

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-251

Introduced by Council Member Salinas

RESOLUTION ADOPTING THE ENVIRONMENTAL CONSISTENCY CHECKLIST AND APPROVING THE ZONE CHANGE, DENSITY BONUS, AND SITE PLAN REVIEW APPLICATION PERTAINING TO THE CONSTRUCTION OF 22 NEW RENTAL TOWNHOMES AT A SITE LOCATED AT 27865 MANON AVENUE

WHEREAS, On April 12, 2021, Ragini Vecham for Sunflower Manon LLC (Applicant and Owner) submitted Zone Change, Density Bonus, and Site Plan Review Application No. 202101491 to allow the construction of 22 rental townhomes with common open space area and related site improvements on a site located at 27865 Manon Avenue (APN 453-0090-014-00); and

WHEREAS, An Environmental Consistency Checklist was prepared to assess the potential environmental impacts of the Project; and

WHEREAS, The Planning Commission considered the Project at a public hearing held on September 8, 2022 and recommended that the City Council adopt the Environmental Consistency Checklist and approve Zone Change, Density Bonus, and Site Plan Review Application No. 202101491; and

WHEREAS, Notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on October 11, 2022.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

ZONE CHANGE FINDINGS

Pursuant to Section 10-1.3425 of the Hayward Municipal Code (HMC), the Council may approve a Zone Change application when all of the following findings are met:

- A. **Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;**

The site's General Plan land use designation is Medium Density Residential, which envisions a mix of single-family and multifamily residential development nearby neighborhood serving uses, in order to create more complete, walkable, and sustainable neighborhoods. Rezoning the site from Single Family Residential (RS) to Medium Density Residential (RM) will not only bring the zoning in alignment with the MDR General Plan land use designation, but it will also create a benefit to the

neighborhood and community at large by providing the opportunity for more units within a half mile of the South Hayward BART station and within a quarter mile of other community amenities, such as Tennyson Park, Cesar Chavez Middle School and the future Stack Center. Further, the properties across Manon Avenue are also zoned as RM, meaning that the rezoning of this property will create a more cohesive look at the southern terminus of Manon, just north of the mix of commercial and residential uses along Tennyson Road.

B. The proposed change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans;

As stated in Section 10-1.115 of the Hayward Municipal Code, the Zoning Ordinance is a tool for implementing the goals, objectives and policies of the *Hayward 2040 General Plan*. As stated above, this property's RS zoning designation is not consistent with its General Plan land use designation of MDR. Rezoning the property to RM brings the property's zoning in alignment with the General Plan, as is the intent of the Zoning Ordinance and required by State law.

The MDR General Plan land use designation allows for a residential density range of 8.7 to 17.4 dwelling units per net acre. While the proposed project's density exceeds this range at 22.4 dwelling units per acre, the number of units proposed is permitted under State Density Bonus law due to two on-site deed-restricted units that will be made affordable to Very Low-Income households. The project is further consistent with applicable General Plan policies in that it will increase the housing inventory for the City of Hayward and is considered an infill development that will increase density and result in a more complete neighborhood.

The project supports the following General Plan policies:

- Land Use Policy LU-1.3 – Growth and Infill Development The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.
- Economic Development Policy ED-5.5– Quality Development The City shall require new development to include quality site, architectural and landscape design features to improve and protect the appearance and reputation of Hayward.
- Housing Policy H-3.1 – Diversity of Housing Types The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low-density single family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments.

- Housing Policy H-3.4 – Residential Uses Close to Services. The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

The vacant infill site is located in the middle of an established neighborhood with a built-out street grid and adequate public infrastructure and utilities. While the applicant proposes a Zone Change, the proposed development is still consistent with the underlying General Plan land use designation of MDR, which anticipated the development of a range of residential uses, including townhomes within this area.

D. All uses permitted when the property is reclassified will be compatible with present and potential future uses, and further, a beneficial effect will be achieved which is not obtainable under existing regulations.

When rezoned from RS to RM, the site will still allow residential units by right, though a greater range of housing types will be permitted, including townhomes and multifamily dwellings. Besides the greater variety of residential types that are permitted in the RM district, the only other deviations in permitted and conditionally permitted uses between the two zoning districts is that apiaries and wind energy conversion systems are not allowed in the RM district, while boarding homes and dormitories are.

Given that the types of residential uses permitted in the RM district directly align with what is envisioned for the MDR land use designation in the *Hayward 2040 General Plan*, the proposed rezoning is compatible with the planned future development of the neighborhood. Further, if the property remained zoned as RS, the full range of residential types and densities described in the General Plan for the MDR land use designation would not be possible.

SITE PLAN REVIEW FINDINGS

Pursuant to Hayward Municipal Code Section 10-1.3025, the Council may approve an application when all of the following findings are made:

A. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City;

The proposed development is compatible with surrounding structures and uses in that the project consists of four three-story residential buildings, which are similar in massing and scale with other multifamily residential development across Manon Avenue. The site is also bordered by commercial uses to the south and is nearby a number of other amenities, including the South Hayward BART Station, Tennyson Park, Cesar Chavez Middle School, and the future Stack Center. The result is a mixed-

use, mixed residential density neighborhood that is aligned with the goals of the *Hayward 2040 General Plan*.

