

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Councilmember \_\_\_\_\_

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING VESTING TENTATIVE TRACT MAP APPLICATION AND ZONE CHANGE APPLICATION 201400648 PERTAINING TO THE DEVELOPMENT OF WARD CREEK COTTAGES COMPOSED OF NINETY-SEVEN DETACHED SINGLE FAMILY HOMES AT THE SOUTHWESTERN CORNER OF 2<sup>ND</sup> STREET AND WALPERT STREET

WHEREAS, on December 22, 2014, Alexis Gevorgian of AMG Associates (Applicant) submitted Zone Change and Vesting Tentative Tract Map Application No. 201400648, requesting a zone change for two Caltrans-owned parcels (APNs. 445-0040-011-03 and 445-0050-001-11) and three City of Hayward-owned parcels (APNs 445-0050-010-01, 445-0050-019-00, and 445-0050-018-00) located at the southwestern corner of 2<sup>nd</sup> Street and Walpert Street. The zone change would convert the properties from Single-Family, Medium and High Density Residential Districts with a Special Design Overlay (SD-7), and Open Space District to Planned Development District and a Vesting Tentative Map to facilitate construction of ninety-seven detached single family homes (the "Project"); and

WHEREAS, an Initial Study and Mitigated Negative Declaration were prepared to assess the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on February 11, 2016, and recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and approve the Zone Change and Vesting Tentative Tract Map Application No. 201400648; 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 March 15, 2016.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study ("IS") was prepared for this project with the finding that a Mitigated

Negative Declaration (“MND”) was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of Mitigation Measures that were incorporated as conditions of approval for the Project.

2. That the proposed MND was prepared by David J. Powers and Associates, on behalf of the City of Hayward acting as the Lead Agency, and that the MND was circulated with a minimum thirty (30) day public review period between December 23, 2015 and January 21, 2016.
3. That following the release of the IS/MND, and through the development of specific conditions of approval for the project, information related to replacement of existing stormdrain facilities within the vicinity of Ward Creek was identified. Installation of such utilities and construction-related impacts to Ward Creek were identified and disclosed in the IS/MND as Impact BIO-2, and could be mitigated to a level of less than significant with the implementation of Mitigation Measures BIO-2.1 through 2.3, in addition to standard regulatory processes. The new information clarified, amplified and made an insignificant modification to the proposed Project that did not result in any new unidentified impacts, and therefore does not warrant recirculation pursuant to CEQA Guidelines Section 15073.5(c)(4).
4. That the proposed MND was independently reviewed, considered and analyzed by the City Council and reflects the independent judgment of the City Council; that such independent judgment 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 proposed MND and the administrative record as a whole); that the City Council adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.
5. That the proposed MND identified all potential adverse impacts and mitigation measures to reduce the effects of such impacts, and based on the MND and the whole record before the City Council, there is no substantial evidence that the project will have a significant effect on the environment.
6. That the project complies with CEQA, and that the proposed MND was presented to the City Council, which reviewed and considered the information contained therein prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

#### ZONE CHANGE

7. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies in that the proposed development would result in a clustered development pattern that maximizes development potential on the site by placing the highest number of residential units on the northeastern portion of the site in

the High Density Residential General Plan land use designation and the lowest number of units on the southeastern portion of the site in the Low Density Residential land use designation while maintaining the densities required in the General Plan. The clustered development pattern results in development on the least sloped areas of the site and retention of approximately 4.89 acres of undeveloped open space in the most environmentally sensitive areas of the site nearest Ward Creek. In addition, the compact, clustered development is consistent with General Plan Goals and Policies related to diversity in housing types and design including the following:

Land Use Policies:

Policy LU-3.6 Residential Design Strategies: The City shall encourage residential developments to incorporate design features that encourage walking within neighborhoods by:

- Creating a highly connected block and street network.
- Designing new streets with wide sidewalks, planting strips, street trees, and pedestrian scaled lighting.
- Orienting homes, townhomes, and apartment and condominium buildings toward streets or public spaces.
- Locating garages for homes and townhomes along rear alleys (if available) or behind or to the side of the front facade of the home.
- Enhancing the front facade of homes, townhomes, and apartment and condominium buildings with porches, stoops, balconies, and/or front patios.
- Ensuring that windows are provided on facades that front streets or public spaces.

Policy LU-3.7 Infill Development in Neighborhoods: The City shall protect the pattern and character of existing neighborhoods by requiring new infill developments to have complimentary building forms and site features.

Housing Policies:

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.

Policy H-3.3 Sustainable Housing Development: The City shall improve affordability by promoting sustainable housing practices that incorporate a ‘whole system’ approach to siting, designing, and constructing housing that is integrated into the building site,

consumes less water and improves water quality, reduces the use of energy use, and other resources, and minimizes its impact on the surrounding environment.

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.

Policy H-3.6 Flexible Standards and Regulations: The City shall allow flexibility within the City's standards and regulations to encourage a variety of housing types.

Policy H-3.10 No Net Loss Zoning: Consistent with Government Code Section 65863, the City shall consider the impacts of rezoning and general plan amendments of residential sites on the City's ability to meet its share of the regional housing need.

8. Streets and utilities, existing and proposed, are adequate to serve the development in that the proposed project is surrounded by existing streets with access to utilities and adequate capacity to serve the proposed development. In addition, the project shall be required to underground all overhead utilities along the project frontage and along all areas of improvement.
9. The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development or neighborhoods in that the clustered small-lot single-family development is designed to continue the line of single-family development along 2nd Street, meet the varied densities called for by the General Plan, maximize development potential on the infill site to offer much needed housing in the region, and maintain the most environmentally sensitive areas as undeveloped open space.

Further, the neighborhood layout would result in a residential environment of sustained desirability and stability in that residents would have access to an interconnected network of pedestrian pathways connecting a variety of small and large open spaces that are developed, as in the case of the neighborhood green, and undeveloped, as is the case with the vast open space nearest Ward Creek. Staff recommends that the neighborhood green be enhanced with additional amenities such as a tot lot and other community supporting elements such as picnic tables and additional bar-b-que areas. Overall, the proposed development will enhance the surrounding neighborhood by opening up a currently gated vacant landscape, and by offering a network of walking paths and outdoor spaces to support healthy lifestyles and community development.

10. In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule in that the proposed project will be developed in one phase ensuring that the infrastructure, services and facilities will be available to all neighborhood residents in a timely fashion.

11. Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards, which, in the judgment of the Planning staff provides for a high quality and attractive development in that the clustered small-lot single-family development is designed to continue the line of single-family development along 2<sup>nd</sup> Street; meets the varied densities called for by the General Plan; maximizes development potential on the infill site to offer much needed housing in the region; and maintains the most environmentally sensitive areas as undeveloped open space. In order to accomplish these goals, the proposed PD District development requires smaller lots than are permitted under standard residential development standards as well as lot modifications such as reduced setbacks, increased lot coverage and reduced lot widths, as well as an exception related to uncovered parking. Project amenities including retention of undeveloped open space adjacent to Ward Creek; installation of an interconnected system of open spaces, trails, sidewalks and pathways as well as frontage improvements along 2<sup>nd</sup> Street; and installation of solar photo-voltaic systems for each of the units to reduce energy consumption will adequately off-set the exceptions requested with the proposed project.

