

**CONDITIONS OF APPROVAL**

**October 1, 2015**

**Eden 3 – Tony Dutra, Dutra Enterprises, Inc. (Applicant/Owner),  
Ruben and Ruby Dorris (Owners)**

**Zone Change and Vesting Tentative Tract Map Application No. 201500856 (Tract 8242)**

**Zone Change from Medium Density Residential to Planned Development (PD), and  
Vesting Tentative Tract Map 8242 for the subdivision and construction of 24 single-family  
homes on a 1.9-acre site at 23645 and 23653 Eden Avenue.**

**GENERAL**

1. In accordance with Zoning Ordinance §10-1.2500 (Planned Development District), this approval is for the Preliminary Development Plan, subject to all conditions listed below, included herein as:  
  
**Exhibit A** –Planned Development and Vesting Tentative Tract Map 8242 submitted by Dutra Enterprises, Inc., May 27, 2015 and May 28, 2015, respectively.
2. The project approval shall coincide with the approval period for the Vesting Tentative Tract Map. If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permits, or three years after approval of Precise Plan application, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended in reliance upon the Precise Plan approval.
3. This approval is tied to Vesting Tentative Tract Map 8242 and all conditions of approval of that map shall also apply to this approval.
4. This approval is subject to the Mitigation Monitoring and Reporting Program included in the City's Project files as Exhibit B.
5. The subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

**PRECISE PLAN SUBMITTAL**

6. In accordance with Zoning Ordinance §10-1.2550 and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.

7. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein, and shall be submitted in conjunction with the subdivision improvement plans and Final Map.
8. The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”. These four (4) amenities include:
  - Photovoltaic solar systems shall be installed on all units.
  - Conforming common and private open space within the development shall exceed the minimum required.
  - Provision of surplus parking spaces via private driveways to offset the deficiency in uncovered parking spaces.
  - Use of attractive pervious paving throughout the development, in excess of what is required for tree mitigation, creating an attractive and cohesive landscape and hardscape design throughout the development.
9. The applicant shall submit revised project plans for review and approval by the Planning Director that clearly shows the details of each project amenity. Such project amenity details shall be included in the Precise Plan submittal for final approval.
10. The Precise Development Plan shall include the following information and/or details:
  - a. A copy of these conditions of approval shall be included on a full-sized sheet(s).
  - b. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
  - c. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
  - d. Proposed locations, heights, materials and colors of all walls and fences.
  - e. A minimum of one exterior hose bib shall be provided for each residential unit.
  - f. Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths. All surfaces should be enhanced by the use of decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials.
  - g. Proposed mailbox design and locations, subject to Post Office approval. All mailboxes shall be locking mailboxes.
  - h. A final lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. Exterior lighting shall be erected and maintained so that adequate lighting is provided along the private street. The

Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.

- i. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.
  - j. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.
  - k. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
  - l. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.
  - m. Large expanses of blank wall shall not be allowed. Articulate or otherwise treat such expanses to avoid bulkiness.
  - n. All decorative window treatments shall be extended to all elevations.
  - o. All rear and side entries visible from the street shall be protected by roofs with rooflines to match the pitch of the roof.
  - p. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
  - q. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. All two car garages shall have minimum interior dimensions of 20-foot width by 19-foot depth. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.
11. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.
  12. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
  13. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division in accordance with the City of Hayward's Design Guidelines prior to issuance of a building permit for the project.

14. The project shall comply with the 2013 California Energy Code Section 110.10 for Solar Ready Homes, involving coordination between the project architect and energy consultant regarding the design and orientation of roof surfaces.

### ***Planning Division***

15. **Mitigation Measure 1:** The applicant shall follow all recommendations in the tree evaluation report including protection of all trees to be preserved during all phases of the development and replacement of all removed trees based on the value of the removed trees:

#### **Design Recommendations**

- Verify the location and tag numbers of all trees recommended for preservation. Include trunk locations and tag numbers on all plans.
- Allow the Consulting Arborist the opportunity to review project plans, including but not limited to, site, grading, drainage and landscape plans
- Use only herbicides safe for use around trees and labeled for that use, even below pavement.
- Design irrigation systems so that no trenching will occur within the Tree Protection Zone.

#### **Pre-Construction and Demolition Treatments and Recommendations**

- Establish a Tree Protection Zone (TPZ) around each tree to be preserved. No grading, excavation, construction or storage of materials shall occur within that zone. The TPZ for the three off-site trees: Paradox Walnut #61, blackwood acacia #62 and purpleleaf plum #63, shall be the property line.
- Install protection around all trees to be preserved. Install 6 ft. chain link with posts sunk into the ground, No entry is permitted into a TPZ without permission of the project superintendent.
- Trees to be removed shall be felled so as to fall away from TPZ and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees, or grinding the stump below ground.
- Trees to be retained may require pruning to provide clearance and/or correct defects in structure. All pruning is to be performed by an ISA Certified Arborist or Certified Tree Worker and shall adhere to the latest editions of the ANS Z133 and A300 standards as well as the ISA Best Management Practices for Tree Pruning. Pruning contractor shall have the C25/D61 license specification.

