

RESOLUTION NO. PC-2019-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON
APPROVING A VESTING TENTATIVE SUBDIVISION MAP 8483,
THE APPLICATION OF FRANK BERLOGAR

WHEREAS, On October 25, 2018, Frank Berlogar applied for Vesting Tentative Subdivision Map (VTM) approval to subdivide an approximately 15.81-acre site located at 88 Silver Oak Terrace into two lots measuring approximately 4.46 acres and 11.35 acres; and

WHEREAS, zoning for the property is PUD-HR/OS (Planned Unit Development - Hillside Residential/Open Space) District; and

WHEREAS, on February 20, 2019, the Planning Commission held a duly-noticed public hearing and considered relevant exhibits, recommendations of the City staff concerning this application, and received testimony from interested parties; and

WHEREAS, an Environmental Impact Report (EIR) was previously approved by the City Council for the Vineyard Avenue Corridor Specific Plan (VACSP) in 1999 (State Clearinghouse No. 98031009). The proposed VTM is located on property subject to a Planned Unit Development plan (PUD-116) which was approved on June 7, 2016, as modified by PUD-116-01M on February 6, 2019 which PUD was determined to conform to the VACSP; and

WHEREAS, the proposed VTM 8483 is consistent with the VACSP, PUD-116 and PUD-116-01M, and no new information or changed circumstances have occurred that would require supplemental environmental review pursuant to California Environmental Quality Act Guidelines Section 15162; and

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written staff reports and all public comment and testimony:

Section 1: Findings for Vesting Tentative Map Subdivision Approval

With respect to the approval of Vesting Tentative Subdivision Map 8483, the Planning Commission makes the following findings as required by Section 19.20.110 of the Pleasanton Municipal Code:

A. The proposed vesting tentative subdivision map conforms to the zoning regulations/development plan.

For the reasons stated in this report, the Vesting Tentative Map and improvements conform to the PUD development plan and conditions of PUD-116-01M. The map thus conforms to the zoning regulations/development plan.

B. The design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities.

This subdivision would create two new lots with existing dwellings. The existing dwellings are generally oriented in an east-west orientation for southern exposure and provide for passive heating and/or cooling opportunities.

C. The proposed vesting tentative subdivision map, together with its design and improvement, is consistent with the Pleasanton General Plan.

The proposed subdivision does not include any on- or off-site improvements. The existing improvements have been reviewed and are consistent with the objectives, policies, land uses, and programs specified in the General Plan. The previously approved PUD modification was found to be consistent with the General Plan and the VACSP, and this tentative subdivision map is based on the PUD modification. Staff finds that the tentative subdivision map is compatible with the objectives, policies, land uses, and programs specified in both the General Plan and VACSP.

D. The subdivision site is physically suitable for this type and density of development.

The proposed subdivision does not include any on- or off-site improvements beyond those existing on-site today. The subdivision would create two lots: one lot containing an existing main dwelling unit and existing accessory structures; and one lot containing an existing caretaker's residence that would become a main dwelling unit and existing accessory structures. The project area is not in a flood zone or earthquake fault zone. The project site has steep slopes, but the future development allowed by the PUD modification (i.e., a 500-square-foot addition to the caretaker's residence), is limited to the flat area next the caretaker's residence and will not require grading. Thus, the subdivision is physically suitable for the type and density of development.

E. The design of the subdivision and improvements covered by the proposed vesting tentative subdivision map will not cause substantial environmental damage and avoidably injure fish and/or wildlife or their habitat.

The proposed subdivision does not include any on- or off-site improvements. It allows existing structures to be located on two separate lots instead of one lot. Thus, the proposal will not cause any substantial environmental damage or injure fish and/or wildlife or their habitat. The contemplated future 500-square-foot additional to the caretaker's residence would be connected to and adjacent to already developed areas of the new lot.

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

As mentioned earlier, the proposed subdivision does not include any on- or off-site improvements. It allows existing structures to be located on two separate lots instead of one lot. The prior subdivision and improvements were designed and constructed to meet the applicable City standards pertaining to public health and safety, including public utilities and services, road design and traffic safety, emergency vehicle access, fire hazards, geologic hazards, and flood hazards. In addition, the existing structures were required to comply with the applicable Building and Fire Codes, City codes, and State of California energy requirements. Conditions of Approval have been included requiring both lots have independent utility connections subject to review and approval by the City Engineer. Thus, the proposed subdivision will not cause serious public health problems.

