

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING THE PLANNED DEVELOPMENT REZONE WITH TENTATIVE TRACT MAP AND SITE PLAN REVIEW PERTAINING TO CONSTRUCTION OF 41 NEW SINGLE-FAMILY RESIDENCES AT 22626 4th STREET

WHEREAS, On July 12, 2017, Tony Dutra (Applicant) submitted a Planned Development Rezone, Vesting Tentative Tract Map No. 8427, and Site Plan Review Application No. 201704074 to subdivide five existing parcels totaling 5.1 acres into 45 parcels to allow the construction of 41 single-family residences with common open space areas and related site improvements at 22626 4th Street (APNs 427-0036-033-05, 427-0036-033-06, 427-0036-033-07, 427-0036-055-19, and 427-0036-085-01); 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 June 28, 2018, and recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approve the Planned Development Rezone with Tentative Tract Map No. 8427 and Site Plan Review Application No. 201704074; 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 July 10, 2018.

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

VESTING TENTATIVE TRACT MAP FINDINGS

Pursuant to Section 10-3.150 of the Hayward Municipal Code (HMC), the City Council may conditionally approve a Vesting Tentative Tract Map application when all the following findings are met:

- A. **The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;**
The project site has two General Plan land use designations: Low Density Residential (LDR) and Medium Density Residential (MDR). The project is proposing

a total net density of approximately 9.9 dwelling units per net acre, which is within the allowed density range in the *Hayward 2040 General Plan*. The LDR land use designation allows for single-family residences and the MDR land use designation allows for a mix of housing types including detached, single-family homes. Anticipated future changes include additional residential development, building and landscaping improvements, and neighborhood enhancements that create more complete, walkable, and sustainable neighborhoods. The project is considered an in-fill development, which will increase the housing inventory for the City of Hayward and result in a more complete neighborhood. The project is also consistent with the following General Plan policies:

- 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.*

The project will allow for 41 new single-family homes, which provide additional single-family housing opportunities in the City.

- 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.*

The project is located in an established neighborhood near Downtown Hayward and a commercial corridor along B Street. Furthermore, recreational facilities such as the Hayward Japanese Gardens and San Felipe Community Park and educational facilities such as Hayward High School and Faith Ringgold School of Arts and Science are nearby.

- Land Use Policy LU-1.3 Growth and Infill Development: *The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.*

The project is surrounded by development on all sides, including other single-family homes, multi-family residential developments, and various commercial uses. As such, the project is considered an in-fill project, which is appropriate for new housing development.

In addition, the project is not located within any specific plan area but is located within the Hayward Foothills Trail Special Design Overlay District and the Upper B Street Neighborhood Plan area and is consistent with those relevant policies. Therefore, the proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans.

B. The proposed subdivision meets the requirements of the City Zoning Ordinance; and

The project requires a Planned Development (PD) Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. With the PD Rezone, the proposed subdivision will provide modified development standards of the new PD District related to lot size, lot coverage, and setbacks. PD Districts are also subject to the development standards of the zoning district most similar to the proposed use, which is the RS (Single-Family Residential) District in this case. As proposed, the project meets the development standards of the RS District related to building height, off-street parking, and landscaping. The subdivision will also allow for the construction of 41 new detached single-family homes, which is a permitted land use in the RS District.

C. No approval of variances or other exceptions are required for the approval of the subdivision.

As proposed, the new Planned Development district would establish the zoning development standards for this project and as conditioned, the project will comply with those standards. In addition, the project will also meet the requirements of the Subdivision Ordinance. Therefore, the project will not require a variance or any other exceptions from the requirements of the HMC.

PLANNED DEVELOPMENT REZONE FINDINGS

Pursuant to Section 10-1.2535 of the HMC, the City Council may conditionally approve a Planned Development Rezone application when all the following findings are met:

A. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies;

The project is considered an in-fill development and will complete the neighborhood, which primarily consists of commercial development and a mix of housing types including detached single-family homes and multi-family residential developments. The project proposes detached single-family homes, which is compatible with the surrounding neighborhood. Additionally, the project is consistent with the LDR and MDR land use designations and policies in the *Hayward 2040 General Plan*. The proposed density is within the density range allowed by the LDR and MDR land use designations and compatible with the overall density of the surrounding residential neighborhood.

B. Streets and utilities, existing or proposed, are adequate to serve the development;

The existing utilities that serve the project site, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within new public utility easements within the project site and connect to the existing utilities on 4th Street and B Street. The project will be served by new private streets that will provide direct access to B Street and Chestnut Street. While the existing roadways are sufficient to accommodate the additional traffic generated from the project, frontage improvements will be required, including the reconstruction and repair of

the existing road and sidewalks along 4th Street, B Street, and Chestnut Street to meet the City's current roadway standards.

- C. **In the case of a residential development, that 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;**

The project is considered an in-fill development and will replace a vacant site with attractive single-family homes to complete the neighborhood. The scale and design of the homes are compatible with the existing neighborhood. The homes will also be served by both private and public open space within the development. Each home will have usable private outdoor yards and the project will provide a 7,065-square-foot group open space area. The development will also be well-integrated into the existing neighborhood since it will be served by new private streets with street parking and sidewalks providing vehicular and pedestrian access to and from B Street and Chestnut Street.

- D. **In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development;**

The project does not include any nonresidential uses and as such, this finding is not applicable to this project.

- E. **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; and**

The project will be developed in one phase, ensuring that the infrastructure, facilities, and services will be available to all future residents in a timely manner.

- F. **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.**

The project requires a PD Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. To offset these requested exceptions, the project proposes to add rooftop solar panels on each home; a bedroom suite on the first floor of 14 homes to allow for aging in place and multigenerational lifestyles; and 7,065 square feet of group, common open space, which is not required for detached single-family homes.

The rooftop solar panels result in a more environmentally-sensitive development and the multigenerational-friendly floor plan allows the homes to accommodate a

more diverse population. The group open space, which will be maintained by a homeowner's association, provides the future residents a usable, outdoor space for recreation and public interaction.