#### **Recommendations for Tree Protection During Construction**

- Prior to beginning work, the contractors working in the vicinity of trees to be preserved are required to meet with the Consulting Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.
- Any grading, construction, demolition or other work that is expected to

encounter tree roots should be monitored by the Consulting Arborist.

- If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.
- Fences have been erected to protect trees to be preserved. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the project manager.
- Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.
- All trees shall be irrigated on a schedule to be determined by the Consulting Arborist. Each irrigation shall wet the soil within the TPZ to a depth of 30”.

16. ***Mitigation Measure 2:*** Prior to issuance of a Building permit, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.
17. ***Mitigation Measure 3:*** All recommendations outlined in the preliminary geotechnical assessment, including, but not limited to, keeping exposed soils moist prior to concrete placement for foundation construction and proper compaction of clay soils to reduce swell potential shall be incorporated in the final design in order to mitigate for the presence of expansive soils on the project site.
18. ***Mitigation Measure 4:*** All recommendations outlined in the Phase I and Phase II ESA’s and any subsequent assessments shall be implemented to remediate all REC’s on the subject properties.
19. ***Mitigation Measure 5:*** Prior to issuance of Building or Grading Permits, a final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control and submitted to the Hayward Fire Department to ensure that the property meets residential development investigation and cleanup standards.

#### **PRIOR TO SUBMITTAL OF SUBDIVISION IMPROVEMENT PLANS AND FINAL MAP**

20. In conjunction with the Precise Plan, the applicant/developer shall submit subdivision improvement plans including Landscape and irrigation plans and a final map application for the entire project. Said improvement plans and final map shall meet all City standards and submittal requirements except as expressly approved for this Planned Development. The following information shall be submitted with, or in conjunction with, improvement plans and final map. The City reserves the right to include more detailed conditions of approval regarding required infrastructure based on these more detailed plans.
21. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed, at no cost to the City of Hayward.

22. Unless indicated otherwise, the design for development shall comply with the following:
- a) All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Articles 1 and 3, and Standard Specifications and Details.
  - b) All construction shall meet the California Building Codes (CBC) and all applicable City of Hayward Building Codes and amendments.
  - c) Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Codes and amendments.
23. A Registered Civil Engineer shall prepare all Civil Engineering improvement plans; a Licensed Architect shall prepare all architectural plans; and a Licensed Landscape Architect shall prepare all landscape unless otherwise indicated herein.

### **Subdivision Improvement Plans**

24. Subdivision Improvement Plans shall be approved in concurrence with the Precise Development Plan. Submit the following proposed improvement plans with supporting documents, reports and studies:
- a) A detailed drainage plan, to be approved by the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a ten (10) year storm and incorporating onsite storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount and velocity shall not be altered by the development. The detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be approved by the City Engineer and by the ACFC&WCD prior to issuance of any construction or grading permit.
  - b) A detailed Stormwater Treatment Plan and supporting documents, following City ordinances and conforming to Regional Water Quality Control Board's Staff recommendations for new development and redevelopment controls for storm water programs.

### ***Storm Water Quality Requirements***

25. The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans and/or grading permit application:
- a) The owner/developer shall enter into a City's standard "Storm Treatment Measures Maintenance Agreement" (as prepared by the City and is available in the Engineering and Transportation Division); the Maintenance Agreement shall

- be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
- b) Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval by the City Engineer. All reports such as Soil Report, SWPPP, and SWMP are to be submitted in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report. Documents that are clipped or stapled will not be accepted.
  - c) Before commencing any grading or construction activities at the project site, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.
  - d) The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
  - e) The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable.
  - f) The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit (page 30). In addition, the California Stormwater Quality Association's Stormwater best Management Practice Handbook New Development and Redevelopment, Subsection 5.5 on pages 5-12 has a section titled "BMP Design Criteria for Flow and Volume". These materials are available on the internet at [www.cabmphandbooks.com](http://www.cabmphandbooks.com)
  - g) The project shall be designed with a Bioretention Treatment Area and shall use a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of 5 inches per hour.
  - h) All inlet rims in the Bioretention Treatment Area (BTA) shall be 6" minimum above the flow line of the BTA. The design of the longitudinal flow line shall be level.
  - i) The following documents shall be completed and submitted with the improvement and/or grading plans:
    - i. Hydromodification Management Worksheet;
    - ii. Infiltration/Rainwater Harvesting and Use Feasibility Screening Worksheet;
    - iii. Development and Building Application Information Impervious Surface Form;
    - iv. Project Applicant Checklist of Stormwater Requirements for Development Projects;
    - v. C.3 and C.6 Data Collection Form; and,