G. The design of the subdivision or its related improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

There is an existing public trail easement which, with the approval of this Vesting Tentative Map, would be located on Parcel Two. The proposed subdivision will not conflict with this easement.

H. The restriction on approving a tentative subdivision map on land covered by a land conservation contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act) is not applicable.

The site is not covered by any land conservation contract.

I. The discharge of waste from the proposed subdivision would not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board (RWQCB).

The existing residences are connected to the City sanitary sewer system for conveyance to the sewer treatment plant. Stormwater has been treated as part of the prior subdivision improvements. Thus, this subdivision will not result in

violation of existing requirements prescribed by the California Regional Water Quality Control Board (RWQCB).

Section 2:

Approves Vesting Tentative Subdivision Map 8483, the application of Frank Berlogar to subdivide to subdivide an approximately 15.81-acre site located at 88 Silver Oak Terrace into two lots measuring approximately 4.46 acres and 11.35 acres, subject to the conditions shown in Exhibit A, attached hereto and made part of this case by reference.

Section 3:

This resolution shall become effective 15 days after its passage and adoption unless: (1) appealed prior to that time by any member of the public, or (2) if a City Councilmember wishes to review the item, pursuant to Pleasanton Municipal Code section 18.144.010, he or she must indicate their desire to review within 15 days following the date of approval, or at the next regular meeting of the City Council, whichever is later. If the majority of the City Council agrees to review the item, a further hearing shall be set pursuant to Pleasanton Municipal Code section 18.12.040 and the Council shall consider the item at that time.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on February 20, 2019, by the following vote:

AYES:
NOES:
ABSTAIN:
RECUSED:
ABSENT:

ATTEST:

Ellen Clark
Secretary, Planning Commission

Nancy Allen
Chairperson

APPROVED AS TO FORM:

Julie Harryman
Assistant City Attorney

EXHIBIT A
DRAFT CONDITIONS OF APPROVAL

Vesting Tentative Map 8483
88 Silver Oaks Terrace
February 20, 2019

The applicant is hereby notified, as part of this approval, that (s)he is required to satisfy and maintain compliance with the conditions of approval below. Where approval by the Director of Community Development, Planning Division, Director of Engineering/City Engineer, City Attorney, Chief Building and Safety Official, Fire Department or other City staff is required, review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations, and accepted practices related to the approval. In addition to complying with the conditions below, the applicant is required to comply with all applicable federal, state, and local laws that pertain to this project whether or not specifically noted herein.

This approval is granted for a Vesting Tentative Map to subdivide an approximately 15.81-acre site located at 88 Silver Oaks Terrace into two lots measuring approximately 4.46 acres and 11.35 acres located on Assessor Parcel No(s). (*INSERT APNs*). Development shall be substantially as shown on the project materials listed below:

- a. Project plans, Exhibit B, prepared by Alexander & Associates for Frank Berlogar, dated "Received" on January 18, 2019, and kept on file in the Planning Division of the Community Development Department.

The project materials listed above are collectively the "Approved Plans."

THIS APPROVAL IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **APPROVAL AND REVISIONS:** The vesting tentative map shall be in substantial conformance with the "Approved Plans," except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance with the approved exhibits. Planning Division approval is required before any changes are implemented to the approved vesting tentative map.
2. **APPROVAL VALIDATION:** The approval of this vesting tentative map is not valid until the approval of PUD-116-01M becomes effective. (**PROJECT SPECIFIC CONDITION**)
3. **PUBLIC TRAIL EASEMENT:** The Vesting Tentative Map 8483 submitted for plan check review shall label the existing six-foot wide public trail easement per Parcel Map 8070. (**PROJECT SPECIFIC CONDITION**)
4. **EXPIRATION – RESIDENTIAL TENTATIVE MAP:** The approval of the tentative map shall lapse two years from the effective date of this approval unless a final subdivision map is recorded or an extension is approved by the City.
5. **CONDITIONS OF APPROVAL CHECKLIST:** The applicant shall submit a "Conditions of Approval Checklist" indicating all conditions in Exhibit A have been satisfied, incorporated into the building permit plans or improvements plans, and/or addressed. Said checklist shall be attached to all

building permit and engineering permit submittals for review by the City prior to issuance of permits.