#### VESTING TENTATIVE TRACT MAP 8233

12. The proposed map is consistent with applicable general and specific plans as specified in Section 64541 of the Subdivision Map Act [Subdivision Map Act §66474(a)], in that the proposed subdivision is consistent with the allowable uses and densities designated by the High Density, Medium Density and Low Density land use categories of the General Plan, where applicable. The proposed development is not subject to a specific plan.
13. The design and improvement of the proposed subdivision are consistent with applicable general plan and specific plans [Subdivision Map Act §66474(b)], in that the proposed subdivision is consistent with the Hayward General Plan minimum densities as well as specific goals and policies, including but not limited to policies supporting varied residential design strategies, infill development, a diversity of housing types, sustainable housing development, and placement of housing in close proximity to existing infrastructure and services (General Plan Policies LU 3.6; LU 3.7; H 3.1; H 3.3; and H 3.4). Further, the existing and proposed internal roadways are designed to accommodate the anticipated traffic. Utilities, including water, sewer, and storm drain facilities, will be provided to accommodate the proposed development. Further, the Initial Study and Mitigated Negative Declaration prepared for the project identified adequate mitigation measures to reduce all identified impacts to a level of insignificance.
14. The site is physically suitable for the type of development, as demonstrated through the findings of the Initial Study and Negative Declaration [Subdivision Map Act §66474(c)], in that a preliminary geotechnical investigation was performed by The PRA Group (dated July 11, 2014), demonstrates that the proposed small-lot single-family residential development of ninety-seven small-lot single-family homes is feasible. The proposed subdivision would occur on a site suitable for the proposed development provided that a design-level geotechnical investigation is prepared to identify specific design features for future development of the site, and that recommendations from the report are reviewed

and approved by the City, and subsequently incorporated into the Improvement Plans for the proposed project. The site includes sufficient roadway lane widths, pedestrian facilities and infrastructure to support the number of units being proposed.

15. The site is physically suitable for the proposed density of development, as it is consistent with the General Plan designation for the site and the traffic infrastructure in the area is sufficient to support the density of the project [Subdivision Map Act §66474(d)], in that a preliminary geotechnical investigation was performed by The PRA Group (dated July 11, 2014), demonstrates that the proposed small-lot single-family residential development of ninety-seven small-lot single-family homes is feasible. Furthermore, the Initial Study and Mitigated Negative Declaration, and supporting environmental reports including the Traffic Study prepared by TJKM (November 10, 2015) demonstrates that potential impacts to traffic and circulation will be less than significant. In addition, to minimize identified pedestrian and vehicular safety issues in the vicinity of the project site, the developer will undertake specific circulation related improvements including installation of a new signal at the intersection of Walpert and 2<sup>nd</sup> streets; dedication of approximately half-acre (200 feet in length) along Walpert Street to create a high-school drop-off location; and installation of frontage improvements (curb, gutter and sidewalk) along approximately 635 feet of 2<sup>nd</sup> Street between the boundary of the project site and the 2<sup>nd</sup> Street driveway entrance to support pedestrian circulation on the west side of 2<sup>nd</sup> Street.
16. That the design of this infill project and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. A MND prepared pursuant to the guidelines of the California Environmental Quality Act (CEQA) for the development of this site demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed project [Subdivision Map Act §66474(e)], in that a primary goal of the proposed project is to cluster the small-lot single-family development on the flattest areas of the site in order to maintain the most environmentally sensitive areas adjacent to Ward Creek as undeveloped open space. A Biological Resources Assessment was completed for the site by WRA Environmental Consultants in August 2015. The Assessment and Initial Study prepared for the project concluded that the proposed project could potentially result in impacts related to special plant, bird and bat species as well as to riparian habitat and other sensitive natural communities due to construction activities. The reports included mitigation measures to minimize these impacts to a level of less than significant. Thus, the mitigation measures included as conditions of approval for the proposed project will ensure that the design of the subdivision and proposed improvements will not cause substantial environmental damage or to injure wildlife, fish or their habitat.
17. That the design of the subdivision or type of improvements are not likely to cause serious public health problems as adequate capacity exists to provide sanitary sewer service to the Project site. There are no other aspects of the Project with the potential to cause serious public health problems [Subdivision Map Act §66474(f)], in that the development is an infill site surrounded by infrastructure with adequate capacity to serve the site. The Initial Study and Mitigated Negative Declaration and supporting environmental studies for the project concluded that the project could result in adverse Air Quality impacts related to construction-related dust and toxic air contaminants as well as generation of asbestos-

containing dust. The reports included mitigation measures to minimize these impacts to a level of less than significant. Thus the mitigation measures included as conditions of approval for the proposed project will ensure that the proposed project will not cause serious public health problems.

18. That the design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. There are no existing public easements within the boundary of the proposed subdivision, nor are any easements necessary. Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project. New public easements are to be offered for dedication as necessary [Subdivision Map Act §66474(g), in that the proposed project will not conflict with existing easements for access through or use of the property. The proposed private roadways and pedestrian facilities will be open and accessible to the public.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and amendment to it and approves Zone Change and Vesting Tentative Tract Map Application 201400648, subject to the adoption of the companion ordinance (Ordinance No. 16-\_\_\_\_\_) that rezones the five properties located at the southwestern intersection of 2<sup>nd</sup> Street and Walpert Street (APNs. 445-0040-011-03, 445-0050-001-11, 445-0050-010-01, 445-0050-019-00, and 445-0050-018-00) from Single-Family, Medium and High Density Residential Districts with a Special Design Overlay (SD-7) and Open Space District to Planned Development District, subject to the attached conditions of approval ("Attachment I.a").

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

## CONDITIONS OF APPROVAL

March 15, 2016

Ward Creek Cottages  
AMG Associates (Applicant); Caltrans and City of Hayward (Owners)

Zone Change and Tentative Tract Map Application No. 201400648 (Tract 8233)

**Zone Change from Single-Family, Medium and High Density Residential and Open Space Districts to Planned Development (PD) District and Approval of Vesting Tentative Map Tract 8233 for the subdivision and construction of ninety-seven small lot, detached single-family homes on an approximately 14.9-acre site at the southwestern corner of 2<sup>nd</sup> Street and Walpert Street.**

### General

1. In accordance with Zoning Ordinance Section 10-1.2500 (Planned Development District), this approval is for the Preliminary Development Plan, subject to all conditions listed below, included herein as:  
  
**Exhibit A** –Planned Development and Vesting Tentative Tract Map 8233 submitted by AMG Associates, dated August 27, 2015.
2. The project approval shall coincide with the approval period for the Vesting Tentative Tract Map (Tract 8233). If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permits, or three years after approval of Precise Plan application, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended in reliance upon the Precise Plan approval.
3. Following approval of the Tentative Map and prior to approval of the Final Map, the applicant shall secure ownership of the City of Hayward owned parcels (Assessor's Parcel Nos. 445-0050-010-01, 445-0050-019-00, and 445-0050-018-00).
4. This approval is subject to the Mitigation Monitoring and Reporting Program included in the City's Project files as **Exhibit B** to these conditions of approval.
5. The subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
6. The project driveway on 2<sup>nd</sup> Street will be restricted to right in/right out movements with no left turns permitted into or out of the project site. The applicant shall contribute 100% of the cost of "No Left Turn" signs and installation at this location.