## vi. Numeric Sizing Criteria used for stormwater treatment (Calculations).

26. The developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

***Private Streets and Court (Common Driveway)***

27. Any damaged and/or broken curb, gutter and sidewalks along the property frontages shall be removed and replaced as determined by the City.
28. A 5-foot wide sidewalk shall be installed along the entire property frontage on Sylvia Street.
29. The improvement in front of lot 120 of Tract 8086 shall be redone to conform to a 36-foot curb to curb width.
30. The on-site streetlights and pedestrian lighting shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Submit photometric plans with the improvement plans. Such fixtures shall have shields to minimize “spill-over” lighting on adjacent properties that are not part of the tract.
31. Proposed private court (common driveway) improvements shall be designed, generally reflective of the alignment and width shown on the submitted vesting tentative tract map, and as approved by the City Engineer. Unless otherwise specified herein, all private courts shall incorporate a cross-section of a 25-foot-wide right-of-way with a 24-foot curb-to-curb width, accommodating two travel lanes.
32. Entrances to Private Court shall conform to the City Standard SD-108A with detectable warning surface on both sides.
33. No parking shall be allowed within the private court. Curbs shall be painted red along BOTH sides of the private courts.
34. The private court shall not extend more than 5 feet beyond the garage door entries of the end units served by such court, unless needed for designated parking spaces.
35. The private court pavement sections shall be designed to public street standards. The private court shall be designed with a TI of five and minimum AC thickness of four inches.

***Public Streets (Eden Avenue)***

36. Any damaged and/or broken curb, gutter and sidewalks along the property frontages shall be removed and replaced as determined by the City.



37. The curb return on Eden Avenue shall have a minimum radius of 30 feet at the curb face.
38. All existing driveways to be abandoned shall be removed and replaced with standard curb, gutter and sidewalk.

### ***Storm Drainage***

39. The project streets, driveways, and parking areas shall be designed to facilitate street sweeping, including the layout of tree and handicap ramp bulb outs. The HOA shall be responsible for street sweeping on a regular basis.
40. The project shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
41. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.
42. Improvements for storm drain system shall incorporate the following:
  - a) The locations and design of storm drains shall meet the City's standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
  - b) Storm drain pipes in streets and courts shall be a minimum of twelve inches in diameter with a minimum cover of three feet over the pipe.
  - c) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City. Development of this site shall not augment runoff to the ACFC&WCD's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities.
  - d) The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
  - e) No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.

- f) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
- g) Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.

### ***Sanitary Sewer System***

- 43. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline.
- 44. The development's sanitary sewer mains and manholes shall be public, owned and maintained by the City. If the sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.
- 45. If the existing sewer laterals cannot be reused, they shall be properly abandoned.
- 46. Each single family dwelling unit shall have an individual sanitary sewer lateral. The sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.
- 47. The current sewer connection fees for single-family residential is \$7,700 per unit. Sewer connection fees shall be due and payable prior to final inspection.

### ***Water System***

- 48. All public water mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Water Mains and Fire Hydrants," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>).
- 49. The development's proposed water main and valves shall be public, owned and maintained by the City. If the water mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.
- 50. There is an existing 8" water main stub out located on 23645 Eden Avenue off of the 8" water main in Eden Avenue. The proposed development will have water service via a new 8" main that connects to the existing 8" water main stub out and will connect through the development to the existing 8" water main in Sylvia Street. The new public water main shall include all valves and appurtenances required by the City and shall be constructed at the applicant's/developers expense.

51. All water mains shall be looped. Dead end water mains are not allowed. Water mains must be connected to other water mains.
52. All connections to existing water mains shall be performed by City Water Distribution Personnel at the applicant's/developer's expense.
53. All water services from existing water mains, if any, shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. The developer may only construct new services in conjunction with the construction of new water mains.
54. Domestic & Fire Services:
  - a. **Domestic:** Each single-family residence (SFR) shall have an individual domestic water meter. Currently, the cost for a new residential water meter for a SFR (any size up to 1") and service line is \$11806, each (\$3500 installation fee + \$8106 facilities fee + \$200 radio read fee). If the new services are constructed by the applicant/developer in conjunction with their construction of the new water main, the installation fee is reduced to \$310, for a total of \$8616 each service.
  - b. **Fire:** Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire services shall have an above ground Double Check Valve Assembly, per City Standards SD-201 and SD-204.
  - c. **Combined Residential Services:** The development could use combined residential domestic and fire services for each residence. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1 inch (combined or not) and the maximum size for combined services is 2 inches. If the calculated fire demand exceeds 160 GPM, a separate fire service will be required. Note that, per CBC 2010 R313, flow-through or multipurpose systems may not require a backflow device (SD-216 is attached). Also note that combined services must connect directly to the water main (manifold layouts are not allowed).
55. **Irrigation:** It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping. Currently, the cost for an irrigation service and meter is \$19,910 for 1", \$37,200 for 1.5" and \$56,940 for 2". The applicant/developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation water meter, per SD-202. Backflow preventions assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.
56. All domestic and irrigation water meters shall be radio-read type.
57. Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218.

58. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and one foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade (i.e., pressure) piping materials.
59. Water service is available from the City of Hayward and is subject to standard conditions and fees in effect at the time of application.

