentative Subdivision Map shall expire as specified by the Subdivision Map Act and the County's Subdivision Ordinance. Failure to record a Final Map in accordance with applicable laws within the period of approval or a period of extension shall terminate all subdivision proceedings. [RMA]
6. **Easements:** The Final Map(s) shall show all necessary easements for access, utilities, and drainage. [RMA]

- 7. Notice of Determination (California Fish & Wildlife Fees):** The subdivider shall file the Notice of Determination, provided by the County RMA, with the County Clerk within five (5) days of approval of the amended vesting tentative subdivision map. California Department of Fish and Wildlife fee (\$3,069.75 – Fish & Wildlife Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County RMA. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the Project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [RMA]
- 8. Conditions of Approval, Easements, and Restrictions:** Prior to recordation of any and all Final Map(s) all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s), and other documentation as required by the County (e.g., subdivision improvement agreement, deferred improvement agreement, etc.), along with adequate security, and recorded with the Final Map(s). [RMA]
- 9. Community Facilities District (CFD):** Prior to filing with the County of the first Final Map, the subdivider shall cooperate and diligently work with the County to form a Community Facilities District (CFD) or other mutually acceptable financing district or mechanism to enable the Project to remain revenue neutral in accordance with an approved fiscal impact study funded by the Project applicant and conducted by the County's consultant. Said fiscal impact study shall determine: whether the Project would be fiscally positive or negative, and if the latter, then said study shall identify the amount of additional funding needed to ensure revenue neutrality and shall also provide any other information necessary (determined in the County's reasonable discretion) to facilitate the formation of the above-referenced CFD. Prior to recordation of the first Final Map, the CFD or other mutually acceptable financing district or mechanism to enable the Project to remain revenue neutral shall be adopted and formed to the satisfaction of the RMA Director. The subdivider shall cover any and all actual County costs associated with said formation/annexation proceedings. All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the first Final Map. [RMA, County Counsel]
- 10. Improvement Plans:** Prior to the filing of the first Final Map, the subdivider shall submit for approval by the County RMA, the following Plans, which shall govern subsequent development of the Sunnyside Estates Project:
- a. Infrastructure Improvement Plan;
 - b. Phasing Plan (if applicable);
 - c. Potable Water Improvement Plan;
 - d. Reclaimed/Recycled Water Improvement Plan;
 - e. Wastewater Improvement Plan;
 - f. Storm Drainage Improvement Plan, including detention facilities integrated into open spaces as landscaped areas;
 - g. Park and Recreational Improvement Plan;
 - h. Landscape Improvement Plan for parks, recreational facilities, detention facilities, streets, and other open space areas, including walls, fences, berms, street lighting, hardscape, and planting plans; and
 - i. Exterior Lighting Plan for all exterior lighting demonstrating conformance with Title 19, Chapter 19.31 of the San Benito County Code.

The Project site shall be developed consistent with these approved improvement plans for the overall Project site, which was submitted in connection with TSM 14-91, meeting the criteria specified Project approvals. Prior to the recordation of each Final Map, the subdivider shall submit for approval by the County RMA, improvement plans for the proposed subdivision that would be necessary to serve the development (as determined in County's reasonable discretion) shown in each said Final Map, with all backbone infrastructure necessary (as determined in County's reasonable discretion) to serve the phase of the Project being covered by the improvement plan submitted with the first Final Map. Improvement plans shall be provided for review and approval at least 60-days prior to the recordation of each said Final Map. [RMA]

11. **Construction Hours:** A note shall be placed on an additional sheet to the Final Map(s) that states: "As required by County Ordinance, Construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday."
12. **Development Fees:** The subdivider shall pay all applicable Development Fees as required by the County of San Benito Code or otherwise, which shall be in the then-applicable amount as of the date when the subdivider applies for each building permit, as provided in Section 23.13.003 of the San Benito County Code. This provision excludes any future affordable housing fees, as addressed in condition 44. Credits (if any) shall be based on actual Project improvements and dedications and compliant with the respective County of San Benito Code provisions.
13. **Mitigation Monitoring:** Prior to the recordation of any and all Final Map(s), the subdivider/owner(s), County Counsel, and the RMA Director shall agree to and sign the Mitigation Monitoring Program form(s). The subdivider/owner(s) shall comply with all the mitigation measures set forth in the Mitigation Monitoring and Reporting Program (MMRP), which was previously adopted by the Board of Supervisors for the Sunnyside Estates Project on March 8, 2016, as Exhibit D to Board Resolution No. 2016-11, and which is incorporated herein by reference, to reduce or avoid, to the extent feasible, the potentially significant and significant impacts of the Sunnyside Estates Project. In adopting these mitigation measures, the Planning Commission intends to adopt each of the mitigation measures identified by the EIR and applicable to the Project. Accordingly, in the event a mitigation measure recommended in the EIR has inadvertently been omitted from the MMRP, such mitigation measure as set forth in the EIR is hereby adopted and incorporated by reference. In addition, in the event the language describing a mitigation measure set forth in the MMRP fails to accurately reflect the mitigation measure in the EIR due to a clerical error, the language of the mitigation measure as set forth in the EIR shall control, unless the language of the mitigation measure has been specifically and expressly modified. [RMA, County Counsel]
14. **Exterior Lighting:** Prior to recordation of the first Final Map, the subdivider shall submit an exterior lighting plan, demonstrating conformance with Title 19, Chapter 19.31 of the San Benito County Code. A note shall be placed on the Final Map(s) stating: "Night lighting of public areas shall be kept to the minimum necessary for safety and security purposes. Exterior lighting within 100 feet of open space shall be shielded and aimed as needed to avoid spillover into open space areas and conservation easements. Decorative lighting shall be low intensity. Prior to recordation of the first final map, the subdivider shall submit a lighting plan for approval by the County"

RMA. The County RMA, Building and Planning Division shall check the submitted plans for compliance and shall site inspect one year after completion of tract development for compliance.