The proposed buildings are attractively designed, incorporating varied roof lines and wall planes, projecting balconies and patio covers, and a mix of wood, stucco, and metal elements to create visual interest. The site features all new landscaping, serving to further beautify Manon Avenue.

B. The development takes into consideration physical and environmental constraints;

The development takes into consideration physical and environmental constraints in that the proposed project is situated on a 0.98-acre vacant infill site that will accommodate four new residential buildings, on-site parking, common and private open spaces, and functional site circulation. The site is generally flat with site dimensions of 143 feet deep with 320 linear feet of frontage. The existing site does not have value as habitat for endangered, rare, or threatened species; and, as conditioned, construction of the project would not result in any significant impacts relating to noise, air quality or water quality. The project site is within City limits and is adequately served by all required utilities and public services.

C. The development complies with the intent of City development policies and regulations; and

As specified in Findings above, the project is consistent with the goals and policies of the *Hayward 2040 General Plan*, including the Medium Density Residential land use designation, the Medium Density Residential zoning district, and all other relevant requirements and standards in the Hayward Municipal Code.

D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

The development will be operated in a manner determined to be acceptable and compatible with surrounding developments in that the proposed project will result in the construction of a multifamily residential complex, similar to other residential uses adjacent to the project site, along Manon Avenue. Multi-family residential is permitted by-right within the RM zoning district, and a mix of single-family and multifamily uses is intended within the MDR General Plan land use designation.

Additionally, during construction, the proposed project will be subject to all applicable provisions of the Hayward Municipal Code for construction, maintenance, landscaping etc. The proposed development will be required to adhere to the Conditions of Approval (Attachment III) which will require the project to adhere to standard procedures of site preparation and development, including permitted hours of construction activity as well as the incorporation of Best Management Practices

(BMPs) for construction noise, grading, and use of equipment to prevent adverse negative impacts onto adjacent properties.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183.3, an Infill Checklist was prepared for this project with the finding that no additional environmental review is required. The purpose of an Infill Checklist is to streamline the environmental review process for eligible infill projects by limiting the topics subject to review to the project level in cases when the potential impacts of infill development have been previously considered in another environmental analysis or would be addressed by uniformly applicable development policies. The Infill Checklist for this project tiers off of the Environmental Impact Report (EIR) for the *Hayward 2040 General Plan* and confirms that the project would not have any significant effects on the environment that either have not already been analyzed in the *Hayward 2040 General Plan* EIR, are more significant than previously analyzed, or would not be substantially mitigated by uniformly applicable development policies.
- B. The proposed Infill Checklist was independently reviewed, considered, and analyzed by the Planning Commission and reflects the independent judgement of the Planning Commission; such independent judgement is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the administrative record as a whole); the Planning Commission recommends the City Council adopt the proposed Infill Checklist and its findings and conclusions as its source of environmental information; and the proposed Infill Checklist is legally adequate and was completed in compliance with CEQA.
- C. The proposed Infill Checklist identified all potential adverse impacts and based on the Infill Checklist and the whole record before the Planning Commission, there is no substantial evidence that the Project will have a significant effect on the environment.
- D. The project complies with CEQA, and the proposed Infill Checklist was presented to the Planning Commission, which reviewed and considered the information contained therein prior to recommending approval of the Project. The custodian of the record of proceedings upon which this decision is based is the Development Services Department of the City of Hayward, located at 777 B Street, Hayward, California 94544.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Environmental Consistency Checklist and approves Zone Change, Density Bonus, and Site Plan Review Application No. 202101491, subject to the adoption of the companion ordinance (Ordinance No. 22-08) rezoning the property located on a site at 27865 Manon Avenue, Accessor Parcel Number (APN) 453-0090-014-00, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA, October 11, 2022.

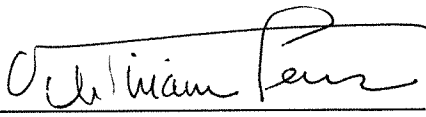
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Andrews, Lamnin, Márquez, Salinas, Zermeño
MAYOR: Halliday


NOES: COUNCIL MEMBERS: Wahab

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward

**CITY OF HAYWARD PLANNING COMMISSION
ZONE CHANGE, DENSITY BONUS, AND SITE PLAN REVIEW
MANON TOWNHOMES
APPLICATION NO. 202101491
27865 MANON AVENUE**

CONDITIONS OF APPROVAL

GENERAL

1. The developer 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.
2. Site Plan is approved subject to the Architectural, Civil and Landscape plans stamped May 13, 2022, May 12, 2022, and May 12, 2022, respectively, except as modified by the conditions listed below. Any proposal for alterations to the conditionally approved site plan and/or design that does not require a variance to any zoning ordinance standard shall be subject to review and approval by the Approving Body. Alterations requiring a variance shall be subject to review and approval by the Planning Commission, if applicable.
3. The permittee, property owner or designated representative shall allow the City's staff to access the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
4. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/ or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were filed to construct the project.
5. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions and/or the issuance of a building permit.

6. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.
7. A copy of these conditions of approval shall be scanned and included on a separate, full-sized sheet(s) in the building permit plan check set.
8. The Planning Director or designee may revoke this permit for failure to comply with, or complete all, conditions of approval or improvements indicated on the approved plans.
9. The owner shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, landscaping, driveways, and parking areas. The premises shall be kept clean and weed-free.
10. The applicant shall be responsible for graffiti-free maintenance of the property and shall remove any graffiti within 48 hours of occurrence or City notification.
11. The applicant shall apply for and obtain all necessary permits from the City and/or outside agencies prior to any site work.
12. Within 60 days of following the issuance of a building permit and prior to construction, the applicant shall install one non-illuminated "Coming Soon" sign on the project site that includes a project rendering, a project summary, and developer contact information. The sign shall be constructed of wood or recyclable composite material, be placed in a location at least ten (10) feet back from the property line, and shall not impede pedestrian, bicycle, and vehicular visibility or circulation. The sign shall be maintained in accordance with Section 10-7-709 of the Hayward Municipal Code and may be up to thirty-two (32) square feet of sign area and shall not exceed ten (10) feet in height. Sign design, size and location shall be reviewed and approved by the Planning Division prior to placement.
13. Prior to the issuance of the Certificate of Occupancy and/or Final Building Permit approval, the applicant shall contact the Planning Division and be subject to a site inspection by the designated project planner to verify that all applicable mitigations and conditions of approval, including architectural materials, colors and design, have been satisfied. The cost of inspection, including any subsequent inspections that are deemed necessary by the City, shall be paid by the applicant.

MAILBOXES/ADDRESSES

14. Mailboxes shall be installed in accordance with Post Office policy and include locking mechanisms to minimize opportunities for theft.
15. Property addresses will be assigned by the Development Services Department prior to issuance of a building permit.

LIGHTING

16. All lighting fixtures shall incorporate a shield to allow for downward illumination. No spillover lighting to adjacent properties is permitted and all exterior lighting on walls, patios or balconies shall be recessed/shielded to minimize visual impacts.

COLORS AND MATERIALS

17. The building colors and materials shown on the building permit plans shall match those shown on the architectural plans, color/material exhibit and/or renderings dated May 13, 2022. Any revision to the approved colors and materials shall be reviewed and approved by the Planning Division prior to the issuance of a building permit and/or prior to construction.
18. All vents gutters, downspouts, flashings, electrical conduits, etc. shall be painted to match the color of the adjacent material unless specifically designed as an architectural element.

SCREENING OF MECHANICAL EQUIPMENT

19. All exterior and rooftop mechanical equipment shall be screened or located away from public view. Mechanical and rooftop equipment shall include, but is not limited to, electrical panels, pull boxes, air conditioning units, gas meters, and swimming pool equipment. All rooftop screening and mechanical equipment shall be shown on the project plans and be subject to final review and approval by City staff prior to the issuance of an occupancy permit. All screening shall be compatible with respect to forms and materials used on the building.
20. If permitted, all above-ground utility meters, air conditioners, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen from all perspectives, unless other noise mitigation is required. All equipment shall be designed to be compatible with respect to location, form, design, exterior materials, and noise generation. The applicant shall obtain planning division review and approval prior to issuance of any permits.

SIGNAGE

21. No signs are approved with this project. Any signs placed on-site or off-site shall be reviewed and approved by the Planning Division and a Sign Permit application shall be required, consistent with Hayward Municipal Code Sign Ordinance requirements.

IMPACT FEES

22. This development is subject to the requirements of the Property Developers – Obligations for Parks and Recreation set forth in HMC Chapter 10, Article 16. Per HMC Section 10-16.10, the applicant shall pay impact fees. The impact fees shall be the rate that is in effect at the time of building permit issuance.

ENVIRONMENTAL

23. If human remains, archaeological resources, prehistoric or historic artifacts are discovered during construction or 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.
24. In the event that cultural resources of Native American origin are identified during construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.
25. As applicable, if project construction activities occur between February 15 and August 31, a qualified biologist shall conduct a pre-construction survey for nesting birds no more than 14 days prior to construction. The survey shall include the entire project site and a 300-foot buffer to account for nesting raptors. If nests are found, the qualified biologist shall establish an appropriate species-specific avoidance buffer of sufficient size to prevent disturbance to the nest by project activity (up to 300 feet for raptors, up to 150 feet for all other birds). The qualified biologist shall perform at least two hours of pre-construction monitoring of the nest to characterize "typical" bird behavior. During construction, if active nests are present, the qualified biologist shall monitor the nesting birds to determine if construction

activities are causing disturbance to the bird and shall increase the buffer if it is determined the birds are showing signs of unusual or distressed behavior associated with project activities. Atypical nesting behaviors that may cause reproductive harm include, but are not limited to, defensive flights, vocalizations directed towards project personnel/activities, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority, through the resident engineer, to order the cessation of all project activities if the nesting birds exhibit atypical behavior that may cause reproductive failure (nest abandonment and loss of eggs and/or young) until a refined appropriate buffer is established. To prevent encroachment, the established buffer(s) should be marked clearly by high visibility material. The established buffer(s) should remain in effect until the young have fledged or the nest has been abandoned, as confirmed by the qualified biologist. Any sign of nest abandonment should be reported to the City and CDFW within 48 hours. The monitoring biologist, in consultation with the resident engineer and project manager shall determine the appropriate protection for active nests on a case-by-case basis using the criteria described above.