### ***Solid Waste***

60. Applicants must comply with applicable City standards to obtain building permits, as follows:
- a. Residential Collection of Garbage and Recyclables: Residents are required to place their garbage, recycling, and organics carts at the curb for weekly collection service by contracted service providers:
    - i. The standard type of garbage, recycling, and organics containers are (1) 32-gallon cart for Garbage, (1) 64-gallon cart for Recycling, and (1) 64-gallon cart for Organics.
    - ii. The total space required for the standard service is approximately 3 feet by 9 feet. Sufficient space should be allocated in the garage to allow residents to keep the containers inside. Alternatively, the containers may be kept in a side yard behind a fence. Trash and recycle containers shall be stored out of public view on non-pickup days.
    - iii. Residents shall not place carts at the curb any earlier than 6:00 a.m. the day before scheduled collection, and are required to retrieve them no later than midnight the days the carts are emptied. (Hayward Municipal Code Section 5-1.15).
  - b. Requirements for Recycling Construction & Demolition Debris: City regulations require that applicants for all construction, demolition, and/or renovation projects, in excess of \$75,000 (or combination of projects at the same address with a cumulative value in excess of \$75,000) must recycle all asphalt and concrete and all other materials generated from the project. Applicants must complete the Construction & Demolition Debris Recycling Statement, a *Construction and Demolition Debris Recycling Summary Report*, and weigh tags for all materials disposed during the entire term of the project, and obtain signature approval from the City's Solid Waste Manager prior to any off haul of construction and demolition debris from the project site.
61. Each unit shall have sufficient space allocated to trash, recycle, and organics carts:

- a. Plan 1A: There is currently not enough space to store the cars in the garage, but an acceptable alternative would be to store the carts in the side yard. This shall be permitted, provided that there is no fence located between the Plan 1A unit and the adjacent property.
- b. Plan 3A: Carts shall be allowed to be stored in the side yard for Plan 3A provided that the side yard width is a minimum of four feet wide.

### ***Other Utilities***

62. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and Comcast cable company regulations. Transformers and switch gear cabinets shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
63. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
64. The developer shall provide and install conduits and junction boxes to allow for the installation of future fiber optic network within the subdivision, which will be owned and maintained by the City.
65. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

### ***Landscape and Irrigation Plans***

66. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.
67. All proposed shrubs shall be spaced according to their natural mature sizes without routine maintenance for cutbacks or shear in compliance with Bay-Friendly Water Efficient Landscape Ordinance. Proposed plant spacing shall in compliance with either Sunset Western Garden Book and East Bay Plants or Landscapes for Summer-Dry Climates.
68. Spacing for groundcovers *Arctostaphylos Emerald Carpet* and *Myoporum parvifolium* shall be re-spaced. Proposed plant spacing shall in compliance with either Sunset Western Garden Book and East Bay Plants or Landscapes for Summer-Dry Climates.
69. Prior to issuance of the first building permit, detailed landscaping and irrigation improvement plans shall be approved by the City's Landscape Architect. Copies of approved landscape and irrigation improvement plans shall be submitted with building permit submittal package. Planting and irrigation shall comply with the City's Hayward

Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.

70. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be twenty-two (22) inches by thirty-four (34) inches without an exception. A signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain a signature line and date for City of Hayward, Landscape Architect. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
71. Existing Trees: If any trees from neighboring properties would be impacted by the construction of the proposed project, the arborist report shall include the impacted “off-site” trees and their appraised values to establish a tree preservation bond amount. In place of a tree preservation bond for off-site trees, the developer could enter into an agreement with adjacent property owners where existing Blackwood Acacia and Purple leaf Plum are located that any damaged trees from the construction related activities would be replaced to the property owners’ satisfaction.
72. Tree Preservation Bond: A bond amount equal to the appraised value of off-site trees shall be provided prior to an issuance of grading permit. If any trees shall be removed, a tree removal permit shall be obtained in addition to a grading permit and prior to issuance of grading permit.
73. Enhanced entry paving to Private Street shall be increased in depth to be consistent with adjacent developments. Additional enhanced paving shall be provided on Street A at Court B and at “T” intersection to promote safe and small neighborhood-like environment.
74. Minimum planting area dimension shall be five feet measured from back of curb to back of curb, paving or structure at any point. It is unsafe to locate a house corner at one and a half foot from the street corner.
75. Individual water meter and sewer cleanout shall be located in the driveway with traffic bearing lids.
76. Street Tree Planting: One twenty-four-inch box tree shall be planted at every twenty to forty feet on center along Street A and Sylvia Street.
77. Front and Side Yard Tree Planting: Minimum one twenty-four-inch box tree is required for every fifty (50) feet of property frontage fronting streets. Corner lots would have two street frontage. There should never be a case where a lot does not have at least one street tree.
78. The trees should be planted twenty feet from the intersection, a minimum of five feet from any underground utilities, a minimum of fifteen feet from a light pole, and a minimum thirty feet from a traffic signal, or as otherwise specified by the city.

