

CITY COUNCIL RESOLUTION NO. 24-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD APPROVING THE APPEAL FILED BY WCHB DEVELOPMENT, LLC, REVERSING THE DECISION OF THE PLANNING COMMISSION AND APPROVING THE VESTING TENTATIVE SUBDIVISION MAP NO. 9586 TO ALLOW THE SUBDIVISION OF AN APPROXIMATELY 135-ACRE SITE INTO 269 SINGLE-FAMILY RESIDENTIAL PARCELS, ONE PARK PARCEL, TWO PARCELS FOR BIORETENTION, ONE OPEN SPACE PARCEL WITH TRAIL, FOUR LANDSCAPED ENTRY PARCELS, AND A DESIGNATED REMAINDER, LOCATED GENERALLY WEST OF THE SAND CREEK ROAD AND THE STATE ROUTE 4 INTERCHANGE (APN 019-082-009 and 010).

WHEREAS, on October 22, 2021, WCHB Development, LLC, (the "Permittee") submitted an application to the City of Brentwood requesting approval of a vesting tentative subdivision map (No. 9586) to subdivide approximately 135 acres into 286 single-family residential parcels, two park parcels, two bio-retention areas for stormwater treatment, one open space parcel, as well as several parcels for landscaping and pedestrian access, and a designated remainder (the "Project," modified as noted below); and

WHEREAS, the Project is proposed to be located on a roughly 135 acre site bounded by the proposed Sand Creek Road Extension to the north, State Route 4 to the east, a single-family residential development (Brentwood Hills) to the south, and the edge of the Brentwood Planning Area and the City of Antioch's city limits to the west, with a small segment of existing San Jose Avenue bounding the site at its farthest southeastern corner (the "Project Site"); and

WHEREAS, the City referred the Project to various departments and agencies for review and recommendations; and

WHEREAS, in August 2022, the Permittee initiated legal proceedings against the City in the Contra Costa Superior Court (the "Court") pertaining to the processing of the Project, alleging, among other things, that the PD-36 zoning standards applicable to the Project were not objective; and

WHEREAS, consistent with the Court's opinion, the City has processed the application consistent with the objective standards for PD-36, Subarea C; and

WHEREAS, on June 30, 2023, the Permittee revised its application by submitting a modified proposed vesting tentative subdivision map that increased the minimum lot size for all parcels to 5,000 square feet, and decreased the number of units to 272; and

WHEREAS, on August 3, 2023, the Permittee further revised its application by submitting a modified master plotting plan, floor area matrix, and lot coverage matrix, with 50 foot lot widths; and

WHEREAS, the City distributed a Notice of Public Hearing to all property owners of record within 300 feet of the Project Site and published it in the Brentwood Press on August 25, 2023, and the Permittee posted the Project Site with the required signage in accordance with City policies and Government Code Section 65090; and

WHEREAS, the Planning Commission held a public hearing on this project at its regular meeting of September 5, 2023, to consider the Project, including this vesting tentative subdivision map application and considered the staff report, supporting documents, public testimony, and all appropriate information submitted with the proposed Project and studied the compatibility of this request with adjacent land uses; and

WHEREAS, the Planning Commission, on September 5, 2023, continued the item to a date uncertain and directed staff to work with the Permittee to evaluate the intersection of St. Regis Avenue/San Jose Avenue for a possible gate or emergency vehicle access only, with the understanding that staff will evaluate any other viable solution that would lessen the impact of traffic on the existing residential areas to the south (i.e., Brentwood Hills and Shadow Lakes); and

WHEREAS, on behalf of the Permittee, Abrams Associates reviewed five potential options for minimizing additional traffic on St. Regis Avenue, which involve various turn restrictions and circulation modifications; and

WHEREAS, DKS Associates analyzed the potential impact of the options on the REIR Vehicle Miles Traveled (VMT) discussion, which analysis was peer reviewed by Kimley-Horn and ultimately analyzed by the City's environmental consultant ("Raney"), who determined that none of the options would create a new significant environmental impact or increase in the severity of previously identified impacts; and

WHEREAS, the City distributed a Notice of Public Hearing to all property owners of record within 300 feet of the Project Site and published it in the Brentwood Press on July 5, 2024, and the Permittee posted the Project Site with the required signage in accordance with City policies and Government Code Section 65090; and

WHEREAS, the Planning Commission held a public hearing on this project at its regular meeting of July 16, 2024, and denied the Project, taking no CEQA action; and

WHEREAS, the Permittee appealed the Planning Commission's decision to the City Council on July 24, 2024 in accordance with Chapter 17.880 of the Brentwood Municipal Code; and

WHEREAS, the City distributed a Notice of Public Hearing to all property owners of record within 300 feet of the Project Site and published it in the Brentwood

Press on August 16, 2024, and the Permittee posted the Project Site with the required signage in accordance with City policies and Government Code Section 65090; and

WHEREAS, the City Council held a public hearing on this project at its regular meeting of August 27, 2024, to consider the Project, and considered the staff report, supporting documents, public testimony, and all appropriate information submitted with the proposed Project; and