SITE PLAN REVIEW FINDINGS

Pursuant to Section 10-1.3025 of the HMC, the City Council may conditionally approve a Site Plan Review application when all the following findings are met:

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

The proposed 41 single-family residences would be compatible with on-site and surrounding structures and uses and would be an attractive addition to the City in that it would be consistent with the developmental pattern of the Upper B Street neighborhood, which is characterized by single-family and multi-family residences and commercial buildings that are one to two stories in height. The neighborhood consists of a mix of traditional architectural styles, including Cottage, Craftsman, and Victorian homes. The new homes would be similar in scale to other homes nearby. The development provides a diverse range of home sizes ranging from 1,452 to 2,223 square feet in size, which is consistent with the neighborhood. In addition, the new homes incorporate Victorian and Craftsman architectural styles to blend in with the existing neighborhood character. The building facades are articulated to provide visual interest from all sides of the homes, especially the front elevations, which incorporate recesses and projections through exterior shutters, window sill treatments, front entry porches, detailed garage doors, and stone veneer. The new homes will have tile roofing and stucco exteriors with full wrap siding and the development provides a varied color palette, which provide additional architectural detailing and contribute to a diverse and interesting street scene. Overall, the homes are attractively designed and will improve the neighborhood by replacing a vacant, underutilized site associated with illegal trash dumping and homeless encampment with new development that is compatible with the neighborhood character.

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

The project takes into consideration physical and environmental constraints in that the scale and character of the new homes are consistent with the size and scale of homes in the surrounding neighborhood, which consists of Cottage, Craftsman, and Victorian homes that vary in size, height, and color. The new lots range between 2,012 or 5,020 square feet in size and the new homes will be two stories in height. The architectural design of the new homes and proposed lot sizes are compatible with the design and scale of the existing homes nearby and as such, the new development will blend into the existing neighborhood. In addition, the project is an in-fill development with minimal impact on the existing development pattern. Private streets will also provide access to the new homes, which will allow for safe and efficient vehicular circulation. The project is also required by the Hayward Foothills Trail Special Design Overlay District to incorporate a trail along the project frontage on 4th Street, which will help complete the envisioned trail network within

the Hayward Foothills and provide pedestrian access along the east side of 4th Street, which currently does not exist. Furthermore, the project proposes to create a parcel along the northern end of the site adjacent to the creek that would remain free from development and be maintained by a homeowner's association and the new homes near the San Lorenzo Creek are located outside the required 20-foot creek setback area.

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

As previously discussed, the project is consistent with the LDR and MDR land use designations in the *Hayward 2040 General Plan*. The LDR land use designation is intended for single-family residential development and the MDR land use designation is intended for a mix of housing types including single-family residences. Additionally, the proposed density is within the allowable density range. The project is also consistent with the goals and policies of the *Hayward 2040 General Plan*, which encourage a diverse housing inventory and in-fill development. Furthermore, with the PD Rezone, the project meets all the applicable regulations of the Zoning Ordinance, including the development standards of the new PD District and applicable standards of the RS District. Therefore, the project complies with the intent of City development policies and regulations.

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

The project will operate in a manner determined to be acceptable and compatible with surrounding development in that the project will comply with all applicable zoning regulations, building codes, and other regulations in the HMC. The proposed site improvements will also have to meet all City standards and details to the satisfaction of the Director of Public Works as shown on the final map and improvement plans. The project will also be subject to various conditions of approval intended to protect the surrounding neighborhood from any potentially harmful impacts. In addition, the project includes guest parking spaces and private streets, which will minimize potential parking and traffic impacts on 4th Street, B Street, and Chestnut Street after construction of the homes.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study was prepared for this project with the finding that a Mitigated Negative Declaration was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of mitigation measures.
- B. The proposed MND was prepared by Rincon Consultants on behalf of the City of Hayward, Lead Agency, and the MND was circulated to the State, all interested parties, and posted in the newspaper with a minimum 30-day public review period between May 18, 2018 and July 2, 2018.

- C. The proposed MND was independently reviewed, considered and analyzed by the Planning Commission and reflects the independent judgement of the Planning Commission; such independent judgement is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); the Planning Commission recommends the City Council adopt the proposed MND and its findings and conclusions as its source of environmental information; and the proposed MND is legally adequate and was completed in compliance with CEQA.
- D. The proposed MND identified all potential adverse impacts and based on the MND and the whole record before the Planning Commission, there is no substantial evidence that the Project, with mitigation measures incorporated, will have a significant effect on the environment.
- E. The project complies with CEQA, and the proposed MND was presented to the Planning Commission, which reviewed and considered the information contained therein prior to recommending approval of the Project. The custodian of the record of proceedings upon which this decision is based is the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

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 related Mitigation Monitoring and Reporting Program, and approves the Planned Development Rezone with Tentative Tract Map No. 8427 and Site Plan Review Application No. 201704074, subject to the adoption of the companion ordinance (Ordinance No. 18-__) rezoning the property located at 22626 4th Street to Planned Development District, Assessor Parcel Numbers (APNs) 427-0036-033-05, 427-0036-033-06, 427-0036-033-07, 427-0036-055-19, and 427-0036-085-01, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR

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

**CITY OF HAYWARD PLANNING DIVISION
APPLICATION NO. 201704074
PD REZONE, VESTING TENTATIVE TRACT MAP 8427, SITE PLAN REVIEW AND
MITIGATED NEGATIVE DECLARATION WITH MITIGATION MONITORING AND
REPORTING PROGRAM
CONDITIONS OF APPROVAL**

General

1. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. Vesting Tentative Tract Map (VTTM) 8427 and the Preliminary Development Plan and Site Plan Review application are approved subject to the vesting tentative tract map and project plans date stamped May 10, 2018, except as modified by the conditions listed below.
3. In accordance with Hayward Municipal Code (HMC) Section 10-3.246, approval of VTTM 8427 and the Preliminary Development Plan and Site Plan Review application shall expire 36 months after the effective date of approval subject to statutory and discretionary extensions as allowed by the HMC and Subdivision Map Act.
4. All permit charges accrued in the processing of VTTM 8427 and the Preliminary Development Plan and Site Plan Review application shall be paid in full prior to consideration of a request for approval extensions and/or submittal of building permits for the development.
5. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
6. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.
7. Prior to final inspection, all pertinent conditions of approval and all other improvements shall be completed to the satisfaction of the Planning Director.

8. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/ or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.
9. Affordable housing in-lieu fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the option chosen, no final inspection will be approved, and no occupancy permit will be issued for any Dwelling Unit unless all required affordable housing impact fees have been paid in full.
10. The applicant shall contribute \$50,000 towards the restoration of San Lorenzo Creek. The applicant shall coordinate with the City of Hayward and Alameda County Flood Control and Water Conservation District to develop a creek restoration and maintenance plan to determine how the funds will be utilized to support restoration and maintenance efforts.
11. No rear yard fences shall be placed within the 20-foot setback area of Lots 3 through 12 along San Lorenzo Creek as measured from the 2:1 slope line reflected in the project plans dated May 10, 2018. Any existing fence within the 20-foot setback area shall be removed as part of the development. The Precise Development Plan shall include a revised site plan showing that no fences are proposed within this area.
12. The applicant shall be responsible for adhering to the Mitigation Monitoring and Reporting Program (MMRP) for the adopted Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA) Guidelines. The applicant shall provide a copy of the adopted MMRP with the building permit submittal.

Mitigation Measures

13. **Mitigation Measure BIO-1: Invasive Weed Protection**

All efforts shall be made to avoid the spread or introduction of invasive weeds during construction and operation of the project. Appropriate best management practices that are intended and designed to curtail the spread of invasive plant species shall be implemented during construction, and operational practices shall be incorporated into the Homeowner's Association (HOA) CC&Rs. These include the following:

 - A. During construction, the project shall limit the use of imported soils for fill. Soils currently existing on site shall be used to the extent possible for fill material. If the use of imported fill material is

necessary, the imported material shall be obtained from a source that is known to be free of invasive plant species.

- B. Equipment and vehicles shall be free of caked on mud and weed seeds/propagules before accessing the project site.
- C. As the site already contains invasive species (rated by the California Invasive Plant Council [Cal-IPC]), all equipment and vehicles shall be free of caked on mud and weed seeds/propagules before leaving the project site.
- D. Landscaping materials and plants for lots adjacent to the creek corridor shall not include invasive, non-native ornamentals as identified by the Cal-IPC Inventory. This requirement shall be included in the CC&Rs.
- E. Use of herbicides and other plant pesticides shall be prohibited during construction and for the duration of operation of the residential community. This requirement shall be included in the CC&Rs.

14. Mitigation Measure BIO-2: Designated No-Access Area

To prevent impacts to San Lorenzo Creek during construction or operation of the project, no work or general access shall be permitted along the top of bank of San Lorenzo Creek beyond the rear property lines of Lots 3 through 12.

- A. Updated site plans shall be provided prior to issuance of a grading permit that clearly indicate the property limits, the distance of the rear property lines of Lots 3 through 12 from the measured top of bank of San Lorenzo Creek, and the designated “no access” area between the rear property lines of Lots 3 through 12 and the top of bank of San Lorenzo Creek.
- B. Posted “no access” signs shall be placed along the rear property lines of Lots 3 through 12 and along the bank of San Lorenzo Creek at the intersection of A Street and 4th Street to prevent access along the top of back along San Lorenzo Creek.
- C. All “no access” signage shall be permanent, and the no access zone shall be described in the CC&Rs.

15. Mitigation Measure BIO-3: San Lorenzo Creek Avoidance

No activities associated with project implementation shall result in cut, fill, erosion, sedimentation, or other impacts to San Lorenzo Creek or bank or any modification to the top of bank of San Lorenzo Creek.

If it is not possible to avoid impacts to San Lorenzo Creek as outlined above, a jurisdictional delineation study shall be conducted by a qualified wetlands biologist prior to any project ground breaking and a determination of USACE, RWQCB, and/or CDFW jurisdiction shall be obtained. If any of the above agencies is determined to have jurisdiction of San Lorenzo Creek, permits

shall be obtained from the relevant agency prior to any project ground breaking and shall be provided to the City of Hayward to demonstrate compliance with CWA and CFGC.

16. **Mitigation Measure BIO-4: Nesting Bird Avoidance and Minimization Efforts**

If project construction activities occur between February 15 and August 31, a qualified biologist shall conduct a pre-construction survey for nesting birds no more than 14 days prior to construction. The survey shall include the entire project site and a 300-foot buffer to account for nesting raptors. If nests are found the qualified biologist shall establish an appropriate species-specific avoidance buffer of sufficient size to prevent disturbance by project activity to the nest (up to 300 feet for raptors, up to 150 feet for all other birds). The qualified biologist shall perform at least two hours of pre-construction monitoring of the nest to characterize "typical" bird behavior.

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

17. **Mitigation Measure BIO-5: Tree Replacement**

As required by the HMC, the applicant shall replace removed protected trees with like-size, like-kind trees or an equal value tree, or implement alternative forms of mitigation as determined by the City's Landscape Architect. The City's Landscape Architect shall review the final landscape plan to confirm that the proposed mitigation cost matches or exceeds the appraised value of the removed trees prior to the issuance of building permit.

18. **Mitigation Measure BIO-6: Tree Preservation Measures**

Tree Preservation measures are required to protect trees that will be preserved in place and replacement trees that will be planted as required under Mitigation Measure BIO-5.

Design Recommendations

- A. Establish a tree protection zone around each tree to be preserved. No grading, excavation, construction, or storage of materials shall occur inside this zone. No underground services including utilities, sub-drains, water, or sewer shall be placed in the tree protection zone. For design purposes, the tree protection zone shall be as follows:
 - i. 2 feet behind the limit of soil remediation or grading for trees #8, 16-18, 20, 22-29, 32, and 48.
 - ii. The existing property line for trees #8, 16, 17, and 56.
 - iii. 2 feet behind the limit of grading or construction for trees #57 and 58.
 - iv. 14 feet from the trunk of tree #68.
 - v. 1 foot behind the limit of excavation or grading for street trees #102, 104-107, and 109.
- B. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.
- C. As trees withdraw water from the soil, expansive soils may shrink in the root area. Therefore, foundations, footings and pavements on expansive soils near trees should be designed to withstand differential displacement.
- D. Apply and maintain 4-6 inches of wood chip mulch within the TPZ or tree-well area. Keep mulch 2 inches from the base of the tree.
- E. Tree Preservation Guidelines prepared by the Project Arborist, which include specifications for tree protection during demolition and construction, should be included on all plans.

