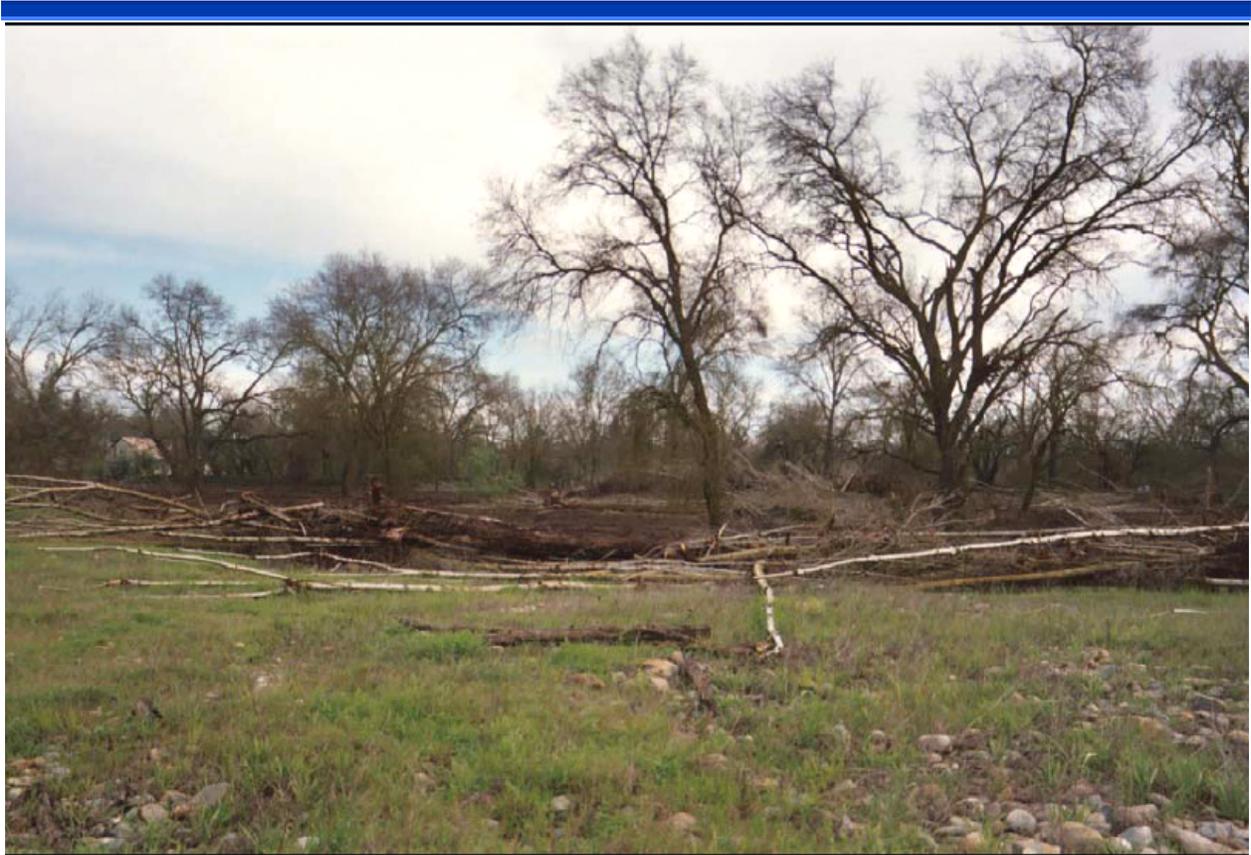


**MITIGATION MONITORING PLAN
FOR THE
LAKEVIEW PROPERTIES SUBDIVISION
PROJECT**

MAJOR SUBDIVISION APPLICATION NO. MAS 04-014



**COUNTY OF MERCED
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

Prepared with the Technical Assistance of:
Planning Partners

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1.1 PURPOSE OF THE MITIGATION MONITORING PROGRAM

Section 21081.6 of the California Public Resources Code requires that:

A public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. This mitigation monitoring program applies to mitigation measures adopted as part of EIRs or negative declarations.

The purpose of the Mitigation Monitoring Program is to ensure that the mitigation measures included in the Mitigated Negative Declaration for the Lakeview Properties Subdivision project are implemented.

1.2 DESCRIPTION OF PROJECT

The proposed project is a Major Subdivision Application to subdivide a 58 acre portion of parcel 043-020-033 near the community of Snelling in Merced County. The proposed subdivision includes 35 residential lots. In addition to developed lots and streets, the subdivision would be comprised of: 37 acres slated for development; four acres designated as a permanent Ecological Preserve Area; a nine acre Passive Recreation Area, and; an eight acre remainder. The Passive Recreation Area would be located along the northern and western boundaries of the project and would not include any uses that would adversely impact existing valley oak trees. The Passive Recreation Area would include an artificial wetland (0.432 acres) and a stormwater detention basin and would be fenced to avoid use by non-residents. The permanently fenced Ecological Preserve Area would be located at the western edge of the project area. It would be protected from any adverse impacts to existing valley oak trees and blue elderberry shrubs. It would include an artificial wetland (0.467 acres) and would be fenced to avoid any access. Lots 1, 5, 6, 8, 25, 26, 27, 29, 30, 31, 32, 33 and 36 would have open space conservation easements (deed restrictions) placed on portions of each lot prohibiting clearing and construction of sensitive habitat areas. As requested by California Department of Fish & Game (CDFG) and the United States Fish and Wildlife Service (USFWS), deed restrictions (as detailed in Mitigation Measures 4 and 5) will require home owner association covenants designed to preserve valley oak trees with diameters greater than five inches, blue elderberry shrubs, and riparian habitat along the Merced River Falls Road frontage. The project would be constructed in three phases of subdivision development and home construction beginning in 2009/2010, depending upon market conditions.

1.3 ORGANIZATION AND FORMAT

This program describes the requirements and procedures to be followed to ensure that all mitigation measures adopted as part of this project will be implemented as described in the Initial Study and Mitigated Negative Declaration (IS/MND) and adopted by Merced County Planning Commission.

This Mitigation Monitoring Program contains the following sections:

- **Section 2 - Inventory of Mitigation Measures.** This section contains a list of all mitigation measures included in the IS/MND as adopted by the Merced County Planning Commission in numerical order.
- **Section 3 - Implementation Schedule and Monitoring Checklist.** This section contains a summary description of the required mitigation measures in checklist format. The timing of implementation of mitigation measures is indicated, in addition to implementation and monitoring responsibility.
- **Section 4 - Verification Record Sheets.** Verification record sheets may be maintained for each mitigation measure by the entity responsible for monitoring the mitigation (e.g., County staff, delegated authority, hired consultant).

1.4 IMPLEMENTATION OF THE MITIGATION MONITORING PROGRAM

The Director of Merced County Division of Environmental Health (DEH) and/or Planning Director shall assign staff to manage the Lakeview Properties Major Subdivision project mitigation monitoring program under the Division's and/or Department's responsibility.

Responsible staff shall have overall responsibility for ensuring implementation of measures under their jurisdiction and verification of such measures. Responsible staff may delegate duties and responsibilities to other Division/Department staff, state regulatory agencies, consultants, the project sponsor, or other authorities as necessary and appropriate.

Additionally, as a mitigation measure unique to this project, the project applicant shall provide funding for implementation and monitoring of biological resources mitigation measures. As stated in Mitigation Measure 3:

No later than six months after the granting of any preliminary map approval by the County, and prior to the submittal of any improvement plans or other permit applications, the property owner/applicant shall enter into a contract with the County that provides for the establishment of a fund to pay for hiring a qualified consultant who shall be responsible for implementing or overseeing the implementation of (as necessary) all Biological Resource mitigations required by this Mitigated Negative Declaration. This contract shall also provide for payment of consultant costs for monitoring all biological resource mitigations where such monitoring does not fall within the identified responsibilities of other public agencies.

1.5 DOCUMENTATION

1.5.1 IMPLEMENTATION SCHEDULE AND MONITORING CHECKLIST

Chapter 3 contains a mitigation measure implementation schedule and monitoring checklist. Responsible DEH/Planning Department/Consultant staff may use the checklist as a summary of the measures to be implemented and the entities responsible for mitigation implementation and monitoring and to check off mitigation implementation as it is completed.

1.5.2 VERIFICATION CHECKLIST

A verification checklist may be maintained for each mitigation measure by the entity responsible for monitoring the mitigation (e.g., DEH/Planning Department, delegated authority, hired consultant). The verification checklist should be prepared and reviewed periodically, as directed by responsible staff.

Copies of the verification checklist should be submitted to the responsible staff and filed in the project file available for public review.

Responsible staff should ensure that verification checklists are filed on a timely basis and, when identified, that mitigation monitoring plan violations are reported to the DEH Director or Planning Director. The appropriate Director and responsible staff should initiate any appropriate action necessary to correct the deficiency, including, but not necessarily limited to, holding a meeting with the applicant or requesting legal, County, or regulatory agency action.

1.5.3 MONITORING REPORTS

Responsible staff should prepare annual environmental monitoring reports summarizing the results of the program. The report may be based on the verification record sheets and information received from any person or agency regarding compliance. The monitoring report should include at least the following items:

- Summary of verification checklists;
- Analysis of deficiencies and actions taken to correct them, and;
- Recommendations for future mitigation measures and other corrective actions needed.

2 INVENTORY OF MITIGATION MEASURES

This section contains all of the required mitigation measures identified in the IS/MND for the Lakeview Properties Major Subdivision project. The mitigation measures are listed in numerical order. The corresponding section in the Initial Study/Notice of Preparation (IS/NOP) is indicated in parentheses following the issue area.

2.1 AESTHETICS

Mitigation Measure 1: Maintain aesthetic vegetation buffer

Retain the existing oak woodland habitat within individual parcels while permitting the construction of single-family dwellings and appurtenant structures. Except for the construction of two access roads from Merced Falls Road and proposed on-site roadways or driveways for individual lots, construction in the areas of the existing riparian woodland and oak woodland shall maintain a sufficient vegetative buffer between developed structures and facilities and Henderson Park to mask the presence of developed uses on the site during the seasons of the year when deciduous trees are in leaf. The buffer shall be sufficient to break the mass of buildings and to prevent glare from windows and glazing into the park. Implementation of Mitigation Measure 1 will result in the preservation of 7.598 acres of oak woodland at the perimeters of the project area, providing a sufficient vegetative buffer.

