

**CITY OF HAYWARD PLANNING DIVISION
PLANNING COMMISSION
APPLICATION NO. 201806007
CONDITIONAL USE PERMIT WITH SITE PLAN REVIEW
BELLA VISTA – 1641 & 1659 D ST.
DRAFT CONDITIONS OF APPROVAL**

February 27, 2020

Proposed Adult Residential Facility for Clients with Deficits in Self-Help Skills, Life Skills, and Diagnosis of Mental Illness or Mental Disorder within Two Existing Buildings and Related Site Improvements at 1641 and 1659 D Street (Assessor Parcel No. 427-0056-035-00), Requiring Approval of Conditional Use Permit with Site Plan Review Application No. 201806007. Haidie Bautista and Imelda Sabado (Applicant); Edwin S and Fabiana L TRS Bautista (Property Owner).

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 date stamped December 16, 2019, December 5, 2019, and December 5, 2019, 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 approval by the Development Services Director or his/her designee, prior to implementation. Alterations requiring a variance shall be subject to review and approval by the Planning Commission.
3. The proposed use shall operate according to these conditions of approval and the approved narrative/plan set. Any future change, modification or expansion of the approved use shall require the submittal of a new use permit application and be subject to additional review and approval by the City.
4. 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.
5. 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 pulled to construct the project.

6. 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.
7. 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.
8. 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.
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 Planning Commission may revise or revoke the conditions of this use permit for failure to comply with, or complete all, conditions of approval or improvements indicated on the approved plans.
11. 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.
12. 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.
13. The applicant shall apply for and obtain all necessary permits from the City and/or outside agencies prior to any site work.
14. Up to 26 clients may be housed in Building #1 (1659 D St) and up to 16 clients may be housed in Building #2 (1641 D St.) for a total of up to 42 clients. Clients shall be ambulatory and between the ages of 18 and 59 years old.
15. Facility visiting hours shall be between 9:00 a.m. and 8:00 p.m. daily. Guests and visitors shall not be permitted to stay overnight.
16. At least two direct care staff members shall be on duty in Building #1 (1659 D St) and one direct care staff member shall be on duty in Building #2 (1641 D St) at all times. Additional staff shall be on duty as needed to provide additional direct care and/or support services such as housekeeping and meal preparation.

17. All neighbors within a 500 feet radius of the facility shall be annually provided with facility contact information to address questions, concerns, or complaints with a copy provided to the Development Services Department. A formal written response to any complaint received will be provided within 48 hours of the initial complaint.
18. All parking spaces within the parking lot must be located outside of the required front yard setback for the Single-Family Residential (RS) zoning district.

LIGHTING

19. Lighting within the parking area(s) shall be provided and be maintained at a minimum of one foot-candle. Exterior lighting and parking lot lighting shall be provided in accordance with the Security Standards Ordinance (No. 90-26 C.S.) and 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.
20. Plans submitted for building permit shall include a photometric site lighting plan that includes fixtures, mounting heights, light wattage and that demonstrates adequate site lighting without excessive glare, off-site impacts or “hot spots.” All lighting shall be reviewed and approved by the City Engineer, Planning Division and Hayward Police Department prior to Building Permit issuance.
21. 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.

SIGNS

22. 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 separate Sign Permit application shall be required, consistent with Hayward Municipal Code Sign Ordinance requirements.

ENVIRONMENTAL MITIGATION

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. 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. In conformance with Section 4-1.03-4 of the City's Municipal Code, construction activities between 7:00 a.m. and 7:00 p.m. Monday through Saturday or between 10:00 a.m. and 6:00 p.m. on Sundays or holidays, unless other construction hours are permitted by the City Engineer or Chief Building Official, shall not include any individual equipment that produces a noise level exceeding 83 dB measured at 25 feet, nor shall activities produce a noise level outside the project property lines in excess of 86 dB. During all other hours, noise shall not exceed the limits defined in Municipal Code Section 4-1.03.1 (70 dB daytime or 60 dB nighttime, measured at residential property lines).
- 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.
- f. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information.
- g. 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.
- h. Daily clean-up of trash and debris shall occur on project street frontages, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
- i. 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;
- j. 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;
- k. 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;

- l. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
- m. 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;
- n. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- o. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
- p. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
- q. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- r. 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;
- s. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- t. 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;
- u. 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;
- v. 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;
- w. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
- x. 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.