26. The following control measures for geologic hazards shall be adhered to, unless otherwise approved by the Planning Director or City Engineer. Per standard City project approval procedures, the City must review final project design plans for conformity with building code requirements prior to project construction. All earthwork, including site grading, wall foundation excavations, placement and compaction of engineered fill, and final surface drainage installation, would be performed in accordance with the recommendations contained in the geotechnical report, as applicable.
27. 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. Construction activities shall occur in conformance with the City's Municipal Code unless otherwise permitted by the City Engineer or Chief Building Official;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - d. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise; and
 - e. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information.

28. In order to meet the BAAQMD fugitive dust threshold, the following BAAQMD Basic Construction Mitigation Measures shall be implemented:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - f. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - g. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - h. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - i. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Hayward regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations.

EXPIRATION

29. In accordance with Hayward Municipal Code (HMC) Section 10- 1.3055, approval of this Site Plan Review is void 36 months after the effective date of approval unless:

- a. Prior to the expiration of the 36-month period, a building permit application has been submitted and accepted for processing by the Building Official or his/ her designee. If a building permit is issued for construction of improvements authorized by this approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance on this approval; or
- b. A time extension of the approval has been granted by the Development Services Director or his/her designee, which requires that a request for an extension of this approval must be submitted in writing to the Planning Division at least 15 days prior to the expiration date of this approval.

BUILDING

30. All of the proposed buildings in this project fall under a new local green building ordinance called the "Reach Code". This local regulation modifies the CA Energy Code to prohibit natural gas in new one and two-family buildings. The Reach Code requires these units to be designed as all-electric buildings. To offset any increased costs of all-electric designs, do not bring natural gas infrastructure to the site. The reach code also expands CalGreen's requirements for EV charging infrastructure. To learn more about the Reach Code and to find a checklist for your project, please see the City of Hayward website here: <https://www.hayward-ca.gov/reach-code>
31. The project will require a building permit application and the associated plan review process. The project shall comply with the building code in effect at the date of building permit submittal. Additional comments will be provided during that review. If you have any code questions or plan review concerns, please don't hesitate to contact me at steve.osborne@hayward-ca.gov

LANDSCAPING

32. As amended by the City Council, the number of trees on site shall be increased to 22.
33. Source of Future Conflict with Neighboring Properties. All proposed tree canopy shall not encroach over to the neighboring properties to the best practice possible. Proposed tree canopy shall not hang over existing structure in any of the neighboring properties for possibly creating fire hazard and clogging roof gutter. Two *Quercus agrifolia* at both ends of western property shall be replaced with another tree species with smaller canopy or relocate these two trees elsewhere in the project. The same comment applies to two *Pistacia chinensis* proposed along the western property line. *Pistacia* canopy will reach beyond 35 feet at maturity and about a half of the canopy will be in the neighboring properties to the west.
34. Irrigation Legend. Controller listed in the legend should read "irrigation controller."

35. No building permit shall be issued prior to approval of landscape and irrigation improvement plans.
36. Pursuant to HMC Section 10-12.07 (4), a qualified soil testing laboratory shall complete a soil fertility test prior to amending the planting soil and shall provide recommendations for organic compost to bring the soil organic matter to a minimum of 5% by dry weight and incorporating organic fertilizers to recommended levels for planting area. The final testing results, recommendations and organic compost shall be submitted to the project landscape architect for review and approval and shall be submitted to City Landscape Architect prior to requesting the final landscape inspection with Appendix C Certification of Completion.
37. Pursuant to HMC Section 10-12.07(a)(4)(D), organic recycled chipped wood mulch in the shade of Dark Brown color shall be placed in all planting area including biotreatment areas. Mulch size shall not exceed 1-1/2-inch in diameter.
38. Any slope exceeds 3:1 but less than 2:1 shall receive jute netting or erosion material regardless of the length of the sloped area before installing mulch.
39. Tree shall be located a minimum of 5 feet from lateral service lines and driveways, a minimum 9 feet from the center line of fire hydrant, a minimum of 15 feet from a light pole, and a minimum of 30 feet from the face of a traffic signal, or as otherwise specified by the City.
40. All final tree locations shall be field verified by the project landscape architect prior to planting and resolve any conflicts arise in the field.
41. Root barriers shall be installed linearly against the paving edge in all instances where a tree is planted within seven feet of pavement or buildings, and as recommended by the manufacturer.
42. All above ground mechanical equipment shall be screened from the street with five-gallon shrubs.
43. Minimum twelve inches wide band of large size exceeding six-inch diameter Noiya Cobblestone shall be provided around overflow catch basin or bubble up basin.
44. All common area landscaping, irrigation and other required improvements shall be installed in accordance with the approved improvement plans prior to acceptance of tract improvements, or occupancy of eighty percent (80%) of the dwelling units, whichever first occurs. Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted upon acceptance of the landscape improvements for the Tract to the Department of Public Works Engineering by the developer.