WHEREAS, during the hearing, the City Council raised a number of issues, including concerns about traffic circulation and impacts on adjacent/surrounding neighborhoods, CEQA impacts related to Vehicle Miles Traveled (VMT), a preference for providing one large park instead of two smaller ones, compliance with PD-36 Sub Area C standards, deterioration of ridgelines, and noise; and

WHEREAS, a motion to deny the appeal and uphold the Planning Commission's denial of the project was unanimously passed by the City Council, but no final action was taken on the project at that meeting; and

WHEREAS, subsequent to the August 27, 2024, City Council meeting, the applicant submitted an alternate vesting tentative subdivision map ("VTSM") to address several of the concerns raised by the City Council. Notably, the alternate VTSM includes the following modifications: (1) change of access points to allow Emergency Vehicle Access (EVA) only at St. Regis Avenue and San Jose Avenue; (2) the addition of a second access point (right-in/right-out only) on Sand Creek Road near SR 4; (3) the combination of the two original park locations into one 8.49 acre parcel in the northwest corner of the subdivision; and (4) a slight reduction in the overall number of residential units from 272 to 269; and

WHEREAS, the City's CEQA consultant, Raney, analyzed whether the proposed alternate VTSM would alter the conclusions of the REIR and prepared a memorandum dated November 26, 2024 documenting that the revisions do not modify the conclusions in the REIR or create any new significant impacts and therefore, recirculation was not required; and

WHEREAS, the City Council held a public hearing at its regular meeting on December 10, 2024, to consider the Project; and

WHEREAS, the City Council adopted Resolution No. 24-XXX, certifying the Final Revised Environmental Impact Report and adopting Findings of Facts and a Mitigating Monitoring and Report Plan.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Brentwood:

- A. Hereby finds that with respect to Brentwood Municipal Code Section 16.050.040.B and Government Code section 66474:

1. *That the proposed map is consistent with the community development plan and any applicable specific plans.*

The proposed alternate VTSM is consistent with the City's General Plan in that the number of lots shown on the map (269) will result in development at a density range of approximately 4.0 du/a, which is permitted in the site's Residential-Low Density land use designation, which allows development at densities of 1.1-5.0 dwelling units per gross acre, with 3.0 du/a being the acceptable mid-range. To the extent the density exceeds the mid-range, Government Code section 65589.5(j) constrains the City's ability to enforce with the subjective criteria in the midrange density policy set forth in the City of Brentwood General Plan and, therefore, allows for projects to be developed up to the maximum density, provided that the project complies with other applicable zoning and General Plan standards. To the extent the project exceeds the housing cap in the PD-36, Subarea C standards and does not require conditional use permits for those residential uses that exceed 3.5 units per gross acre, these requirements are inconsistent with Government Code Section 66300(b)(1)(D)(ii).

2. *That the design or improvement of the proposed subdivision is consistent with the community development plan and any applicable specific plans.*

The Project Site is not within any applicable specific plan area. The design and improvement of the proposed subdivision is consistent with General Plan, including through consistency with:

- a. Policy CIR 3-3 ("Design developments to include features that encourage walking, bicycling, and transit use. Design features shall include bus turnouts, transit shelters and benches, and pedestrian access points between subdivisions and between adjacent related land uses.") in that it includes extension of both the Black Gold Trail and Sand Creek Trail, and pedestrian access points from the Black Gold Trail into the single-family neighborhood.
- b. Policy LU 6-3 ("Residential neighborhoods should be well-defined with park and recreation facilities, schools, open space, and neighborhood commercial land uses that incorporate unifying landscape and architectural themes and provide visible functional centers.") inasmuch as the proposed Project includes one neighborhood park of roughly 8.49 acres in total, over 25 acres of open space, and approximately 4 acres of land for bioretention.
- c. Finally, the project complies with other aspects of the General Plan as described in finding A(1) above.

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

The site is physically suitable for the type of development proposed by the alternate VTSM No. 9586 inasmuch as the discharge of waste from the proposed subdivision will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board because the Permittee will be required to make the necessary improvements to tie in to the City's stormwater and sewer facilities, as well as treat all stormwater runoff, and the design of the subdivision and the associated improvements is not likely to cause serious public health problems due to the fact that this project will be required to construct all of the necessary improvements needed to ensure a safe and healthy development, including all Federal, State, and local regulations.

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

The site is physically suitable for the density of alternate development proposed, in that it complies with the density specified in the General Plan's Residential-Low Density land use designation, as set forth in Finding A(1) above, as well as with the development standards for the Planned Development No. 36 (PD-36) Zone for Sub Area C, except as noted in Finding A(1) above and development of the site is consistent with other single-family residential developments within the City.

5. *That the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat unless an Environmental Impact Report was prepared with respect to the project and a finding was made pursuant to subdivision (c) of Section 21081 of the Public Resources Code that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the Environmental Impact Report.*

The design of the alternate subdivision and the associated improvements have been analyzed for their impacts on the environment through the preparation of a Revised Environmental Impact Report (REIR), and the City Council (through adoption of Resolution No. 24-XXX) has adopted Findings of Fact and a Mitigation Monitoring and Reporting Program, which is incorporated herein by reference. Based on the evidence in the REIR, the proposed improvements would not be likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat.