15. **Public Parks Maintenance and Operations:** The operation and maintenance of the Public Parks shall be funded by the residents of the Project through an approved CFD or similar financial mechanism that ensures on-going operation and maintenance of the facilities at levels acceptable to the County with sufficient financial resources, and in accordance with the approved fiscal impact study prepared pursuant to Condition No. 9 above. Once County accepts the dedication for said Public Parks, then County shall operate and maintain said parks (by itself or through a third party entity) subject to provision of sufficient funding pursuant to the above referenced CFD. The operating rules for the Public Parks shall be approved by the RMA. Restrooms (if constructed) shall be available for all members of the public and shall be open during generally daylight hours. The CFD or similar funding mechanism utilized by the applicant(s)/developer(s) to provide revenue neutrality shall be structured to build reserves sufficient for replacements and repairs to keep the Public Parks in good working condition.
16. **Air Quality:** A note shall be included in the improvement plans to minimize particulate emissions and shall state: "The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of three times a day. If the dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading. In addition, all grading activities during periods of high winds (over 15 mph) are prohibited." [Planning]
17. **Roadway Improvements:** The subdivider shall install the improvements as shown on the vesting TSM and applicable conditions of approval, and in all applicable improvement plans, in accordance with the County of San Benito's applicable design and development standards.
 - a. Said improvements shall include, without limitation, the following:
 - (1) Southside Road: The subdivider shall construct half of the 64 feet curb to curb paved surface with standard curb, gutter and sidewalk along the whole property frontage along Southside Road.
 - (2) Hospital Road: The subdivider shall construct half of the 40 feet curb to curb paved surface with standard curb, gutter and sidewalk along the whole property frontage along Hospital Road. In the event that the County has not realigned Hospital Road at the time subdivision improvements are constructed, applicant shall bond for the curb, gutter and sidewalk proposed for the Hospital Road frontage to the west of Colorado Way. These improvements shall conform to the design of the future Hospital Road Bridge.
 - (3) Internal Roadways: The subdivider shall construct all interior streets within the subdivision with full 40 feet curb to curb paved surfaces, a standard 40 feet radius paved surface turnaround facilities at each end, and a standard paved knuckle.
 - (4) Street 2: The subdivider shall construct 30 feet partial paved surface with standard curb, gutter and detached sidewalk on one side (property side) along the southern frontage of Street 2.

- b. Prior to recording each Final Map, the subdivider shall bond for or construct all roadway improvements that are necessary (as determined in the County's reasonable discretion) to serve the development shown on each such Final Map, with all backbone roadway and related infrastructure necessary (as determined in County's reasonable discretion) to serve the entire Project located within or around the Project site to be bonded for and/or constructed in connection with the first Final Map.
18. **Easements:** The Final Map(s) shall show all necessary easements for access, utilities, and drainage.
19. **Street Names:** Prior to recordation of the first Final Map and pursuant to Section 23.07.003(A) of the San Benito County Code, the subdivider must submit a list of proposed street names to the County communications department for road name approval.
20. **Drainage Standards:** The subdivider shall be required to submit grading and drainage plans to the RMA, Building and Planning Division and Public Works Division for approval of the plans and issuance of grading permits. The grading and drainage plans shall be designed to minimize erosion and water quality impacts, to the extent feasible, and shall be consistent with the Project's SWPPP and Chapter 19.17 (Grading, Drainage and Erosion Control Ordinance) of the San Benito County Code. The plans shall include the following:
- a. Graded areas shall be revegetated with deep-rooted, native, non-invasive drought tolerant species to minimize slope failure and erosion potential. Geotextile binding fabrics shall be used if necessary to hold slope soils until vegetation is established;
 - b. Temporary storage of construction equipment shall be limited to a minimum of 100 feet away from drainages on the Project Site; and
 - c. Erosion control structures shall be installed.

The grading and drainage plans shall be submitted for review and approval by the RMA, Building and Planning Division and Public Works Division, and issuance of grading permits. Upon approval of the plans and issuance of grading permits, the subdivider shall notify the RMA, Building and Planning Division prior to commencement of grading. The notification shall be provided in writing, and indicate the date of planned grading commencement. Components of the grading plan shall be implemented prior to issuance of certificates of occupancy. The subdivider shall photo document revegetation and provide sufficient documentation to the RMA, Building and Planning Division to ensure compliance with the plans and grading permit. The subdivider shall provide sufficient documentation, to the County's satisfaction, that the technical aspects of the grading activities are being properly monitored. The subdivider shall ensure installation of erosion control structures prior to beginning of construction of any structures, subject to review and approval by the County.

As per County Code Chapter 19.17, as part of the submission of engineered improvement plans for this Project, the subdivider shall comply with County Drainage Standards and provide drainage and erosion control details for the Project, including drainage calculations and construction details for a retention pond for impermeable surfaces created as part of this Project, consistent with the EIR's project description and mitigation measures. Details and directions of flows of drainage swales and grades shall also be included.

All drainage improvements must be installed or bonded for prior to recordation of the first Final Map.

21. **Encroachment Permit:** Pursuant to Section 19.27.004 of the San Benito County Code, prior to commencement of any work being performed within the County right-of-way, the subdivider shall obtain an Encroachment Permit.
22. **As Built Plans:** Prior to the recordation of the first Final Map or before release of alternate Bond, one set of "As Built" Improvement Plans for any off-site public improvements shall be prepared by the subdivider's engineer and delivered to the RMA, Public Works Division.
23. **Fire:** Any and all development on this Project site shall be required to meet the standards set forth in the latest editions of the 2013 California Fire Code, or if subsequently amended, the standards set forth in the latest editions of the California Fire Code, Public Resources Code 4290 and 4291, Sections 21.01.020 through 21.01.024 of the San Benito County Code and other related codes as they apply to a project of this type and size. A note shall be placed on an additional sheet to the Final Map(s) that states: "Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the 2013 California Fire Code."
24. **Water Softeners:** If water softeners are proposed to be installed on any residential units within the Project, then a note shall be placed on the subdivision improvement plans and on an additional sheet to the Final Map(s) that states: "Self-regenerating water softener appliances (SRWS) shall not be installed in any structure on-site. A SRWS is defined as a water softening device that removes calcium and magnesium salts from water by using an ion-exchange resin utilizing sodium chloride during the ion-exchange process. The ion-exchange resin used in SRWS's is recharged by using a sodium chloride brine solution which is subsequently discharged into the sewer system. However, water softeners recharged by portable cartridges supplied by service providers where the brine solution resulting is not discharged into the sewer system may be allowed."