45. Landscape Maintenance:

- a. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall maintain irrigation system to function as designed to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which contribute pollution to the Bay.
- b. 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.
- c. Three inches deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood in the shades of Dark Brown Color and the size shall not exceed 1-1/2-inch diameter. The depth shall be maintained at three inches deep.
- d. All nursery stakes shall be removed during tree installation and staking poles shall be removed when the tree is established or when the trunk diameter of the tree is equal or larger to the diameter of the staking pole.
- e. All trees planted as a part of the development as shown on the approved landscape plans shall be "Protected" and shall be subjected to Tree Preservation Ordinance. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by City Landscape Architect.
- f. Any damaged or removed trees without a permit shall be replaced in accordance with Tree Preservation Ordinance or as determined by City Landscape Architect within the timeframe established by the City and pursuant to the Municipal Code.
- g. 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.

Prior to the Issuance of Building Permit

46. Prior to issuance of the first building permit, detailed landscape and irrigation improvement plans prepared by a licensed landscape architect on an accurately surveyed base plan shall be submitted as a part of grading permit application for approval by the City. The plans shall comply with the City's Bay-Friendly Water Efficient Landscape Ordinance (California Building Code Title 23) and all relevant Municipal Codes. Once approved, a digital file of the approved and the project landscape architect signed improvement plans shall be submitted to the City for the

City's approval signatures. Copies of the signed improvement plans shall be submitted as a part of the building permit submittal.

Prior to Issuance of Certificate of Occupancy

47. Upon acceptance of the landscape installation in accordance with the approved landscape improvement plans by the City, As-Built digital plans shall be submitted to the Engineering Department by the developer.
48. HMC Section 10-12.11: In large projects or projects with multiple landscape installations (i.e. production home developments) an auditing rate of one (1) in seven (7) lots or approximately fifteen percent (15 %) will satisfy this requirement. All landscape irrigation audits shall be conducted by a third-party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape.
49. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed in accordance to the approved plan and accepted by the City Landscape Architect. Before requesting an inspection from the City Landscape Architect, the project landscape architect shall inspect and accept landscape improvements and shall complete Appendix C. Certificate of Completion in the City's Bay-Friendly Water Efficient Landscape Ordinance. The completed Certificate of Completion Part 1 through Part 7 or applicable parts shall be e-mailed in prior to requesting an inspection from the City Landscape Architect.

ENGINEERING

50. City's grading permit will be required for the land disturbance and the proposed site improvements. Plans for grading permit shall be prepared by the state licensed and qualified Civil Engineer considering the recommendations of a geotechnical engineering study and the site's seismic liquefaction potential. Such plans shall require approval of a geotechnical engineer retained by the project developer and the City Engineer.

Prior to Issuance of Building Permit

51. Improvement Plans and related design documents prepared by or under the direction of State licensed and qualified professionals shall be submitted to the City Engineer for all public and private improvements.
52. Applicant shall secure the City Fire Marshal's approval of Improvements for all weather emergency vehicle access and fire protection before flammable material is brought on-site.

53. All grading shall comply with Chapter 10, Article 8 (Subdivision Ordinance) of the Hayward Municipal Code as determined by the City Engineer. A fine grading and drainage plan prepared by a State licensed civil engineer shall be submitted as part of the Improvement Plans for review and approval by the City Engineer prior to the issuance of building permits. Developer has the option to apply for a grading permit to rough grade the project site.
54. A soils report prepared by a licensed civil or geotechnical engineer subject to approval by the City Engineer shall be submitted and the grading, retaining walls, surface and sub-surface drainage, lot drainage, and utility trench backfilling shall be designed in accordance with the recommendations of the soils report. Final grading and drainage plans for the grading permit shall be reviewed and signed by the soils report engineer certifying that the recommendations in the report have been followed.
55. Structural calculations and details prepared by a licensed civil or structural engineer are required for all earth retaining structures greater than 4-feet in height (top of wall to bottom of footing) and shall be reviewed and approved by the Building Division of the Development Services Department.
56. The project shall not block runoff from, or augment runoff to, adjacent properties. The developer shall be required to mitigate augmented runoff to maintain post-development site discharge rates to less than or equal to pre-development discharge rates to the satisfaction of the City Engineer.
57. The Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. On site surface drainage shall be collected and conveyed to a public drainage system as per plans approved by the City Engineer. The storm drainage system shall be designed to convey a 10-year storm event.
58. Drainage plans should include all proposed underground pipes, building drains, area drains and inlets. All building sites shall be graded to slope away from the building foundations per California Building Code, Chapter 18, Section 1804.3 Site Grading or as required by the Soils Engineer. On-site collector storm drains shall be sized to minimize potential for blockages. Storm drains shall be designed to prevent standing water.
59. The On-site storm conveyance and treatment systems shall be owned and maintained by the property owner.
60. The project's Stormwater Control Plan and updated Stormwater Requirements Checklist shall be submitted and shall show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.