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

The design of the alternate subdivision and the type of improvements proposed are not likely to cause serious public health problems due to the fact that this Project includes proposed improvements necessary to ensure

a safe and healthy development, including adequate wastewater and potable water infrastructure, streets that meet the City's specifications, modified access points to limit impacts on adjoining neighborhoods, street lighting, and compliance with Federal, State, and local regulations designed to protect public health.

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.*

The design of the alternate subdivision and the associated improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed subdivision as alternative access, utility, and irrigation facilities will be constructed enabling continued service to properties serviced by existing easements and trails will be provided within the Project that will connect to existing trails within the City of Brentwood.

- B. Hereby approves alternate Vesting Tentative Subdivision Map No. 9586 subject to the conditions of approval listed in Exhibit "A," attached hereto and made a part of this resolution, and all City standards applicable to this project.

ADOPTED by the City Council of the City of Brentwood at its regular meeting of December 10, 2024, by the following vote:

AYES:

NOES:

ABSENT:

RECUSE:

APPROVED:

Joel Bryant
Mayor

ATTEST:

Amanda McVey
City Clerk

**EXHIBIT "A" TO
CITY COUNCIL RESOLUTION NO. 24-XXX
CONDITIONS OF APPROVAL FOR
VESTING TENTATIVE SUBDIVISION MAP NO. 9586**

1. The Permittee and Permittee, including all successors in interest (collectively, "Permittee") shall comply with each and every condition set forth in the Permit. Vesting Tentative Subdivision Map No. 9586 (the "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed. The Permittee shall develop the site in accordance with the approved attachments and as modified by these Conditions of Approval.
2. The final map shall be substantially in conformance with Vesting Tentative Subdivision Map No. 9586 prepared by APEX Civil Engineering & Land Surveying dated September 19, 2024, unless otherwise amended by the conditions of approval contained herein.
3. The Permittee shall indemnify, defend with counsel of the City's reasonable choosing, and hold harmless City and its City Council, its boards and commissions, officials, officers, employees, and agents (the "Indemnified Parties") from and against any third party claim, action, or proceeding against City and/or the Indemnified Parties to attack, review, set aside, void, or annul the City's approval of the project approved herein, including adoption of VTSM 9586, and DR 21-010, and any environmental determination made with regard thereto, save and except to the extent caused solely by the City's sole or active negligence, or willful misconduct. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, reasonable attorneys' fees, and other reasonable expenses incurred in connection with such claim, action, causes of action, suit or proceeding. The Permittee shall pay to the City upon demand or, as applicable, on a monthly basis to counsel of City's reasonable choosing, amounts owed pursuant to the indemnification requirements prescribed in this condition. City shall promptly notify the Permittee of any claim, action, or proceeding and shall engage in reasonable efforts to cooperate in the defense. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to VTSM 9586, and the remainder of this obligation shall be unaffected by said Government Code section.
4. The final map shall adhere to all development standards adopted in Brentwood Municipal Code Section 17.486.004, referring to Subarea C, with respect to the development of residential uses, except the maximum number of units in 17.486.004(C)(12).
5. Prior to approval of project improvement plans, the plans for the proposed project shall show that the lots located immediately adjacent to State Route

4 and Sand Creek Road shall be shielded from the foregoing roadways through the use of masonry sound walls per the approval of the City Engineer. The approximate locations of these walls as shown on Figure 4.4-4 of the Draft Revised Environmental Impact Report prepared for the project and as updated by Saxelby Acoustics (included as Figure 4 to Attachment D of the Raney Planning & Management, Inc. memorandum dated November 26, 2024). Other types of barriers may be employed but shall be reviewed by an acoustical engineer prior to being constructed. The design for all soundwalls identified in the acoustical analysis for this project shall be submitted to the City Engineer and the Director of Community Development for review and approval and shall incorporate a split face hand-laid block design with a cap, and columns with a cap approximately every 50 feet, as shown on the preliminary landscape plans. The soundwall design shall be approved prior to issuance of improvement plans for the project. All walls shall comply with City-approved acoustic analysis. Plans for said walls shall include clear delineation of maintenance responsibilities of all wall sections. Sound wall heights shall be stated relative to building pad elevations and may achieve the required wall height through use of earthen berm and wall combinations to achieve the total height. Additionally, second floor windows of the first row of residences along the State Route 4 corridor and Sand Creek Road, shall have a minimum STC rating of 34 for windows with a view of either roadway. Alternatively, an interior noise analysis shall be prepared by a qualified acoustic engineer outlining the measures required to meet the City's 45 dBA Ldn interior noise standard, especially at unshielded second floor facades along the State Route 4 corridor or Sand Creek Road.