6. **APPEAL PERIOD:** The Final Subdivision Map plan check package will be accepted for submittal only after completion of the 15-day appeal period from the date of the resolution unless the project developer submits a signed statement acknowledging that the plan check fees may be forfeited in the event that the approval is overturned on appeal, or that the design is significantly changed as a result of the appeal.
7. **LIABILITY AND INDEMNIFICATION:** To the extent permitted by law, the project applicant shall hold harmless, defend (with counsel acceptable to the City), and indemnify the City, its City Council, its officers, commissions, employee and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and/or the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including without limitation, reimbursing the City its attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

PLANNING DIVISION – 925-931-5600

Fees

8. **SCHOOL IMPACT FEES – RESIDENTIAL NEW CONSTRUCTION:** Applicant shall work with the Pleasanton Unified School District (PUSD) to develop a program to offset this project's long term effect on school facility needs in Pleasanton. This program shall be designed to fund school facilities necessary to offset this project's reasonably related effect on the long-term need for expanded school facilities. The method and manner for the provision of these funds and/or facilities shall be approved by the PUSD and in place prior to building permit issuance. Written proof of compliance with this condition shall be provided by applicant to the City, on a form generated by the PUSD, prior to building permit issuance.
9. **WATER FEES AND WATER METER CONNECTION FEES:** The applicant shall pay the applicable Zone 7 and City connection fees and water meter cost for any water meters and irrigation meters, if applicable, prior to building permit issuance.
10. **SEWER FEES:** The applicant shall pay the applicable Dublin-San Ramon Services District (DSRSD) and City sewer permit fees prior to building permit issuance.
11. **CONDITIONS OF APPROVAL:** The applicant shall provide all initial buyers with copies of the final project conditions of approval.

ENGINEERING DEPARTMENT – LAND DEVELOPMENT – 925-931-5650

Design

12. **DESIGN PER CITY STANDARDS:** All public improvements shall be designed in compliance with the City Standard Specifications and Details in effect at the time of the issuance of the encroachment, grading, or subdivision permit, whichever occurs first.
13. **DESIGN PER NPDES PERMIT:** The applicant and the applicant's California licensed civil engineer shall comply with Section "C.3.b Regulated Projects" of the NPDES Permit No. CAS612008, and amendments, issued by the San Francisco Bay Regional Water Quality Control Board. **(PROJECT SPECIFIC CONDITION)**

14. **CONDITIONS OF APPROVAL:** The Conditions of Approval shall be depicted on a plan sheet(s) in the improvement plans.
15. **WATER METERS (RESIDENTIAL):** The applicant shall provide a water meter to each lot, Lots 1 and 2, within the development unless otherwise approved by the Director of Engineering/City Engineer. **(PROJECT SPECIFIC CONDITION)**
16. **EXISTING WATER METERS:** The applicant's California licensed civil engineer shall depict existing water meters on the improvement plans including their size, flow rate and serial numbers.
17. **WATER LATERALS:** The applicant shall provide each lot, Lots 1 and 2, with an independent connection to the public water main as provided for in the Municipal Code. **(PROJECT SPECIFIC CONDITION)**
18. **FIRE SERVICE:** The existing private 8" fire service serving 88 and 91 Silver Oaks Terrace begins at Station 15 +70+/- and the existing private fire hydrant is located at Station 16 74+/- as depicted on the Parcel Map 10558 improvement plans. If the existing fire service and fire hydrant are accepted as public, the applicant shall provide documentation acceptable to the Director of Engineering/City Engineer that shows the private road is adequate to serve City maintenance vehicles or the private road shall be rehabilitated or reconstructed to serve City maintenance vehicles. **(PROJECT SPECIFIC CONDITION)**
19. **SANITARY SEWER:** The existing 8" private sanitary sewer lateral serving 88 and 91 Silver Oaks Terrace begins at Station 6+75.77 as depicted on the Parcel Map 10558 improvement plans, which is where the existing 8" public sanitary sewer main terminates. The existing 8" private sanitary sewer lateral may be accepted by the City Engineer as a public main if it meets the City of Pleasanton and State Health Department standards including but not limited to separation between the public water main and public sewer main, inspection and testing, maintenance access, material and backfill, etc. **(PROJECT SPECIFIC CONDITION)**
20. **SANITARY SEWER INSPECTION VIDEO:** The applicant shall provide a pipe inspection video of the existing 8" private sewer main lateral with the first submittal of the improvement plans if he/she intends to dedicate said main to the City. **(PROJECT SPECIFIC CONDITION)**
21. **DESIGN AND CONSTRUCTION OF PUBLIC SANITARY SEWER AND WATER MAINS:** If the existing sanitary sewer and water mains cannot meet the City of Pleasanton and State Health Department standards, separate sanitary sewer and water laterals shall be installed at the end of existing public mains to serve each lot, Lots 1 and 2. **(PROJECT SPECIFIC CONDITION)**
22. **JOINT UTILITY TRENCH:** All dry utilities (electric power distribution, gas distribution, communication service, cable television, street lights and alarm systems) required to serve an existing or new development shall be installed in underground conduit in a joint utility trench subject to the review and approval of the Director of Engineering/City Engineer and prior to City council acceptance of public improvements.
23. **PUBLIC SERVICE EASEMENT:** The applicant shall grant a public service easement (PSE) to the City over those parcels and lots as determined by and subject to the review and approval of the Director of Engineering/City Engineer and prior to City Council acceptance of public improvements.