## Precise Plan

7. In accordance with Zoning Ordinance Section 10-1.2550 and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.
8. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein, and shall be submitted either in advance of or in conjunction with the subdivision improvement plans and Final Map.
9. The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”. Amenities include:
  - a. Photovoltaic solar systems shall be installed on all units. To the greatest extent possible, the project architect shall consult with an energy consultant regarding the design and orientation of roof surfaces and reorient rooflines to maximize solar orientation;
  - b. Frontage improvements including installation of curb, gutter, sidewalk and street lighting shall be installed in accordance with City standards along 2<sup>nd</sup> Street extending from Lot 20 southerly to the 2<sup>nd</sup> Street project driveway.
  - c. Installation of a series of interconnected common open spaces and a pedestrian network of paved and landscaped pathways between the open spaces and connecting back to the surrounding neighborhood.
10. The Precise Development Plan shall include the following information and/or details:
  - a. A copy of these conditions of approval shall be included on a full-sized sheet(s).
  - b. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
  - c. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
  - d. Proposed locations, heights, materials and colors of all walls and fences. All retaining wall heights shall be minimized and shall have a decorative wall design and/or material and a cap visible on both sides.

- e. Large expanses of blank wall shall be prohibited and shall be articulated or otherwise treated with design or architectural features.
- f. A minimum of one exterior hose bib shall be provided for each residential unit.
- g. Detailed dimensions and materials for all drive aisles, parking areas, and pedestrian paths. The plans shall indicate the areas identified for permeable pavers and porous concrete and utilize decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials on other surfaces.
- h. Proposed mailbox design and locations, subject to Post Office approval.
- i. A final lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. Exterior lighting shall be erected and maintained so that adequate lighting is provided along the private streets. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.
- j. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- k. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.
- l. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
- m. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus and utilitarian equipment such as vents shall be painted to match the roof color.
- n. All decorative window treatments shall be extended to all elevations.
- o. All rear and side entries visible from the street shall be protected by roofs with rooflines to match the pitch of the roof.
- p. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
- q. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. All two car garages shall have minimum interior dimensions of 20-foot width by 19-

- foot depth. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.
- r. The precise plan shall clearly show trail elevations and planned trail alignments and connections throughout the site and to off-site user trails that connect to regional trails.
11. The ground floor house plans shall be modified to provide outdoor access to the ground floor side yard patios from common living spaces or bedrooms.
  12. All open spaces including but not limited to the trail, neighborhood green and approximately five (5) acre parcel adjacent to Ward Creek shall be maintained open and accessible to the public.
  13. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.
  14. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division in accordance with the City of Hayward's Design Guidelines prior to issuance of a building permit for the project.

### **Mitigation Measures**

15. **Mitigation Measure Air Quality 1:** During any construction period ground disturbance, the contractor shall implement the following:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - All visible mud or dirt track-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.
  - All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five 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.
  - 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.

- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

16. **Mitigation Measure Air Quality 2:** During any construction, the contractor shall implement the following:

- All mobile (e.g., wheeled or tracked) diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.
- All portable diesel-powered off-road equipment (e.g., generators, cement pumps, welders, and compressors) larger than 50 horsepower and operating on the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.
- The project shall minimize the number of hours that equipment will operate, including the use of idling restrictions of five minutes.

Alternatively, the construction contractor could use other measures to minimize construction period diesel particulate matter (DPM) emissions to reduce the predicted cancer risk below the thresholds. Such measures may be the use of alternative powered equipment (e.g., Liquefied Petroleum Gas (LPG)-powered lifts), alternative fuels (e.g., biofuels), added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to a less than significant level. An Alternative Measures Air Quality Analysis shall be submitted to and approved by the Planning Division.

17. **Mitigation Measure Air Quality 3.1:** Prior to issuance of a grading permit, the project applicant shall complete soil sampling on the areas of the site to be disturbed during construction activities and submit the results to the City Engineering Division. Sampling should be completed to at least the depth of planned excavation on the site. Should the soil sampling reveal the presence of Naturally Occurring Asbestos (NOA), the project applicant shall implement mitigation measures MM Air Quality 3.2 and MM Air Quality 3.3.

18. **Mitigation Measure Air Quality 3.2:** The project applicant shall prepare an Asbestos Dust Mitigation Plan and submit the plan to BAAQMD and the City's Engineering Division for review and approval prior to issuance of a grading permit. The plan must describe dust control measures during grading as well as long term dust control measures. The plan shall include, at a minimum, the following measures, which shall be included as conditions on the grading permit:

- Track-out prevention and control measures;
- Active stockpiles shall be adequately wetted or covered with tarps;
- Control for disturbed surface areas and storage piles that remain inactive for more than seven days;

- Control for traffic on unpaved roads, parking lots, and staging areas;
  - Control for earthmoving activities; and,
  - Control for off-site transport.
19. **Mitigation Measure Air Quality 3.3:** Disturbed surfaces with NOA exceeding the BAAQMD threshold concentration of 0.25 percent shall be stabilized using one or more of the following methods, and shall be reflected in the Asbestos Dust Mitigation Plan:
- Establishment of a vegetative cover;
  - Placement of at least three inches of non-asbestos-containing material;
  - Paving;
  - Any other measure deemed sufficient to prevent wind speeds of ten (10) miles per hour or greater from causing visible dust emission.
20. **Mitigation Measure Biological Resources 1.1:** Prior to issuance of a grading permit, protocol-level rare plant surveys for western leatherwood and Diablo helianthella shall be completed between January and June for all areas mapped as riparian or non-native grassland in the 2014 Biological Resources Assessment completed for the site. If special status plant species are observed on the site, they shall be avoided during construction activities, if possible. If avoidance is not possible, or if altered hydrologic conditions will affect the species, measures such as transplanting individuals to suitable undisturbed habitat and/or preservation of existing off-site populations shall be developed in consultation with the California Department of Fish and Wildlife (CDFW).
21. **Mitigation Measure Biological Resources 1.2:** To avoid disturbance to breeding birds, tree and brush clearing shall be completed between September 1 and February 1. If this is not feasible, a qualified biologist shall complete surveys for breeding birds within 14 days of commencement of tree and brush clearing activities. During this survey, the biologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the biologist, in consultation with California Department of Fish and Wildlife (CDFW), will determine the extent of a construction-free buffer zone to be established around the nest, dependent on the particular species of nesting bird, to ensure that raptor or migratory bird nests will not be disturbed during project construction until the nest is vacated.
22. **Mitigation Measure Biological Resources 1.3:** To avoid and limit disturbance of bats, work that disturbs trees, rock outcrops, buildings, and other structures should be completed between September and March, if feasible. A qualified biologist shall complete surveys for bats within 14 days of commencement of activities causing disturbance, as outlined below.
- *Building Surveys (All Year):* Any demolition of buildings at all times of the year shall be preceded by a preconstruction survey within 14 days of demolition. An internal entrance survey shall be performed by a qualified bat biologist to determine if buildings currently or previously supported roosting bats. If bats are determined to be present, appropriate methods shall be used to exclude bats from the building. Such

methods may include installation of one way “valves” to allow bats to exit, but not allow them to reenter the building.