2.2 AIR QUALITY

Mitigation Measure 2: Comply with SJVAPCD Requirements and Recommendations

During project construction, the project applicant and contractors shall comply with the following measures. Additionally, a note shall appear on the final subdivision map notifying purchasers of individual lots of applicable rules as set forth below and as they might be amended of the duty to comply with the requirements of this mitigation measure and the regulations of the SJVAPCD.

- A. Comply with SJVAPCD's Regulation VIII, Dust Suppression Measures (described above), Rule 8021, preparation of a Dust Control Plan and Rule 3135, Dust Control Plan Fee.
- B. Comply with SJVAPCD's Rules 4901 and 4902 regarding wood burning devices and natural gas-fired water heaters.
- C. Comply with SJVAPCD's additional measures 1 through 6 as follows to further reduce ozone precursors. The project applicant shall implement the following:
 1. Energy efficient design including automated control systems for heating/air conditioning and energy efficiency beyond Title 24 requirements, lighting controls and energy-efficient lighting in buildings, increased insulation beyond Title 24 requirements, and light colored roof materials to reflect heat.
 2. Planting of deciduous trees on the south and westerly facing sides of buildings.
 3. Providing low nitrogen oxide (NO_x) emitting and/or high efficiency water heaters.
 4. Sidewalks and bike paths throughout as much of the project as is possible and should be connected to any nearby open space areas, parks, schools, commercial areas, etc.

5. Natural gas/propane lines and electrical outlets should be installed in patio areas to encourage the use of gas and/or electric barbecues.
 6. All housing units should include as part of the purchase an electric lawn mower and electric edger.
- D. Comply with all applicable SJVAPCD Rules and Regulations that may apply, including: Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations), and Rule 4002 (National Emissions Standards for Hazardous Air Pollutants).

2.3 BIOLOGICAL RESOURCES

Mitigation Measure 3: Provide Funding for Implementation and Monitoring of Mitigation Measures

No later than six months after the granting of any preliminary map approval by the County, and prior to the submittal of any improvement plans or other permit applications, the property owner/applicant shall enter into a contract with the County that provides for the establishment of a fund to pay for hiring a qualified consultant who shall be responsible for implementing or overseeing the implementation of (as necessary) all Biological Resource mitigations required by this Mitigated Negative Declaration. This contract shall also provide for payment of consultant costs for monitoring all biological resource mitigations where such monitoring does not fall within the identified responsibilities of other public agencies.

Mitigation Measure 4: Preservation of passive recreation area, ecological preserve and open space conservation area

No clearing, grading, tree-cutting, brush-clearing or other modification of on-site habitats and biological resources shall occur until Mitigation Measures 3, 4, 5, 6, 7 and 8 are implemented in their entirety, except for any required future monitoring, which may be completed after implementation of required mitigation.

To protect riparian habitat, oak woodland, blue elderberry shrubs and associated sensitive biological resources within the project area:

- A. The applicant shall indicate buildable areas on the Final Subdivision Map, outside of which all future construction or grading shall be prohibited.
- B. The applicant shall permanently protect biological resources within the two preserve areas shown on Figure 5 (four-acre Ecological Preserve on the west, nine-acre Passive Recreation Area on the north) through dedication in fee of the two areas to a Homeowner's Association (HOA). In forming the Homeowner's Association, the applicant shall establish an endowment and annual maintenance fees sufficient to ensure permanent management of the two preserve areas, including annual monitoring by a professional biologist (further described in Mitigation Measure 5). Alternately, the applicant may deed the areas to a conservation organization or public entity, or through another mechanism acceptable to Merced County, that would result in permanent conservation and maintenance of the three areas. Within the preserved areas, all development or habitat modification, including changes in site hydrology through the creation of grassy areas, landscaping irrigation or the introduction of invasive/weed species (unless approved by CDFG and USFWS), shall be prohibited.

- C. The applicant shall establish open space conservation easements in favor of the HOA within all affected lots on the Final Subdivision Map as indicated in Figure 5 (Lots 1, 5, 6, 7, 8, 9, 10, 25, 26, 27, 29, 30, 31, 32, 33 and 36).
- D. The applicant shall protect sensitive biological resources within the passive recreation area, ecological preserve area, and open space conservation area during mass site grading and road and underground utility construction through installation of construction fencing along all preservation area or conservation area boundaries. Specific protections described in Mitigation Measure 5, 6, 7, and 8 must be followed to protect sensitive species.
- E. The applicant shall establish Conditions, Covenants and Restrictions (CCR) applicable to the single-family residential lots, and enforceable by the Homeowner's Association, that ban construction or grading within the open space conservation easements. The CCRs shall include the following protocol: *Homeowner and/or their agent shall not perform any grading or construction outside of buildable areas as indicated on the Final Subdivision Map.* No individual building permit will be granted by Merced County without Homeowner's Association review and approval of all proposed clearing and construction on individual lots. These CCRs and Homeowner's Association by laws shall be either placed on the face of the final map or recorded with the title of each lot.

Mitigation Measure 5: VELB protection

Avoid and minimize impacts to potential VELB habitat in blue elderberry shrubs through preservation, protection and enhancement.

- A. The applicant shall permanently protect blue elderberry shrubs within the two preserve areas shown on Figure 5 (four-acre Ecological Preserve and nine-acre Passive Recreation Area), as described in Mitigation Measure 4, through dedication in fee of the two areas to a Homeowner's Association (HOA). In forming the Homeowner's Association, the applicant shall establish an endowment and annual maintenance fees sufficient to ensure permanent management of the two preserve areas, including annual monitoring by a professional biologist pursuant to measures c-vii, d-v, d-vi, and d-vii below.
- B. Alternately, the applicant may deed the areas to a conservation organization or public entity, or through another mechanism acceptable to Merced County, that would result in permanent conservation and maintenance of the two areas. Within the preserved areas, all development or habitat modification, including changes in site hydrology through the creation of grassy areas, landscaping irrigation or the introduction of invasive/weed species (unless approved by CDFG and USFWS), shall be prohibited.
- C. During mass site grading and road and underground utility construction, all elderberry shrubs within the project area, but outside of the permanent preserves identified above, shall be preserved and protected through incorporating no-disturbance construction setbacks and regular monitoring in accordance with USFWS guidance. Specifically, the project must maintain non-disturbance buffers of at least 30 feet from any retained shrub to avoid habitat take, including the following protocols:
 1. All blue elderberry shrubs within the project site, and a 30-foot buffer line around them, shall be shown on grading and vegetation clearance plans.
 2. To avoid incidental take of habitat, all existing elderberry shrubs within the project site shall be flagged and enclosed by fences at least 30 feet from the canopy dripline (or other distance determined by the USFWS) during construction activities.

3. Contractors shall be briefed on the legal requirement to avoid damaging the elderberry plants and the criminal penalties for not complying with these requirements.
 4. Work crews will be instructed about the status of the VELB and the need to protect its elderberry host plant.
 5. Signs shall be erected every 50 feet along the edge of all blue elderberry conservation areas, with information pertaining to the sensitivity of, listed status of, and penalties involved with damage to the plants. Signs shall include the following information: *“This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment.”* The signs shall be clearly readable from a distance of 30 feet, and shall be maintained for the duration of construction.
 6. A penalty fee of \$10,000 shall be included in the construction specifications for each act of damage to a blue elderberry shrub within a conservation area. The penalty fee shall be submitted to the HOA to be used solely for restoration and/or mitigation of the damaged area. Any penalties or requirements imposed by the USFWS and/or CDFG shall be the responsibility of the applicant or its contractor.
 7. During periods of mass site grading and active roadway or underground utility construction, a qualified biologist shall regularly visit the construction site (at least weekly during active construction periods) to ensure that the elderberry shrubs are not being impacted.
- D. Blue elderberry shrubs within individual lots shall be permanently protected through the following conservation measures, in addition to those described in Mitigation Measure 4:
1. Locations of existing blue elderberry within Lots 1, 5, 6, 8, 25, 26, 27, 29, 30, 31, 32, 33 and 36, and the 30-foot buffer conservation area/deed restriction shall be clearly marked on individual lot maps. All grading or construction shall be prohibited within open space conservation easement areas.
 2. Blue elderberry conservation easements (including the shrub and a 30 foot buffer) shall be permanently fenced (e.g. low profile stakes and natural material rope) and marked with a sign providing information pertaining to the sensitivity of, listed status of, and penalties involved with damage to the plants. Signs shall include the following information: *“This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment.”* The signs shall be clearly readable from a distance of 30 feet, and shall be permanently maintained;
 3. A penalty fee of \$10,000 shall be included in the construction specifications for each act of damage to a protected plant, tree, and/or habitat. The penalty fee shall be submitted to the HOA to be used solely for restoration and/or mitigation of the damaged area. Any penalties or requirements imposed by the USFWS and/or CDFG shall be the responsibility of the homeowner or their contractor.
 4. The applicant shall establish Conditions, Covenants and Restrictions (CCR) applicable to the single-family residential lots, and enforceable by the Homeowner’s Association, that ban construction or grading within the open space conservation easements. The CCRs shall require homeowners of lots that include blue elderberry shrubs (Lots 7, 8, 25, 26, 27, 30, 31, 32, and 36) to permanently abide by a prohibition on the clearing and construction (according to setbacks as directed by