Pre-Demolition and Pre-Construction Treatments and Recommendations

- A. The demolition and construction superintendents shall meet with the Project Arborist before beginning work to review all work procedures, access routes, storage areas, and tree protection measures.
- B. The tree protection zone shall be fenced at prior to demolition, grubbing or grading. Fences shall be 6-foot chain link or equivalent as approved by the City.
- C. Structures and underground features to be removed in the tree protection zone shall use equipment that will minimize damage to trees above and below ground and operate from outside the tree protection zone. Tie back branches and wrap trunks with protective materials to protect from injury as directed by the Project Arborist.

The Project Arborist shall be on-site during all operations within the tree protection zone to monitor demolition activity.

- D. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife code 3503-3513 to not disturb nesting birds. To the extent feasible tree pruning and removal should be scheduled outside of the breeding season. Breeding bird surveys should be conducted prior to tree work. Qualified biologists should be involved in establishing work buffers for active nests.

Recommendations for Tree Protection during Construction

- A. Any approved grading, construction, demolition or other work within the tree protection zone should be monitored by the Project Arborist.
- B. All contractors shall conduct operations in a manner that will prevent damage to trees to be preserved.
- C. Tree protection devices are to remain until all site work has been completed in the work area. Fences or other protection devices may not be relocated or removed without permission of the Project Arborist.
- D. Construction trailers, traffic and storage areas must remain outside tree protection zone at all times.
- E. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone.
- F. Any root pruning required for construction purposes shall receive the prior approval of and be supervised by the Project Arborist. Roots should be cut with a saw to provide a flat and smooth cut. Removal of roots larger than 2 inches in diameter should be avoided.
- G. If roots larger than 2 inches in diameter are encountered during site work and must be cut to complete the construction, the Project Arborist must be consulted to evaluate effects on the health and stability of the tree and recommend treatment.
- H. All trees to be retained shall be irrigated on a schedule to be determined by the Project Arborist (every 3 to 6 weeks is typical). Each irrigation shall wet the soil within the tree protection zone to a depth of 18 to 30 inches.
- I. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Project Arborist so that appropriate treatments can be applied.
- J. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.

- K. Prior to grading or trenching, trees may require root pruning outside the tree protection zone. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the Project Arborist.
 - L. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone.
 - M. Trees that accumulate a sufficient quantity of dust on their leaves, limbs and trunk as judged by the Project Arborist shall be spray-washed at the direction of the Project Arborist.
19. **Mitigation Measure BIO-7: Tree Replacement and Maintenance**
- Replacement trees shall be planted with sufficient space to accommodate the mature size of the species and maintained sufficiently to ensure establishment. Preserved trees shall also be maintained to ensure the continued long-term health of the tree. Trees on-site shall be monitored and routine maintenance, such as occasional pruning, fertilization, mulch, pest management, replanting, and irrigation, shall be conducted by a landscape specialist.
20. **Mitigation Measure CUL-1: Worker's Environmental Awareness Program (WEAP)**
- A qualified archaeologist shall be retained who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct a WEAP training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural material that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find.
21. **Mitigation Measure CUL-2: Archaeological and Native American Monitoring**
- Initial project-related ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (NPS 1983). Initial ground disturbance is defined as activities within previously undisturbed native soils. Monitoring activities shall be coordinated with the Federated Indians of Graton Rancheria and a Native American monitor shall be retained for the duration of project ground disturbance. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find evaluated for significance under CEQA. Monitoring may be reduced or halted at the discretion of the monitors as warranted by conditions such as encountering bedrock, sediments being excavated are fill, soils occur within

formations unlikely to yield cultural resources (e.g., soils formations predating human occupation of the region), or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location in the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock).

22. Mitigation Measure CUL-3: Unanticipated Discovery of Cultural Resources

If cultural resources are encountered during ground disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (NPS 1983) shall be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and testing for the California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work, such as data recovery excavation, may be required to mitigate potentially significant impacts to historical resources.

23. Mitigation Measure GEO-1: Geotechnical Considerations

The project applicant shall implement all measures and recommendations set forth in ENGEO's January 2017 Preliminary Geotechnical Assessment and June 2017 Supplemental Conceptual Slope Stabilization Recommendations (Appendix B to the Initial Study). These recommendations include but are not limited to:

- A. Grading (demolition and stripping, existing fill removal, selection of materials, differential fill thickness, fill placement, and surface venting mitigation)
- B. Slope setback
- C. Slope stabilization for Lots 3 through 10
- D. Building code seismic design
- E. Foundation design
- F. Pavement design
- G. Drainage
- H. Stormwater bioretention areas

In addition, a comprehensive site-specific design-level geotechnical exploration shall be prepared for review and approval by the City of Hayward as part of the design process. The exploration may include borings and laboratory soil testing to provide data for preparation of specific recommendations regarding grading, foundation design, corrosion potential, and drainage for the proposed project. The recommendations set forth in the design-level geotechnical exploration shall be implemented.

24. **Mitigation Measure HAZ-1: Site Risk Management Plan**

Prior to issuance of permits allowing any earth-disturbing activity, the developer shall prepare a site risk management plan (SRMP). The SRMP will address known and unknown environmental issues that may be encountered during development. The plan shall identify appropriate measures to be followed if contaminants are encountered during excavation including health and safety measures to reduce exposure to potentially impacted soil for construction workers and dust control measures to reduce exposure to contaminated dust particles for nearby residents. Health and safety measures shall include the required personal protective equipment (PPE) to be used by site personnel, including action levels and decision criteria for upgrading the levels of PPE. The SRMP shall also identify personnel to be notified, emergency contacts, and a sampling protocol if impacted media is encountered. The excavation and demolition contractors shall be made aware of the possibility of encountering known and unknown hazardous materials including impacted soil, soil vapor, and groundwater (if encountered), and shall be provided with appropriate contact and notification information. The plan shall include a provision stating at what point it is safe to continue with the excavation or demolition, and identify the person authorized to make that determination. Removal, transportation, and disposal of impacted soil shall be performed in accordance with applicable federal, state, and local laws, regulations, and ordinances. The plan shall be submitted for City of Hayward for review and approval.