- *Maternity Roosting Season Preconstruction Surveys* (April 1 through August 31): Ultrasonic acoustic surveys and/or other site appropriate survey method shall be performed to determine the presence or absence of bats utilizing the project site as roosting or foraging habitat during the maternity roosting season. If special-status bat species are detected during surveys, appropriate species and roost specific mitigation measures will be implemented. Such measures may include postponing removal of trees, snags or structures until the end of the maternity roosting season or construction of species appropriate roosting habitat within, or adjacent to the project site.

23. **Mitigation Measure Biological Resources 2.1:** To reduce impacts related to construction activity on riparian habitat the following measures shall be implemented:

- All access, staging, and work areas shall be delineated with orange construction fencing, or similar, and all work activities shall be limited to these areas.
- All access, staging, and work areas shall be the minimum size necessary to conduct the work.
- All staging, maintenance, and storage of construction equipment shall be performed in a manner to preclude any direct or indirect discharge of fuel, oil, or other petroleum projects into the project site. No other debris, rubbish, creosote-treated wood, soil, silt, sand, cement, concrete or washings thereof, or other construction related materials or shall be allowed to enter into or be placed where they may be washed by rainfall or runoff into the basin or other aquatic features. All such debris and waste shall be picked up daily and shall be properly disposed of at an appropriate facility.
- Disturbance or removal of vegetation shall not exceed the minimum necessary to conduct the work.
- Areas of ground disturbances shall be revegetated using an appropriate erosion control mix (for both sensitive and non-sensitive habitats) or will be covered by with rock, wood chips, or other suitable erosion control materials as appropriate (for non-sensitive habitats only).
- Appropriate erosion control measures shall be installed around any stockpiles of soil or other materials which could be transported by rainfall or other flows.
- Stockpiles of soil or other materials that can be blown by wind shall be covered when not in active use.
- All trucks hauling soil, sand, and other loose materials shall be covered.

24. **Mitigation Measure Biological Resources 2.2:** Best management practices and stormwater pollution prevention measures such as silt fencing and wattles shall be implemented to avoid temporary and permanent impacts to Ward Creek (federally protected non-wetland waters).

25. **Mitigation Measure Biological Resources 2.3:** Exclusion and/or silt fencing shall be placed outside the dripline of all riparian vegetation that will be preserved. This fencing shall remain in place for the duration of construction.

26. **Mitigation Measure Biological Resources 3.1:** All applicable requirements shall be followed and all permits obtained as required by the City's Tree Ordinance (HMC Chapter 10, Article 15). Per that ordinance, every effort shall be made to preserve the character of the area and the more valuable tree specimens on site to the greatest extent practicable. Final landscape plans shall be reviewed and approved by the City of Hayward Landscape Architect prior to issuance of any grading, trenching, encroachment, demolition, or building permit for development. Final landscape plans shall clearly identify all "protected trees," as defined in the Tree Preservation Ordinance, and all trees to be removed from the project site and the size, location, type, value of trees and specify the species of all replacement trees.
27. **Mitigation Measure Biological Resources 3.2:** The project applicant shall implement all tree protection measures recommended in the Arborist Report prepared for the project, which include the following:
- All construction activity (grading, filling, paving, landscaping etc.) shall respect the root protection zone (RPZ) around all trees within the vicinity of the project area. The RPZ should be a distance of 1.0 times the dripline radius measured from the trunk of the tree. Exceptions to this standard could be considered on a case-by-case basis, provided that it is
  - Demonstrated that an encroachment into the RPZ will not affect the root system or the health of the tree, and is authorized by a certified Arborist or comparable specialist.
  - Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of the tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery. Fence type shall be developed based on consulting arborist's recommendation, and the fence detail shall be included in the landscape plan.
  - Drainage will not be allowed to pond around the base of any tree.
  - An Arborist or Tree Specialist shall be retained to perform any necessary pruning of trees during construction activity.
  - Should any utility lines encroach within the tree protection zone, a single, shared utility conduit shall be used where possible to avoid negative impact to trees.
  - Roots exposed, as a result of construction activities shall be covered with wet burlap to avoid desiccation, and should be buried as soon as practicable.
  - Construction materials or heavy equipment shall not be stored within the root protection zone.
  - Only a Certified Arborist or Tree Specialist will make specific recommendations as to where any existing trees can safely tolerate some level of fill within the drip line.
  - Trenches which are required within the root protection zone of existing native trees shall be bored (tunneled) under the root(s) using an auger or drill, rather than trenched, to avoid root disturbance.
  - Construction materials shall be properly stored away from existing trees to avoid spillage or damage to trees.
28. **Mitigation Measure Biological Resources 3.3:** Grading at southwestern corner near detention basin and pathway shall be reshaped and pull away from the line of existing

trees. Major and minor grading shall not encroach into the largest (ID 1684) and the second largest (ID 1687) *Quercus agrifolia* with one hundred inches and forty inches in trunk diameter, respectively.

29. **Mitigation Measure Cultural Resources 1:** In the event human remains, archaeological resources, paleontological resources, prehistoric artifacts are discovered during construction 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 consulted to determine whether any such material is significant prior to resuming groundbreaking construction activities. Standardized procedures for evaluating accidental finds and discovery of human remains shall be followed as prescribed in Section 15064.515126.4 of the California Environmental Quality Act. Standard procedures for grading operations would be followed during development, which require that such remains or resources are discovered grading operations are halted and the resources/remains evaluated by a qualified professional and, if necessary mitigation plans are formulated and implemented. These standard measures would be conditions of approval should the project be approved; thus this impact would be less than significant with mitigation incorporated in the project.
30. **Mitigation Measure Geology and Soils 1:** The project proponent shall have a qualified geotechnical professional complete a design-level geotechnical investigation to address the geologic hazards identified on the site. The investigation shall be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center (SCEC report). The investigation shall identify the specific design features that will be required for the future development on-site, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. Field exploration shall concentrate on obtaining engineering parameters of the site soils for determining site specific bearing capacity, settlement, and liquefaction potential. The geotechnical investigation shall be reviewed and approved by the City Engineer prior to issuance of a grading permit or Public Works Clearance.

Examples of measures to be included in the design-level geotechnical investigation include the following:

**Slope Stability:**

- The maximum inclination of cut and fill slopes shall not be steeper than 2H:1V (horizontal to vertical) unless retained by a retaining wall. Flatter slopes may be required in localized areas.
- The uninterrupted height of the slope must not exceed 25 feet in elevation between six-foot wide drained benches.
- A keyway shall be excavated at least five feet into the underlying competent bearing soil or bedrock at the toe of the proposed fill. The bottom of the keyway should have a minimum width of 20 feet and should be sloped a minimum of two percent downward into the keyway heel for drainage into a subdrain system installed to collect migrating water.
- Irrigation of the slope areas shall be kept to a minimum. Subdrains may be necessary to remove excess surface and subsurface water.



- Grading plans shall show locations of keyways, subdrains, and colluvium and fill removals. Grading plan details shall include geogrid type, strength, vertical spacing, and length, subdrain details, and keying and benching details.