- the USFWS) within 30 feet of any blue elderberry shrub. The CCRs will include the following protocols:
- a. Homeowner and/or their agent shall not perform any grading or construction outside of buildable areas as indicated on the Final Subdivision Map.
 - b. Homeowner and/or their agent shall avoid disturbing roots within the blue elderberry root protection zone (30 feet from the shrub).
 - c. Homeowner and/or their agent shall avoid filling, trenching or paving within the root protection zone.
 - d. Should any of the events listed above as (1)-(3) occur, homeowner or their agent shall be responsible for restoring the damaged area to its state prior to the initiation of construction or grading.
 - e. Homeowner and/or their agent shall notify the USFWS in the event that a blue elderberry shrub is damaged. If shrubs must be removed, the homeowner will be responsible for the cost of replacing the shrub according to USFWS protocol (see conservation measure e below).
5. A certified biologist shall be present on-site at the initiation of single family residence construction within Lots 7, 8, 25, 26, 27, 30, 31, 32, and 36 to ensure that builders and crew have been adequately instructed to avoid disturbance within blue elderberry conservation areas and that blue elderberry shrubs have been flagged and enclosed by fences at least 30 feet from the canopy dripline (or other distance determined by the USFWS) during construction activities;
 6. After major construction and landscaping is completed within Lots 7, 8, 25, 26, 27, 30, 31, 32, and 36 and prior to issuance of a final occupancy permit by Merced County, a certified biologist shall visit the site to confirm that blue elderberry shrubs have not been degraded, damaged or removed.
 7. For 10 years after construction of the first residence within the subdivision is completed (as indicated by issuance of a certificate of occupancy by Merced County), a certified biologist shall annually monitor protection of blue elderberry shrubs within the project area (including single family residential lots). Every annual visit will include a survey of the number of shrubs and a count of the number of basal stems with a diameter of one inch or greater by size class, as well as visual inspections of all such stems for VELB and/or VELB exit holes.
 8. A written report, presenting and analyzing the data from the project monitoring, will be prepared by a qualified biologist for each year of monitoring efforts. Copies of the report will be submitted by December 31 of that year to the USFWS and the CDFG. The report will address the status and progress of the blue elderberry shrubs, as well as any failings of the conservation plan and the steps taken to correct them. Any observations of VELB or fresh exit holes will be noted. Copies of original field notes, raw data, photographs and maps of the conservation area will be included with the report. The elderberry survival rates, conditions, and sizes of the plants will be analyzed and presented in the report. Observed and likely future threats will be addressed along with suggested remedies and preventative measures. A copy of each annual report shall be submitted to Merced County concurrently with its submission to USFWS and CDFG.
- E. The Federal Endangered Species Act (as managed through the USFWS) requires transplanting or replacing of elderberry shrubs for any direct or indirect impacts to shrubs with stems greater than one (1) inch before removal of any existing elderberry shrubs. If approved by the USFWS, prior to any further site disturbance or grading, or

recording of any Final Subdivision Map, any blue elderberry shrubs on the project site that will be impacted shall be transplanted to compatible sites with compatible habitat within the proposed preserves adjacent to the site. This preserve provides optimal conditions for elderberry shrubs, as evidenced by the thriving extant populations in the proposed preserve. In order to minimize the potential adverse effects of relocation, transplanting shall be completed during the winter season, while the elderberries remain in their dormant phase. Transplanting efforts shall be completed well in advance of any construction activities on the project site, and shall be overseen by a qualified biologist to ensure that proper procedures are followed. The applicant shall implement any additional mitigation identified by the USFWS.

- F. Construction and operation of the off-site stormwater detention system and any mitigation planting or transplanting undertaken by the project applicant or successor-in-interest shall avoid all existing blue elderberry shrubs, including a minimum 30-foot buffer area around each shrub or as otherwise approved by the USFWS.

Mitigation Measure 6: Swainson's hawk and other raptor protection

Avoid and minimize impacts to Swainson's hawk, through preservation, protection and enhancement.

- A. Construction Scheduling. Any trees that need to be removed to facilitate future development shall be felled outside of the local avian nesting season (February 1 through August 31). If trees are to be felled within these dates, the applicant shall arrange for pre-construction nest surveys to be conducted by a qualified biologist no more than 30 days prior to the initiation of proposed development activities. A copy of the raptor nest survey report shall be provided to the County. If surveys identify nest-building activity or an active nest near the proposed development, the applicant shall initiate consultation with the Department of Fish and Game to obtain recommendations on avoiding impacts to nesting birds while the nest is occupied. Generally, buffers are erected around active raptor nests until the young have fledged or the nest is abandoned. Buffers range between 50 and 500 feet, depending on the species, and are determined through consultation with the CDFG.
- B. Foraging habitat compensation. The project applicant shall implement one of the following options to mitigate for the loss of ~20 acres of low-moderate quality Swainson's hawk foraging habitat on the project site:

- 1. Prior to the initiation grading activities, purchase conservation easements and/or fee title acquisition of suitable foraging habitat (within 10 miles of a Swainson's hawk nest tree) at a 0.75:1 ratio (e.g. 15 acres for 20 acres impacted), as well as establishment of an associated management endowment to fund management of these lands in perpetuity.

OR

- 2. Prior to grading activities, place 15 acres of suitable agricultural land within 10 miles of the nearest Swainson's hawk nest tree into an agricultural easement managed by CDFG for Swainson's hawk foraging. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dry land and irrigated pasture, and cereal grain crops. Certain low growing row or field crops are appropriate as well. Vineyards, orchards, cotton fields and other dense vegetation do not provide adequate foraging habitat.

Mitigation Measure 7: Oak woodland preservation

Avoid and minimize impacts to oak woodlands, through preservation, protection and enhancement.

The amount of oak woodland scheduled to be removed as part of this project requires mitigation in compliance with Public Resources Code §21083.4 (SB 1334). The project applicant shall implement all measures described in the Biological Resources Mitigation and Monitoring Plan (Vollmar 2009) (attached as Appendix A, of this MMP). The Biological Resources Mitigation and Monitoring plan includes, but is not limited to the following requirements:

- A. During construction, the 179 oak trees and their root protection zone (150% circumference of the dripline) within the portion of the project site to be developed, and within the conservation/deed restriction area, shall be protected from disturbance with flagging and haybales along the root protection zone
- B. Compensation plantings at a ratio of 3:1 shall be required for all Oak trees to be removed as a result of project implementation that are five inches in dbh or greater existing at the date of project approval, or having existed on the site in the period from January 1, 2003 to project approval. The replacement trees must have a guaranteed survival rate of 70 percent at the end of seven years. Additional plantings at a ratio to 3:1 shall be made if, at the end of seven years, the survival rate is less than 70 percent; such additional plantings shall be monitored for a subsequent seven year period. Compensation plantings shall be implemented for the 45 impacted valley oaks. Diameter at Breast Height (dbh) measurements (measured at approximately 4.5-feet above the ground) for the 45 impacted oaks aggregate to a total of 504 inches.
- C. The remaining 177 trees on the project site shall be preserved within open space conservation areas (deed restrictions) to prohibit their cutting or interference, along with 138 valley oaks within the two proposed preserves, for a sum total diameter of 4,544 inches. Further, the 138 oaks within the two preserves shall provide 13 acres of undisturbed, natural oak woodland habitat.
- D. The applicant shall establish Conditions, Covenants and Restrictions (CCR), enforceable by the Homeowner's Association, applicable to the single-family residential lots that will require future homeowners to comply with standard oak tree care practices including (but not limited to):
 1. Avoid disturbing roots within the tree's root protection zone (150% dripline circumference, up to 90 feet from the trunk for a mature tree)
 2. Avoid filling, trenching or paving within the root protection zone
 3. Provide enclosures for seedlings and saplings to prevent damage from herbivores or domestic livestock
 4. Employ the services of a certified arborist for pruning or supplemental maintenance such as thinning a crowded stand or tree replacement
 5. Avoid overwatering oak trees by planting only drought-tolerant plants that require no summer water around old established oaks, and no closer than 6 feet from the base of the tree.
- E. It is presumed that the existing thriving population of preserve oaks will remain healthy. Nonetheless, the overall health and long-term viability of each oak within the two preserves shall be monitored visually at least once a year for a period of 7 years by a qualified biologist.

Mitigation Measure 8: Wetland impact compensation

In accordance with project Mitigation and Monitoring Plan (Vollmar 2006), the project applicant shall compensate for a total of 0.423 acres of wetland loss with the creation of two on-site wetlands totaling 0.899 acres in the preserve areas. As a condition of project approval, prior to any site grading or construction involving fills, road crossings, utility crossings or other direct impacts to Waters of the U.S, the project applicant shall obtain all necessary wetland permits and/or certification from the USACE, CDFG, and Regional Water Quality Control Board (RWQCB). The Biological Resources Mitigation and Monitoring Plan (Vollmar 2009) includes an on-site wetlands compensation construction plan and monitoring plan. Both created wetlands will be constructed to sustain seasonal inundation and perennial sub-surface saturation. A proposed 0.432-acre wetland (CW-1) would be created in an area currently covered by tailings in the northeastern corner of the nine-acre proposed passive recreation preserve just north of the project site impact area. A proposed 0.467-acre created wetland (CW-2) will be constructed in an area covered by tailings in the northern section of the proposed four-acre ecological preserve. CW-2 would effectively extend an existing narrow wetland situated just north of the proposed limit of grading for the wetland. It is anticipated that the created wetlands will match, if not exceed, the habitat quality of the existing wetlands among the project site tailings. As indicated, typical species inhabiting the existing wetlands include tall nutsedge, rushes, and pale-spike rush, as well as overstory cottonwoods and willows. Excavating new wetland pools to a depth comparable to existing wetlands (typically one foot in depth) will provide suitable hydrology conducive to natural colonization by these native species. Criteria and timetables for evaluating the incremental success of the created wetlands are outlined in the Mitigation and Monitoring Plan (Vollmar 2006). The plan includes measures to insure that on-site un-impacted wetlands and created wetlands will remain inundated or saturated for sufficient duration to support hydrophytic vegetation. Additionally, project designs provide a drainage system (consistent with Mitigation Measures in the Hydrology section of this Initial Study) to prevent surface stormwater or landscaping irrigation runoff from flowing into on-site wetlands in preserve zones, or other nearby wetlands areas, unless adequately filtered by new wetlands or grasslands.

The Sacramento District Corps of Engineers will be provided with an annual report within sixty days of the completion of vegetation sampling for years one, two, three and five. These reports will present the results of the current year's data and discuss the program's progress toward achieving mitigation success. Both COE and USFWS will be notified in writing once it has been determined by the project's wetland monitor that the success criteria for the project have been met, as outlined below.

USACE authorization for fill must be secured, and the appropriate wetlands mitigation plan must be approved by Merced County and the USACE prior to issuance of construction permits or recordation of parcel or subdivision maps. The wetlands mitigation plan must also be submitted to the Merced County Planning & Community Development Department for review and approval. Compensation wetlands must meet the following success criteria, as well as any additional criteria identified by the USACE, CDFG and/or the RWQCB:

- Compensation wetlands will remain inundated or saturated for sufficient duration to support hydrophytic vegetation.
- Compensation wetlands will exhibit biotic communities comparable to impacted wetlands.

- Project designs must provide a drainage system to prevent surface stormwater or landscaping irrigation runoff from flowing into compensation wetlands, or other nearby wetlands areas, unless adequately filtered by new wetlands or grasslands.
- Compensation wetlands will be monitored each year for five years, and a report of monitoring results will be submitted to the USACE and Merced County Planning & Community Development Department for review.
- Mitigation plans shall include provisions for reevaluation, in the event that mitigation success criteria are not met within specified time frames.