If water softeners are proposed to be installed on any residential units within the Project, then only acceptable water softeners (as defined above) shall be shown on plans submitted to the San Benito County RMA, Building and Planning Division for review and approval. The prohibition of SRWSs shall be included in Covenants, Conditions and Restrictions (CC&Rs), , with oversight by the County RMA, Building and Planning Division, as appropriate. The County RMA, Building and Planning Division shall review site plans for compliance prior to issuance of building permits. County inspectors may inspect site for installation of permitted water softeners prior to occupancy of the structures.

25. **Domestic Water:** The subdivider shall provide the necessary domestic water system improvements that are sufficient to deliver water and provide water service to the Project, as shown on the vesting TSM and in all applicable Water Improvement Plans, pursuant to San Benito County Standards.
26. **Sanitary Sewer Improvements:** The subdivider shall install sanitary sewer improvements that are sufficient to serve the Project, as shown on the vesting TSM and in all applicable Wastewater Improvement Plans, pursuant to San Benito County Standards.

27. **Roadway Landscaping Improvements:** The subdivider shall install roadway landscape improvements as shown on the vesting TSM and in all applicable Landscape Improvement Plans, pursuant to San Benito County Standards and in accordance with these Conditions of Approval.
28. **Public Park Improvements:** The subdivider shall offer to dedicate land to the County as shown on the vesting TSM for one community park (totaling approximately 3.156 acres), and prior to recordation of the final map, the subdivider shall construct or bond for the construction of infrastructure to provide utilities services (e.g., water, sewer, and electricity) to the community park and shall make a payment of \$100,000 toward the construction of initial park improvements at the community park. Once the County accepts said offer of dedication, then County shall operate and maintain said Public Parks subject to sufficient funding being provided by the Project's CFD pursuant to these Conditions of Approval to provide for the operation and maintenance of the Public Parks, including replacements and repairs to keep the Public Parks in good working condition.
29. **Common Open Space Improvements:** The subdivider shall offer to dedicate to the County 2.153 acres of common area open space, as shown on the vesting TSM, and in all applicable improvement plans, pursuant to San Benito County Standards. Once the County accepts said offer of dedication, then County shall operate and maintain said common area open space subject to sufficient funding being provided by the Project's CFD pursuant to these Conditions of Approval.
30. **Traffic:** The subdivider shall be required to implement the following traffic related improvements as mitigation measures set forth in the Sunnyside Estates EIR:
- a. Union Road/Airline Highway (SR 25). The subdivider shall facilitate modification of the existing traffic signal at the Union Road/Airline Highway (SR 25) intersection to include a protected left-turn phasing for the eastbound and westbound approaches, and to add a right turn only lane to the eastbound approach, as follows. Prior to approval of the first Final map, the subdivider shall provide a conceptual design and cost estimate acceptable to the Public Works Department for said improvements, and shall deposit with the County the amount of funds identified in the cost estimate. Portions of the cost to design and construct said improvements that are part of the full build out of the intersection as contemplated in the TIMF shall receive credit and/or be subject to reimbursement from the TIMF in accordance with applicable County procedures. The subdivider shall also fund the County's application for Caltrans permitting to allow construction. [Mitigation Measure T-1(a)]
 - b. Union Road/Airline Highway (SR 25). Prior to issuance of each building permit, the subdivider shall pay the then-applicable Regional Traffic Impact Mitigation Fee (TIMF) to the County of San Benito as a fair share contribution toward the Airline Highway (SR 25) and Union Road widening projects. [Mitigation Measure T-1(b)]
 - c. Southside Road/Union Road. The subdivider shall install "Left Turn Yield On Green" signs for both the northbound and southbound intersection approaches to the Southside

Road/Union Road intersection prior to issuance of the first certificate of occupancy for the project. *[Mitigation Measure T-1(c)]*

31. **Aesthetics Conditions:** The subdivider shall meet the following aesthetic conditions required as mitigation measures set forth in the Sunnyside Estates EIR:

- a. Design Standards: Prior to issuance of the first building permit for the Project, the subdivider shall submit design standards to the County for review and approval.
- Natural building materials and colors compatible with surrounding terrain (earth-tones and non-reflective paints) shall be used on exterior surfaces of all structures, including fences and walls.
 - Color combinations used on individual home roofs, walls, and facias shall be selected as to avoid high contrast, such as very dark brown adjacent to white.
 - Roof vents shall be the same earth tone shade as the surrounding roof surface.
 - All structures facing any public street or neighboring property shall use minimally reflective glass and all other materials and colors used on the exterior of buildings and structures shall be selected with attention to minimizing reflective glare.
 - Building windows shall be tinted with an antireflective material
 - The final map for the tract shall include a note indicating that this requirement will be met prior to issuance of building permits. Standards and materials shall be denoted on building plans. A copy of the standards shall be submitted with grading and building plans prior to zoning clearance approval for individual lot development.

The final map for the tract shall include a note indicating that this requirement will be met prior to issuance of building permits. Standards and materials shall be denoted on building plans. A copy of the standards shall be submitted with grading and building plans prior to zoning clearance approval for individual lot development. *[Mitigation Measure AES-1(a)]*

- b. Landscaping: Prior to final map recordation, the subdivider shall submit tract-wide landscaping plans to the County for review and approval. Tract-wide landscaping plans shall comply with the following requirements:
- Landscaping installed as part of tract improvements shall include screening along the project perimeters.
 - Landscaping shall consist of drought-tolerant native species.
 - Only natural fiber, biodegradable materials shall be used.