25. **Mitigation Measure HYD-1: Design-Level Drainage Analysis and Minimization of Runoff**

The applicant shall conduct a design-level drainage analysis prior to issuance of a grading permit that shall identify existing drainage patterns across the project site and existing off-site stormwater discharge locations. The drainage analysis shall quantify the existing and predicted post-construction peak runoff rates and amounts both on-site and off-site immediately downgradient of the project site. The drainage analysis shall identify any changes to the location of down-gradient discharge of stormwater runoff and any potential impacts on off-site property that would result from those changes. Stormwater control measures shall be developed to maximize on-site infiltration of stormwater and minimize off-site stormwater discharge. These stormwater control measures shall be designed to achieve conformance with MRP C.3 requirements and to ensure that post-development stormwater discharge rates and amounts to off-site locations, including San Lorenzo Creek, are maintained at or below pre-development levels. In addition, on-site drainage improvements shall be designed to ensure that runoff leaving the project site does not flow over the bank of San Lorenzo Creek. The stormwater control measures may include, as necessary, additional or expanded above-ground retention and/or detention basins, stormwater collection tanks, subsurface infiltration devices such as cisterns

with permeable bottoms or perforated pipes, permeable pavement, and vegetated swales. The stormwater control measures required by this mitigation may be used, in whole or in part, to satisfy the erosion and runoff control standards of the NPDES-required SWPPP.

The design-level drainage analysis shall be submitted to and approved by ACPWA prior to issuance of a grading permit. The design-level drainage analysis shall be accompanied by a Drainage Review Checklist provided by ACPWA. The drainage analysis and Drainage Review Checklist shall demonstrate that curb elevations are not less than 1.25 feet above the hydraulic grade line and not lower than the energy grade line, that the MRP C.3 requirements are met, that required riparian setbacks have been implemented, that no surface runoff will flow over the existing bank of San Lorenzo Creek, that outfall structures to the channel conform to ACFC standards, and that the rates and amounts of post-development stormwater discharge are maintained at pre-development levels.

26. Mitigation Measure HYD-2: Stormwater Control Plan, Operation and Maintenance Plan, and Maintenance Agreements

Prior to issuance of grading permits, the applicant shall submit a Stormwater Control Plan, prepared by a registered professional engineer, addressing the MRP C.3 post-construction runoff requirements. The plan shall include the location of the drainage facilities and the materials used to construct those facilities. A report with supporting calculations shall also be provided. The Stormwater Control Plan shall be reviewed by a licensed Geotechnical Engineer to ensure conformance with the Preliminary Geotechnical Investigation (ENGEO 2017) or Engineering Geology Report. Prior to issuance of grading permits, the applicant shall submit an Operation and Maintenance Plan to ACPWA for review and approval. The plan shall be prepared by a registered Professional Engineer and include, at a minimum, the following:

- A. A site map identifying all structural Stormwater Control Measures requiring O&M practices to function as designed
- B. O&M procedures for each structural Stormwater Control Measure including, but not limited to, LID facilities, retention/detention basins, and proprietorship devices, and
- C. The O&M plan shall include short- and long-term maintenance requirements, recommended frequency of maintenance, and estimated cost for maintenance.

Prior to issuance of grading permits, the applicant shall enter into a Maintenance Agreement with Alameda County. The applicant shall submit a signed and notarized Maintenance Agreement to ACPWA for review and approval. The agreement shall clearly identify the responsible party for ongoing maintenance of structural Stormwater Control Measures. The Agreement shall contain provisions for an annual report to be prepared by a registered Professional Engineer. The annual report shall be submitted to

ACPWA, for review and approval, no later than August 15th. All recommended maintenance shall be completed by October 15th of that same year. If maintenance is required, certification shall be provided that all recommended maintenance has been completed before the start of the rainy season.

27. Mitigation Measure N-1: Construction Noise Reduction Measures

The applicant shall apply the following measures during construction of the project.

- A. **Mufflers.** Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds, as applicable, shall be in good condition and appropriate for the equipment. During construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturers' standards.
- B. **Electrical Power.** Electrical power, rather than diesel equipment, shall be used to run compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
- C. **Equipment Staging.** All stationary equipment shall be staged as far away from noise-sensitive receptors as feasible.
- D. **Equipment Idling.** Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.
- E. **Workers' Radios.** All noise from workers' radios shall be controlled to a point that they are not audible at sensitive receptors near construction activity.
- F. **Smart Back-up Alarms.** Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- G. **Disturbance Coordinator.** The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

28. Mitigation Measure T-1: B Street Roadway Striping and Signage

- Prior to issuance of a certificate of occupancy, the project applicant shall install cautionary signage warning of the new driveway locations on B Street approaching the project site. In addition, the project applicant shall fund roadway striping along the project's B Street frontage that shall display a prohibition against vehicles blocking access to the project driveways (Keep Clear) when waiting at a red light.
29. **Mitigation Measure T-2: Driveway Signage**
The project applicant shall install caution signage, stop bars, and marked crosswalks at the project driveways on B Street to ensure that vehicles stop before exiting the driveways and entering B Street.
30. **Mitigation Measure T-3: 4th and B Street Pedestrian Improvements**
The project applicant shall coordinate with City of Hayward Transportation Department staff to design and fund installation of a marked crosswalk, pedestrian bulbouts, curb ramps, and a pedestrian countdown signal on the eastern leg of 4th Street and B Street. This includes expanding the traffic signal hardware to add a pedestrian phase, a pedestrian signal head, and a pedestrian push button.
31. **Mitigation Measure T-4: B Street Roadway Striping and Signage**
The project applicant shall coordinate with the City of Hayward and AC Transit to install a bus bulbout at the bus stop along the project site's B Street frontage at the southern quadrant of 4th Street and B Street. The applicant shall also install signage warning pedestrians of entering and exiting vehicles at the project driveways.
32. **Mitigation Measure TCR-1: Unanticipated Discovery of Tribal Cultural Resources**
In the event that cultural resources of Native American origin are identified during construction, all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.
- Precise Plan Submittal**
33. In accordance with Section 10-1.2550 of the Hayward Municipal Code (HMC) and prior to submitting a building permit application, a Precise Development

Plan shall be submitted for review and approval.

34. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein and shall be submitted in advance of or in conjunction with the subdivision improvement plans and Final Map.
35. 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”.
 - A. Photovoltaic systems shall be installed on the rooftops of all units.
 - B. A minimum of 14 units shall provide a bedroom suite on the first floor.
 - C. The project shall provide a 7,065-square-foot group open space area with landscaping, an outdoor seating area, exercise stations, and a pedestrian pathway.
36. 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 numbers shall be decorative and comply with the size requirements of the Fire Department.
 - D. Proposed locations, heights, materials and colors of all walls and fences.
 - E. A minimum of one exterior hose bib shall be provided for each residential unit.
 - F. Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths. All surfaces should be enhanced with decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials.
 - G. Proposed mailbox design and locations, subject to Post Office approval. All mailboxes shall be locking mailboxes.
 - H. A final lighting plan prepared by a qualified illumination engineer

shall be included to show exterior lighting design. The final lighting plan shall incorporate pedestrian scale lighting along the sidewalk within and adjacent to the development (4th Street, B Street, and Chestnut Street). All lighting shall be erected and maintained so that adequate lighting is provided along the private street. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.

- I. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.
 - J. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.
 - K. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
 - L. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.
 - M. Large expanses of blank wall shall not be allowed. Articulate or otherwise treat such expanses to avoid bulkiness.
 - N. 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.
 - O. 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.
37. 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.

38. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
39. The project shall comply with the provisions of the 2016 California Energy Code section 110.10.

Development Review Services Engineering / Public Works Engineering

40. **Homeowner's Association (HOA):** 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 an HOA for the property, shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
 - A. The CC&R's shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements:
 - i. In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.
 - ii. It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the

regulations and ordinances and other laws.

- iii. It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
 - iv. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection, it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.
 - v. The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted, and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.
- B. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
 - C. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
 - D. The HOA shall own and maintain the private access roads and on-site storm drain systems in the development, excluding those located within the public right-of-way. The HOA shall also own and maintain the trail along the project frontage on 4th Street.
 - E. 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.
 - F. 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.

- G. 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.
- H. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- I. 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 homeowner's 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.
- J. Any future major modification to the approved site plan shall require review and approval by the City.
- K. 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.
- L. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
- M. 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 Map

41. Final Map shall include offers for easement dedications to the City and its acceptance or rejection statements for the City's water distribution, sewer collection, emergency vehicle access, public utilities and other public services in formats acceptable to the City Engineer.
42. Final Map shall be prepared in compliance with the Subdivision Map act and the City of Hayward Municipal code. It shall be submitted for the City Engineer's approval together with its related property documents and survey calculations.
43. Final Map shall include the formation of an HOA to own and maintain private drive, storm drain facilities and common areas. Final Map shall show the limits of the common areas for HOA ownership and maintenance. HOA documents and the related covenants, conditions and restrictions shall be submitted for the City's review and approval.

Infrastructure Improvement and Engineering Reports

44. Any work within the existing City street right-of-way or easement shall be per the plans approved by the City and in compliance with its permit.
45. Public infrastructure improvements, including sewer collection mains, water mains and meter boxes, water service laterals from water main and meter box and fire hydrant assemblies shall be offered to the City for its maintenance and shall be shown on the site improvement plan. The improvements intended for the City's maintenance shall comply with the City standards.
46. Public infrastructure improvements intended for the City's maintenance shall be constructed within existing public street rights-of-way or new easements acceptable to the City. Such new easements shall be offered for the City's acceptance on the Final Map.
47. Grading, landscaping, utilities and on/off-site improvement plans, and their related engineering studies and design documents shall be submitted to the City Engineer for review and approval prior to requesting any map approval or building permit. Subject plans shall, in addition to the standard

improvements, incorporate the following design requirements:

- A. Grind and overlay 2" AC pavement full street width along B Street property frontage from 4th Street to 100 feet east of 4th Street.
 - B. Chestnut Street pavement shall be repaired where damaged and resurfaced with hot-mix asphalt concrete across the development frontage and half-street widths to provide Traffic Index 5 and as per plans approved by the City Engineer. Pavement markings shall be installed as required by the City Engineer.
 - C. 4TH Street pavement shall be repaired where damaged and resurfaced with hot-mix asphalt concrete across the development frontage and its full widths to provide Traffic Index 7 and as per plans approved by the City Engineer. Pavement markings shall be installed as required by the City Engineer.
 - D. Underground existing utility poles along property frontage at Chestnut Street, 4th Street and B Street.
 - E. Install new curb gutter and sidewalk along property frontage at Chestnut Street.
 - F. Remove existing driveway cuts and replace with new curb, gutter and sidewalk along project frontage.
 - G. Remove and replace uplifted or broken curb gutter and sidewalk along property frontage.
 - H. Install standard barricade at the terminus of Court A and Court B.
 - I. Install street trees per plans approved by the City's Landscape Architect along property frontage.
 - J. New City standard LED streetlights shall be installed on public streets fronting the property to provide average illumination of one foot-candle and meet other City street lighting standards.
48. The project geotechnical consultant shall review and approve the final grading, site improvements and building plans.
49. Protected species and archeological resource protection studies shall be completed before start of any construction and their recommendations shall be complied with.

Grading

50. A copy of the Notice of Intent (NOI) receipt from the State Water Resource Control Board shall be provided to the City Engineer.
51. A grading permit shall be secured before starting any grading operation. Grading shall be per plans prepared by a State licensed engineer and approved by the City Engineer and the project geotechnical engineer. Grading plans shall be submitted together with its related geotechnical and

engineering reports, plans for required retaining structures and required Storm Water Pollution Prevention Plans.