6. All improvements shall be designed and constructed; all permits issued; all fees paid; and all securities submitted pursuant to applicable Federal and state laws, the Subdivision Map Act, the Brentwood Municipal Code, the City Engineering Department's Standard Plans and Specifications, and the City Engineering Department's Engineering Procedures Manual.
7. Permittee and all construction plans and maps shall comply with Brentwood Municipal Code Title 8 "Health and Safety," Title 9 "Public Peace and Welfare," Title 12 "Streets, Sidewalks and Public Places," Title 13 "Sewers," Title 14 "Water," Title 15 "Building and Construction," and Title 16 "Subdivision and Land Development." In particular:
 - a. Solid waste service shall comply with Brentwood Municipal Code Chapter 8.16 "Solid Waste."
 - b. Construction and demolition work shall comply with Brentwood Municipal Code Chapter 8.40 "Construction and Demolition Debris Recycling."
 - c. Permittee shall comply with Brentwood Municipal Code Chapter 9.32 "Noise Regulations."

- d. Permittee shall comply with the encroachment permit requirements pursuant to Brentwood Municipal Code Chapter 12.08 "Street Encroachments."
- e. Sewer backflow prevention, interceptors, and other health and safety requirements shall be incorporated into the project pursuant to Brentwood Municipal Code Chapter 13.04 "Sewer System – Rules and Regulations."
- f. Brine-discharging self-regenerating water softener systems are prohibited pursuant to Brentwood Municipal Code Section 13.04.022.B.
- g. Recycled water services shall comply with Brentwood Municipal Code Chapter 13.06 "Recycled Water Regulations."
- h. Water service shall comply with Brentwood Municipal Code Chapters 14.01 "Municipal Water System" and Chapter 14.10 "Cross-Connection Control." In addition and to comply with both health and safety requirements as well as the City's Engineering Design Standards.
- i. Contractors requiring construction water shall obtain a temporary water permit and shall only take water metered at a location specified by the City Engineer pursuant to Brentwood Municipal Code Section 14.01.340 "Contractors."
- j. Permittee shall comply with the Federal Clean Water Act, the Municipal Regional NPDES Permit, and Brentwood Municipal Code Chapter 14.20 "Stormwater Management and Discharge Control."
- k. Fire access and aerial apparatus access shall comply with the requirements of the Fire District and Brentwood Municipal Code Chapter 15.06 "Fire Code."
- l. Special flood hazard areas shall comply with the requirements of Brentwood Municipal Code Chapter 15.07 "Flood Plain Management."
- m. Grading shall comply with Brentwood Municipal Code Chapter 15.52 "Grading, Erosion and Sediment Control."
- n. All grading and noise generating activities shall be limited to the days and hours defined in Brentwood Municipal Code Section 15.52.060 "Grading Regulations."
- o. In addition to the indemnification obligation set forth above, Permittee shall indemnify the City pursuant to Brentwood Municipal Code Section 15.52.160 "City Held Harmless."

- p. Pursuant to Brentwood Municipal Code Section 16.070.030.B, review of a Final Map, certification and approval shall not proceed until the Improvement Plans (on-site and off-site) have been submitted and reviewed by and approved by the City Engineer.
- q. Permittee shall obtain all required permits including, but are not limited to: buildings; sewer connections; encroachment; grading; use; business license; water connection; Army Corps of Engineers; Contra Costa County Flood Control; California Department of Fish and Wildlife pursuant to Brentwood Municipal Code Section 16.120.050 "Procedures."
- r. All storm drain, sewer, water and street systems shall be designed and sized to accommodate such additional flows, volumes or loads as may be contributed by the most intensive developed land use of the lands adjacent to or beyond the limits of the subdivision pursuant to Brentwood Municipal Code Section 16.120.080.
- s. All public facilities shall be constructed and any existing deficiencies shall be corrected. This includes both required on- and off-site public facilities and any deficiencies on-site, abutting the parcel or parcels involved or required off-site to provide service to the proposed development or for the continued safety, health and well-being of the public upon completion of the development pursuant to Brentwood Municipal Code Section 16.120.090 "Public Facilities Installation."
- t. Utilities shall be installed underground pursuant to Brentwood Municipal Code Section 16.120.120 "Undergrounding – Electric, Communication, Street Lighting and Advanced Technology Systems."
- u. All landscaping installed by the project shall be from trees and plants selected from the City Approved Drought Tolerant and Native Plant List with the exception of bioretention facilities, which shall conform to Appendix B of the Contra Costa Clean Water Program C.3 Guidelines and to the satisfaction of the Director of Parks and Recreation and City Engineer.
- v. Permittee shall make all land dedications pursuant to Brentwood Municipal Code Sections 16.140 and 16.150.
- w. Permittee shall comply with Brentwood Municipal Code Section 17.680.021(B) related to well abandonment development procedures.
- x. All proposed and required sound walls along Sand Creek Road, State Route 4, and lots adjacent to open spaces shall be entirely located on private property and privately maintained.