32. Agricultural Resources Conditions: The subdivider shall meet the following agricultural resources conditions required as mitigation measures set forth in the Sunnyside Estates EIR:

- a. Agricultural Conservation: Prior to issuance of the first permit for ground disturbing activity, the subdivider shall provide that for every one (1) acre of Important Farmland (Prime Farmland, Farmland of Statewide Importance, and Unique Farmland) on the site that is permanently converted to non-agricultural use as a result of Project development, one (1) acre of land of comparable agricultural productivity shall be preserved in perpetuity. Said mitigation shall be satisfied by the applicant through:
- Granting a perpetual conservation easement(s), deed restriction(s), or other farmland conservation mechanism(s) to the County or qualifying entity which has been approved by the County, such as the San Benito County Agricultural Trust, for the purpose of permanently preserving agricultural land. The required easement(s) area or deed restriction(s) shall therefore total a minimum of 13.3 acres of Prime Farmland. The land covered by said off-site easement(s) or deed restriction(s) shall be located in San Benito County; or
 - Making an in-lieu payment to a qualifying entity which has been approved by the County, such as the San Benito County Agricultural Trust, to be applied toward the future purchase of a minimum of 13.3 acres of Prime Farmland in San Benito County, together with an endowment amount as may be required. The payment amount shall be determined by the qualifying entity or a licensed appraiser; or
 - Making an in-lieu payment to a qualifying entity which has been approved by the County, such as the San Benito County Agricultural Trust, to be applied toward a future perpetual conservation easement, deed restriction, or other farmland conservation mechanism to preserve a minimum of 13.3 acres of Prime Farmland in San Benito County. The amount of the payment shall be equal to 110% of the amount determined by the qualifying entity or a licensed appraiser; or
 - Any combination of the above.

Prior to issuance of the first permit for ground disturbing activity for the Project, the subdivider shall provide evidence of the recorded easement(s), deed restriction(s), or evidence of payment to the County Planning Department or qualifying entity, such as the San Benito County Agricultural Trust, for approval to demonstrate compliance with this Mitigation Measure. *[Mitigation Measure AG-1]*

- b. Barrier to Protect Agricultural Operations: Prior to issuance of a building permit for the proposed Project, the subdivider shall submit a site plan to San Benito County for review and approval, showing a fence along the northern property line, adjacent to agricultural land to the north. The fence shall be at least six feet in height. *[Mitigation Measure AG-3]*

34. Biotic Conditions: The subdivider shall meet the following biotic conditions required as mitigation measures set forth in the Sunnyside Estates EIR:

- a. California Tiger Salamander (CTS) and Red legged Frog (RLF) Pre-construction Survey and Impact Avoidance: Not less than 14 days prior to the start of any construction activities (including staging and mobilization), a qualified biologist shall conduct pre-construction surveys

within suitable habitat on-site and within the 500-foot buffer area near the San Benito River. The biologist shall also oversee installation of exclusion fencing where suitable habitat is present to prevent these species from entering active work areas. If no CTS or RLF are observed, no further mitigation is necessary.

If either of these species, during all life stages, are identified within the work area, construction and grading in these areas shall be halted, and the County, CDFW, and USFWS shall be contacted immediately. Relocation and avoidance strategies shall be approved by the County in consultation with CDFW and USFWS.

A report of survey efforts shall be submitted to the County Resource Management Agency, Planning and Land Use Division, CDFW, and USFWS within 30 days of completion to document compliance. The report shall include the dates, times, weather conditions, aquatic and terrestrial habitat conditions, agency consultation if individuals are discovered, and personnel involved in the surveys. *[Mitigation Measure BIO-1(a)]*

- b. Western Pond Turtle, Western Spadefoot Toad, and San Joaquin Whipsnake (Coachwhip) Pre-construction Survey, Capture, and Relocation: Not less than 14 days prior to the start of any construction activities (including staging and mobilization), a qualified biologist shall conduct surveys for western pond turtle, western spadefoot toad, and San Joaquin Whipsnake (coachwhip) within suitable habitat on the project site and within the 500-foot buffer area near the San Benito River. The biologist shall also oversee installation of exclusion fencing where suitable habitat is present to prevent these species from entering active work areas. If any of these species are identified within the work area they shall be captured and relocated to suitable habitat within the same or nearest suitable habitat. CNDDDB Field Survey Forms shall be submitted to the CDFW for all special status animal species observed. The relocation site shall include suitable micro habitat and ecological features for each species as follows:
- Western pond turtle habitat shall include a pool surrounded by vegetation for escape cover.
 - Western spadefoot toad habitat shall include open sandy or gravelly areas within the San Benito River.
 - San Joaquin Whipsnake (coachwhip) habitat shall include suitable small mammal burrows to provide immediate escape and cover.

If any of these species are observed by construction personnel within or adjacent to the project area, all work within the vicinity of the observation shall be halted and the qualified biologist shall be notified immediately to evaluate the occurrence and relocate the animal as necessary. Only a qualified biologist shall capture and relocate wildlife. Construction personnel are not permitted to handle animals.

A report of all pre-construction survey efforts shall be submitted to the County Resource Management Agency, Planning and Land Use Division and CDFW within 30 days of completion of the survey effort to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report shall also include for each captured special status animal, the UTM coordinates and habitat descriptions of the capture and release site (in UTM coordinates), the length of time between

capture and release, and the general health of the individual(s). [*Mitigation Measure BIO-1(b)*]

- c. Burrowing Owl Pre-construction Surveys, Avoidance, and/or Exclusion: A qualified biologist shall conduct a pre-construction clearance survey prior to ground disturbance activities within all suitable habitat to confirm the presence/absence of burrowing owls. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 14 days prior to any construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required.