24. **PRIVATE EASEMENTS:** The applicant shall record private access, drainage, and utility easements across the project for the benefit of the individual lots as determined by, subject to the review and approval by, and at a time determined by the Director of Engineering/City Engineer.

Subdivisions

25. **MAINTENANCE OF PRIVATE IMPROVEMENTS:** All private improvements including but not limited to storm drainage swales, gutters, inlets, outfalls, channels, retaining walls, sound walls, fences, etc., shall be privately maintained by the property owners through the mechanism approved by the City in the "Maintenance Agreement" condition below.
26. **FINAL MAP APPROVAL:** The applicant shall submit to the Engineering Department one completely signed Mylar copy of the final map, one signed copy of the improvement plans, one signed copy of the Subdivision Agreement, one signed copy of the Maintenance Agreement, one signed copy of the Declaration of Disclosures, and one signed copy of the Stormwater Operations and Maintenance Agreement prior to the City Council approval of the final map. If existing buildings or structures on-site are to be demolished or retained, or existing utilities to be relocated, the applicant shall obtain the necessary permits from the Building and Safety Division and complete all work prior to recordation of the final map.)

Agreements and Covenants

27. **SUBDIVISION AGREEMENT:** The applicant shall enter into a subdivision agreement with the City agreeing to construct and complete all improvements necessary to serve the subdivision. The agreement shall be executed and submitted to the City prior to approval of the final map. As part of the agreement, the applicant shall provide securities acceptable to the City, guaranteeing construction of the required improvements.
28. **MAINTENANCE AGREEMENT:** Applicant shall create a maintenance agreement, or other mechanism agreed upon by applicant and City, which sets forth the maintenance areas and responsibilities for development. The maintenance agreement (or other mechanism) shall be subject to review and approval by the City Attorney, Engineering Department and Community Development Department, prior to recordation of the final map. The maintenance agreement (or other mechanism) shall designate responsibility for the maintenance of all private utilities and private improvements described in Condition "Maintenance of Private Improvements" above, on the site. The maintenance agreement (or other mechanism) shall include an exhibit showing the location of all the improvements subject to the maintenance agreement (or other mechanism). The City shall be granted the rights and remedies described in the maintenance agreement (or other mechanism), but not the obligation to enforce the maintenance responsibilities set forth in the maintenance agreement (or other mechanism). **(PROJECT SPECIFIC CONDITION)**
29. **ESCROW AGREEMENT FOR MAP RECORDATION:** The applicant and their title company shall enter into an escrow agreement that provides for the terms on filing the final map concurrently with other related documents for record at the Alameda County Clerk-Recorder's Office. Within a reasonable amount of time following recordation, the applicant's title company shall provide a copy of each recorded document to the Engineering Department determined to be legible by the Director of Engineering/City Engineer.