- y. Stormwater treatment and detention basins shall be located outside of any public easements and areas offered for dedication to the City.
8. Prior to issuance of a grading permit:
- a. The height and location of all existing and proposed retaining walls shall be shown on the Grading Plans. Retaining walls over three feet in height shall be structurally engineered, and shall require separate building permits. All retaining walls shall include a sub-drain system to the satisfaction of the City Engineer.
 - b. Construction Plans shall demonstrate with plans, analysis, or other documentation signed and stamped by a licensed Civil Engineer that there is adequate overland drainage release to an adequate public drainage facility to the satisfaction of the City Engineer. Permittee shall acquire drainage easements, if necessary.
 - c. Grading Plans shall include a sufficient number of cross-sections adjacent to creeks, floodplains, and wetland areas showing the proximity of these features to proposed grading and building foundations to the satisfaction of the City Engineer.
 - d. Grading Plans shall clearly identify the location of all wetlands, creeks, creek setbacks, trees (both to be removed and to be protected).
 - e. Pursuant to Brentwood Municipal Code Section 15.070.320, grading plans shall identify any special flood hazard area and the elevation of the base flood.
 - f. Permittee shall secure all required regulatory permits and construct all required drainage facilities, including all storm drain outfalls into creeks unless otherwise constructed by the City.
 - g. Permittee shall provide approved hydrology and hydraulic calculations signed by a licensed engineer demonstrating that the Project will adequately collect and convey all runoff within the Project, as well as the entire developed watershed upstream of the Project, pursuant to Brentwood Municipal Code Section 16.120.080C. The analysis shall include conveyance capacity of Sand Creek, as well as the downstream drainage system, including the Lower Sand Creek Basin. Permittee shall consult with the Contra Costa County Flood Control District for technical review of the regional drainage impacts. At a minimum, said calculations shall include the following:
 - i. The analysis shall assume that Lower Sand Creek Basin may not be completed to serve the Project.

- ii. The analysis shall calculate peak flows using the same methodology per the Contra Costa County Flood Control District guidelines.
 - iii. The analysis shall include riprap sizing calculations for any proposed riprap at the proposed outfalls in Sand Creek to mitigate erosion.
 - iv. Bioretention sections of the basins shall not be included in any calculations related to mitigating peak flows.
- 9. Prior to issuance of an encroachment permit or approval of Improvement Plans:
 - a. Construction Plans shall include all improvements in conformance with the latest Infrastructure Master Plans (i.e. Sewer, Water, etc.) and as directed by the City Engineer. Said improvements include a Zone 2 water main in San Jose Avenue.
 - b. Construction Plans shall include non-potable water mains and services to serve the proposed park and stormwater treatment/detention basins and stub to the existing terminus of San Jose Avenue to the satisfaction of the City Engineer.
 - c. Construction Plans shall incorporate safety fencing with vehicular access gates around proposed open space and stormwater parcels to the satisfaction of the City Engineer.
 - d. Construction Plans shall incorporate speed tables or other vehicular speed and safety control measures within the proposed streets to the satisfaction of the City Engineer.
 - e. Pursuant to Brentwood Municipal Code Section 16.120.090 "Public Facilities Installation", construction plans shall incorporate missing sidewalk improvements along the northerly portion of San Jose Avenue from the existing sidewalk terminus near State Route 4 to Saint Regis Avenue and a 10-foot wide sidewalk along Parcel A and B to connect to the existing 10-foot wide trail at the westerly boundary of the project.
 - f. Construction plans shall include pedestrian and bicycle connectivity between the proposed San Jose Avenue and Chestnut Oak Drive intersection and existing St. Regis Avenue and San Jose Avenue intersection.
 - g. Construction plans shall incorporate maintenance vehicle access from a public road to all proposed privately maintained stormwater treatment and detention parcels to the satisfaction of the City Engineer.

- h. Construction plans shall incorporate a deceleration lane at the proposed intersection of Oak Lane and Sand Creek Road to the satisfaction of the City Engineer.
- i. Construction plans shall meet all design requirements including measures to prevent access to east-bound State Route 4, if warranted, to the satisfaction of the City Engineer.
- j. Oak Lane shall be designed in compliance with access control standards as defined within the Caltrans Highway Design Manual to the satisfaction of the City Engineer.
- k. Pursuant to Brentwood Municipal Code Section 16.120.080.C, construction plans shall include designs consistent with Standard Detail ST-1 "Arterial Street" along the project frontage, including Parcel A and Parcel B frontage, to provide one additional eastbound lane along Sand Creek Road. Improvements shall include, but not be limited to, a traffic signal at Sand Creek Road and Bridle Gate Drive, sidewalks, curb and gutter, roadway widening, frontage and median island landscaping to the satisfaction of the City Engineer. Permittee will be eligible for reimbursement as set forth in the City's Development Fee Program.
- l. Construction Plans shall reflect the entirety of San Jose Avenue to be designed as a 60-foot wide residential collector street consistent with Standard Detail ST-4 "Residential Collector Street".
- m. Construction Plans shall include all utilities, including, but not limited to, meters, hydrants, poles, signs, clean-outs and boxes to be located clear of all trails, sidewalks and driveways or as determined by the City Engineer.
- n. Construction Plans shall include all utilities designed with seismic considerations to the satisfaction of the City Engineer.
- o. Permittee shall submit a colored Composite Site Exhibit showing the location of all existing and proposed utilities, utility boxes, landscaping, monuments, street improvements, lights, signs, driveways, house envelopes, fencing, grading contours, walls, easements, property lines, and other improvements as required at a sufficient scale to allow a comprehensive review of proposed improvements.
- p. Construction Plans shall demonstrate that all gravity utilities (i.e. storm drain, sewer) are designed to positively and completely drain by gravity without relying on any electro-mechanical means (i.e. pumps, lift stations and siphons) to the satisfaction of the City Engineer.