79. Root barrier shall be provided for all trees that are located within seven feet of paved edges or structure.
80. Trees shall be planted according to the City Standard Detail SD-122.
81. Group open spaces shall be connected well planned and safe pedestrian network attractive and appropriate design to promote maximum interaction with neighbors. The walkway connecting paseo to the group open space shall be generous and wide. The open space shall be connected with safe pedestrian networks with enhanced paving and crossings throughout the development and through the private street.
82. Minimum twelve inches wide leveled landscape area shall be provided where bio-treatment area is located adjacent to hardscape such as curbs, sidewalks, walkways and structure before starting side slope.
83. Tree can be located in the C.3 treatment area on the side slope when all other tree planting setback requirements are met. Required tree planting shall not be compromised due to compliance with C.3 treatment requirements.

### ***Fire Protection***

84. All public streets, private streets and private courts shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. Such standard is also applicable to pavers or decorative concrete. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.
85. Private streets and private courts "A" and "B" shall be dedicated fire lanes. Parking of vehicles shall only be allowed in designated parking stalls. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department.
86. Fire lane of 20 to 26 feet wide shall be posted on both sides as a fire lane; 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
87. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).
88. The minimum fire flow of 1500gpm shall be provided on site.
89. All new fire hydrants shall be Modified Steamer Hydrant (Clow Valve Co. Model LB 614 with one 2-1/2" outlet and one 4-1/2" outlet). The capacity of each individual hydrant shall be 1,500 GPM. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants.

90. Addressing of the buildings shall be in compliance with the Hayward Fire Department requirements. All buildings shall have a minimum 4 inch self-illuminated address installed on the front of the building so as to be visible from the street. A decorative address monument sign shall be installed at each court entrance, indicating the building addresses for the units served by such court. Minimum size numbers shall be 6 inches in height on a contrasting background.
91. A health-based and water quality clearance shall be obtained from either the State Department of Toxic Substances Control or the California Regional Water Quality Control Board – San Francisco Bay Region. If it is determined that remediation of soil and/or groundwater is necessary, oversight of one of these two agencies would be required.
92. Submit for proper building permits for the construction of the building to the Building Department. All building construction shall meet the requirements of the 2013 California Building Code.
93. Buildings shall be required to install fire sprinkler systems in accordance with NFPA 13D.
94. Per the requirement of Hayward Public Works Department, a static pressure of 80 PSI should be used when water data indicates a higher pressure. The residual pressure should be adjusted accordingly.
95. Underground fire service line serving NFPA 13D sprinkler system shall be installed in accordance with the Hayward Public Work Department SD-216. Water meters shall be minimum one-inch in diameter.
96. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any fire sprinkler system waterflow activity.
97. All bedrooms and hallway areas shall be equipped with smoke detectors, hard-wired with battery backup. Installation shall conform to the California Building Code (CBC).
98. CO detectors should be placed near the sleeping area on a wall about 5 feet above the floor. The detector may be placed on the ceiling. Each floor needs a separate detector.
99. An approved type spark arrestor shall be installed on any chimney cap.

### ***Hazardous Materials***

100. Prior to issuance of Building or Grading Permits, a final clearance shall be obtained from either the California Regional Water Quality Control Board or the Department of Toxic Substance Control and submitted to the Hayward Fire Department. The clearance certificate will ensure that the property meets investigation and cleanup standards for



residential development. Allowance may be granted for some grading activities, if necessary, to ensure environmental clearances.

101. Prior to grading, structures and their contents shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by appropriate professional(s) to ensure that hazards posed to development construction workers, neighbors, the environment, future residents and other persons are mitigated. All hazardous materials and hazardous waste must be properly managed and disposed of in accordance with state, federal and local regulations.
102. Any wells, septic tank systems and other subsurface structures - including hydraulic lifts for elevators - shall be removed properly in order not to pose a threat to the development, construction workers, future residents or the environment. Notification shall be made to the Hayward Fire Department at least 24 hours prior to removal. Removal of these structures shall be documented and done under permit, as required by law.
103. The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials are discovered during demolition or during grading. These shall include, but shall not be limited to, actual/suspected hazardous materials, underground tanks, vessels that contain or may have contained hazardous materials.
104. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.

### ***Final Tract Map***

105. Prior to recordation, a proposed Final Tract Map shall be submitted for review by the City. The Final Tract Map shall be presented to the City Council for review and action. The City Council meeting will be scheduled approximately sixty (60) days after the Improvement Plans with supporting documents and Final Map are deemed technically correct, and Subdivision Agreement and Bonds are approved by the City. The executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety (90) days from the date of the City Council's approval.
106. Prior to the recordation of the Final Tract Map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.
107. The final map shall reflect all easements needed to accommodate the project development. The private street and driveways shall be dedicated as a Public Utility Easement (PUE), Public Access Easement (PAE), Water Line Easement (WLE), Sanitary Sewer Easement (SSE), and Emergency Vehicle Access Easement (EVAE).