#### Expansive Soils:

- In areas where the expansive silty clay is at or near final grade, the project shall sub-excavate to three feet and replace soils with one of the following: (1) import fill that is nonexpansive or has a low expansion potential and the approval of our geotechnical engineer, or (2) on-site select material approved by our geotechnical engineer or the engineer's representative.
31. **Mitigation Measure Noise 1.1:** Provision of forced-air mechanical ventilation for interior spaces in all units adjacent to 2<sup>nd</sup> and Walpert Streets, so that windows could be kept closed at the occupant's discretion to control noise.
  32. **Mitigation Measure Noise 1.2:** Provision of sound rated windows and doors to maintain noise levels at acceptable levels at the residential facades nearest 2<sup>nd</sup> and Walpert Streets. Preliminary calculations made based on the data contained in the conceptual site plan indicates that sound-rated windows and doors with a sound transmission class (STC) rating of STC 27 to 30 would be sufficient to control noise and achieve the 45 dBA L<sub>dn</sub> interior noise standard at residential facades with line-of-sight to these roadways.
  33. **Mitigation Measure Noise 1.3:** Project-specific acoustical analyses shall be completed as required by the City of Hayward to confirm that interior noise levels will be reduced to 45 dBA L<sub>dn</sub> or lower. The specific determination of which noise insulation treatments described in mitigation measures MM Noise 1.1 and MM Noise 1.2 are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the Planning Division along with the building plans and shall be approved prior to issuance of building permits.

#### Subdivision Improvement Plans

34. Following approval of the Precise Plan, the applicant/developer shall submit subdivision improvement plans including landscape and irrigation plans and a Final Map application for the entire project. Said improvement plans and final map shall meet all City standards and submittal requirements except as expressly approved for this Planned Development. The following information shall be submitted with, or in conjunction with, improvement plans and final map. The City reserves the right to include more detailed conditions of approval regarding required infrastructure based on these more detailed plans.
35. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed, at no cost to the City of Hayward.
36. Unless indicated otherwise, the design for development shall comply with the following:
  - a) All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Articles 1 and 3, and Standard Specifications and Details.

- b) All construction shall meet the California Building Codes (CBC) and all applicable City of Hayward Building Codes and amendments.
  - c) Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Codes and amendments.
37. A Registered Civil Engineer shall prepare all Civil Engineering improvement plans; a Licensed Architect shall prepare all architectural plans; and a Licensed Landscape Architect shall prepare all landscape unless otherwise indicated herein.

### **Public Streets**

38. Prior to final map recordation, the developer shall obtain design approval and bond for all necessary public improvements along 2<sup>nd</sup> Street and Walpert Street, including but not limited to the following:
- a. Walpert Street currently has a 48-foot right-of-way width. Ultimate right-of-way width for Walpert Street shall be 60 feet in width with a curb to curb width of 40 feet. Applicant shall dedicate twelve (12) feet along Walpert Street frontage (see also Condition No. 133 below). Applicant shall be responsible for installation of new street lights, curb, gutter, and five feet wide sidewalk along Walpert Street frontage from 2<sup>nd</sup> Street intersection to westerly end point of the City owned water tank site.
  - b. Installation of new street lights, curb, gutter, and five feet wide sidewalk along 2<sup>nd</sup> Street frontage from Walpert intersection to proposed Street A on the easterly project boundary. This may entail to reconstruction of all or some of the existing driveways serving the parcels fronting 2<sup>nd</sup> Street frontage.
  - c. Install new ADA ramps on both side of the Walpert and 2<sup>nd</sup> Street intersection.
  - d. The applicant shall contribute 100% of the cost of installation of a traffic signal at the intersection of 2<sup>nd</sup> and Walpert and any necessary improvements to accommodate the new traffic signal.
  - e. Grind, overlay and restripe half of 2<sup>nd</sup> Street and Walpert Street with two-inch hot mix asphalt, and dig outs and repair failed pavements as necessary along all frontages.
  - f. Remove all utility poles and underground related wires and services along Walpert Street frontage from the 2<sup>nd</sup> Street intersection to the westerly end point of the City owned water tank, and the two poles along the easterly boundary of the project.
  - g. Remove, replace, and plant street trees along project frontages per the propsoed Landscape Plans (Sheet L3.0), submitted by the applicant.

- h. Applicant shall contribute 100% of the cost of installation of a “Reverse Curve” (W1-4R) warning sign on Fletcher Lane for vehicles travelling downhill at Mission Blvd.

Plans for all public improvements shall be prepared on Mylar (22-inch by 34-inch sheets) and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer’s estimate of the construction cost for faithful performance and 100% of the engineer’s estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Hayward standard detail and specifications, built to the City Engineer’s satisfaction, and accepted by the City prior to issuance of any first certificate of occupancy for the project.

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

#### **Private Street and Common Driveways**

- 41. The on-site streets shall be private and owned and maintained by the Homeowners Association (HOA).
- 42. Any damaged and/or broken curb, gutter and sidewalks along the property frontages shall be removed and replaced as determined by the City.

43. The on-site streetlights and pedestrian lighting shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Photometric plans shall be submitted with the improvement plans. Such fixtures shall have shields to minimize “spill-over” lighting on adjacent properties that are not part of the tract.
44. Entrances to Private Courts shall conform to the City Standard SD-108A.
45. No parking shall be allowed within the private courts.
46. The private courts shall not extend more than five (5) feet beyond the garage door entries of the end units served by such courts, unless needed for designated parking spaces.
47. The private court pavement sections shall be designed to public street standards. The private court shall be designed with a Traffic Index of five and minimum HMA (hot mix asphalt) thickness of four inches.
48. The private streets and alleys shall be dedicated as Public Utility Easement (PUE), public access easement (PAE), WLE (water line easement), SSE (sanitary sewer easement) & emergency vehicle access easement (EVAE).
49. The on-site lights shall have LED luminaires with decorative design approved by the Planning Director and the City Engineer.
50. Street A shall be designed with 42.5 feet wide right-of-way with 30 feet wide curb to curb width and eleven and one-half (11.5) feet wide City trail.
51. Street B shall be designed with 35.5 feet wide right-of-way with 30 feet wide curb to curb width and five feet wide sidewalks.
52. Parcel V shall be designed with a street type opening per City SD-11 OA, as modified with a ten (10) feet radius.
53. A minimum AC thickness of four (4) inches shall be used in the pavement design.
54. All alleys designated as Parcels AA, BB, CC, M, N, O, P, Q, R, S, T, U, V, W, X, Y and Z shall be designed as 21 feet wide with 20 foot wide curb to curb widths. The back of the curb shall be the lot line.

### **Storm Water Quality Requirements**

55. Developer shall comply with the regional permits requirements for both pre-construction and post-construction requirements. Storm water management shall be in compliance with Municipal Regional Permit.
56. The following materials related to the storm water quality treatment facility requirements shall be submitted with improvement plans and/or grading permit application
  - a) A Stormwater Treatment Measures Maintenance Agreement shall be submitted to Public Works - Engineering and Transportation Department staff for review and

- approval. Once approved, the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
- b) The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
  - c) The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into flow-through planters and direct runoff shall discharge into a landscaped area or a bioretention area prior to stormwater runoff entering an underground pipe system.
  - d) The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit.
  - e) The bioretention treatment area shall be designed using a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of five (5) inches per hour.
  - f) The following documents pursuant to the Cleanwater Program requirements:
    - 1. Hydromodification Management Worksheet;
    - 2. Infiltration/Rainwater Harvesting and Use Feasibility Screening Worksheet;
    - 3. Development and Building Application Information Impervious Surface Form;
    - 4. Project Applicant Checklist of Stormwater Requirements for Development Projects;
    - 5. C.3 and C.6 Data Collection Form; and,
    - 6. Numeric Sizing Criteria used for stormwater treatment (Calculations).
57. Construction activities which disturb one or more acres are viewed as a source of pollution, and the Regional Water Quality Control Board (RWQCB) requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. Following are the specific requirements for regulated construction sites
- a. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with a design to reduce discharge of pollutants and sediments into the downstream storm drain system during the construction. The plan shall meet the approval of the City Engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report.