- q. Construction Plans shall include cathodic protection measures for all buried metallic infrastructure pursuant to City Standards or as approved by the City Engineer.
 - r. Construction Plans shall include all proposed storm drain inlets to include and update existing storm drain inlets along the project frontage with "No Dumping – Drains to Creek" thermoplastic stencils to the satisfaction of the City Engineer.
 - s. Permittee shall obtain approval from the City Engineer on the Project Operation and Maintenance Manual for all stormwater control systems. Said Manual shall comply with all applicable Municipal Regional NPDES Permit requirements including, but not limited to, maintenance, sediment removal, weed and trash abatement, and the use of chemicals.
 - t. Construction Plans shall include all landscaping with adequate root barriers to protect all City facilities, including but not limited to sidewalks, utilities, meters, ramps, and driveways.
 - u. Permittee shall have a licensed Land Surveyor locate all existing survey monuments on or adjacent to the project, and show said monuments as protected on all construction plans.
 - v. Construction Plans shall include a Traffic Control Plan in conformance with the latest edition of the Manual of Uniform Traffic Control Devices issued by Caltrans and as required by the City Engineer.
 - w. Construction Plans shall include Emergency Vehicle Access areas to comply with the requirements of the Fire District, and that ingress and egress is provided to all neighboring properties during construction.
 - x. Construction plans shall incorporate roadways and driveways that provide adequate sight distance pursuant to City and Caltrans design requirements. All landscape areas required to have restrictions to comply with sight distance requirements shall be shown on applicable Construction and Plot Plans.
 - y. Construction plans shall incorporate rights-of-way and all-weather vehicular access from a public road to all proposed and existing public utilities, appurtenances and easements to the satisfaction of the City Engineer. This includes, but is not limited to, existing public utilities within Park Parcel A and designated permanent open space Parcel H.
10. Prior to approving the Final Map:
- a. The Final Map shall comply with the current Subdivision Map Act.

- b. The Project shall annex into the most current City Community Facilities District (currently CFD #5), and annex into, or form a street lighting and landscape maintenance assessment district, or update the current LLAD 02-3 to reflect the current project or provide and execute an alternative funding mechanism acceptable to the City for the maintenance of City improvements.
- c. The Project shall annex into the most current Emergency Medical and Fire Protection Service Funding Community Facilities District as required by the Contra Costa County Fire Protection District (Brentwood Municipal Code Chapter 17.635).
- d. Permittee shall provide for an adequate private funding mechanism for the perpetual maintenance of all stormwater treatment areas, stormwater detention basins, rear-lot landscaping for lots with double street frontages, soundwalls along State Route 4, and common interest development facilities to the satisfaction of the City Engineer. Permittee shall dedicate parcels in fee or private easements with said facilities to a Homeowners Association or similar private entity.
- e. Permittee shall process a vacation of the 25' of San Jose Avenue along the eastern border of the property prior to or concurrent with the approval of the Final map.
- f. Final Map shall include references to private access, maintenance and utility easements over the shared driveways of all proposed flag lots to the satisfaction of the City Engineer.
- g. Final Map shall include approved street names by the Fire District and Community Development Department. All public streets, including Sand Creek Road, shall be irrevocably offered for dedication.
- h. All applicable City fees shall be paid including, but not limited to, the Agricultural Mitigation Fee, the Contra Costa Flood Control and Water Conservation District Fee.
- i. The Final Map shall show relinquishment of abutter's rights of access for all double frontage lots along Bridle Gate Drive and San Jose Avenue and adjacent to all accessible ramp locations.
- j. The Final Map shall include public utility easements along all street frontages to the satisfaction of the City Engineer.
- k. The 25-foot wide existing right-of-way for Old Sand Creek Road is identified to be a portion of a collector street in the Innovation Center Specific Plan and shall not be abandoned.

- I. Permittee shall submit a copy of the draft Covenants, Conditions and Restrictions to the City Engineer and Director of Community Development for review and approval. Prior to recordation, Permittee shall submit any revisions to the City for approval.
11. Prior to issuance of any Building Permits:
 - a. The following improvements shall be completed to the satisfaction of the City Engineer:
 - i. All on-site improvements, shall be constructed prior to the issuance of any building permit in each phase (excluding model homes). The improvements shall include, but not limited to pavement, curb, gutter, sidewalk, street lights, stormwater facilities, utilities, and walls.
 - ii. The traffic signal at the proposed Sand Creek Road and Bridle Gate Drive including the additional Sand Creek Road eastbound lane, separated bike lane, curbs, gutters, bioretention, and sidewalk along the project frontage and all soundwalls shall be substantially completed prior to the issuance of the 50th building permit.
 - b. Permittee shall provide an approval signed and sealed by a geotechnical or structural engineer of the location, nature and proximity of stormwater features near or adjacent to buildings as determined by the City Engineer. Locations and design of any mitigating structural design feature (i.e. foundations) shall be shown on the appropriate construction plans.
 - c. Permittee shall provide an approval signed and sealed by a geotechnical or structural engineer that there is adequate clearance between building foundations and creeks.
 - d. Permittee shall provide documents signed by a licensed engineer on building pad elevation, compaction, and appropriate remediation from unsuitable soils.
 - e. Permittee shall demonstrate that all acoustic mitigations have been incorporated into applicable plans.
12. Permittee shall pay all Development Impact Fees per the City's Development Fee Program on a pro rata basis for each dwelling prior to issuance of building permit.
13. As set forth below, Permittee shall dedicate the park parcel and open space parcels to the City in fee title. Maintenance of these properties shall be

included in the Lighting and Landscaping District for this Project, as indicated in the General Plan Goals CSF 1 and CSF 2.