108. Pursuant to the City's Affordable Housing Ordinance, 10 percent of all detached single family residences in a project and 7.5 percent of all attached units must be set aside and sold at affordable prices to moderate-income households (households earning 120 percent of Area Median Income or less). If this is the option selected by the developer, prior to the approval of the Final Map, an Affordable Housing Plan (AHP) shall be submitted and approved by the Planning Director related to providing affordable housing units. The AHP shall conform to the requirements of the City's Affordable Housing Ordinance and will memorialize the obligations relevant to the compliance with inclusionary housing provisions by the project owner. The Ordinance also allows developers the option to pay an Affordable Housing Impact Fee as established by the City's Master Fee Schedule. Affordable housing impact fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the option chosen, no final inspection will be approved and no occupancy permit will be issued for any Dwelling Unit unless all required affordable housing impact fees have been paid in full.
109. Prior to the approval of the Final Map, the developer shall pay the costs of providing public safety services to the project should the project generate the need for additional public safety services. The developer may pay either the net present value of such costs prior to issuance of building permits, or the developer may elect to annex into a special tax district formed by the City and pay such costs in the form of an annual special tax. The developer shall post an initial deposit of \$20,000 with the City prior to submittal of improvement plans to offset the City's cost of analyzing the cost of public safety services to the property and district formation.

**PRIOR TO ISSUANCE OF BUILDING OR GRADING PERMITS AND CONSTRUCTION WITH COMBUSTIBLE MATERIALS**

110. Pursuant to the Municipal Code §10-3.332, the developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the subdivision agreement.
111. The proposed subdivision is located in the Benefit District 411-06, formed on January 16, 2007; therefore, it is subject to the following fees and credit:
- a. The developer/subdividers shall have a credit for three existing units within the development as shown in the Exhibit C of the Engineer's Report for the Benefit District 411-06.
  - b. The developer/subdivider shall be obligated to pay a Benefit District Fee in an amount consistent with the associated Mt. Eden Benefit District Engineer's Report and Chapter 8, Article 16 of the Hayward Municipal Code, to be \$12,140 per unit, for each unit after the third building permit has been issued.
  - c. For each additional unit for which a Benefit District Fee is due, the developer/subdivider shall also pay the City an additional \$300 per each additional unit to cover the cost of collecting and administering the Benefit District Fees.

112. Prior to issuance of building permits, a final map that reflects and is in substantial compliance with the approved vesting tentative tract map, shall be approved by the City Engineer and is in the process for filing with the office of the Alameda County Clerk Recorder.
113. Submit the following documents for review and approval, or for City project records/files:
- a) Copy of the Notice of Intent filed with State Water Resources Control Board;
  - b) Engineer's estimate of costs, including landscape improvements;
  - c) Signed Final Map;
  - d) Signed Subdivision Agreement; and
  - e) Subdivision bonds.
114. Plans for building permit applications shall incorporate the following:
- a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
  - b) A lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. All exterior lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Such lighting shall also be designed such that it is decorative and in keeping with the design of the development. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director or his/her designee shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the buildings. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of proposed buildings.
  - c) Plans shall show that all utilities will be installed underground.
115. Required water system improvements shall be completed and operational prior to the start of combustible construction.
116. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.
117. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.
118. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily

submit all testing and sampling and reports to the City Engineer.

**PRIOR TO COMPLETION OF SITE IMPROVEMENTS AND ISSUANCE OF CERTIFICATES OF OCCUPANCY**

***During Construction***

119. The developer shall ensure that unpaved construction areas are sprinkled with water as necessary to reduce dust generation. Construction equipment shall be maintained and operated in such a way as to minimize exhaust emissions. If construction activity is postponed, graded or vacant land shall immediately be revegetated.
120. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
- a. Grading and site construction activities shall be limited to the hours 7:00 AM to 7:00 PM Monday through Saturday and 10:00 AM to 6:00 PM Sunday and Holidays. Grading hours are subject to the City Engineer's approval. Building construction hours are subject to Building Official's approval;
  - b. Grading and construction equipment shall be properly muffled;
  - c. Unnecessary idling of grading and construction equipment is prohibited;
  - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
  - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information and a copy provided to the Planning Division.
  - f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction and a copy provided to the Planning Division.
  - g. Daily clean-up of trash and debris shall occur on Eden Avenue, Saklan Road, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
  - h. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;

- i. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
- j. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
- k. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
- l. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- m. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- n. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
- o. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
- p. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
- r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
- t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
- u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information;
- v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
- w. The developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the

Alameda County Department of Health and the Regional Water Quality Control Board.

121. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
122. In the event that human remains', archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be retained to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.
123. The applicant shall comply with standards identified in General Plan Appendix N – Noise Guidelines for the Review of New Development. Measures to ensure compliance with such standards shall be developed by a state licensed acoustical engineer and incorporated into building permit plans, to be confirmed by the Planning and Building Divisions. Also, confirmation by a state licensed acoustical engineer that such standards are met shall be submitted after construction and prior to issuance of certificates of occupancy.
124. Prior to final inspections, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
125. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed and installed in accordance with the approved plan and accepted by the project landscape architect prior to submitting a Certificate of Completion. The final acceptance form must be submitted prior to requesting an inspection with the City Landscape Architect. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of landscape improvements.
126. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation, and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of eighty percent of the dwelling units, whichever first occurs, and a Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted prior to the Final Approval of the landscaping for the Tract to the Public Works – Engineering and Transportation Department by the developer.