- b. Before commencing any grading or construction activities at the project site, the developer may need to obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.
58. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
  59. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the Association of Bay Area Governments (ABAG) Erosion and Sediment Control Handbook.
  60. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate the entire areas tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
  61. The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the storm water according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
  62. The project shall implement the Hydrograph Modification Management Plan (HMP) by checking links at [http://www.cleanwaterprogram.org/uploads/ACCWP\\_HMP\\_PartB\\_5-15-05.pdf](http://www.cleanwaterprogram.org/uploads/ACCWP_HMP_PartB_5-15-05.pdf).
  63. Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval by the City Engineer. All reports such as Soil Report; SWPPP, and SWMP are to be submitted in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report. Documents that are clipped or stapled will not be accepted.
  64. The Bioretention Treatment Area shall use a Bio-treatment Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of five (5) inches per hour.
  65. The inlet rim in the Bioretention Treatment Area (BTA) shall be six (6) inches minimum above the flow line of the BTA. The design of the longitudinal flow line shall be level.
  66. The developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

## Storm Drain System

67. Applicant shall be responsible for all costs to replace the existing 16-inch reservoir storm drain with a minimum 18-inch storm pipeline from the development's point of connection in the upper portion of Ward Creek. Furthermore, the project Civil Engineer shall evaluate and certify the condition and adequacy of the existing reservoir storm drain located in the lower portion of Ward Creek, and the existing energy dissipater and associated erosion protection. If after the review of the evaluation report the City Engineer determines that any repairs or modifications are required to the lower portion of the pipeline or the energy dissipater, the applicant shall be responsible for all costs to perform any repairs, modifications or replacement as determined by the City Engineer to accommodate the proposed development, and in compliance with the requirements of all permitting and regulatory agencies such as, but not limited to, the City of Hayward, ACFC&WCD, Regional Water Quality Control Board, and Army Corps of Engineers. Applicant and City may enter into an agreement for the City to manage the construction of required work within Ward Creek and adjacent areas, at the applicant's expense and contingent upon the approval of the Director of Utilities and Environmental Services.
68. The project streets, courts, alleys, and parking areas shall be designed to facilitate street sweeping, including the layout of tree and handicap ramp bulb outs. The HOA shall be responsible for street sweeping on a regular basis.
69. The project shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
70. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.
71. Improvements for storm drain system shall incorporate the following:
  - a) The locations and design of storm drains shall meet the City's standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
  - b) Storm drain pipes in streets and courts shall be a minimum of twelve inches in diameter with a minimum cover of three feet over the pipe.
  - c) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City. Development of this site shall not augment runoff to the ACFC&WCD's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases relative to existing flows in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities.

- d) The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
- e) No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
- f) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
- g) Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.

#### **Sanitary Sewer System – City of Hayward**

- 72. The development's sanitary sewer mains and manholes shall be public, owned and maintained by the City. If the sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum ten (10) foot wide easement shall be granted to the City.
- 73. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (twelve (12) inch Diameter or Less)," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline.
- 74. A wastewater collection system impact study is required to be completed for development. The developer may hire their own consultant, subject to the prior approval of the Director of Utilities & Environmental Services, or the developer can pay the City to perform the impact study with our consultant. The cost estimate has been calculated at \$7,500. The developer shall be responsible for their share of the cost of any necessary improvements identified in the City's wastewater collection system as a result of the development. The developer's share shall be based on the results of the impact study and determined by the Director of Utilities & Environmental Services.
- 75. The preliminary utility plan indicates that the proposed relocation of fifteen (15) inch sewer main in the development is subject for further analysis. This may require to upsize to twenty-one (21) inch sewer pipe due to the flattening existing slope.
- 76. Each dwelling unit shall have an individual sanitary sewer lateral. The sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.



77. Sewer service is available and subject to the standard conditions and fees in effect at time of application and payment. The current Sanitary Sewer Connection fee for a single-family residential unit is \$7,700 per unit and for a single family residential unit is \$7,700.

### **Water System – City of Hayward**

78. In the event that the City provides water service for the development, all public water mains and appurtenances shall be constructed in accordance to the City’s “Specifications for the Construction of Water Mains and Fire Hydrants,” latest revision at the time of permit approval (available at <http://user.govoutreach.com/hayward/faq.php?cid=11188>). The proposed water main design may need to be revised to meet City design requirements.
79. As the developer is proposing to relocate the City’s existing eighteen (18) inch pump line serving Highland Chains, a hydraulic model recalculation and pump station analysis must be completed by the City’s consultant, at the developer’s expense, to determine the impacts created by the reconfiguration. The cost estimate has been calculated at \$14,700.
80. A Pressure Reducing (PR) Station shall be installed near the corner of 2nd Street and Walpert Street. The PR Station will require an easement to be granted to the City, possibly in the property between Lot 7 and Lot 8. The size of the PR Station will be approximately fifteen (15) feet by twenty-five (25) feet.
81. Water mains shall be designed as a looped system and located a minimum of five (5) feet from the face of curb.

### **Solid Waste**

82. Applicants must comply with applicable City standards to obtain building permits, as follows:
- a. The following regulations shall be included in the CC&Rs prepared for the development. Residents are required to place their garbage, recycling, and organics carts at the curb for weekly collection service by contracted service providers:
    - The standard type of garbage, recycling, and organics containers are one 32-gallon cart for Garbage, one 64-gallon cart for Recycling, and one 64-gallon cart for Organics.
    - The total space required for the standard service is approximately 3 feet by 9 feet. Sufficient space should be allocated in the garage to allow residents to keep the containers inside. Alternatively, the containers may be kept in a side yard behind a fence. Trash and recycle containers shall be stored out of public view on non-pickup days.
    - Residents shall not place carts at the curb any earlier than 6:00 a.m. the day before scheduled collection, and are required to retrieve them no later than midnight the days the carts are emptied. (Hayward Municipal Code Section 5-1.15).
  - b. Requirements for Recycling Construction & Demolition Debris: City regulations require that applicants for all construction, demolition, and/or renovation projects, in

excess of \$75,000 (or combination of projects at the same address with a cumulative value in excess of \$75,000) must recycle all asphalt and concrete and all other materials generated from the project. Applicants must complete the *Construction & Demolition Debris Recycling Statement*, a *Construction and Demolition Debris Recycling Summary Report*, and weigh tags for all materials disposed during the entire term of the project, and obtain signature approval from the City's Solid Waste Manager prior to any off haul of construction and demolition debris from the project site.