- a. Permittee shall dedicate to the City of Brentwood in fee title Parcel "A" for public park purposes and construct landscaping and park improvements to the satisfaction of the Director of Parks and Recreation. Parcel "A" totals 8.49 acres, of which 4.35 acres Permittee shall grade to a less than 3% slope in order to be deemed usable and fee creditable Park land. Park improvements shall be designed and improved to include amenities consistent with the 'Neighborhood Park' definition in the current Parks, Trails and Recreation Master Plan and will be reimbursed according to the provisions of the Development Fee Program. Pursuant to the requirements of BMC Section 2.46.020.G, prior to submittal of the landscape construction plans for the park, the Permittee shall submit Conceptual Park Plans showing the proposed design, amenities and programming of the park for review and approval by the Park and Recreation Commission, as indicated in the General Plan Goals CSF 1 and CSF 2.
 - b. Permittee shall dedicate to the City of Brentwood in fee title Parcel "H" for open space and trail purposes and construct a 10 foot wide asphalt multi-use trail on Parcel "H" from the southern boundary of the Project at the existing terminus of Black Gold Trail, thence to the extension of Sand Creek Road adjacent to the park in Parcel 'A,' to the satisfaction of the Director of Parks and Recreation. The Permittee will also construct open space landscaping and trail amenity improvements to the satisfaction of the Director of Parks and Recreation prior to the issuance of the 135th building permit. Trail and landscape fee credit will be provided for these improvements per the City's Development Fee Program, as indicated in the General Plan Goals CSF1 and CSF2.
14. In addition to the sound walls required in Condition of Approval No. 5 above, Permittee shall construct a split-face masonry block wall with the same design as approved for the sound walls adjacent to City-owned park or landscape areas at the heights and in the locations set forth below, unless approved otherwise by the City Engineer and the Director of Parks and Recreation:
- a. A minimum 7-foot high masonry wall separating Lot #1 and Lot #125 from Parcel 'A';
 - b. A minimum 7-foot high masonry wall separating Lots #36-38 from Parcel 'G';
 - c. A minimum 8-foot high masonry wall separating Lots #119-125 from Parcel 'C';
 - d. A minimum 8-foot high masonry wall separating Lots #126-135 from Parcel 'D'; and
 - e. A minimum 8-foot high masonry wall separating Lot #136 from Parcel 'E'.

15. The Permittee shall submit all landscape plans for the review and approval of the Director of Parks and Recreation for street frontage landscaping, stormwater treatment areas, front yard landscape areas, and parks and trails prior to approval of improvement plans for the project. All trees shall be selected and planted as per the City's Urban Forest Guidelines. The landscaping improvements for the park parcels and trail improvements shall be constructed and improved prior to issuance of the 135th building permit, including model homes or any permit adjacent to the park parcel to the satisfaction of the Director of Parks and Recreation.
16. The Permittee shall identify all park and trail locations within the subdivision with signage, prior to, through construction and permanent signage upon completion, to the satisfaction of the Director of Parks and Recreation, or their designee.
17. The Permittee shall comply with the Public Art Program by paying the in-lieu fees consistent with Brentwood Municipal Code Chapter 2.60.
18. The Permittee shall pay any parks and trails fees due on a pro rata basis at the time of final inspection or certificate of occupancy for each dwelling to the satisfaction of the Director of Parks and Recreation and Community Development Director. The on-site parkland and park improvements dedicated by Permittee to the City shall be fee creditable as defined and broken down above, as per the City's development fee program.
19. Prior to recordation of a final map, the Permittee shall comply with the policies established in support of Goal 2 (COS 2) of the General Plan Conservation and Open Space element and the Agricultural Preservation Program (Chapter 17.730) of the Brentwood Municipal Code in order to mitigate the potential significant impact of the proposed project on the loss of farmland. The Permittee shall pay the current agricultural conservation fee in effect at the time of final map recordation to provide funds for the City to purchase conservation easements to mitigate the loss of farmland.
20. The Permittee shall submit a worksheet containing the lot sizes, fee per lot, subtotal and total fee required, as well as the lot closure calculations to the Contra Costa County Flood Control & Water Conservation District for its review. Additionally, the Permittee shall include a worksheet containing calculations of all other impervious surfaces within the project area.
21. Prior to final map approval, Permittee shall enter into an affordable housing agreement with the City of Brentwood in accordance with the requirements, including, but not limited to, the affordability levels, set forth in Ordinance No. 1014.
22. Prior to each building permit issuance, the Permittee shall submit to the Community Development Department written proof from the Liberty Union

High School District and the Brentwood Union School District indicating that appropriate school mitigation fees have been paid.