### ***Homeowners Association***

127. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's), creating a homeowners association (HOA) for the property, shall be reviewed and approved by

the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:

- a. The CC&R's shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements:
  - i) In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.
  - ii) It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.
  - iii) It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
  - iv) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a

public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

- v) The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.
- b. The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.
- c. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
- d. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
- e. The HOA shall be managed and maintained by a professional property management company.
- f. The HOA shall own and maintain the private access road, Private Court "A" and on-site storm drain systems in the development, excluding those located within the public right-of-way.
- g. A provision that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
- h. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The HOA representative(s) shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- i. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- j. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. The HOA shall conduct at least semi-annual inspections to confirm that all residents are using their garages



for parking their cars and not for storage. Residents shall make garages available for such inspections, as appropriate. An automatic garage door opening mechanism shall be provided for all garage doors.

- k. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- l. The HOA shall maintain all fencing, parking surfaces, common landscaping, lighting, drainage facilities, project signs, exterior building elevations, etc. The CC&Rs shall include provisions as to a reasonable time period that the building shall be repainted, the limitations of work (modifications) allowed on the exterior of the buildings, and its power to review changes proposed on a building exterior and its color scheme, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean.
- m. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- n. On-site streetlights and pedestrian lighting shall be owned and maintained by the HOA and shall have a decorative design approved by the Planning Director and the City Engineer.
- o. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
- p. The association shall ensure that no less than 75 percent of the units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid unusual hardship or special circumstances, such as a loss of job, job transfer, military transfer, change of school or illness or injury that, according to a doctor, prevents the owner from being employed, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.

***Prior to the Issuance of Certificate of Occupancy or Final Report***

128. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.

129. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
130. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
131. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of the Vesting Tentative Tract Map is approved. All Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.
132. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Three inches deep mulch should be maintained in all planting areas. Mulch should be organic recycled chipped wood in the shades of Dark Brown Color. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code. Irrigation system shall be tested periodically to maintain uniform distribution of irrigation water; irrigation controller shall be programmed seasonally; irrigation system should be shut-off during winter season; and the whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.
133. The developer/subdivider shall be obligated for the following additional fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Vesting Tentative Tract Map was accepted as complete, unless otherwise indicated herein:
  - a) Supplemental Building Construction and Improvement Tax,
  - b) School Impact Fee
134. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
135. The improvements associated with the Pacific Gas and Electric Company, AT&T (phone) company and local cable company shall be installed to the satisfaction of the respective companies.

136. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
137. The applicant/subdivider shall submit an AutoCAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.
138. The applicant/subdivider shall submit an "as built" plans indicating the following:
  - a) Approved landscape and irrigation improvements;
  - b) All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.;
  - c) All the site improvements, except landscaping species, buildings and appurtenant structures; and
  - d) Final Geotechnical Report.

## Eden 3

### Mitigation Monitoring and Reporting Program

**Zone Change and Vesting Tentative Tract Map (Tract 8242) Application No.  
201501690;  
Tony Dutra, Dutra Enterprises, Inc. (Applicant/Owner)  
Ruben and Ruby Dorris (Owners)**

October 1, 2015

#### **Mitigation 1**

##### **Significant environmental Impact:**

The project site contains several trees that will be impacted and proposes removal of 6 trees and the preservation of 3 trees. Of the trees to be removed, 2 were rated in poor condition, 2 were rated in fair condition and 2 were rated in good condition. HortScience, Inc. prepared a tree report dated February 16, 2015, identifying methods for tree preservation and tree replacement to mitigate for the potential impacts. Following these recommendations will reduce impacts to a level of insignificance.

##### **Mitigation Measure 1:**

The applicant shall follow all recommendations in the tree evaluation report including protection of all trees to be preserved during all phases of the development and replacement of all removed trees based on the value of the removed trees:

##### **Design Recommendations**

1. Verify the location and tag numbers of all trees recommended for preservation. Include trunk locations and tag numbers on all plans.
2. Allow the Consulting Arborist the opportunity to review project plans, including but not limited to, site, grading, drainage and landscape plans
3. Use only herbicides safe for use around trees and labeled for that use, even below pavement.
4. Design irrigation systems so that no trenching will occur within the Tree Protection Zone.

##### **Pre-Construction and Demolition Treatments and Recommendations**

1. Establish a Tree Protection Zone (TPZ) around each tree to be preserved. No grading, excavation, construction or storage of materials shall occur within that zone. The TPZ for the three off-site trees: Paradox Walnut #61, blackwood acacia #62 and purpleleaf plum #63, shall be the property line.
2. Install protection around all trees to be preserved. Install 6 ft. chain link with posts sunk into the ground, No entry is permitted into a TPZ without permission of the project

superintendent.

3. Trees to be removed shall be felled so as to fall away from TPZ and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees, or grinding the stump below ground.
4. Trees to be retained may require pruning to provide clearance and/or correct defects in structure. All pruning is to be performed by an ISA Certified Arborist or Certified Tree Worker and shall adhere to the latest editions of the ANS Z133 and A300 standards as well as the ISA Best Management Practices for Tree Pruning. Pruning contractor shall have the C25/D61 license specification.