If burrowing owls or active burrows are detected during the pre-construction clearance surveys, avoidance buffers shall be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures. If Burrowing owls are detected, prior to ground disturbance, coordination with the CDFW by a qualified biologist shall occur to establish the appropriate avoidance buffer distances specific for the project's activities and level of expected disturbance.

A report of all pre-construction survey efforts shall be submitted to the County Planning and Land Use Division and CDFW within 30 days of completion of the survey effort to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report shall also include each observed special status animal, the UTM coordinates and habitat descriptions. If relocation is required, separate reporting as required within the Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall also be submitted to the County Resource Management Agency, Planning and Land Use Division and CDFW.

If avoidance of burrowing owls is not feasible, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993). The Plan shall be provided to the applicable local CDFW office prior to implementation. A qualified biologist shall coordinate with the CDFW to determine the appropriate exclusion methods (passive or active relocation) for the project to relocate burrowing owls to a suitable offsite location. Relocation of owls can only occur during the non-breeding season. [*Mitigation Measure BIO-1(c)*]

- d. BIO-1(d) American Badger Pre-construction Surveys and Impact Avoidance: A qualified biologist shall conduct pre-construction clearance surveys for American badger within the project site. Clearance surveys should be conducted for American badger, within 14 days of the start of any ground-disturbing activity. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days of that portion of the site being disturbed. If no potential American badger individuals or dens are present, no further mitigation is necessary.

If special status species are detected or potential American badger dens are present, the following measures shall be implemented:

- If the qualified biologist determines that potential American badger dens are inactive, the biologist shall excavate these dens during the first clearance survey. The dens shall be excavated by hand with a shovel to prevent badgers from re-use during construction.

- If the qualified biologist determines that potential dens may be active, an on-site passive relocation program shall be implemented. This program shall consist of excluding badgers from occupied burrows by installation of one way doors at burrow entrances, remote camera monitoring of the burrow for one week to confirm usage has been discontinued, and excavation and collapse of the burrow to prevent reoccupation. After the qualified biologist determines that badgers have stopped using active dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction.
- Construction activities shall not occur within 30 feet of active badger dens.

A report of all pre-construction survey efforts shall be submitted to the County Resource Management Agency, Planning and Land Use Division and CDFW within 30 days of completion of the survey effort to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report shall also include each observed special status animal, the UTM coordinates and habitat descriptions, a description of any passive relocation if applicable. *[Mitigation Measure BIO-1(d)]*

- e. Western Red Bat Pre-Construction Surveys and Impact Avoidance: A qualified biologist shall conduct a western red bat roost-habitat assessment and conduct presence/absence surveys for special status western red bats where suitable maternity roosting habitat is present (e.g., orchards, mature trees) during the breeding season (approximately August 1 to October 1). Surveys shall be conducted using acoustic detectors and by searching tree cavities, crevices, and other areas where western red bats may roost. Surveys shall be conducted not more than 30 days prior to initiation of construction activities during the western red bat breeding season.

Areas where bats' maternity roosts are located shall be avoided where feasible. If a maternity colony has become established, all construction activities shall be postponed within a 500-foot buffer around the maternity colony until it is determined by a qualified biologist that the young have dispersed. Bat roosts shall be removed under the supervision of the qualified biologist after the breeding season has ended but before the onset of winter when temperatures are too cold for bat movement.

A report of survey efforts shall be submitted to the County Resource Management Agency, Planning and Land Use Division and CDFW within 30 days of completion of the surveys to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys, and if maternity roosts are observed and avoided. *[Mitigation Measure BIO-1(e)]*

- f. Construction Best Management Practices: To avoid impacts to aquatic and terrestrial habitats, the following construction Best Management Practices (BMPs) shall be incorporated into all grading and construction plans:
 - Designation of a 15 mile per hour speed limit in all construction areas. All vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed areas, and clearing of vegetation for vehicle access shall be avoided to the greatest extent feasible.
 - The number of access routes, number and size of staging areas, and the total area of the

activity shall be limited to the minimum necessary to achieve the goal of the project.

- Designation of equipment washout and fueling areas to be located within the limits of grading at a minimum of 100 feet from areas that drain into waters, wetlands (i.e., the San Benito River), or other sensitive resources as identified by a qualified biologist. Washout areas shall be designed to fully contain polluted water and materials for subsequent removal from the site.
 - Daily construction work schedules shall be limited to daylight hours only, consistent with applicable County code provisions noted in Section 4.11, Noise.
 - Mufflers shall be used on all construction equipment and vehicles shall be in good operating condition.
 - Drip pans shall be placed under all stationary vehicles and mechanical equipment.
 - All trash shall be placed in sealed containers and shall be removed from the project site a minimum of once per week.
 - No pets are permitted on project site during construction. [*Mitigation Measure BIO-1(f)*]
- g. Pre-construction Surveys for Nesting Birds and Raptors: For construction activities occurring during the nesting season (generally February 1 to August 31), surveys for nesting birds and raptors covered by the CFC and the MBTA (including, but not limited to special status species including the California horned lark, Cooper's hawk, burrowing owl, white-tailed kite and yellow-breasted chat) shall be conducted by a qualified biologist no more than 14 days prior to initiation of any construction activities, including construction staging and vegetation removal. The surveys shall include the entire disturbance areas plus a 200-foot buffer around any disturbance areas. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by the qualified biologist. The buffer shall be a minimum of 50 feet for non-raptor bird species and at least 150 feet for raptor species. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The biologist shall have full discretion for establishing a suitable buffer. The buffer area(s) shall be closed to all construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer. [*Mitigation Measure BIO-2*]
- h. Landscaping Plan: The landscaping plans prepared in accordance with Mitigation Measure AES-1(b) shall indicate the locations and species of plants to be installed. Noxious, invasive, and/or non-native plant species that are recognized on the Federal Noxious Weed List, California Noxious Weeds List, and/or California Invasive Plant Council Lists 1, 2, and 4 shall not be permitted. [*Mitigation Measure BIO-2*]

35. Cultural: The subdivider shall meet the following conditions required as mitigation measures set forth in the Sunnyside Estates EIR:

- a. Unanticipated Discovery of Cultural Remains: If previously unidentified cultural resources are encountered during construction or land disturbance activities, work shall stop within 50 feet of the find and the County of San Benito shall be notified at once to assess the nature, extent, and potential significance of any cultural resource find. The subdivider shall retain a qualified archaeologist to implement a Phase II subsurface testing program to determine the resource

boundaries, assess the integrity of the resource, and evaluate the resource's significance through a study of its features and artifacts.