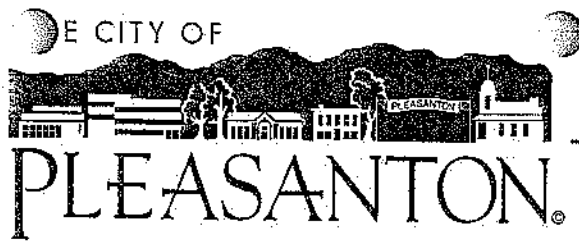
Fees and Bonds

30. **ACTING CITY SURVEYOR MAP REVIEW:** The applicant shall submit a preliminary copy of the final map, approved tentative map, preliminary title report(s), adjoining deeds, and underlying recorded maps to the Director of Engineering/City Engineer, prior to submittal of the first plan

check. The Acting City Surveyor will provide a cost estimate to review the map and certify it is technically correct in compliance with the California Subdivision Map Act. The applicant shall submit full payment for the Acting City Surveyor's fee and the City's administrative fee and all applicable plan check fees with the first map plan check. Unspent Acting City Surveyor's fees will be refunded to the applicant following recordation of the map. If the applicant withdraws their application in writing prior to recordation of the map, unspent Acting City Surveyor's fees will be refunded to the applicant. If the Acting City Surveyor's estimate is insufficient to cover their services, the applicant shall pay the difference between the initial estimate and the actual cost prior to submittal of the map for the Director of Engineering/City Engineer's signature.

31. **IMPROVEMENT PLAN AND MAP REVIEW FEES:** The applicant shall pay all applicable plan check review fees to the Engineering Department with the first submittal of the improvement plans, grading plans, and final map.
32. **IN-LIEU PARK DEDICATION FEE:** Per PMC Chapter 17.46, the applicant shall pay the in-lieu park dedication fee to the Engineering Department prior to City Council approval of the final map, at the rate in effect at the time of approval and for the total number of buildable lots on the map, unless this requirement has been otherwise satisfied.
33. **SUBDIVISION FEES – FINAL MAPS:** The applicant shall pay all encroachment permit, private development review, construction services inspection, development impact, and other related fees as determined by the Director of Engineering/City Engineer to the Engineering Department prior to City Council approval of the final map at the rate in effect at the time of the approval for the total number of buildable lots on the map.
34. **IMPROVEMENT SECURITY – FINAL MAPS:** The applicant shall submit a performance bond and labor and material bond, or other improvement security acceptable to the Director of Engineering/City Engineer, for all private and public subdivision improvements necessary to serve the subdivision to the Engineering Department prior to City Council approval of the final map. Both bonds shall be in an amount equal to 100 percent of the cost estimate as approved by the Director of Engineering/City Engineer. The improvement security may be waived if the necessary improvements have been constructed to the satisfaction of the Director of Engineering/City Engineer prior to City council approval of the final map.
35. **WARRANTY BOND:** The applicant shall submit a one-year warranty bond in an amount of 10 percent of the full value of all public subdivision improvements necessary to serve the subdivision to the Engineering Department prior to City Council acceptance of the public subdivision improvements.
36. **VINEYARD AVENUE CORRIDOR SPECIFIC PLAN FEE:** The applicant shall pay the Vineyard Avenue Specific Plan fee for Lot 1 of Tract 8483 prior to City Council approval of the final map. **(PROJECT SPECIFIC CONDITION)**

[end]



February 6, 2019

Frank Berlogar
5587 Sunol Boulevard
Pleasanton, CA 94566

Subject: PUD-116-01M, Minor Modification
Effective Date: February 27, 2019

Dear Mr. Berlogar:

The City has completed its review of your application for a Planned Unit Development (PUD) Minor Modification to an approved Development Plan (PUD-116) to allow the approximately 15.81-acre site located at 88 Silver Oaks Terrace to be subdivided into two single-family residential lots measuring approximately 4.46-acres and 11.35-acres in area. The existing two-story home, garage/shop/wine barn and pool would be located on the 4.46-acre lot. The existing one-story caretaker residence, horse barn, and hay barn would be located on the 11.35-acre lot, with any substantial expansion or modification to these buildings or the site requiring subsequent review and approval of a PUD development plan. Zoning for the property is Planned Unit Development – Hillside Residential/Open Space (PUD-HR/OS) District.