### **Recommendations for Tree Protection During Construction**

1. Prior to beginning work, the contractors working in the vicinity of trees to be preserved are required to meet with the Consulting Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.
2. Any grading, construction, demolition or other work that is expected to encounter tree roots should be monitored by the Consulting Arborist.
3. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.
4. Fences have been erected to protect trees to be preserved. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the project manager.
5. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.
6. All trees shall be irrigated on a schedule to be determined by the Consulting Arborist. Each irrigation shall wet the soil within the TPZ to a depth of 30”.

**Implementation Responsibility:** Project developer

**Monitoring Responsibility:** City of Hayward Planning Division

**Timing:** Prior to any project construction and during project construction

### **Mitigation 2**

#### **Significant environmental Impact:**

The site is located within an area that may be susceptible to liquefaction (Preliminary Geotechnical Assessment prepared by ENGO, dated February 19, 2015). A site-specific design level geotechnical exploration shall be performed as part of the design process. The exploration shall include borings and laboratory soil testing to provide data for preparation of specific recommendations regarding grading, foundation design, and drainage for the proposed development. If liquefaction is determined to be probable, measures as recommended by the project geotechnical consultant shall be implemented. Such measures, such as special foundation construction, will reduce the significance of liquefaction-related impacts to a level of insignificance.

**Mitigation Measure 2:**

Prior to issuance of a Building permit, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.

**Implementation Responsibility:** Project developer

**Monitoring Responsibility:** City of Hayward Building Division

**Timing:** Prior issuance of a Building Permit for the project

**Mitigation 3****Significant environmental Impact:**

According to the Preliminary Geotechnical Assessment, moderate to highly expansive clay soils were observed near the surface of the site. The assessment recommends that exposed soils be kept moist prior to placement of concrete for foundation construction and includes recommendations for the grading phase for soil compaction to reduce the swell potential. Provided the recommendations in the preliminary geotechnical assessment are followed, the impacts of the expansive soils will be mitigated to a less than significant level.

**Mitigation Measure 3:**

All recommendations outlined in the preliminary geotechnical assessment, including, but not limited to, keeping exposed soils moist prior to concrete placement for foundation construction and proper compaction of clay soils to reduce swell potential shall be incorporated in the final design in order to mitigate for the presence of expansive soils on the project site.

**Mitigation 4 and 5**

An Updated Phase I and limited Phase II were conducted on the site at 23645 Eden Avenue by GeoSolve, Inc. on October 2, 2014. The assessment revealed evidence of "Recognized Environmental Condition" (REC's) on the parcel. Based on the laboratory analytical results of soil samples taken on the site during the Phase II ESA, GeoSolve, Inc. recommends resampling the surficial soil around the residence, namely four additional surficial soil samples, for organochloride pesticides once the residence is razed and removed from the site.

The Phase I and II ESA for 23653 Eden Avenue was conducted on the site by GeoSolve, Inc., dated November 10, 2014. The assessment revealed evidence of "Recognized Environmental Condition" (REC's) on the parcel. Based on the laboratory analytical results of soil samples taken on the site during the Phase II ESA, GeoSolve, Inc. recommends conducting an additional Phase II ESA to evaluate the vertical extent of lead and organochloride pesticides within the surficial soil at the site.

Provided the recommendations in the Phase I and II ESA's and any subsequent assessments are followed to remediate the REC's, the impacts will be mitigated to a level of no impact; therefore less than significant impact with mitigation.

**Mitigation Measure 4:** All recommendations outlined in the Phase I and Phase II ESA's and any

subsequent assessments shall be implemented to remediate all REC's on the subject properties.

**Mitigation Measure 5:** Prior to issuance of Building or Grading Permits, a final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control and submitted to the Hayward Fire Department to ensure that the property meets residential development investigation and cleanup standards.

**Implementation Responsibility:** Project developer

**Monitoring Responsibility:** City of Hayward Building Division & Department of Public Works

**Timing:** Prior to issuance of a Grading and/or Building Permit for the project.

**Mitigation 6**

As indicated in the Mt. Eden Annexation Final EIR, based on Figure 7.3 in the General Plan EIR, the Project area is not impacted by significant noise levels from Oakland International Airport or Hayward Executive Airport. Concerns with nuisance issues associated with touch and go aircraft flights will be addressed with project conditions of approval, which will require that aviation easements be recorded that would ensure disclosure and notification to future property owners of touch and go aircraft operations in the vicinity. Additionally, pursuant to the Hayward Executive Airport Land Use Compatibility Plan, the development site lies within Safety Compatibility Zone No. 6. Construction of new single family homes within this plan zone is permitted. New home residents may experience some increased level of noises associated with airport operations, however, this impact would be a less than significant impact with mitigation.

**Mitigation Measure 6:** The developer shall cause to be recorded an aviation easement for each unit to the satisfaction of the Public Works Director, prior to occupancy.

**Implementation Responsibility:** Project developer

**Monitoring Responsibility:** City of Hayward Planning Division & Department of Public Works

**Timing:** Prior to occupancy.