If the resource is determined significant, the County of San Benito and/or implementing agency may choose to allow the capping of the area containing the resource using culturally sterile and chemically neutral fill material. If such capping occurs, then a qualified archaeologist shall be retained to monitor the placement of fill upon the resource. If a significant resource will not be capped, the results and recommendations of the Phase II study shall determine the need for a Phase III data recovery program designed to record and remove significant cultural materials that could otherwise be tampered with. If the resource is determined to be not significant, no capping and/or further archaeological investigation or mitigation shall be required. The results and recommendations of the Phase II study shall determine the need for construction monitoring. If monitoring is warranted, a qualified archaeologist shall be retained by the subdivider to be present during all earth moving activities that have the potential to affect archaeological or historical resources. In the event that previously unidentified prehistoric or historic archaeological materials are encountered during project construction, this mitigation measure shall take effect. A monitoring report shall be submitted to the County upon completion of construction. *[Mitigation Measure CR-2]*

- b. Paleontological Resource Construction Monitoring: Ground disturbing activity that does not exceed three feet in depth in areas of low paleontological sensitivity shall not require paleontological monitoring. Any excavations within areas of high paleontological sensitivity (i.e., Pleistocene aged deposits) and those areas potentially underlain by Pleistocene aged deposits (i.e., Holocene-aged alluvial valley sediments) that exceed three feet in depth shall be monitored on a full-time basis by a qualified paleontological monitor (see Figure 4.5-1). If no fossils are observed during the first 50 percent of excavations in Holocene aged sediments exceeding three feet in depth, or if the qualified paleontologists can determine that excavations below 3-5 feet are not disturbing Pleistocene aged (or other potentially fossil-containing) sediments, then paleontological monitoring shall be reduced to spot-checking under the discretion of the qualified paleontologist, subject to approval from San Benito County. *[Mitigation Measure CR-3(a)]*
- c. Fossil Salvage: If fossils are discovered, the qualified paleontologist (or paleontological monitor) shall recover them. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. Once salvaged, fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition and curated in a scientific institution with a permanent paleontological collection, along with all pertinent field notes, photos, data, and maps. *[Mitigation Measure CR-3(b)]*
- d. Unanticipated Discovery of Human Remains: If previously unidentified human remains are encountered during project construction, Mitigation Measure CR-4 shall take effect. State Health and Safety Code Section 7050.5 shall be adhered to, which requires that no further disturbance

shall occur until the County Coroner (depending on the jurisdiction in which the discovery occurs) has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the NAHC. The NAHC would then identify the person(s) thought to be the Most Likely Descendent (MLD) of the deceased Native American, who would then help determine what course of action should be taken in dealing with the remains. *[Mitigation Measure CR-4]*

36. Geology and Soils: The subdivider shall meet the following conditions pertaining to geology and soils required as mitigation measures set forth in the Sunnyside Estates EIR.

- a. Fault Hazard Disclosure. Upon the transfer of real property and execution of leases on lots 5 through 12 and 27 through 29, the transferor shall be required to deliver to the prospective transferee a written disclosure statement that indicates the presence of the Alquist-Priolo Fault Zone and notes that no habitable structures shall be constructed within the zone in conformance with the Alquist-Priolo Earthquake Fault Zoning Act. *[Mitigation Measure GEO-1]*
- b. Adherence to Geotechnical Report: Prior to the issuance of the first building permit, the developer(s) of individual lots on the project site shall submit building and improvement plans for review and approval by San Benito County that confirm compliance with the recommendations included in the Geotechnical Feasibility Investigation prepared by Stevens, Ferrone & Baily in 2011 (see Appendix E of the EIR) for building foundations. These recommendations include the following:
 - All foundations shall be designed to resist differential settlement of supporting soils of 1 inch across typical column spacings.
 - Foundations shall consist of continuous and isolated spread footings bearing on a three foot-thick layer of engineered fill.
 - Footings shall be founded at a depth of approximately 18 inches below the lowest adjacent grade, depending on design-bearing capacities.
 - Interior slabs-on-grade shall be approximately 5 inches in thickness and supported by underlying, compacted, native soils.
 - Alternatively, foundations may consist of post-tensioned slabs approximately 10 inches in thickness.
 - A vapor retarder shall be constructed below the slabs to reduce the potential for vapor transmission through the slabs-on-grade. Concrete shall be poured directly onto the membrane. *[Mitigation Measure GEO-3]*
- c. Expansive Soils Testing and Structural Reinforcement: Prior to the issuance of the first building permit, the developer(s) of individual lots on the project site shall contract with a qualified geotechnical scientist to conduct soil tests to determine the location of expansive soils on-site, consistent with Section 1803.5.3 of the 2013 California Building Code. If these soil tests indicate that expansive soils occur on-site, then building foundations shall be designed to resist differential volume changes and to prevent structural damage from expansive soils, pursuant to Sections 1808.6.1 and 1808.6.2 of the California Building Code. If expansive soils are removed in lieu of designing resistant foundations, then they shall be removed to a depth sufficient to ensure constant moisture content in the remaining soil, as required by Section 1808.6.3 of the

California Building Code. The active zone of expansive soil (defined as the zone of soil that has the potential to produce heave or settlement) also may be stabilized in lieu of designing resistant foundations, consistent with Section 1808.6.4 of the California Building Code. *[Mitigation Measure GEO-6]*

37. Greenhouse Gas Emissions/Climate Change: The subdivider shall meet the following condition pertaining to greenhouse gas emissions required as a mitigation measure set forth in the Sunnyside Estates EIR.