In accordance with City Council policy, notice of the proposed PUD minor modification was sent to the surrounding property owners on January 17, 2019. No request was made for a formal hearing.

Based upon the information submitted, it is my determination that the above changes are not substantial in nature since the overall plan for the site will remain the same. Therefore, in accordance with the provisions of Chapter 18.68 of the Municipal Code of the City of Pleasanton, I am granting a minor modification, Case PUD-116-01M, subject to the conditions in Exhibit A.

Any interested party may file an appeal of this approval within 20 days of the date of approval. Further, per Pleasanton Municipal Code section 18.68, the City Council may elect to review this action within 20 days following the date of approval, or at its next regular meeting (February 19, 2019), whichever is later. Therefore, approval of the Planned Unit Development (PUD) Minor Modification will become effective on **February 27, 2019**, unless appealed prior to that time. Such an appeal would be subject to a public hearing before the Planning Commission and City Council.

COMMUNITY DEVELOPMENT
www.cityofpleasantonca.gov

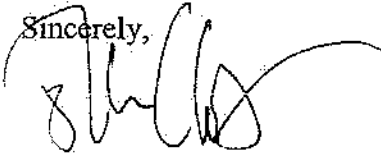
P. O. BOX 520 · 200 Old Bernal Avenue
Pleasanton, CA 94566-0802

Planning (925) 931-5600 Fax: 931-5483	Building & Safety (925) 931-5300 Fax: 931-5478	Code Enforcement (925) 931-5620 Fax: 931-5478	Permit Center (925) 931-5630 Fax: 931-5478	Traffic Engineering (925) 931-5677 Fax: 931-5487
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Frank Berlogar, PUD-116-01M
February 6, 2019
Page Two

If you have any questions with regard to this matter, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ellen Clark', with a long, sweeping flourish extending to the right.

Ellen Clark
Planning Manager

**A COPY OF THIS LETTER AND A COMPLETED BUILDING PERMIT
QUESTIONNAIRE (ATTACHED) MUST BE PRESENTED TO THE BUILDING AND
SAFETY DIVISION WHEN APPLYING FOR BUILDING PERMITS. THE
QUESTIONNAIRE MUST THEN BE SUBMITTED TO THE PLANNING DIVISION.**

**EXHIBIT A
CONDITIONS OF APPROVAL**

**PUD-116-01M
88 Silver Oaks Terrace
Effective Date: February 27, 2019**

1. The proposed PUD modification shall be in substantial conformance to Exhibit A, dated Received "January 18, 2019," on file with the Planning Division, except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to the approved exhibits.

2. Uses for Lot 1 shall be those indicated in PUD-05 (Ordinance No. 1832) applicable to the Hillside Residential and Open Space designations.

Uses for Lot 2 shall be the following:

- a. The caretaker's residence shall be subject to the Hillside Residential uses of PUD-05; and
- b. the rest of Lot 2 shall be subject to the Open Space uses of PUD-05.

3. Development standards for Lot 1 shall follow those specified for the Hillside Residential/Open Space lots in PUD-05.

4. With the approval of this modification, the caretaker's residence on Lot 2 shall be considered a main/primary dwelling unit and no longer a second/accessory dwelling unit.