23. The Permittee shall pay all fire facility impact fees at the time of the issuance of the first building permit, at the then-current rate.
24. Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access shall have a minimum outside turning radius of 45 feet and must be capable of supporting the imposed first apparatus loading of 37 tons.
25. Any dead-end emergency apparatus access roadways in excess of 150 feet in length shall be provided with approved provisions for the turning around of Fire District apparatus.
26. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words: NO PARKING – FIRE LANE clearly marked. Access roadways 28-feet or greater, but less than 36-feet unobstructed width shall have NO PARKING – FIRE LANE signs posted, allowing for parking on one side only or curbs painted red with the words NO PARKING – FIRE LANE clearly marked.
27. Permittee shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code.
28. Permittee shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 1500 GPM. Required flow must be delivered from not more than 1 hydrant flowing for a duration of 120 minutes while maintaining 20-pounds residual pressure in the main.
29. Permittee shall provide additional hydrants of the East Bay type in compliance with Chapter 5 and Appendix B and C of the California Fire Code (C103.1) CFC. One hydrant at each of the two entrances to development and additional hydrants on Bridle Gate Drive and San Jose Ave shall be installed and meet requirements of Appendix C of CFC.
30. A land development permit is required from Contra Costa Fire Protection District for access and water supply review and approval prior to submitting building construction plans. Permittee shall submit a minimum of two copies of full size, scaled site improvement plan indicating:
 - a. All existing or proposed hydrant locations
 - b. Fire apparatus access to include slope and road surface
 - c. Elevations building

- d. Size of building and type of construction
- e. Gates, fences, retaining walls, bio-retention basins, any obstructions to access
- f. Detail showing the lowest level of fire department vehicle access and the floor level of the highest occupied floor
- g. Striping and signage plan to include "NO PARKING – FIRE LANE" markings

This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review.

- 31. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 22/37 tons.
- 32. The homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2022 edition of NFPA 13 or Section R313.3 of the 2022 California Residential Code. Permittee shall submit a minimum of two sets of plans to the Fire District for review and approval prior to installation.
- 33. Permittee shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development.
- 34. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District.
- 35. As required by Brentwood Municipal Code Section 8.36.035 ('Weed abatement'), Permittee shall cut down and remove all weeds, grass, vines, and other growth on the project site that are capable of being ignited and endangering property.
- 36. Where existing access to open land or space, or to fire trail systems maintained for public or private use is obstructed by new development of any kind, Permittee shall provide an alternate means of access into the area that is sufficient to allow access for fire personnel and apparatus. These access roadways shall be a minimum of 16 feet in width to accommodate Fire District equipment. Access locations will be determined by the District upon submittal of three copies of complete improvement plans.

37. Permittee or Permittee's authorized agent shall be responsible for the development, implementation and maintenance of a written plan in compliance with NFPA 241, establishing a fire prevention program at the project site applicable throughout all phases of construction. The plan shall be made available for review by the Fire Code official upon request. The fire prevention program superintendent shall develop and maintain an approved prefire plan in cooperation with the fire chief. The fire chief and Fire Code official shall be notified of changes affecting the utilization of information contained in such prefire plans.
38. Permittee shall submit plans to the Fire District for review and approval prior to construction of the building or installation of the systems to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal.
39. Any work within the Contra Costa Water District right-of-way, including extension of existing utilities through Sand Creek Road or any drainage/mitigation work within Sand Creek shall require submittal of an application and administrative deposit to the District for review. Any work within the District right-of-way or impacting the Los Vaqueros Pipeline will require a permit. No construction staging is permitted within the District right-of-way.
40. Permittee shall inform and notify prospective buyers in writing as prescribed by the City's Right to Farm Ordinance, prior to purchase, about existing and on-going agriculture activities in the immediate area in the form of a disclosure statement. The notifications shall disclose that the Brentwood area is an agricultural area subject to ground and aerial application of chemicals and early morning or nighttime farm operations which may create noise, dust, etc. The language and format of such notification shall be reviewed and approved by the Community Development Director prior to recordation of the final map. Each disclosure statement shall be acknowledged with the signature of each prospective buyer.
41. Permittee shall install an eastbound bus turnout on Sand Creek Road near the intersection of Sand Creek Road and Bridle Gate Drive in coordination with Tri Delta Transit and to the satisfaction of the City Engineer. These bus turnout locations shall also include a bus shelter to the satisfaction of the City Engineer.
42. Permittee shall comply with the Bay Area Air Quality Management District (BAAQMD) Rules and Regulations, including implementing all Basic Construction Mitigation Measures (BCMMs) including:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
 - g. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
 - h. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a six- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
 - i. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.
43. Permittee shall implement BAAQMD enhanced best management practices, including:
- a. Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.
 - b. Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
 - c. Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and watered appropriately until vegetation is established.
 - d. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.

- e. Minimize the amount of excavated material or waste materials stored at the site.
 - f. Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.
44. Permittee shall fulfill all mitigation measures identified in the Final Revised Environmental Impact Report and Mitigation Monitoring and Reporting Plan, which are hereby incorporated into these conditions of approval.