- a. Energy Efficiency Measures for Common Areas: The applicant shall incorporate the following energy efficiency measures into the site design:
 - Install high efficiency lighting (i.e. metal halide post top lights) in public areas, such as street lights and the park that shall increase energy efficiency by at least 17 percent.
 - Use water efficient irrigation systems in public landscaped areas. Prior to issuance of the first permit for ground disturbing activity, the applicant shall provide site plans for the Planning and Building Inspection Services Department to review and approve, which incorporates the above-referenced energy efficiency measures. *[Mitigation Measure GHG-1(a)]*
- b. Energy Efficiency Measures for Future Single-Family Homes: Residential units built as part of the proposed project shall incorporate the following energy efficiency measures:
 - Exceed adopted Title 24 energy requirements by a minimum of ten percent (rather than five percent, as proposed) through implementation of energy reduction measures, which may include (but would not be limited to):
 - Use locally made building materials for construction of the project and associated infrastructure when such materials are locally available;
 - Use of materials which are resource efficient, recyclable, with long life cycles;
 - Install energy-reducing shading mechanisms for windows, porches, patios, walkways, etc.;
 - Install energy reducing day lighting systems (e.g. skylights, light shelves, transom windows);
 - Use of water efficient landscapes;
 - Use tankless water heaters or solar water heaters;
 - Use low-energy street lights and parking lot lights (i.e. sodium); and
 - Use of light colored water-based paint and roofing materials.
 - Install high efficiency lighting in single-family homes that increases energy efficiency by at least 17 percent; and
 - Install low-flow faucets, showerheads, and toilets.

The subdivider shall submit calculations and analysis from qualified Title 24 consultant that documents the 10% reduction below current Title 24 standards for Planning and Building Inspection Services Department review and approval. Prior to issuance of building permits, the subdivider shall provide site/design plans for the Planning and Building Inspection Services Department staff's review and approval, which shall incorporate the above-referenced energy efficiency measures into design plans. *[Mitigation Measure GHG-1(b)]*

- c. GHG Offsets: Prior to issuance of the first permit for ground disturbing activity, the subdivider shall purchase carbon offsets equating to 2,485 MT CO₂e in order to reduce GHG emissions below threshold levels. The carbon offsets shall be purchased through the Climate Action Reserve, which has been approved by the California Cap-and-Trade Program as meeting the required offset protocols. The applicant shall register for a client account with this registry and purchase 2,485 Climate Reserve Tonnes (CRT). Purchased carbon offsets and the amount purchased shall be approved by County Planning Department staff prior to permit approval. The applicant shall provide the County with evidence establishing the purchase of carbon offsets. *[Mitigation Measure GHG-1(c)]*

38. Hazardous Materials: The subdivider shall meet the following condition pertaining to hazardous materials required as a mitigation measure set forth in the Sunnyside Estates EIR:

- a. Soil Sampling and Remediation: Prior to issuance of the first permit for ground disturbing activity, a contaminated soil assessment shall be completed in the portion of land to be graded in the southeastern part of the project site, where AEI Consultants collected additional soil samples for the Phase II ESA. A contaminated soil assessment shall also be completed in the portion of land to be graded at the existing walnut orchard in the northern part of the project site. Soil samples shall be collected under the supervision of a professional geologist or professional civil engineer to determine the presence or absence of contaminated soil in these areas. The sampling density shall be in accordance with guidance from San Benito County Environmental Health Services, so as to define the volume of soil that may require remediation. Laboratory analysis of soil samples shall be analyzed for the presence of organochlorine pesticides, including dieldrin, in accordance with EPA Test Method SW8081A. If soil sampling indicates the presence of pesticides exceeding applicable environmental screening levels, the soil assessment shall identify the volume of contaminated soil to be excavated.

If concentrations of contaminants warrant remediation, contaminated materials shall be remediated either prior to or concurrent with construction and a Phase III ESA shall be prepared. A Phase III ESA shall generally include a soil management plan which establishes design and implementation of remediation. Cleanup may include excavation, disposal, bio-remediation, or any other treatment of conditions subject to regulatory action. All necessary reports, regulations and permits shall be followed to achieve cleanup of the site. The contaminated materials shall be remediated under the supervision of an environmental consultant licensed to oversee such remediation and under the direction of the lead oversight agency. The remediation program shall also be approved by a regulatory oversight agency, such as the San Benito County Environmental Health Services, RWQCB, or the Department of Toxic Substances Control. All proper waste handling and disposal procedures shall be followed. Upon completion of the remediation, the environmental consultant shall prepare a report summarizing the project, the remediation approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests. *[Mitigation Measure HAZ-3]*

39. Acoustical: The subdivider shall meet the following conditions pertaining to noise required as mitigation measures set forth in the Sunnyside Estates EIR:

- a. Construction Activity Timing Disclosure: Signs stating the restrictions regarding the hours of construction as regulated by the 2035 General Plan shall be provided by the developer and posted on-site. Signs shall be placed prior to beginning of and throughout grading and construction activities.