2.4 GEOLOGY AND SOILS

Mitigation Measure 9: Storm Water Pollution Prevention Plan

Construction activities disturbing one or more acres are required by the State Water Resources Control Board (SWRCB) to obtain a General Construction Activity Stormwater Permit and a National Discharge Elimination System (NPDES) permit. Prior to the initiation of grading, the project applicant shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project. As required by regulations implementing the Construction Stormwater Permit, the SWPPP shall include:

- Specific and detailed Best Management Practices (BMP) to mitigate construction related pollutants, including sediments. These controls would include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricant, paints, solvents, and adhesives) with stormwater. The SWPPP would specify properly designed centralized storage areas that keep these materials out of the rain and/or protected from the wind.
- Dust control BMPs for the stabilization of exposed surfaces and to minimize activities that suspend or track dust particles. For heavily traveled and disturbed areas, wet suppression (watering), chemical dust suppression, gravel or asphalt surfacing, temporary gravel construction entrances, equipment wash-out areas, and haul truck covers can be employed as dust control applications. Permanent or temporary vegetation and mulching, and sand fences can be employed to prevent sediment-laden stormwater from reaching receiving waters, or to force stormwater to drop their sediment load on-site.
- The SWPPP is required to specify a monitoring program to be implemented by the construction site supervisor. SWRCB personnel, who may make unannounced site inspections, are empowered to levy appropriate fines if it is determined that the SWPPP has not been properly prepared and implemented.

2.5 HAZARDS AND HAZARDOUS MATERIALS

Mitigation Measure 10: Fire breaks and fire setbacks

- A. The project shall comply at all times with the requirements set forth in §51182 of the Government Code and §4291 of the Public Resources Code regarding minimum standards for on-site firebreaks, vegetation management, and structure design and maintenance. For lots with 1-acre or greater buildable area, these requirements include:
 1. Creation of a minimum 30-foot wide firebreak around the perimeter of each dwelling unit and commercial structure cleared of all flammable vegetation or other

combustible growth. Landscaping may be developed within this area if it does not form a means of rapidly transmitting fire from the native growth to any dwelling or structure.

2. Creation of a secondary firebreak from the outside of the 30-foot area described above to 100 feet in which all brush, flammable vegetation, or combustible growth is removed. Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion. This will not effect requirements for preservation of oaks and elderberry bushes because these preserved resources are not within lots with 1-acre or grater buildable area.
 3. Removal of that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.
 4. Any tree located adjacent to, or overhanging, a building should be kept free of dead and dying wood.
 5. Maintaining the roof of any structure free of leaves, needles, or other dead vegetative growth.
 6. Providing and maintaining at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace or stove.
 7. Obtaining a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards.
- B. Prior to approval of building plans for each individual structure, a Defensible Space¹ Plan shall be prepared and submitted for review and approval by the Merced County Fire Department. The Defensible Space Plan shall demonstrate that all material surrounding structures capable of furthering the spread of fire has been cleared, reduced, or modified to act as a barrier between an advancing fire and the structure, and that the Plan complies with the state requirements set forth in SB 1369.

2.6 HYDROLOGY AND WATER QUALITY

Mitigation Measure 11: Comply with Merced County Storm Water Detention Requirements

Pursuant to Merced County Code §17.20.050.D1.g and t, the applicant shall ensure that the capacity of the proposed stormwater detention is adequate to accommodate stormwater flows from the proposed project. The project applicant shall revise the design of the storm detention basin to be constructed consistent with Merced County requirements, therefore accommodating a 25-year storm event. The created wetland shall be constructed and managed as a water quality improvement feature to protect groundwater from the adverse effects of urban runoff.

Mitigation Measure 12: Comply with County NPDES BMP Requirements

The project applicant and all successors in interest shall protect the Merced River from any potential contamination generated on the site that could flow by surface or subsurface to the Merced River by implementing Best Management Practices as required by the Merced County Public Works Department pursuant to the County's NPDES permit, and any such additional measures as may be required by the Regional Water Quality Control Board.

¹ Defensible space is the area around a structure, where material capable of causing fire has been cleared, reduced or changed, to act as a barrier between an advancing fire and the structure.

Prior to issuance of grading or building permits, the project applicant shall be required to submit plans of the proposed detention and wetland treatment facilities to the Merced County Public Works Department for review and approval. Plans at a minimum shall include detention basin location, size, inlet and outlet details, and specified lining and construction materials. This will allow for engineering review of the designs to ensure that polluted water is sufficiently detained and treated without impacting groundwater quality.

2.7 PUBLIC SERVICES

Mitigation Measure 13: Extend sewer main

Prior to the recordation of any Final Subdivision Map, the project applicant or any successor in interest shall extend the sewer main either within Merced Falls Road or within a utility easement to serve Lots 11 through 33, or provide surety in a form acceptable to the County for installation of the sewer main. The sewer main shall be installed prior to the issuance of any building permits for individual residences.

2.8 TRANSPORTATION/TRAFFIC

Mitigation Measure 14: Comply with local and state requirements

The property owner/applicant shall comply with Merced County Public Works and Caltrans requirements as set forth as conditions 1-12 below.

The following specific measures would be required to meet County Roads Division requirements:

1. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code which generally includes dedication of right of way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and underground or relocated utilities and irrigation facilities.
2. Release and relinquish all abutter's rights of access to and from the entire Merced Falls Road frontage of Lots as designated by Merced County Department of Public Works.
3. The owner shall dedicate on the final map 15 feet of road right of way, for a total road right of way width of 80 feet, and a 10-foot wide public utility easement along the La Grange Road frontage of the property.
4. The owner shall dedicate on the final map 20 feet of road right-of-way along the Merced Falls Road frontage of the property to provide a total road right of way width of 80 feet. A 10-foot wide public utility easement shall be dedicated along all public road rights of way.
5. The minimum easement width for sewer or storm drain pipelines located outside of the road right of way shall be 15 feet.
6. The internal streets shall be designated as a Court and named to the satisfaction of the Department of Public Works and Fire Department. The internal streets shall be designed and constructed per Drawings ST-06B and ST-10 of the Merced County Department of Public Works Improvement Standards and Specifications.

7. The proposed internal rights of way to provide access to the internal lots shall be improved to Merced County Department of Public Works standards and named to the satisfaction of the Department of Public Works and Fire Department. A gated entry shall be placed if the road is to be privately maintained. Conditions, covenants, and restrictions shall be provided to address maintenance of a private road, gate, and landscaping as applicable.
8. The storm drainage basin(s) shall be delineated on the final map. The storm drainage system shall be designed pursuant to the Merced County Department of Public Works Storm Drainage Manual.
9. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Merced County Department of Public Works that no occupancy shall take place until such time as all improvements are completed.
10. The Developer/Applicant shall provide centerline striping for those new roads which intersect the existing peripheral streets.
11. The Developer/Applicant is advised that he/she may be obligated to comply with Regulations for stormwater runoff issued by the EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123, and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 341, 5537, e-mail: stormwater@swrcb.ca.gov, or visit their website at www.swrcb.ca.gov.
12. As part of the site improvement/preparation process required for recording a final map, the applicant shall construct a walking path on the north side of Merced Falls Road that runs from the southeast corner of proposed lot #25, as shown on Figure 5, Sensitive Biological Habitats, September 2009, westwards to the intersection of Merced Falls Road and La Grange Road. The applicant shall also provide for the installation of a street light at this intersection. The walking path shall be aligned to avoid additional impacts to oak trees on the project site beyond those outlined in the Mitigation and Monitoring Plan and detailed in Mitigation Measure 7. The exact alignment, dimensions, and surfacing of this walking path shall be approved by the Merced County Department of Public Works Road Division.

3 IMPLEMENTATION SCHEDULE AND CHECKLIST

This section contains an abbreviated description of each mitigation measure presented in tabular, checklist format. A complete description of each measure is contained in the preceding Chapter 2, *Inventory of Mitigation Measures*, contained within this document.

The mitigation measures to be implemented by the project applicant(s) and successor's in interest are separated into the following phases:

- Prior to Issuance of Any Construction Permit or Recordation of Final Subdivision Map
- Prior to Issuance of Any Individual Building Permit
- During Construction
- Prior to Occupancy
- Ongoing Operations.

A summary of the checklist is presented below. Some measures have components that are to be implemented during several project phases. These measures are noted in each category.

Timing of Implementation of Measure	Mitigation Measure Number
Prior to Issuance of Any Construction Permit or Recordation of Final Subdivision Map	1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14
Prior to Issuance of Any Individual Building Permit	2, 10, 13, 14
During Construction	1, 2, 4, 5, 6, 7, 8, 9, 11, 12
Prior to Occupancy	4, 5, 6, 7, 8, 10, 12, 14
Ongoing Operations	3, 4, 5, 6, 7, 8, 10, 12

Table 3-1 Mitigation Measure Implementation Schedule and Monitoring Checklist				
Timing of Verification (To occur prior to the following actions)	Measure Complete? (check)	Mitigation Measures	Responsibility - Implementation	Responsibility - Monitoring
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction		MITIGATION MEASURE 1: Maintain aesthetic vegetation buffer	Project Sponsor	Merced County Planning & Community Development Dept. / Merced County Building & Safety Division
Prior to recordation of Final Subdivision Map or issuance of any construction permit; Prior to issuance of an Individual Building Permit; During construction		MITIGATION MEASURE 2: Comply with SJVAPCD requirements and recommendations	Project Sponsor	SJVAPCD / Merced County Planning & Community Development Dept. / Merced County Building & Safety Division
Prior to recordation of Final Subdivision Map or issuance of any construction permit; Ongoing operations		MITIGATION MEASURE 3: Provide funding for implementation and monitoring of biological resources mitigation measures	Project Sponsor	CDFG / USFWS / Merced County Planning & Community Development Dept.
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing		MITIGATION MEASURE 4: Preserve passive recreation area, ecological preserve and open space conservation area	Project Sponsor	Consultant Biological Monitor / Merced County Planning & Community Development Dept. / CDFG / USFWS
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing		MITIGATION MEASURE 5: Protect federally listed threatened valley elderberry longhorn beetle	Project Sponsor	Consultant Biological Monitor / Merced County Planning & Community Development Dept. / CDFG / USFWS
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing		MITIGATION MEASURE 6: Protect Swainson's hawk and other raptors	Project Sponsor	Consultant Biological Monitor / Merced County Planning & Community Development Dept. / CDFG / USFWS
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing		MITIGATION MEASURE 7: Preserve and protect oak woodlands	Project Sponsor	Consultant Biological Monitor / Merced County Planning & Community Development Dept. / CDFG / USFWS