52. Prior to the issuance of a grading permit and/or the beginning of any on-site construction activity, the Developer's Engineer shall submit a completed Development Building Application Form Information comprising of: 1) Impervious Material Form, and 2) Operation and Maintenance Information Form.
53. A Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the City Engineer prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications.
54. Prior to the start of any construction or grading activity, including hauling of material to or from the project site, a mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented and followed throughout the duration of construction or grading activity. The dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible and crossing the property line.
55. Any land disturbing activity shall comply with plans approved by the City Engineer. The erosion and sediment control plans must be prepared by a licensed engineer, comply with the local and regional regulations and must address each of the following topics:
 - A. Track-out prevention and control measures;
 - B. Control for traffic traveling on project site unpaved driveways, parking lots, and staging areas;
 - C. Control for earth moving activities;
 - D. Post construction stabilization of disturbed areas; and
 - E. Frequency of reporting.

Storm Drain System

56. The storm drain facilities shall be designed to comply with the 2015 Municipal Regional Permit (MRP) of the San Francisco Regional Water Quality Control Board (RWQCB) and the Alameda Countywide Clean Water Program C.3 Guidelines.
57. The development project shall provide Low Impact Development (LID) Source Control Measures as per MRP Provision C.3.c for Regulated Projects

(C.3.b) and Hydromodification Management as per MRP Provision C.3.g.

58. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and submitted to RWQCB for review and approval. The SWPPP documents shall also be submitted along with the improvement plans to the City for review by the City Engineer. The certification page of the SWPPP shall be signed by the owner/developer and the person who prepared the report. The SWPPP and Storm Water Management Plan (SWMP) reports are to be submitted to the State and City in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the project QSD/QSP. Documents that are clipped or stapled will not be accepted.
59. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to limit the entry of pollutants into storm water runoff to the maximum extent practicable. Storm water treatment areas shall be created with engineered soil fill to intercept the surface runoff and provide bio-treatment and a minimum ground infiltration rate of 5 inches per hour.
60. The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Manual dated 2016 shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the City Engineer.
61. The on-site storm drains and storm water treatment systems shall be owned-and-maintained by the property owner. The owner shall execute a maintenance agreement with the City as stated below.
62. An erosion and sedimentation control plan shall be developed and implemented to prevent soil, dirt, debris and contaminated materials from entering the storm drain system. The plans shall be approved by the City Engineer.
63. 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 all of area tributary to the project site. The developer is required to mitigate augmented runoffs with on-site improvements.
64. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using the City approved specifications.

Stormwater Quality Requirements

65. On sheet C-7, Preliminary Storm Water Treatment Plan, Lots A and E shall be identified how the water from these areas are treated. Include on the table and designate on the plan DMA (Drainage Management Areas) and TCM (Treatment Control Measures).

66. The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans or the grading permit application:
- A. Complete the City of Hayward, Stormwater Requirements Checklist and submit plans addressing the requirements for the City Engineer's review and approval.
 - B. The storm water pollution prevention plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to limit the entry of pollutants into storm water runoff to the maximum extent practicable.
 - C. The proposed BMPs and storm water pollution prevention measures shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP). In addition, the California Stormwater Quality Association's Stormwater Best Management Practice Handbook for New Development and Redevelopment, Subsection 5.5 on pages 5-12 has a section titled "BMP Design Criteria for Flow and Volume". These materials are available on the internet at www.cabmphandbooks.com.
 - D. The following documents shall be completed and submitted with the improvement and/or grading plans:
 - i. Hydromodification Management Worksheet;
 - ii. Updated Stormwater Requirements Checklist; and
 - iii. Numeric Sizing Criteria used for stormwater treatment (Calculations).
67. 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.
68. The City's standard "Stormwater Treatment Measures Maintenance Agreement" (prepared by the City and is available in the Engineering and Transportation Division) shall be executed by the property owner. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office concurrently with the Final Map recording. This agreement will bind the current and future property owner(s) with responsibility for continued operations, inspections, reporting and maintenance of the stormwater pollution prevention improvements constructed on-site.

Landscape

69. The storm drain easement through group open space shall be relocated between two existing trees to be preserved. The proposed location shall have

- irreversible impact to the Oak tree for preservation. The effort shall be coordinated with the project engineer.
70. Bio-treatment areas next to hardscape (curb, paving, structure etc.) shall have minimum two feet of undisturbed leveled soil surface before side slope could begin. The small bio-treatment area Lot 23 and 24 shall be eliminated and the alley way shall be paved with permeable pavers for the required treatment. In order to provide undisturbed and leveled two feet wide surface behind the curb, the treatment area west of Lot 3 shall be reduced. The stem roadway to Lot 1 through 3 shall be considered for permeable paving as well as the driveway for Lot 8 through 12 and Lot 14 through 16 to compensate for the reduction in size for the treatment area. The effort shall be coordinated with the project engineer.
 71. Water meters and sewer cleanouts shall be located in the driveway when the driveway depth is less than thirteen feet.
 72. Proposed upsized trees for the tree mitigation shall be realistic and doable. In order to plant a sixty-inch-box tree, minimum ten feet by ten feet of planting hole needs to be dug. The planting hole shall not be dug against the paving that may compromise the integrity of the paving section.
 73. All proposed trees are deciduous. It would be desirable to have mix of evergreen and deciduous trees.
 74. Existing tree number 66, twenty-six-inch diameter Silver Dollar Gum, seems to be located too close to the proposed fence for Lot 38. This Silver Dollar Gum may not have fully matured, the tree may damage the fence as it matures. It is recommended for removal and revise the mitigation summary chart accordingly.
 75. Though Gleditsia t. 'Shademaster' is considered one of the better species among Gleditsia, it produces long seed pods and could be messy to be street trees. Locations where this tree species are used shall be provided.
 76. Enhanced paving at all entrances shall be provided.
 77. Proposed plant spacing shall not be less than minimum spread at maturity. Reference source books for water use and plant maturity size shall be provided on the plan.
 78. Enlarged plans for the group open space shall be provided showing proposed amenities like par course stations to see how the par course fits into the overall design. Proposed par course doesn't seem to be engaging. Turf shall not be placed within the dripline or near two Oak trees for preservation.