EXPIRATION

25. This Use Permit and Site Plan Review approval 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 a time extension of the approval has been granted by the Planning Director.
 - b. If a building permit is issued for construction of improvements authorized by the conditional use permit 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 the conditional use permit approval. A request for an extension must be submitted in writing to the Planning Division at least 30 days prior to the above date.
 - c. Business operations have commenced in accordance with all applicable conditions of approval.
26. All conditionally permitted uses that cease operation for a period of more than six consecutive months shall be deemed to be discontinued, and the use permit establishing said use shall become null and void. Reestablishment of said use shall only be permitted upon obtaining a new use permit.

BUILDING

27. The project will require a building permit application and the associated plan review process. Additional comments will be provided during the building code plan check process.

LANDSCAPING

28. Prior to submitting the first building permit, detailed landscape and irrigation improvement plans prepared by a licensed landscape architect on an accurately surveyed base plan shall be approved 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.
29. The landscape plan shall indicate the botanical name, common name, mature size (width x height), proposed spacing, location, and water use requirements and its source book; provides all existing trees shown on the survey plan; and trees designated to be preserved or removed. Plant spacing shall not be closer the minimum spread provided in the reference books in the ordinance. *Xylosma congestum* will

mature to 8 to 10 tall and as wide. It will grow out of the specified area and will be subjected to routine pruning which is not permitted maintenance activity.

30. A soil analysis report shall be included for amending the soil with 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. If significant mass grading is planned the soil analysis report shall be submitted as part of the Certificate of Completion.
31. Mulch shall be organic recycled chipped wood mulch in dark brown color. The size of the mulch shall not exceed 1-1/2-inch in diameter.
32. Irrigation for the treatment area shall be done on a separate valve.
33. 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 faxed/e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.
34. 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. 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 shall be organic recycled chipped wood in the shades of Dark Brown Color, and the depth shall be maintained at three inches deep. 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. 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. 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. Routine shearing and hedging of shrubs and perennials shall not be permitted. All plants shall retain natural size and shape. 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.

ENGINEERING*Prior to Issuance of Building Permit:*

35. Grading Permit Required: A grading permit from the City's Public Works Department is required prior to any building permit. The permit application shall require plans prepared by the state licensed and qualified professionals showing existing and finish grades of proposed disturbed land areas, site improvements, earth retaining structures, parking lot, area lighting, landscaping, storm water pollution prevention measures, drainage collection and dissipation and other site improvements. The site improvement plans, reports and calculations shall be approved by the City Engineer and comply with the following:
- a. The project shall not block runoff from, or augment runoff to, adjacent properties. Any augmented runoffs shall be mitigated with on-site detention, re-use, ground percolation or other means to control site discharge rate to pre-existing level.
 - b. On-site drainage disposal shall be dissipated over a large area to minimize soil erosion.
 - c. Site drainage plans shall include Stormwater Control Plan with details of all drainage management areas, treatment measures and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 Design Guidelines.
 - d. The Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system.
 - e. Proposed new driveway shall be accessibility compliant and as per the City Standard Details.
36. Frontage Improvements: City's Encroachment Permit will be required prior to the issuance of any building permit. Privately engineered design documents shall be approved by the City Engineer before the permit is issued. The engineered plans shall include, but not be limited to, the following:
- a. Remove and replace broken, uplifted or sub-standard curb, gutter, and sidewalk along project frontage
 - b. Replacement of unused driveway(s) with the City standard curb, gutter and sidewalk
 - c. Repair or replacement of 7th Street roadway pavement fronting the property to provide a minimum Traffic Index 5 and 20-ft width.
 - d. Existing damaged driveway and walkway in 7th. Street right-of-way shall be replaced with new matching improvements.

- e. No Parking signs shall be installed across the property frontage on 7th Street, except if the street pavement is widened to a minimum 28 feet.

During Construction:

37. Construction Stormwater Management: Developer shall prevent on-site drainage with silt and pollutants from flowing into street and/or the public storm drain system.
38. Construction Damage: The Developer shall be responsible for removal and replacement of curb, gutter, sidewalks, driveways, signs, pavement, thermoplastic pavement markings, etc. damaged during construction of the proposed project. Developer is responsible for documenting the existing conditions prior to the start of construction to serve as a baseline for this requirement.