Table 3-1 Mitigation Measure Implementation Schedule and Monitoring Checklist

Timing of Verification (To occur prior to the following actions)	Measure Complete? (check)	Mitigation Measures	Responsibility - Implementation	Responsibility - Monitoring
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing		MITIGATION MEASURE 8: Compensate for wetland impacts	Project Sponsor	Consultant Biological Monitor/ Merced County Planning & Community Development Dept./ USACE / CDFG / USFWS
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction		MITIGATION MEASURE 9: Prepare and implement Storm Water Pollution Prevention Plan	Project Sponsor	SWRCB/RWQCB/ Merced County Building & Safety Division
Prior to issuance of any individual building permit; Prior to occupancy; Ongoing		MITIGATION MEASURE 10: Implement fire breaks and fire setbacks	Project Sponsor	Merced County Fire Department / Merced County Building & Safety Division
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction		MITIGATION MEASURE 11: Comply with Merced County Storm Water Detention requirements	Project Sponsor	Merced County Department of Public Works
Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing		MITIGATION MEASURE 12: Comply with County NPDES BMP Requirements, and submit Stormwater Management Plans for review and approval	Project Sponsor	Merced County Department of Public Works
Prior to recordation of Final Subdivision Map or issuance of any construction permit; Prior to issuance of any individual building permit		MITIGATION MEASURE 13: Extend sewer main	Project Sponsor	Merced County Department of Public Works
Prior to recordation of Final Subdivision Map or issuance of any construction permit; Prior to issuance of any individual building permit		MITIGATION MEASURE 14: Comply with local and state traffic and roadway improvement requirements, and design and construct a safe route to school.	Project Sponsor	Merced County Department of Public Works, Roads Division

4. VERIFICATION RECORDS

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Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Merced County Planning & Community Development Department; Merced County Building & Safety Division
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction
Implementation Responsibility:	Project Sponsor

Issue Area: Aesthetics

Mitigation Measure 1: Maintain aesthetic vegetation buffer

Retain the existing oak woodland habitat within individual parcels while permitting the construction of single-family dwellings and appurtenant structures. Except for the construction of two access roads from Merced Falls Road and proposed on-site roadways or driveways for individual lots, construction in the areas of the existing riparian woodland and oak woodland shall maintain a sufficient vegetative buffer between developed structures and facilities and Henderson Park to mask the presence of developed uses on the site during the seasons of the year when deciduous trees are in leaf. The buffer shall be sufficient to break the mass of buildings and to prevent glare from windows and glazing into the park. Implementation of Mitigation Measure 1 will result in the preservation of 7.598 acres of oak woodland at the perimeters of the project area, providing a sufficient vegetative buffer.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 1: Maintain aesthetic vegetation buffer

Compliance Measure 1: Merced County Planning & Community Development Department

Has a vegetative buffer been created and preserved in compliance with Mitigation Measures 4, 5, and 7, which require dedication of a conservation easements and establishment of CCRs that include the area of the vegetative buffer?

Compliance Measure 2: Merced County Building & Safety Division

Can you confirm that no construction or tree thinning or cutting has occurred within the vegetative buffer area of individual lots?

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: _____ remedial action taken

_____ require work stop _____ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	SJVAPCD; Merced County Planning & Community Development Department; Merced County Building & Safety Division
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; Prior to issuance of any individual building permit; During construction
Implementation Responsibility:	Project Sponsor

Issue Area: Air Quality

Mitigation Measure 2: Comply with SJVAPCD Requirements and Recommendations

During project construction, the project applicant and contractors shall comply with the following measures. Additionally, a note shall appear on the final subdivision map notifying purchasers of individual lots of applicable rules as set forth below and as they might be amended of the duty to comply with the requirements of this mitigation measure and the regulations of the SJVAPCD.

- A. Comply with SJVAPCD's Regulation VIII, Dust Suppression Measures (described above), Rule 8021, preparation of a Dust Control Plan and Rule 3135, Dust Control Plan Fee.
- B. Comply with SJVAPCD's Rules 4901 and 4902 regarding wood burning devices and natural gas-fired water heaters.
- C. Comply with SJVAPCD's additional measures 1 through 6 as follows to further reduce ozone precursors. The project applicant shall implement the following:
 1. Energy efficient design including automated control systems for heating/air conditioning and energy efficiency beyond Title 24 requirements, lighting controls and energy-efficient lighting in buildings, increased insulation beyond Title 24 requirements, and light colored roof materials to reflect heat.
 2. Planting of deciduous trees on the south and westerly facing sides of buildings.
 3. Providing low nitrogen oxide (NO_x) emitting and/or high efficiency water heaters.
 4. Sidewalks and bike paths throughout as much of the project as is possible and should be connected to any nearby open space areas, parks, schools, commercial areas, etc.
 5. Natural gas/propane lines and electrical outlets should be installed in patio areas to encourage the use of gas and/or electric barbecues.
 6. All housing units should include as part of the purchase an electric lawn mower and electric edger.
- D. Comply with all applicable SJVAPCD Rules and Regulations that may apply, including: Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations), and Rule 4002 (National Emissions Standards for Hazardous Air Pollutants).

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 2: Comply with SJVAPCD Requirements and Recommendations**Compliance Measures: Merced County Planning & Community Development Department**

Compliance Measure 1: SJVAPCD Compliance Department been contacted and a dust control plan been submitted and approved by the District;

Compliance Measure 2: SJVAPCD Compliance Dept. has been contacted and the applicant has submitted proof of compliance with Rules 4901 and 4902; and

Compliance Measure 3: Planning Department has reviewed building plans for compliance with additional measures for reducing ozone precursors outlined as additional measures 1 through 6.

Compliance Measure 4: SJVAPCD Compliance Dept. has been contacted and the applicant has submitted proof of compliance with Rules 4102, 4601, 4641, and 4002.

Compliance Measure: SJVAPCD / Merced County Building & Safety Division

During construction, inspect construction activities to ensure that the requirements of the Dust Control Plan are being implemented.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable	_____ Unacceptable: ___ remedial action taken _____ require work stop ___ follow-up required
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Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	CDFG / USFWS / Merced County Planning & Community Development Department
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Biological Resources

Mitigation Measure 3: Provide funding for implementation and monitoring of Biological Resources Mitigation Measures

No later than six months after the granting of any preliminary map approval by the County, and prior to the submittal of any improvement plans or other permit applications, the property owner/applicant shall enter into a contract with the County that provides for the establishment of a fund to pay for hiring a qualified consultant who shall be responsible for implementing or overseeing the implementation of (as necessary) all Biological Resource mitigations required by this Mitigated Negative Declaration. This contract shall also provide for payment of consultant costs for monitoring all biological resource mitigations where such monitoring does not fall within the identified responsibilities of other public agencies.

Verification Record

Lakeview Properties Major Subdivision Project
Mitigation Monitoring Program

Mitigation Measure 3: Provide funding for implementation and monitoring of Biological Resources Mitigation Measures

Compliance Measure: CDFG; USFWS; Merced County Planning & Community Development Dept.

Determine if the applicant has funded a qualified consultant to implement and/or monitor all non-public agency biological resource mitigations consistent with Mitigation Measure 3.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop _____ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Biological Resources

Mitigation Measure 4: Preservation of passive recreation area, ecological preserve and open space conservation area

No clearing, grading, tree-cutting, brush-clearing or other modification of on-site habitats and biological resources shall occur until Mitigation Measures 3, 4, 5, 6, 7 and 8 are implemented in their entirety, except for any required future monitoring, which may be completed after implementation of required mitigation.

To protect riparian habitat, oak woodland, blue elderberry shrubs and associated sensitive biological resources within the project area:

- A. The applicant shall indicate buildable areas on the Final Subdivision Map, outside of which all future construction or grading shall be prohibited.
- B. The applicant shall permanently protect biological resources within the two preserve areas shown on Figure 5 (four-acre Ecological Preserve on the west, nine-acre Passive Recreation Area on the north) through dedication in fee of the two areas to a Homeowner's Association (HOA). In forming the Homeowner's Association, the applicant shall establish an endowment and annual maintenance fees sufficient to ensure permanent management of the two preserve areas, including annual monitoring by a professional biologist (further described in Mitigation Measure 5). Alternately, the applicant may deed the areas to a conservation organization or public entity, or through another mechanism acceptable to Merced County, that would result in permanent conservation and maintenance of the three areas. Within the preserved areas, all development or habitat modification, including changes in site hydrology through the creation of grassy areas, landscaping irrigation or the introduction of invasive/weed species (unless approved by CDFG and USFWS), shall be prohibited.
- C. The applicant shall establish open space conservation easements in favor of the HOA within all affected lots on the Final Subdivision Map as indicated in Figure 5 (Lots 1, 5, 6, 7, 8, 9, 10, 25, 26, 27, 29, 30, 31, 32, 33 and 36).
- D. The applicant shall protect sensitive biological resources within the passive recreation area, ecological preserve area, and open space conservation area during mass site grading and road and underground utility construction through installation of construction

fencing along all preservation area or conservation area boundaries. Specific protections described in Mitigation Measure 5, 6, 7, and 8 must be followed to protect sensitive species.

- E. The applicant shall establish Conditions, Covenants and Restrictions (CCR) applicable to the single-family residential lots, and enforceable by the Homeowner's Association, that ban construction or grading within the open space conservation easements. The CCRs shall include the following protocol: *Homeowner and/or their agent shall not perform any grading or construction outside of buildable areas as indicated on the Final Subdivision Map.* No individual building permit will be granted by Merced County without Homeowner's Association review and approval of all proposed clearing and construction on individual lots. These CCRs and Homeowner's Association by laws shall be either placed on the face of the final map or recorded with the title of each lot.

Verification Record

Lakeview Properties Major Subdivision Project
Mitigation Monitoring Program

Mitigation Measure 4: Preserve passive recreation area, ecological preserve and open space conservation area

Compliance Measures: Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS

Compliance Measure 1: Is a biological monitor on site during grading and road construction operations?

Compliance Measure 2: Has the applicant has met all conditions to permanently protect sensitive biological resources within the passive recreation area, ecological area and open space conservation area consistent with Mitigation Measure 4? If not, determine if the proper permits been obtained from CDFG, USFWS, and USACE; and if all required mitigation been implemented. Transmit findings to Planning Department.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable	_____ Unacceptable: _____ remedial action taken _____ require work stop _____ follow-up required
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Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

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Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Biological Resources

Mitigation Measure 5: Protect federally listed threatened VELB

Avoid and minimize impacts to potential VELB habitat in blue elderberry shrubs through preservation, protection and enhancement.