61. All broken, cracked, or uplifted curb, gutter, and sidewalk shall be removed and replaced along the project frontage. The existing street section shall be removed and replaced to the centerline of the street if the existing pavement is either damaged or the structural section is determined by the City Engineer to be inadequate for the intended traffic.
62. Existing unused or unapproved driveway fronting the project shall be replaced with concrete curb, gutter and sidewalk matching adjoining such improvements in form and color.
63. Street lighting along the development frontage and on-site lighting shall comply with current City lighting standards and the City's Security Ordinance. 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 a direct light or glare upon adjacent properties or rights-of-way. Photometric analysis/studies shall be submitted for review and approval by the City Engineer.
64. All service to the development shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and local 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. (Required by HMC Section 10-3.815)
65. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the development.

During Construction

66. Construction Stormwater Management: Developer shall be responsible for the preventing the discharge of pollutants (sediments) into the street and/or the public storm drain system from the project site during construction in accordance with the Hayward Municipal Code Section 11-5.19. Projects proposed for construction between October 1st and April 30th, must have an erosion and sedimentation control program approved, and implemented to the maximum extent possible, prior to the start of any land disturbing activity. Trash and debris must be adequately contained at all times. Such measures shall be maintained during the project's construction period. Violations or other noncompliance with stormwater management measures may result in the project being shut down, including any building permit activity, until full compliance with stormwater management requirements is achieved.
67. Construction Damage: The Developer shall remove and replace any damaged curb, gutter, sidewalks, driveways, signs, pavement, pavement markings, etc. within the public right-of-way along the project frontage and at any locations damaged by the construction of the proposed project. Damaged pavement surfaces shall be overlain

or micro-surfaced. Damaged pavement surfaces shall be repaired or resurfaced as required by the City Engineer. Unused driveways or unused portions thereof shall be removed and replaced with curb, gutter and sidewalk matching adjoining in form and color.

Prior to Issuance of Certificate of Occupancy

68. All public improvements, including the complete installation of all street improvements, fencing, sanitary sewer, storm drainage, water system, underground utilities, streetlights etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit in each phase of the subdivision. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
69. Prior to final inspection and issuance of final certificates of occupancy, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Public Works Director and Development Services Director or his/her designees.
70. Conceptual Multi-Phased Exhibit (Unit Release Plan): Prior to issuance of certificates of occupancy for any unit within the project, an exhibit showing the proposed phased closures/openings during construction. The exhibit shall detail the number and locations of units to be released and portion of public street and sidewalk to be opened/closed to the public at each phase. Exhibits shall also show access routes and include traffic control plans. Proper measures such as fencing, gates, and signs must be in place to separate adjacent construction activities from occupied units. These measures shall be reviewed and approved by the City Inspector prior to installation and occupancy of units.
71. Post Construction Stormwater Maintenance: The property owner(s) shall enter into the City's standard "Stormwater Treatment Measures Maintenance Agreement" as prepared by the City. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for private treatment control and site design measures is bound to the property in perpetuity.
72. Geotechnical Letter: Prior to the issuance of any Certificates of Occupancy, Developer shall submit a confirming letter from the project geologic and/or geotechnical team confirming they have observed all grading activities and that those activities were performed in conformance with their recommendations. All material testing reports shall be attached to the certification letter report.
73. Final Engineer's Report: Prior to the issuance of any Certificate of Occupancy, The Engineer of Record shall submit a confirming letter that all grading, drainage, and engineering components of the project have been performed in conformance with the approved plans and specifications.

74. As-Built Records: As-built records of site grading and improvements completed by the property owner shall be provided to the City Engineer on electronic media in AutoCAD and pdf formats.

UTILITIES

Prior to Issuance of Building Permit

75. All public water mains and appurtenances shall be constructed in accordance with 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: <https://www.hayward-ca.gov/your-government/departments/engineering-division>.
76. All connections to existing water mains shall be performed by City Water Distribution Personnel at the Applicant/Developer's expense.
77. Where a public water main is in an unpaved easement, unpaved surface, or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
78. Existing water services, if any, that cannot be reused for the proposed development shall be abandoned by City Water Distribution Personnel at the Applicant/Developer's expense.
79. Each residential property shall have its own water meter. Combined residential domestic and fire service is permitted per City of Hayward Standard Detail SD-216.
80. A separate irrigation meter shall be installed for landscape purposes.
81. The Applicant/Developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each non-residential domestic and irrigation water meter, per City Standard Detail SD-202. Backflow prevention 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.
82. The fire service size shall be determined by the Fire Department's requirements. All fire services must have an above-ground double check valve assembly (DCVA), per City Standard Detail 204 (SD-204) and 201 (SD-201). New fire service line must be installed by the City's Water Distribution personnel at the Applicant/Developer's expense.