Prior to Issuance of Certificate of Occupancy:

39. Construction of Improvements: All public and private improvements, including punch list items, must be complete prior to the issuance of a certificate of occupancy.
40. As-Built Plans: Plans approved by the City Engineer shall be revised to show "As-Built" conditions and copies in "Auto-CAD" and "PDF" formats shall be provided to the City Engineer.

FIRE DEPARTMENT

Access:

41. 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.
42. Parking lot entry demonstrates access to the property that is within the standards of the Hayward Fire Department to allow for emergency vehicles to nose into the property if needed.

Water Supply:

43. A fire flow shall be provided in accordance with the California Fire Code 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.
44. 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. (Additional fire hydrant needed if this is not currently being met.)

Fire Protection:

45. An overhead fire sprinkler system is required in building # 1 (R2.1). The fire sprinkler system is existing and is required to provide a current 5-year certification of the existing fire sprinkler system. A separate set of drawings were submitted for reference with this CUP process. Any modifications/additions to the overhead fire sprinkler system require a permit. (A separate fire department permit, and approval is required prior to installation.)
46. A manual fire alarm system with occupant notification and smoke detectors shall be provided in accordance with the California Fire Code (CFC) and NFPA 72 Standards for R2.1 building. (Deferred Submittal by licensed C10 Contractor)
47. 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. (R2.1)
48. An interior audible alarm device shall be installed within the dwelling in a location to be heard throughout the home. The device shall activate upon any fire sprinkler system water flow activity. (R2.1 Occupancy)
49. An interior audible alarm device shall be installed within the dwelling in a location to be heard throughout the residence. The device shall activate upon any fire sprinkler system water flow activity. (R2.1 Occupancy)
50. 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) and NFPA 72 Standards. (R2 and R4)
51. CO and smoke detectors should be located per the CFC and manufacturer recommendations. The detector may be placed on the ceiling. Each floor needs a separate detector. (R2.1 and R4)
52. The building is located within the City of Hayward Wildland/Urban Interface Area, and shall meet the construction requirements (as reflected on the approved plans) as stated in the City of Hayward Hillside Design and Urban/Wildland Interface Guidelines, which includes Class A roofing materials and exterior non-combustible siding materials (stucco), double-pane windows. Do not use wood shake or treated wood shake roofs. The building construction shall comply with the requirements contained in the California Residential Code Section R327 (R4).
53. Deck shall comply with requirements of the Hayward Fire Department Urban Wildland Interface Deck Construction, Chapter 7A of the California Building and Chapter 49 of the California Fire Code.
54. Within ten feet of a structure, construct fences with an open wire mesh or noncombustible material to prevent fire from spreading to the structure.

TRANSPORTATION

55. Applicants shall provide on-site, off-site stripping and signage drawings.
56. Applicant shall submit an on-site and off-site photometric plan. Refer to Hayward Standard Details SD-120 for lighting requirements. Link: https://www.hayward-ca.gov/sites/default/files/documents/ET_STANDARD%20DETAILS_V042117.pdf.

UTILITIES

57. Provide a utility plan with building permit application. Show the size and location of all existing and proposed domestic, irrigation, and fire water services and sewer laterals.
58. Show the size and locations of the proposed RP backflow prevention assembly on each proposed domestic and irrigation water meter, per City Standard Detail 202 (SD-202).
59. On the utility plan, clarify if the existing domestic water meters will be used or abandoned. If they will be used, clearly indicate which water meter will serve which building.
60. Complete and return the attached Industrial & Commercial Sanitary Sewer Capacity form with the building permit plans. Indicate how many employees and residents will be anticipated to use the facilities.

SOLID WASTE & RECYCLING

61. Construction & Demolition Debris: The City requires that construction and demolition debris be recycled per certain ordinance requirements. Submittal of the Debris Recycling Statement will be required at the time of your building permit, if one is needed. The form can also be found at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.
62. 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 frontage remain clear of any abandoned debris or trash per Municipal Code Sec. 11-5.22.

POLICE

63. If the facility and/or its clients become a public/private nuisance in the neighborhood based on incidents that include, but are not limited to, calls for service to the facility, calls related to client behavior in the surrounding area, and/or other documented issues, the Hayward Police Department will give a warning letter to the facility regarding the Social Nuisance Ordinance. For reference, see https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH4PUWEMOCO_ART15SONUOR. If multiple warning letters are issued and the nuisance continues, revocation of the use permit may result.