- A. The applicant shall permanently protect blue elderberry shrubs within the two preserve areas shown on Figure 5 (four-acre Ecological Preserve and nine-acre Passive Recreation Area), as described in Mitigation Measure 4, through dedication in fee of the two areas to a Homeowner's Association (HOA). In forming the Homeowner's Association, the applicant shall establish an endowment and annual maintenance fees sufficient to ensure permanent management of the two preserve areas, including annual monitoring by a professional biologist pursuant to measures C-7, D-5, D-6, and D-7 below.
- B. Alternately, the applicant may deed the areas to a conservation organization or public entity, or through another mechanism acceptable to Merced County, that would result in permanent conservation and maintenance of the two areas. Within the preserved areas, all development or habitat modification, including changes in site hydrology through the creation of grassy areas, landscaping irrigation or the introduction of invasive/weed species (unless approved by CDFG and USFWS), shall be prohibited.
- C. During mass site grading and road and underground utility construction, all elderberry shrubs within the project area, but outside of the permanent preserves identified above, shall be preserved and protected through incorporating no-disturbance construction setbacks and regular monitoring in accordance with USFWS guidance. Specifically, the project must maintain non-disturbance buffers of at least 30 feet from any retained shrub to avoid habitat take, including the following protocols:
 1. All blue elderberry shrubs within the project site, and a 30-foot buffer line around them, shall be shown on grading and vegetation clearance plans.
 2. To avoid incidental take of habitat, all existing elderberry shrubs within the project site shall be flagged and enclosed by fences at least 30 feet from the canopy dripline (or other distance determined by the USFWS) during construction activities.
 3. Contractors shall be briefed on the legal requirement to avoid damaging the elderberry plants and the criminal penalties for not complying with these requirements.

4. Work crews will be instructed about the status of the VELB and the need to protect its elderberry host plant.
 5. Signs shall be erected every 50 feet along the edge of all blue elderberry conservation areas, with information pertaining to the sensitivity of, listed status of, and penalties involved with damage to the plants. Signs shall include the following information: *“This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment.”* The signs shall be clearly readable from a distance of 30 feet, and shall be maintained for the duration of construction.
 6. A penalty fee of \$10,000 shall be included in the construction specifications for each act of damage to a blue elderberry shrub within a conservation area. The penalty fee shall be submitted to the HOA to be used solely for restoration and/or mitigation of the damaged area. Any penalties or requirements imposed by the USFWS and/or CDFG shall be the responsibility of the applicant or its contractor.
 7. During periods of mass site grading and active roadway or underground utility construction, a qualified biologist shall regularly visit the construction site (at least weekly during active construction periods) to ensure that the elderberry shrubs are not being impacted.
- D. Blue elderberry shrubs within individual lots shall be permanently protected through the following conservation measures, in addition to those described in Mitigation Measure 4:
1. Locations of existing blue elderberry within Lots 1, 5, 6, 8, 25, 26, 27, 29, 30, 31, 32, 33 and 36, and the 30-foot buffer conservation area/deed restriction shall be clearly marked on individual lot maps. All grading or construction shall be prohibited within open space conservation easement areas.
 2. Blue elderberry conservation easements (including the shrub and a 30 foot buffer) shall be permanently fenced (e.g. low profile stakes and natural material rope) and marked with a sign providing information pertaining to the sensitivity of, listed status of, and penalties involved with damage to the plants. Signs shall include the following information: *“This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment.”* The signs shall be clearly readable from a distance of 30 feet, and shall be permanently maintained.
 3. A penalty fee of \$10,000 shall be included in the construction specifications for each act of damage to a protected plant, tree, and/or habitat. The penalty fee shall be submitted to the HOA to be used solely for restoration and/or mitigation of the damaged area. Any penalties or requirements imposed by the USFWS and/or CDFG shall be the responsibility of the homeowner or their contractor.
 4. The applicant shall establish Conditions, Covenants and Restrictions (CCR) applicable to the single-family residential lots, and enforceable by the Homeowner’s Association, that ban construction or grading within the open space conservation easements. The CCRs shall require homeowners of lots that include blue elderberry shrubs (Lots 7, 8, 25, 26, 27, 30, 31, 32, and 36) to permanently abide by a prohibition on the clearing and construction (according to setbacks as directed by the USFWS) within 30 feet of any blue elderberry shrub. The CCRs will include the following protocols:
 - a. Homeowner and/or their agent shall not perform any grading or construction outside of buildable areas as indicated on the Final Subdivision Map.
 - b. Homeowner and/or their agent shall avoid disturbing roots within the blue elderberry root protection zone (30 feet from the shrub).

- c. Homeowner and/or their agent shall avoid filling, trenching or paving within the root protection zone.
 - d. Should any of the events listed above as (1)-(3) occur, homeowner or their agent shall be responsible for restoring the damaged area to its state prior to the initiation of construction or grading.
 - e. Homeowner and/or their agent shall notify the USFWS in the event that a blue elderberry shrub is damaged. If shrubs must be removed, the homeowner will be responsible for the cost of replacing the shrub according to USFWS protocol (see conservation measure e below).
5. A certified biologist shall be present on-site at the initiation of single family residence construction within Lots 7, 8, 25, 26, 27, 30, 31, 32, and 36 to ensure that builders and crew have been adequately instructed to avoid disturbance within blue elderberry conservation areas and that blue elderberry shrubs have been flagged and enclosed by fences at least 30 feet from the canopy dripline (or other distance determined by the USFWS) during construction activities.
 6. After major construction and landscaping is completed within Lots 7, 8, 25, 26, 27, 30, 31, 32, and 36 and prior to issuance of a final occupancy permit by Merced County, a certified biologist shall visit the site to confirm that blue elderberry shrubs have not been degraded, damaged or removed.
 7. For 10 years after construction of the first residence within the subdivision is completed (as indicated by issuance of a certificate of occupancy by Merced County), a certified biologist shall annually monitor protection of blue elderberry shrubs within the project area (including single family residential lots). Every annual visit will include a survey of the number of shrubs and a count of the number of basal stems with a diameter of one inch or greater by size class, as well as visual inspections of all such stems for VELB and/or VELB exit holes.
 8. A written report, presenting and analyzing the data from the project monitoring, will be prepared by a qualified biologist for each year of monitoring efforts. Copies of the report will be submitted by December 31 of that year to the USFWS and the CDFG. The report will address the status and progress of the blue elderberry shrubs, as well as any failings of the conservation plan and the steps taken to correct them. Any observations of VELB or fresh exit holes will be noted. Copies of original field notes, raw data, photographs and maps of the conservation area will be included with the report. The elderberry survival rates, conditions, and sizes of the plants will be analyzed and presented in the report. Observed and likely future threats will be addressed along with suggested remedies and preventative measures. A copy of each annual report shall be submitted to Merced County concurrently with its submission to USFWS and CDFG.
- E. The Federal Endangered Species Act (as managed through the USFWS) requires transplanting or replacing of elderberry shrubs for any direct or indirect impacts to shrubs with stems greater than one (1) inch before removal of any existing elderberry shrubs. If approved by the USFWS, prior to any further site disturbance or grading, or recordation of any Final Subdivision Map, any blue elderberry shrubs on the project site that will be impacted shall be transplanted to compatible sites with compatible habitat within the proposed preserves adjacent to the site. This preserve provides optimal conditions for elderberry shrubs, as evidenced by the thriving extant populations in the proposed preserve. In order to minimize the potential adverse effects of relocation, transplanting shall be completed during the winter season, while the elderberries remain in their dormant phase. Transplanting efforts shall be completed well in advance of any construction activities on the project site, and shall be overseen by a qualified biologist to ensure that proper procedures

are followed. The applicant shall implement any additional mitigation identified by the USFWS.

- F. Construction and operation of the off-site stormwater detention system and any mitigation planting or transplanting undertaken by the project applicant or successor-in-interest shall avoid all existing blue elderberry shrubs, including a minimum 30-foot buffer area around each shrub or as otherwise approved by the USFWS.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 5: Protection of federally listed threatened VELB

Compliance Measures: Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS

1. Has the applicant permanently dedicated the two preserve areas shown an HOA and provided an endowment and annual maintenance fees sufficient to ensure permanent management of the two preserve areas, including annual monitoring by a professional biologist? If not, has the applicant deeded the areas to a conservation organization for permanent conservation and maintenance of the two areas?
2. Are the preserved areas protected from all development or habitat modification?
3. Is a 30-ft non-disturbance buffer established around all blue elderberry shrubs within the construction area, including presence on grading and vegetation clearance plans and permanent fencing?
4. If elderberry shrubs are not permanently protected, have all elderberry shrubs with stems >1" been transplanted to compatible sites prior to any construction activities on the project site, and shall be overseen by a qualified biologist to ensure that proper procedures are followed.
5. Have contractors and work crews been briefed on the legal requirement to avoid damaging the elderberry plants, including a penalty fee of \$10,000 for each act of damage to a blue elderberry shrub within a conservation area?
6. Have clearly readable signs been erected every 50 ft along the edge of all blue elderberry conservation areas that say, *"This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973 as amended. Violators are subject to prosecution, fines and imprisonment."*?
7. Is a biologist monitoring elderberry shrubs at least weekly during active construction?
8. Have the locations of existing blue elderberry within individual lots, and the 30-foot buffer conservation area/deed restriction been clearly marked on individual lot maps?
9. Has the applicant and HOA established CCRs that (a) ban construction or grading within the open space conservation easements, (b) require homeowners of lots that include blue elderberry shrubs to permanently abide by a prohibition on the clearing and construction within 30 feet of any blue elderberry shrub?
10. Has a biologist been present on-site at the initiation of all single family residence construction to ensure that builders and crew have been adequately instructed and shrubs have been fenced?
11. Has a biologist visited the site after project completion to confirm that blue elderberry shrubs have not been degraded, damaged or removed?
12. Has a biologist annually monitored the protection of blue elderberry shrubs within the project area for 10 years after construction of the first residence within the subdivision, including a count of # of shrubs # of basal stems >1" and inspections for VELB and/or VELB exit holes?
13. Determine if the applicant has met all conditions to permanently protect blue elderberry shrubs within the project area consistent with Mitigation Measure 5. If not, determine if the proper permits have been obtained from CDFG, USFWS, and USACE; and if all agency required mitigation has been implemented. Transmit findings to Planning Department.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop _____ follow-up required

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Biological Resources

Mitigation Measure 6: Protect Swainson's hawk and other raptors

Avoid and minimize impacts to Swainson's hawk, through preservation, protection and enhancement.