83. A fire flow test must be completed by Water Distribution personnel. The current cost for a fire flow test is \$326. For instructions on obtaining existing fire flow data and filling out an application for new fire flow data, please visit the City's website at <https://www.hayward-ca.gov/services/city-services/fire-flow-testing>.
84. Water meters and services are to be located a minimum of two feet from top of driveway flare as per City Standard Detail SD-213 thru SD-218. Water meters shall not be located in the driveway. Water meter lids shall be Nicor, Inc.
85. Water mains and services, including the meters, must be located at least ten (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.
86. All sanitary sewer mains and appurtenances shall be constructed in accordance with the City's "Specifications for the Construction of Sewer Mains and Appurtenances," latest revision at the time of permit approval. Available on the City's website: <https://www.hayward-ca.gov/your-government/departments/engineering-division>
87. The development's sanitary sewer mains and manholes shall be public, owned, and maintained by the City. If sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10-foot-wide easement shall be granted to the City with rights for reasonable access for repairs and maintenance.
88. Each dwelling unit shall have its own sanitary sewer lateral.
89. The Applicant/Developer is responsible for payment of sewer connection fees at the current rates at the time and application for water and sewer service is submitted. Sewer connection fees for non-residential connections are calculated based on the volume and strength of the wastewater discharge. The development's permitted sewer capacity and related sewer capacity fees shall be further assessed during the building permit application.

SOLID WASTE

90. The owner or property manager shall be responsible for litter-free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to ensure that the property and its street frontage remain clear of any abandoned debris or trash per Municipal Code Sec.11-5.22.

91. 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).

TRANSPORTATION

Prior to Issuance of Building Permit

92. Applicant shall submit the following items as part of Improvement Plans to Public Works-Transportation for review prior to issuance of Building Permits:
- a. An on-site and off-site (fronting City right-of-way) Signing and Striping Plan in accordance with Caltrans' latest Standard Plans (refer to Caltrans Standard Plans Sheet A90A for more information on marking complaint disabled stalls).
 - b. A Photometric Plan, refer to Hayward's Standard Plans Sheet SD-120 for roadway lighting criteria, link: <https://www.hayward-ca.gov/documents/hayward-standard-detail>
 - c. Turning Analysis using the largest vehicle expected on-site (typically a delivery vehicle) using AutoTurn software. Turning Analysis shall not depict vehicles backing into public streets/right-of-way.
93. Applicant shall not modify the existing on-street parking regulations along Manon Avenue unless directed to do so by the Public Works & Utilities Director or his/her designee.
94. Applicant shall not modify the existing speed hump, or any other traffic calming device currently located along Manon Avenue unless directed to do so by the Public Works & Utilities Director or his/her designee.
95. Proposed "Sliding Privacy Gates" shall not be installed within 25 feet of the public sidewalk on Manon Avenue.
96. Upon review of Improvement Plan(s) and required item(s) listed above by Public Works-Transportation, Applicant shall modify Improvement Plan(s) to address any deficiency(ies) or item(s) identified by Public Works-Transportation staff, to the satisfaction of the Public Works Director or his/her designee, prior to issuance of Building Permit(s).

FIRE

General

97. Submit appropriate building permits for the construction of all proposed building(s) to the City of Hayward Building Department. Construction shall conform to all

standards according to the current edition of the California Building and Fire Code(s) respectively.

Fire Prevention

98. Where the grade plan and highest roof surface exceeds 30ft, fire apparatus roads shall have unobstructed width of 26 feet in the immediate vicinity of buildings (highest roof surface shall be determined by measurement to the eve of a pitched roof). At least one of the required access routes shall be located within a minimum of 15 feet and a maximum of 30 feet from the building and shall be positioned parallel to one entire side of the building.
99. Fire apparatus access roads shall be designed and maintained to support 75,000 pounds, the imposed load of fire apparatus, and shall be surfaced to provide all-weather driving capability. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be provided for all fire apparatus accesses.
100. A fire apparatus access road 20 feet to 26 feet wide shall be posted on both sides as a fire lane; a fire apparatus access road 26 feet to 32 feet wide shall be posted on one side of the road as a fire lane. "No Parking" signs shall meet the City of Hayward Fire Department fire lane requirements.
101. Address and premise identification approved numbers shall be placed on all buildings in such a position as to be plainly visible and legible from the road or street fronting the property. Dimensions of address numbers or letters on the front of the buildings shall be approved by the fire department.
102. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26ft. exclusive of shoulders.
103. Electrified gates shall be provided with a Knox product Keyswitch at a location approved by the AHJ.

Water Supply

104. A fire flow shall be provided in accordance with the current edition of the California Fire Code (CFC) Table B105.1 based on the construction type and building area when building exceeding 3,600 square feet. A fire flow reduction of up to 50 percent is allowed when the building is provided with automatic sprinkler system in accordance with NFPA 13. The resulting fire flow shall not be less than 1,500gpm. (Provide with submittal of building drawings)
105. The minimum number of fire hydrants shall be provided in accordance with the Hayward Fire Code Ordinance and the California Fire Code (CFC). The average spacing between hydrants is 300 feet. Any portion of the building or facility shall be within 400 feet of a fire hydrant. Spacing and locations of fire hydrants shall be

subject to review and approval by the Hayward Fire Department. With the determination of existing fire hydrants on Manon Ave., an additional hydrant may be required based on available water supply and water/fire flow demand of the site.