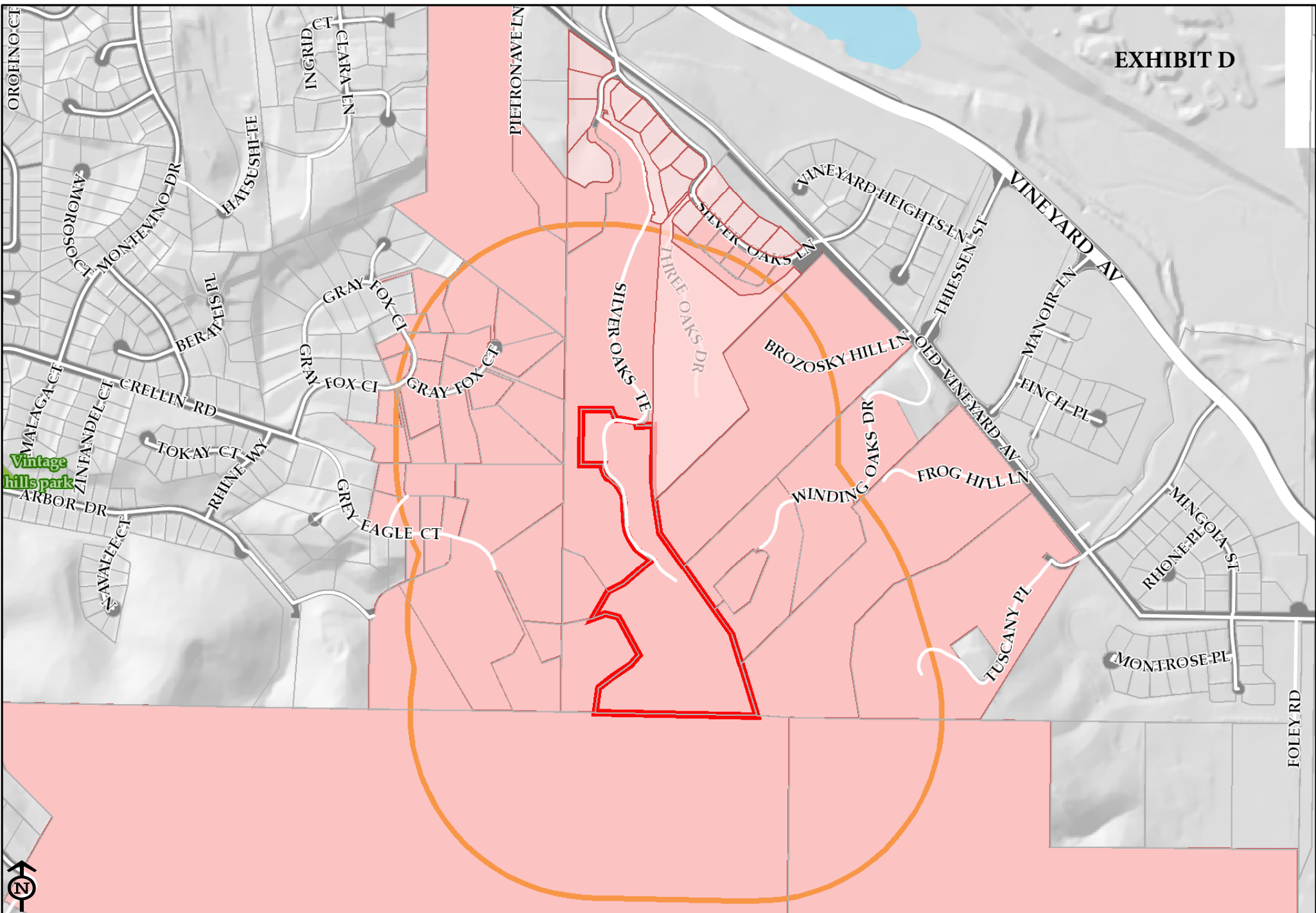
5. A total of 500-square-feet may be added to the residence on Lot 2 through one or more additions. Said addition(s) shall be subject to Administrative Design Review approval. The height of said addition(s) shall not exceed the height of the existing one-story residence and shall be located in the flat area to the north (front) of the residence and outside the existing private road.

Any other additions to the existing residence or accessory structures on Lot 2 and/or site improvements including grading, retaining walls or landscaping on Lot 2 are subject to separate PUD development plan approval.

6. The PUD modification approval shall lapse two years from the effective date of this approval unless Vesting Tentative Map 8483 is approved. If Vesting Tentative Map 8483 is approved, the PUD modification approval shall lapse when Vesting Tentative Map 8483 approval expires. If Vesting Tentative Map 8483 is recorded before it expires, then the PUD modification approval shall not lapse.

7. To the extent permitted by law, the project applicant shall hold harmless, defend (with counsel acceptable to the City), and indemnify the City, its City Council, its officers, commissions, employee and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and/or the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including without limitation, reimbursing the City its attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.
8. Except, as modified by the conditions above, all conditions of PUD-116 shall remain in full force and effect.

[end]



Tract 8483, 88 Silver Oaks Terrace, Frank Berlogar