- A. Construction Scheduling. Any trees that need to be removed to facilitate future development shall be felled outside of the local avian nesting season (February 1 through August 31). If trees are to be felled within these dates, the applicant shall arrange for pre-construction nest surveys to be conducted by a qualified biologist no more than 30 days prior to the initiation of proposed development activities. A copy of the raptor nest survey report shall be provided to the County. If surveys identify nest-building activity or an active nest near the proposed development, the applicant shall initiate consultation with the Department of Fish and Game to obtain recommendations on avoiding impacts to nesting birds while the nest is occupied. Generally, buffers are erected around active raptor nests until the young have fledged or the nest is abandoned. Buffers range between 50 and 500 feet, depending on the species, and are determined through consultation with the CDFG.
- B. Foraging habitat compensation. The project applicant shall implement one of the following options to mitigate for the loss of ~20 acres of low-moderate quality Swainson's hawk foraging habitat on the project site:
 1. Prior to the initiation grading activities, purchase conservation easements and/or fee title acquisition of suitable foraging habitat (within 10 miles of a Swainson's hawk nest tree) at a 0.75:1 ratio (e.g. 15 acres for 20 acres impacted), as well as establishment of an associated management endowment to fund management of these lands in perpetuity.

OR

 2. Prior to grading activities, place 15 acres of suitable agricultural land within 10 miles of the nearest Swainson's hawk nest tree into an agricultural easement managed by CDFG for Swainson's hawk foraging. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dry land and irrigated pasture, and cereal grain crops. Certain low growing row or field crops are appropriate as well. Vineyards, orchards, cotton fields and other dense vegetation do not provide adequate foraging habitat.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 6: Swainson's hawk and other raptor protection

Compliance Measures: Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS

Compliance Measure 1: Determine if a preconstruction raptor survey has been completed. If raptor nest-building was reported near the proposed development, determine if the applicant has implemented recommendations from the CDFG to avoid impacts to nesting birds while the nest is occupied. If not, determine if the proper permits been obtained from CDFG. Transmit findings to Planning Department.

Compliance Measure 2: Determine if the applicant has provided funds or deed-in-lieu to compensate for loss of raptor foraging area consistent with Mitigation Measure 6. Transmit findings to Planning Department. Transmit findings to Planning Department.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction, Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Biological Resources

Mitigation Measure 7: Preserve and protect oak woodlands

Avoid and minimize impacts to oak woodlands, through preservation, protection and enhancement. The amount of oak woodland scheduled to be removed as part of this project requires mitigation in compliance with Public Resources Code §21083.4 (SB 1334). The project applicant shall implement all measures described in the 2006 Mitigation and Monitoring Plan (attached as Appendix A, of this Initial Study). The Mitigation and Monitoring plan includes, but is not limited to the following requirements:

- A. During construction, the 179 oak trees and their root protection zone (150% circumference of the dripline) within the portion of the project site to be developed, and within the conservation/deed restriction area, shall be protected from disturbance with flagging and haybales along the root protection zone.
- B. Compensation plantings at a ratio of 3:1 shall be required for all Oak trees to be removed as a result of project implementation that are five inches in dbh or greater existing at the date of project approval, or having existed on the site in the period from January 1, 2003 to project approval. The replacement trees must have a guaranteed survival rate of 70 percent at the end of seven years. Additional plantings at a ratio to 3:1 shall be made if, at the end of seven years, the survival rate is less than 70 percent; such additional plantings shall be monitored for a subsequent seven year period. Compensation plantings shall be implemented for the 45 impacted valley oaks. Diameter at Breast Height (dbh) measurements (measured at approximately 4.5-feet above the ground) for the 45 impacted oaks aggregate to a total of 504 inches.
- C. The remaining 177 trees on the project site shall be preserved within open space conservation areas (deed restrictions) to prohibit their cutting or interference, along with 138 valley oaks within the two proposed preserves, for a sum total diameter of 4,544 inches. Further, the 138 oaks within the two preserves shall provide 13 acres of undisturbed, natural oak woodland habitat.
- D. The applicant shall establish Conditions, Covenants and Restrictions (CCR), enforceable by the Homeowner's Association, applicable to the single-family residential lots that will require future homeowners to comply with standard oak tree care practices including (but not limited to):

1. Avoid disturbing roots within the tree's root protection zone (150% dripline circumference, up to 90 feet from the trunk for a mature tree)
 2. Avoid filling, trenching or paving within the root protection zone
 3. Provide enclosures for seedlings and saplings to prevent damage from herbivores or domestic livestock
 4. Employ the services of a certified arborist for pruning or supplemental maintenance such as thinning a crowded stand or tree replacement
 5. Avoid overwatering oak trees by planting only drought-tolerant plants that require no summer water around old established oaks, no closer than 6 feet from the base of the tree.
- E. It is presumed that the existing thriving population of preserve oaks will remain healthy. Nonetheless, the overall health and long-term viability of each oak within the two preserves shall be monitored visually at least once a year for a period of 7 years by a qualified biologist.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 7: Preserve and protect oak woodlands

Compliance Measures: Consultant Biological Monitor; Merced County Planning & Community Development Department; CDFG; USFWS

Compliance Measure 1: Is the project applicant implemented all measures described in the Biological Resources Mitigation and Monitoring Plan?

Compliance Measure 2: Has a qualified biologist conducted an annual inspection of the overall health and long-term viability of each oak within the two preserves for a period of 7 years?

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

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Date:

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Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Consultant Biological Monitor; Merced County Planning & Community Development Department; USACE; CDFG; USFWS
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Biological Resources

Mitigation Measure 8: Wetland impact compensation

In accordance with the project Biological Resources Mitigation and Monitoring Plan (Vollmar 2009), the project applicant shall compensate for a total of 0.423 acres of wetland loss with the creation of two on-site wetlands totaling 0.899 acres in the preserve areas. As a condition of project approval, prior to any site grading or construction involving fills, road crossings, utility crossings or other direct impacts to Waters of the U.S, the project applicant shall obtain all necessary wetland permits and/or certification from the USACE, CDFG, and Regional Water Quality Control Board (RWQCB). The project Biological Mitigation and Monitoring Plan (Vollmar 2009) includes an on-site wetlands compensation construction plan and monitoring plan. Both created wetlands will be constructed to sustain seasonal inundation and perennial sub-surface saturation. A proposed 0.432-acre wetland (CW-1) would be created in an area currently covered by tailings in the northeastern corner of the nine-acre proposed passive recreation preserve just north of the project site impact area. A proposed 0.467-acre created wetland (CW-2) will be constructed in an area covered by tailings in the northern section of the proposed four-acre ecological preserve. CW-2 would effectively extend an existing narrow wetland situated just north of the proposed limit of grading for the wetland. Criteria and timetables for evaluating the incremental success of the created wetlands are outlined in the Biological Resources Mitigation and Monitoring Plan. The plan includes measures to insure that on-site un-impacted wetlands and created wetlands will remain inundated or saturated for sufficient duration to support hydrophytic vegetation. Additionally, project designs provide a drainage system (consistent with Mitigation Measures in the Hydrology section of this Initial Study) to prevent surface stormwater or landscaping irrigation runoff from flowing into on-site wetlands in preserve zones, or other nearby wetlands areas, unless adequately filtered by new wetlands or grasslands.

The Sacramento District Corps of Engineers will be provided with an annual report within sixty days of the completion of vegetation sampling for years one, two, three and five. These reports will present the results of the current year's data and discuss the program's progress toward achieving mitigation success. Both COE and USFWS will be notified in writing once it has been determined by the project's wetland monitor that the success criteria for the project have been met, as outlined below.

USACE authorization for fill must be secured, and the appropriate wetlands mitigation plan must be approved by Merced County and the USACE prior to issuance of construction permits or recordation of parcel or subdivision maps. The wetlands mitigation plan must also be submitted to the Merced County Planning & Community Development Department for review and approval. Compensation wetlands must meet the following success criteria, as well as any additional criteria identified by the USACE, CDFG and/or the RWQCB:

- Compensation wetlands will remain inundated or saturated for sufficient duration to support hydrophytic vegetation.
- Compensation wetlands will exhibit biotic communities comparable to impacted wetlands.
- Project designs must provide a drainage system to prevent surface stormwater or landscaping irrigation runoff from flowing into compensation wetlands, or other nearby wetlands areas, unless adequately filtered by new wetlands or grasslands.
- Compensation wetlands will be monitored each year for five years, and a report of monitoring results will be submitted to the USACE and Merced County Planning & Community Development Department for review.
- Mitigation plans shall include provisions for reevaluation, in the event that mitigation success criteria are not met within specified time frames.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 8: Compensate for wetland impacts

Compliance Measures: Consultant Biological Monitor; Merced County Planning & Community Development Department; USACE; CDFG; USFWS

Compliance Measure 1: Determine if the applicant has implemented the Biological Resources Mitigation and Monitoring Plan including wetland creation and report preparation. Transmit findings to Planning Department.

Compliance Measure 2: Determine that USACE authorization for fill has been secured, and the appropriate wetlands mitigation plan has been approved by Merced County and the USACE. Transmit findings to Planning Department.

Compliance Measure 3: Determine that compensation wetlands meet the success criteria established in the Mitigation and Monitoring plan, as well as any additional criteria identified by the USACE, CDFG and/or the RWQCB. Transmit findings to Planning Department.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

___ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

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Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	SWRCB; RWQCB; Merced County Building & Safety Division
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction
Implementation Responsibility:	Project Sponsor

Issue Area: Geology and Soils

Mitigation Measure 9: Prepare and implement Storm Water Pollution Prevention Plan

Construction activities disturbing one or more acres are required by the State Water Resources Control Board (SWRCB) to obtain a General Construction Activity Stormwater Permit and a National Discharge Elimination System (NPDES) permit. Prior to the initiation of grading, the project applicant shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project. As required by regulations implementing the Construction Stormwater Permit, the SWPPP shall include:

- Specific and detailed Best Management Practices (BMP) to mitigate construction related pollutants, including sediments. These controls would include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricant, paints, solvents, and adhesives) with stormwater. The SWPPP would specify properly designed centralized storage areas that keep these materials out of the rain and/or protected from the wind.
- Dust control BMPs for the stabilization of exposed surfaces and to minimize activities that suspend or track dust particles. For heavily traveled and disturbed areas, wet suppression (watering), chemical dust suppression, gravel or asphalt surfacing, temporary gravel construction entrances, equipment wash-out areas, and haul truck covers can be employed as dust control applications. Permanent or temporary vegetation and mulching, and sand fences can be employed to prevent sediment-laden stormwater from reaching receiving waters, or to force stormwater to drop their sediment load on-site.
- The SWPPP is required to specify a monitoring program to be implemented by the construction site supervisor. SWRCB personnel, who may make unannounced site inspections, are empowered to levy appropriate fines if it is determined that the SWPPP has not been properly prepared and implemented.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 9: Storm Water Pollution Prevention Plan

Compliance Measures: SWRCB; RWQCB; Merced County Building & Safety Division

Compliance Measure 1: Confirm that a SWPPP has been prepared and accepted by the SWRCB.