Fire Protection

106. All buildings are required to install an overhead automatic fire sprinkler system in accordance with NFPA 13/NFPA 13R as reflected on the current proposal. (a separate submittal by a licensed C16 Contractor is required to the Hayward Fire Department)
107. A maximum static pressure of 80 PSI should be used when test data indicates higher pressures. Residual pressures used in the calculation should also be adjusted accordingly.
108. Underground fire service lines shall be installed in accordance with NFPA 24 and City of Hayward SD204/216. The underground fire line will be determined based on type of fire sprinkler system proposed.
109. Fire sprinkler monitoring systems should be provided for multi-family residential buildings in accordance with the California Fire Code and NFPA 72. At a minimum, each fire sprinkler system riser shall have exterior local alarm bell(s). Interior notification device(s) shall be installed within each residential unit.
110. An audible alarm bell (device) shall be installed on the exterior of the fire sprinkler system riser. The device shall activate upon any fire sprinkler system water flow activity.
111. Interior audible alarm device(s) shall be installed within each dwelling unit in a location approved by the AHJ. The device shall activate upon any fire sprinkler system water flow activity.
112. Interconnected smoke detectors shall be installed at approved locations based on the California Building (CBC), California Fire (CFC) Code(s) and NFPA 72 Standards.

Hazardous Materials

113. Environmental and Health Based Site Clearance - A Phase I Environmental Site Assessment and any other records regarding site contamination, investigation, remediation, or clearances from other regulatory agencies shall be submitted. Provide clearance documentation from either the California Regional Water Quality Control Board or the Department of Toxic Substance Control to ensure that the property meets residential development investigation and cleanup standards.
114. The Alameda County Department of Environmental Health's Local Oversight Program (LOP). The LOP contact, Paresh Khatri, can be reached at (510) 567-6700

or (510) 777-2478. Clearance from the LOP will ensure that the proposed residential project meets development investigation and cleanup standards, including, if necessary, any clearance stipulations, such as a deed restriction or the need for any groundwater/soil vapor/soil management plan. LOP clearance shall be submitted to the Hayward Fire Department's Hazardous Materials Office, the City of Hayward Planning Division and City of Hayward Public Works/Engineering Division prior to issuance of any grading and building permits.

115. **Electronic Submittal of Environmental Documentation – Environmental Documentation** associated with the evaluation, investigation and/or clearance of this site shall be provided in an electronic format to the City of Hayward Fire Department and Planning Division prior to the issuance of the Building or Grading Permit.
116. **Demolition/Grading – A condition of approval 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 an appropriate professional(s) to ensure that hazards posed to development construction workers, the environment, future uses, and other persons are mitigated.
117. **Wells, Septic Tank Systems or Subsurface Structures – Any wells, septic tank systems and other subsurface structures shall be removed properly to minimize threats to the health and safety of the development construction workers, future residents, or the environment.** These structures shall be documented and removed under permit from the appropriate regulatory agency when required.
118. **Hazardous Materials/Waste and their Vessels Discovered during Grading/Construction – If hazardous materials/wastes or their containers are discovered during grading/construction, the Hayward Fire Department shall be immediately notified at (510) 583-4910.**
119. **Underground Storage Tanks, Oil Water Separators, Hydraulics Lifts – If found on the property, underground vessels and/or structures shall be removed under an approved plan filed with the Hayward Fire Department (HFD) and appropriate samples shall be taken under the direction of a qualified consultant to ensure that contamination has not occurred to soil or groundwater. A follow-up report shall be required to be submitted to document the activities performed and any conclusions. Below are specific requirements on each:**
 - a. **Underground storage tank and associate piping:** An approved removal plan, including appropriate sampling, a Hayward Fire Department permit for the removal, and follow-up report is required.
 - b. **Oil Water Separators:** An approved plan, including appropriate sampling, and follow-up report is required.

- c. Hydraulic Lifts: An approved plan, including appropriate sampling, and follow-up report is required.
120. Hazardous Materials/Waste During Construction - During grading and construction hazardous materials and hazardous waste shall be properly stored, managed, and disposed.

AFFORDABLE HOUSING

121. This development is subject to the requirements of the Affordable Housing Ordinance set forth in Chapter 10, Article 17 of the Hayward Municipal Code. The applicant shall comply with the affordable housing requirements as reflected in the attached final Affordable Housing Plan on file with the Housing Division and included as Attachment X and detailed per Section 10-17.510 Affordable Housing Plan. No building permit(s) will be issued for any non-City restricted units in the Project until permits for all affordable units have been obtained or are obtained simultaneously. No Certificate(s) of Occupancy will be issued for any non-City restricted units in the Project until Certificate(s) of Occupancy for all affordable units have been obtained or are obtained simultaneously.
122. Pursuant to Hayward Municipal Code Sections 10-17.515 and 10-17.525, the applicant shall enter into and record against the property an Affordable Housing Agreement that includes all elements set forth in the Affordable Housing Ordinance and the final Affordable Housing Plan on file with the Housing Division and included as Attachment V to the staff report, prior to the approval of a final map or issuance of the first building permit, whichever occurs first. Additional rental or resale restrictions, deeds of trust, option agreements and/or other documents acceptable to the City Manager or designee shall be recorded.