### **Other Utilities**

83. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and Comcast cable company regulations. Transformers and switch gear cabinets shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
84. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
85. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the subdivision.
86. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.
87. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
88. It is applicant's responsibility to get permit or approval from all affected agencies or private parties. Please provide a copy of these permits or approval to the City with your building permit application submittal.
89. The developer shall submit an AutoCAD file format (release 2010 or later) in a CD of approved map and 'as-built' improvement plans showing all public improvements and utility layouts that can be used to update the City's Base Maps.

### **Landscaping and Irrigation Plans**

90. The project shall fulfill Obligations for Parks and Recreation as set forth in Chapter 10, Article 16 of the Hayward Municipal Code. Existing homes on the site are not qualified to receive any park fee credits because they were constructed prior to the City's adaptation for requiring park land dedication or park in-lieu fees in 1974. In accordance with the Article, the developer may dedicate land, pay in lieu fees or provide a combination of dedication and fees, subject to the City and HARD's review and approval. Land dedication shall be determined prior to the issuance of a Final Map for the

project. Fees shall be those in effect at the time of issuance of the building permit and shall be paid prior to the issuance of a Certificate of Occupancy of a residential unit.

91. Amenities including, but not limited to a tot lot, additional picnic and other seating areas and additional bar-b-ques or other similar elements, shall be included in the final design of the neighborhood green (Parcel E) to activate the space as an active community gathering site.
92. Prior to the approval of improvement plans or issuance of the first building permit, detailed landscape and irrigation plans shall be reviewed and approved by the City and shall be a part of approved improvement plans and the building permit submittal. The plans shall be prepared by a licensed landscape architect on an accurately surveyed base plan showing all above and underground utilities and shall comply with the City's *Tree Preservation Ordinance*, *Bay-Friendly Water Efficient Landscape Ordinance*, *Hayward Environmentally Friendly Landscape Guidelines and Checklist for the landscape professional*, and *Municipal Codes*. Dripline of the existing trees to be saved shall be shown on the plan.
93. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be 22-inches by 34-inches without an exception. A four-inch wide by four inch high blank signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain two signature lines and dates for City of Hayward, Landscape Architect/Planner and City Engineer. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer
94. Removed trees shall be replaced with equal value determined by the appraised value in the approved arborist in accordance with Tree Preservation Ordinance Section 10-15.13 and 10-15.20.
95. A tree removal permit in addition to grading permit is required prior to the removal of any existing trees.
96. A bond will be required for all trees that are to remain. If any trees that are designated as saved are removed or damaged during construction shall be replaced with trees of equal size and equal value.
97. Prior to the issuance of a grading or building permit, a tree preservation bond, surety or deposit, equal in value to the trees to be preserved, shall be provided by the developer. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition. The developer shall provide an arborist's report evaluating the conditions of the trees.
98. Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Trees shall be fenced at the drip line throughout

99. Trees and shrubs shall not be planted in the flow line of the bio-retention area. Wider planting areas shall be provided when lack of planting areas prevents required trees to be planted. This area shall be irrigated on a separate valve.
100. All trees shall be twenty (20) feet from the corner, a minimum of five (5) feet away from any underground utilities, a minimum of fifteen (15) feet from a light pole, and a minimum thirty (30) feet from the face of a traffic signal, or as otherwise specified by the city. Root barrier shall be provided for all trees that are located within seven (7) feet of paved edges or structure. Follow tree planting City Standard Detail SD-122. All deviations from this standard shall be marked on the plans.
101. Water meter for individual home shall be provided in the driveway apron as well as sewer cleanout.
102. A separate irrigation meter shall be provided for all landscape improvements including common open space.
103. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs.
104. Prior to the issuance of Certificate of Occupancy, the project landscape architect shall inspect, accept and provide an Appendix C of Bay Friendly Landscape Ordinance - Certificate of Completion for landscape improvements. The final Certificate of Completion form shall be submitted to the City Planning Division prior to requesting a City Landscape Architect inspection. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of improvements.
105. A covenant or deed restriction shall be recorded requiring that the Homeowners Association properly maintain the front yard landscaping and street trees, and replace any dead or dying plant material.
106. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within fifteen days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.
107. Safety site lighting shall be provided along private driveways.
108. Applicant shall ensure that proposed plantings do not do not interfere with the ongoing operation of on and off-site solar facilities.

109. The developer shall not obstruct the noted sight distance areas. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.

### **Fire Protection**

110. All public streets, private streets and private courts shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. Such standard is also applicable to pavers or decorative concrete. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.
111. Fire lane of 20 to 26 feet wide shall be posted on both sides as a fire lane; 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
112. Addressing of the buildings shall be in compliance with the Hayward Fire Department requirements. All buildings shall have a minimum 4 inch self-illuminated address installed on the front of the building so as to be visible from the street. A decorative address monument sign shall be installed at each court entrance, indicating the building addresses for the units served by such court. Minimum size numbers shall be 6 inches in height on a contrasting background.
113. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).<sup>139</sup>  
 The minimum fire flow of 1, 500 GPM shall be provided on site.<sup>140</sup> All new fire hydrants shall be Modified Steamer Hydrant (Clow Valve Co. Model LB 614 with one two and one-half inch outlet and one four and one-half inch outlet). The capacity of each individual hydrant shall be 1,500 GPM. Vehicular protection may be required for the fire hydrants. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants.<sup>150</sup> Submit for proper building permits for the construction of the building to the Building Department. All building construction shall meet the requirements of the 2010 California Residential Code.
114. Buildings are required to install fire sprinkler systems in accordance with NFPA 13D.
115. Per the requirement of Hayward Public Works Department, a static pressure of 80 PSI should be used when a water test data indicates a higher pressure. The residual pressure should be adjusted accordingly.
116. Underground fire service line serving NFPA 13D sprinkler systems shall be installed in accordance with the Hayward Public Work Department SD-216. Water meters shall be minimum one-inch in diameter.
117. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any fire sprinkler system water flow activity.

- 118. 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).
- 119. Carbon Monoxide (CO) detectors should be placed near the sleeping area on a wall about 5 feet above the floor. The detector may be placed on the ceiling. Each floor needs a separate detector.
- 120. An approved type spark arrestor shall be installed on any chimney cap.

### **Hazardous Materials**

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

### **Homeowner's Association**

- 126. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's), creating a Homeowners Association (HOA) for the property, shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
  - a. The CC&R's shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements:

- i) In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.
  - ii) It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.
  - iii) It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
  - iv) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.
  - v) The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within ten (10) days of receipt of a copy of the resolution.
- b. The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.