Compliance Measure 2: Inspect to determine if the requirements of the approved SWPPP are being implemented.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: _____ remedial action taken

_____ require work stop _____ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

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Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Merced County Fire Department; Merced County Building & Safety Division
Timing of Verification:	Prior to issuance of any building permit; Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Hazards and Hazardous Materials

Mitigation Measure 10: Implement fire breaks and fire setbacks

- A. The project shall comply at all times with the requirements set forth in §51182 of the Government Code and §4291 of the Public Resources Code regarding minimum standards for on-site firebreaks, vegetation management, and structure design and maintenance. For lots with 1-acre or greater buildable area, these requirements include:
1. Creation of a minimum 30-foot wide firebreak around the perimeter of each dwelling unit and commercial structure cleared of all flammable vegetation or other combustible growth. Landscaping may be developed within this area if it does not form a means of rapidly transmitting fire from the native growth to any dwelling or structure.
 2. Creation of a secondary firebreak from the outside of the 30-foot area described above to 100 feet in which all brush, flammable vegetation, or combustible growth is removed. Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion. This will not effect requirements for preservation of oaks and elderberry bushes because these preserved resources are not within lots with 1-acre or greater buildable area.
 3. Removal of that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.
 4. Any tree located adjacent to, or overhanging, a building should be kept free of dead and dying wood.
 5. Maintaining the roof of any structure free of leaves, needles, or other dead vegetative growth.
 6. Providing and maintaining at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace or stove.
 7. Obtaining a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards.
- B. Prior to approval of building plans for each individual structure, a Defensible Space Plan shall be prepared and submitted for review and approval by the Merced County Fire Department. The Defensible Space Plan shall demonstrate that all material surrounding structures capable of furthering the spread of fire has been cleared, reduced, or modified to act as a barrier between an advancing fire and the structure, and that the Plan complies with the state requirements set forth in SB 1369.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 10: Fire breaks and fire setbacks

Compliance Measures: Merced County Fire Department

Confirm that the fireproofing requirements set forth in Mitigation Measure 6A have been implemented?

Compliance Measures: Merced County Building & Safety Division

Compliance Measure 1: Determine consistency of the Defensible Space Plan with Mitigation Measure 10 and transmit findings to Planning Department.

Compliance Measure 2: Does each submitted building permit application comply with the numeric standard provided in the approved defensible space plan? Permit not approved if compliance not found.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Merced County Department of Public Works
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction
Implementation Responsibility:	Project Sponsor

Issue Area: Hydrology and Water Quality

Mitigation Measure 11: Comply with Merced County Storm Water Detention Requirements

Pursuant to Merced County Code §17.20.050.D1.g and t, the applicant shall ensure that the capacity of the proposed stormwater detention is adequate to accommodate stormwater flows from the proposed project. The project applicant shall revise the design of the storm detention basin to be constructed consistent with Merced County requirements, therefore accommodating a 25-year storm event. The created wetland shall be constructed and managed as a water quality improvement feature to protect groundwater from the adverse effects of urban runoff.

Verification Record

Lakeview Properties Major Subdivision Project
Mitigation Monitoring Program

Mitigation Measure 11: Comply with Merced County Storm Water Detention Requirements

Compliance Measure: Merced County Department of Public Works

Confirm that the off-site stormwater detention system is in compliance with this measure as well as Mitigation Measure 4 and 5 and transmit findings to Planning Department. Permit not approved if compliance not found.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

___ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Merced County Department of Public Works
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; During construction; Prior to occupancy; Ongoing operations
Implementation Responsibility:	Project Sponsor

Issue Area: Hydrology and Water Quality

Mitigation Measure 12: Comply with County NPDES BMP Requirements

The project applicant and all successors in interest shall protect the Merced River from any potential contamination generated on the site that could flow by surface or subsurface to the Merced River by implementing Best Management Practices as required by the Merced County Department of Public Works pursuant to the County's NPDES permit, and any such additional measures as may be required by the Regional Water Quality Control Board.

Prior to issuance of grading or building permits, the project applicant shall be required to submit plans of the proposed detention and wetland treatment facilities to the Merced County Public Works Department for review and approval. Plans at a minimum shall include detention basin location, size, inlet and outlet details, and specified lining and construction materials. This will allow for engineering review of the designs to ensure that polluted water is sufficiently detained and treated without impacting groundwater quality.

Verification Record

Lakeview Properties Major Subdivision Project
Mitigation Monitoring Program

Mitigation Measure 12: Comply with County NPDES BMP Requirements

Compliance Measure: Merced County Department of Public Works

Compliance Measure 1: Confirm that the off-site stormwater detention system is in compliance with this measure as well as Mitigation Measure 4 and 5 and transmit findings to Planning Department. Permit not approved if compliance not found.

Compliance Measure 2: Confirm that the DPW has reviewed and approved a detailed Stormwater Management Plan submitted by the project applicant.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

___ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Merced County Department of Public Works
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; Prior to issuance of any individual building permit
Implementation Responsibility:	Project Sponsor

Issue Area: Public Services

Mitigation Measure 13: Extend sewer main

Prior to the recordation of any Final Subdivision Map, the project applicant or any successor in interest shall extend the sewer main either within Merced Falls Road or within a utility easement to serve Lots 11 through 33, or provide surety in a form acceptable to the County for installation of the sewer main. The sewer main shall be installed prior to the issuance of any building permits for individual residences.

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Mitigation Measure 13: Extend sewer main**Compliance Measures: Merced County Department of Public Works**

Determine if the applicant has defined where it will extend the sewer main and recorded it on the Final Map. Determine if the applicant has coordinated with and if necessary obtained permits from Snelling Community Services District and Merced County Department of Public Works? Determine if the sewer main has been installed. Transmit findings to Planning Department. Residential building permits not approved if compliance not found.

Monitoring Party: _____**Verification Timing:** _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

Verification Record

Lakeview Properties Major Subdivision Project Mitigation Monitoring Program

Monitoring Responsibility:	Merced County Department of Public Works, Roads Division
Timing of Verification:	Prior to recordation of Final Subdivision Map or issuance of any construction permit; Prior to issuance of any individual building permit
Implementation Responsibility:	Project Sponsor

Issue Area: Transportation / Traffic

Mitigation Measure 14: Comply with local and state requirements

The property owner/applicant shall comply with Merced County Department of Public Works and Caltrans requirements as set forth as conditions 1-11:

1. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code which generally includes dedication of right of way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and underground or relocated utilities and irrigation facilities.
2. Release and relinquish all abutter's rights of access to and from the entire Merced Falls Road frontage of Lots as designated by Merced County Department of Public Works.
3. The owner shall dedicate on the final map 15 feet of road right of way, for a total road right of way width of 80 feet, and a 10-foot wide public utility easement along the La Grange Road frontage of the property.
4. The owner shall dedicate on the final map 20 feet of road right-of-way along the Merced Falls Road frontage of the property to provide a total road right of way width of 80 feet. A 10-foot wide public utility easement shall be dedicated along all public road rights of way.
5. The minimum easement width for sewer or storm drain pipelines located outside of the road right of way shall be 15 feet.
6. The internal streets shall be designated as a Court and named to the satisfaction of the Department of Public Works and Fire Department. The internal streets shall be designed and constructed per Drawings ST-06B and ST-10 of the Merced County Department of Public Works Improvement Standards and Specifications.
7. The proposed internal rights of way to provide access to the internal lots shall be improved to Merced County Department of Public Works standards and named to the satisfaction of the Department of Public Works and Fire Department. A gated entry shall be placed if the road is to be privately maintained. Conditions, covenants, and restrictions shall be provided to address maintenance of a private road, gate, and landscaping as applicable.
8. The storm drainage basin(s) shall be delineated on the final map. The storm drainage system shall be designed pursuant to the Merced County Department of Public Works Storm Drainage Manual.

9. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Merced County Department of Public Works that no occupancy shall take place until such time as all improvements are completed.
10. The Developer/Applicant shall provide centerline striping for those new roads which intersect the existing peripheral streets.
11. The Developer/Applicant is advised that he/she may be obligated to comply with Regulations for stormwater runoff issued by the EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123, and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 341, 5537, e-mail: stormwater@swrcb.ca.gov, or visit their website at www.swrcb.ca.gov.
12. As part of the site improvement/preparation process required for recording a final map, the applicant shall construct a walking path on the north side of Merced Falls Road that runs from the southeast corner of proposed lot #25, as shown on Figure 5, Sensitive Biological Habitats, September 2009, westwards to the intersection of Merced Falls Road and La Grange Road. The applicant shall also provide for the installation of a street light at this intersection. The walking path shall be aligned to avoid additional impacts to oak trees on the project site beyond those outlined in the Mitigation and Monitoring Plan and detailed in Mitigation Measure 7. The exact alignment, dimensions, and surfacing of this walking path shall be approved by the Merced County Department of Public Works Road Division.

Verification Record

Lakeview Properties Major Subdivision Project
Mitigation Monitoring Program

Mitigation Measure 14: Comply with local and state traffic and roadway improvement requirements

Compliance Measure: Merced County Department of Public Works, Roads Division

Confirm that the requirements of the Merced County Public Works Department and Caltrans have been implemented.

Monitoring Party: _____

Verification Timing: _____ Prior to Issuance of Any Construction Permit
_____ or Recordation of Final Subdivision Map

_____ Prior to issue of any individual building permit _____ During Construction

_____ Prior to Occupancy _____ Ongoing Operations

Compliance: _____ Acceptable

_____ Unacceptable: ___ remedial action taken

_____ require work stop ___ follow-up required

Observations:

Recommendations:

Receipt by Program Manager:

Date:

Time:

Monitor:

Comments/Actions:

Entered into Monitoring File:

Date:

By:

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