Prior to issuance of the first permit for ground disturbing activity, the subdivider shall submit a plan, which shall be reviewed and approved by the County, describing the location and dates on which the signs will be posted to the Planning and Building Inspection Services Department. The subdivider shall allow County Building Inspectors to access the project site to monitor compliance by spot checking these signs and the hours during which construction occurs, and to respond to noise complaints. *[Mitigation Measure N-1(a)]*

- b. Construction Equipment: Properly maintain construction equipment and ensure that all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds (if the equipment had such devices installed as part of its standard equipment package) are in good condition and appropriate for the equipment. Equipment engine shrouds shall be closed during equipment operation. Whenever feasible, electrical power shall be used to run air compressors and similar power tools rather than diesel equipment. The developer shall require all contractors, as a condition of contract, to maintain and tune-up all construction equipment to minimize noise emissions. *[Mitigation Measure N-1(b)]*
- c. Vehicle Equipment Idling: Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use. *[Mitigation Measure N-1(c)]*
- d. Stationary Equipment. Stationary construction equipment that generates noise that exceeds 55 dBA Leq at the boundaries of the nearby residential uses shall be shielded. Temporary noise barriers used during construction activity shall be made of noise-resistant material sufficient to achieve a Sound Transmission Class (STC) rating of STC 40 or greater, based on sound transmission loss data taken according to ASTM Test Method E90. Such a barrier may provide as much as a 10 dB insertion loss, provided it is positioned as close as possible to the noise source or to the receptors. To be effective, the barrier must be long and tall enough (a minimum height of eight feet) to completely block the line-of-sight between the noise source and the receptors. The gaps between adjacent panels must be filled-in to avoid having noise penetrate directly through the barrier. The recommended minimum noise barrier or sound blanket requirements would reduce construction noise levels by at least 10 dB.

The equipment area with appropriate acoustical shielding shall be designated on building and grading plans. Equipment and shielding shall remain in the designated location throughout construction activities.

Prior to issuance of the first permit for ground disturbing activity, the subdivider shall submit building and grading plans that show the appropriate construction equipment noise reduction measures to the Planning and Building Inspection Services Department. Compliance shall be

monitored by County Building Inspectors. *[Mitigation Measure N-1(d)]*

- e. Construction Route. All construction traffic to and from the Project Site shall be routed via designated truck routes where feasible. All construction-related heavy truck traffic in residential areas shall be prohibited where feasible. *[Mitigation Measure N-1(e)]*
- f. Workers' Radios: All noise from workers' radios shall be controlled to a point that they are not audible at sensitive receptors near the construction activity. *[Mitigation Measure N-1(f)]*
- g. Construction Plan: Prior to issuance of the first permit for ground disturbing activity and/or building permits, the contractor shall prepare and submit to the County for approval a detailed construction plan identifying the schedule for major noise-generating construction activity. *[Mitigation Measure N-1(g)]*
- h. Disturbance Coordinator: A "noise disturbance coordinator" shall be designated by the contractor. The noise disturbance coordinator would be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. *[Mitigation Measure N-1(h)]*

40. Utilities: All proposed utilities within the subdivision and along peripheral streets shall be placed underground except those facilities exempted by Public Utilities Commission regulations. All necessary utilities must be installed or bonded for prior to recordation of the Final Map. The subdivider shall meet the following conditions pertaining to utilities required as mitigation measures set forth in the Sunnyside Estates EIR:

- a. Water Conveyance Infrastructure: All recommendations in the Sunnyside Estates Sewer Analysis (Wallace Group, 2014, see Appendix M of the EIR) shall be implemented to ensure that existing City of Hollister wastewater conveyance infrastructure can accommodate flows from the proposed project. These include, but are not limited to:
 - The proposed on-site lift station shall be located outside of the street right-of-way on a dedicated parcel or easement.
 - The maximum flow for the proposed lift station shall be designed to be no greater than 157 gallons per minute (GPM). If it is designed to be greater than 157 GPM, the 8-inch sewer main in Southside Road shall be upsized to meet the proposed flows. The existing sewer main capacity in Southside Road shall be re-checked by the applicant once the lift station information is available.
 - A permanent on-site generator and automatic transfer switch shall be installed at the Southside Lift Station prior to connection of the proposed project.
 - The City of Hollister shall review and approve the design approach prior to issuance of building permits. Compliance shall be monitored by County Building Inspectors and Permit Compliance. *[Mitigation Measure U-2]*

41. Model Homes: Prior to issuance of a building permit for model homes, the subdivider shall provide an exhibit depicting model home location, construction traffic routing, and general traffic circulation, for approval by the RMA.

42. Variation of Units: Prior to the issuance of building permits for production homes, the subdivider shall submit an exhibit to the County RMA, Building and Planning Division. The exhibit shall show a visual variety of appearances of the units so that identical units are not placed next to each other. Some of the items that would assure visual variety would be differences in floor plans, elevation treatment, color, and building orientation.

43. Deed Notifications – In addition to the notes otherwise required to be included on the Final Maps, the subdivider shall notify all potential purchasers of residences of the following through signed disclosure documents and recorded deeds:

- a. Right to Farm: That the Project Site is located within an Agricultural Area and that San Benito County is a “Right to farm” County which allows the agricultural uses to operate regardless of noise, odors and dust impacts to the residences.
- b. Water Softener Restrictions - Self-regenerating water softener appliances (SRWS) shall not be installed in any structure on-site. A SRWS is defined as a water softening device that removes calcium and magnesium salts from water by using an ion-exchange resin utilizing sodium chloride during the ion-exchange process. The ion-exchange resin used in SRWS’s is recharged by using a sodium chloride brine solution which is subsequently discharged into the sewer system. However, water softeners recharged by portable cartridges supplied by service providers where the brine solution resulting is not discharged into the sewer system may be allowed.

These disclosures shall run with the property and shall be provided by the property transferor to purchaser(s) and/or tenant(s) upon the transfer of real property at issue and/or execution of lease(s) on the Project Site.

44. Affordable Housing In Lieu Fee: The applicant shall pay an affordable housing in-lieu fee in the amount of \$4,500 per unit, paid on a per-unit basis prior to the County’s issuance of each building permit for the construction of single-family residential units, for a total affordable housing in-lieu fee payment of \$900,000. Said payment shall be in full satisfaction of the Project’s affordable housing obligation to the County.



Shandell Clark, Acting Assistant Planning Director
San Benito County
Planning & Building Inspection Services
Resource Management Agency

11/04/2016
Date