- c. Each owner shall automatically become a member of the Association(s) and shall be subject to a proportionate share of maintenance expenses.
- d. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
- e. The HOA shall be managed and maintained by a professional property management company.
- f. The HOA shall own and maintain the private roadways, alleys and common and on-site storm drain systems within the development, excluding those located within the public right-of-way.
- g. A provision that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
- h. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The HOA representative(s) shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- i. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- j. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. The HOA shall conduct at least semi-annual inspections to confirm that all residents are using their garages for parking their cars and not for storage. Residents shall make garages available for such inspections, as appropriate. An automatic garage door opening mechanism shall be provided for all garage doors.
- k. The residents shall not use common parking spaces for storage of recreational vehicles, camper shells, boats or trailers. These parking spaces shall be monitored by the Association. The Association shall remove vehicles parked contrary to this provision. The CC&R's shall include authority for the HOA to tow illegally-parked vehicles.
- l. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the Association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- m. The HOA shall maintain all fencing, parking surfaces, common landscaping, lighting,



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

### **Final Tract Map**

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

130. Prior to or concurrent with Final Map recordation, developer shall dedicate necessary easements along 2<sup>nd</sup> Street and Walpert Street frontages, including but not limited to 5-foot Public Utility Easement (PUE).
131. The final map shall reflect access easement for the three (3) properties on easterly boundary of the development and construction plan shall reflect the access for these properties.
132. The final map shall reflect the easement needed for the proposed eleven and one-half (11.5) feet trail. The trail shall provide public access from Walpert Street to 2<sup>nd</sup> Street.
133. The final map shall reflect a twelve (12) feet wide dedication along the Walpert Street frontage.
134. The Affordable Housing Ordinance (AHO) requirements apply to the project. Pursuant to the City's AHO, 10% of all detached single family residences and 7.5% of all attached units in a project must be set aside and sold at affordable prices to moderate-income households (households earning 120% of the Area Median Income or less). If this option is selected by the developer, prior to the approval of the Final Map, an Affordable Housing Plan (AHP) shall be submitted and approved by the Planning Director. The AHP shall conform to the requirements of the AHO and will memorialize the obligations relevant to compliance with AHO provisions by the project owner. The AHO also allows developers the option to pay an Affordable Housing Impact Fee as established in the City's Master Fee Schedule. Affordable Housing Impact fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the timing for payment of the fees chosen, no final inspection will be approved and no occupancy permit will be issued for any dwelling unit unless all applicable Affordable Housing Impact Fees have been paid in full.
135. Prior to the approval of the Final Map, the developer shall pay the costs of providing public safety services to the project should the project generate the need for additional public safety services. The developer may pay either the net present value of such costs prior to issuance of building permits, or the developer may elect to annex into a special tax district formed by the City and pay such costs in the form of an annual special tax. The developer shall post an initial deposit of \$20,000 with the City prior to submittal of improvement plans to offset the City's cost of analyzing the cost of public safety services to the property and district formation.
136. Prior to the issuance of the first certificate of occupancy for the development, the applicant shall form or annex to an existing Lighting and Landscaping District (LLD) to provide funding for operations maintenance and servicing of landscaping and lighting improvements in public rights-of-way and public areas as follows (all other areas not specifically listed below would be maintained by the HOA):
  - a. Public trail that runs along Street A.
  - b. Undeveloped public open space along Ward Creek (not including the proposed detention basin).

137. Prior to City approval of the Final Map, the developer shall provide a \$10,000 deposit to the City to cover the costs associated with formation/annexation of the LLD described in Condition No. 139.

**Due Prior to Issuance of Grading or Building Permits and Construction with Combustible Materials**

138. Pursuant to the Municipal Code Section 10-3.332, the developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the subdivision agreement.
139. Prior to building permit issuance, developer must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, utility connection fees.
140. Prior to issuance of building permits, a final map that reflects and is in substantial compliance with the approved vesting tentative tract map, shall be approved by the City Engineer and is in the process for filing with the office of the Alameda County Clerk Recorder.
141. Submit the following documents for review and approval, or for City project records/files:
- a. Copy of the Notice of Intent filed with State Water Resources Control Board;
  - b. Engineer's estimate of costs, including landscape improvements;
  - c. Signed Final Map;
  - d. Signed Subdivision Agreement; and
  - e. Subdivision bonds.
142. Plans for building permit applications shall incorporate the following:
- a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
  - b. A lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. All exterior lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Such lighting shall also be designed such that it is decorative and in keeping with the design of the development. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director or his/her designee shall approve the design and location of lighting fixtures, which shall reflect

the architectural style of the buildings. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of proposed buildings.

- c. Plans shall show that all utilities will be installed underground.
143. Required water system improvements shall be completed and operational prior to the start of combustible construction.
  144. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.
  145. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.
  146. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
  147. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.
  148. To avoid or reduce the potential impact related to the site specific geotechnical hazards related to seismic hazards, the project developer shall implement the following mitigation measures:
    - a. The applicant shall submit a final grading plan subject to review by the City Engineer prior to issuance of grading permits.
    - b. New construction will comply with the latest California Building Code and mitigation measures outlined in the Geotechnical Investigation report.
    - c. For each building constructed in the development plan area, the required site specific geotechnical investigation shall address expansive soils and provide appropriate engineering and construction techniques to reduce potential damage to buildings.
    - d. To reduce the potential impacts related to the presence of low to moderately expansive clays in the subsurface soils of the project site, mitigation measures to avoid the effects of expansive soils outlined in the Geotechnical Investigation shall be followed.
  149. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from the City.

## Site Improvements and Issuance of Certificates of Occupancy

150. The developer shall ensure that unpaved construction areas are sprinkled with water as necessary to reduce dust generation. Construction equipment shall be maintained and operated in such a way as to minimize exhaust emissions. If construction activity is postponed, graded or vacant land shall immediately be revegetated.
151. The following control measures for construction noise, grading and construction activities (in addition to Mitigation Measures Air Quality 1 and Air Quality 2) shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
  - a. Grading and site construction activities shall be limited to the hours 7:00 AM to 7:00 PM Monday through Saturday and 10:00 AM to 6:00 PM Sunday and Holidays. Grading hours are subject to the City Engineer's approval. Building construction hours are subject to Building Official's approval;
  - b. Grading and construction equipment shall be properly muffled;
  - c. 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. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information and a copy provided to the Planning Division.
  - e. Daily clean-up of trash and debris shall occur on Walpert Street, 2<sup>nd</sup> Street and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
  - f. 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;
  - g. 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;
  - h. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
  - i. 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;
  - j. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
  - k. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
  - l. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
  - m. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).

- n. 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;
  - o. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
  - p. 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;
  - q. 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;
  - r. 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;
  - s. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
  - t. 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.
152. Prior to final inspections, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
153. All public improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
154. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed and installed in accordance with the approved plan and accepted by the project landscape architect prior to submitting a Certificate of Completion. The final acceptance form must be submitted prior to requesting an inspection with the City Landscape Architect. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of landscape improvements.
155. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation, and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of eighty percent of the dwelling units, whichever first occurs, and a Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted prior to the Final Approval of the landscaping for the Tract to the Public Works – Engineering and Transportation Department by the developer.

156. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.
157. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
158. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
159. The developer/subdivider shall be obligated for the following additional fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Vesting Tentative Tract Map was accepted as complete, unless otherwise indicated herein:
  - a) Supplemental Building Construction and Improvement Tax,
  - b) School Impact Fee.
160. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
161. The improvements associated with the Pacific Gas and Electric Company, AT&T (phone) company and local cable company shall be installed to the satisfaction of the respective companies.
162. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
163. The applicant/subdivider shall submit an AutoCAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.
164. The applicant/subdivider shall submit an "as built" plans indicating the following:
  - a. Approved landscape and irrigation improvements;
  - b. All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.;
  - c. All the site improvements, except landscaping species, buildings and appurtenant structures; and,

- d. Final Geotechnical Report.