79. Three water meters are located in the group open space, and only one is identified in the utility and landscape Plans as an irrigation meter. Please identify the other two meters. All three meters' size information shall be provided.
80. If proposed, view fences shall be decorative wrought iron or metal fence.
81. Rain barrel shall be located where it will be easily accessible for use.
82. Upon approval of Precise Plan, landscape improvement plans shall be submitted for approval. Improvement plans shall provide lines for City's approval signatures and dates on the right side of the plan: One for City Landscape Architect and other for City Engineer.
83. Once approved, wet-stamped and wet-signed Mylar of the approved improvement plans shall be submitted to City Landscape Architect for signatures. Copies of signed Mylar shall be submitted as a part of the building permit submittal set.
84. Mylar size shall be twenty-two inches by thirty-four inches without exception. A graphic bar scale shall be provided.

Public Works Transportation

85. Applicant shall install "Bike Route" signage and "Sharrow" pavement markings on 4th Street along project frontages. Proposed signage and pavement marking locations shall be included in the Signing and Striping plans.
86. Applicant shall install a pedestrian crosswalk on the east side of the 4th Street/B Street intersection and make all necessary modifications to the existing traffic signal to accommodate the new pedestrian crosswalk. Crosswalk design and Signal Modification plans shall be included with Improvement Plans and shall be approved by Public Works and the City Engineer prior to issuance of building permits.
87. Applicant shall install bulb-outs on the east side of the 4th Street/B Street intersection to accommodate the new pedestrian crossing. Bulb-out design and layout shall be included in Improvement Plans and shall be approved by Public Works-Engineering and the City Engineer prior to issuance of building permits.
88. Applicant shall install standard streetlights along project frontages on B Street and 4th Street at 125' spacing. Proposed streetlight locations shall be included in Improvement Plans.

89. Applicant shall stripe "25" pavement markings on B Street east of 4th Street along project frontage. Pavement marking shall be included in the Signing and Striping plans.
90. Applicant shall submit a Photometric Plan to be included with Improvement Plans that shall be approved by Public Works-Transportation and the City Engineer prior to issuance of building permits.
91. Applicant shall submit a Signing & Striping Plan to be included with Improvement Plans that shall be approved by Public Works-Transportation and the City Engineer prior to issuance of building permits.

Utilities and Environmental Services

92. At the time of your building permit, please indicate where each home will store the trash, recyclables, and organics containers (a 9-foot by 3-foot space is required), either in the garage or side yard, that has an accessible pathway to the driveway. Also ensure cart storage will be out of public view.
93. Please submit the Construction and Demolition Debris Recycling Statement at the time of your building permit (section 4). You only need to submit the top "applicant" half of the form during the building permit. The bottom half of the form should be completed upon completion of the project to receive final building inspection approval. You can find the form online at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.
94. The Precise Development Plan shall incorporate the following revisions:
 - A. On the utility plan, show the location and the size of the irrigation meter, service line, and backflow device. Revise to show the irrigation meter located before the RP device.
 - B. Relocate meter boxes to be in the sidewalk where applicable per Standard Details SD-213 to SD-218.
 - C. Show the sewer lateral for lot 3 on the utility plan.
95. The development's water mains shall be public, owned and maintained by the City. If the water mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.
96. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12" Diameter or Less) and Fire Hydrants," latest revision at the time of permit approval. (available on the City's website at <https://www.hayward-ca.gov/your-government/departments/engineering-division>).

97. All water mains must be looped. Dead end water mains will not be allowed. Water mains must be connected to other water mains, via dedicated easements if necessary.
98. Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
99. Existing water services, if any, that cannot be reused for the proposed development shall be abandoned by City Water Distribution Personnel at the applicant's/developer's expense.
100. Each residential dwelling unit shall have an individual domestic water meter. Facilities fees for residential connections are based on the domestic demand for the home. A larger water meter may be installed if the service is combined with a private fire service. The developer is required to pay water facilities fees and installation charges for connections to water mains and work performed by City forces.
101. The development could use combined residential domestic and fire services for each residence. Residential combined domestic and fire services are allowed, per City Standard SD-216 (copy attached). Per SD-216, flow-through fire sprinkler systems do not require the installation of an above ground backflow prevention assembly. They do require the installation of a N36 meter box or a B16 and a B9 meter box.
102. A separate irrigation water meter must be installed to serve the property's landscape. The size of the irrigation meter will be determined by the gallon per minute demand of the irrigation system. An above ground Reduced Pressure Backflow Prevention Assembly (RPBA) shall be installed on each irrigation water meter, per SD-202. Backflow prevention assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.
103. All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense.
104. All domestic and irrigation water meters shall be radio-read type.
105. Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218.
106. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and one-foot vertically above any parallel pipeline conveying

storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade (i.e., pressure) piping materials.

107. The development's sanitary sewer mains and manholes shall be public, owned and maintained by the City. If the sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of permit approval (available on the City's website at <https://www.hayward-ca.gov/your-government/departments/engineering-division>). 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.
108. Each residential dwelling unit shall have an individual sanitary sewer lateral. Each sanitary sewer lateral shall have at least one cleanout and be constructed per SD-312.
109. The developer is responsible for payment of sewer connection fees at the current rates at the time the application for building permits are submitted.

Fire Department

110. Design of the public streets and private streets and courts shall meet all City of Hayward and California Fire Code Standards.
111. All public and private streets and private courts shall be designed with an all-weather surface pavement.
112. Parking of vehicles is allowed one-side parking on 30-foot-wide road. No parking is allowed on 24-foot-wide road. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
113. 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.
114. Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department. The type of fire hydrant shall be Modified Steamer Hydrant (Flow Valve Co. Model LB 614 with one 2-1/2" outlet and one 4-1/2" outlet) in single-family residential area, capable of flowing 1,500

- gallons per minute. The design and layout of the hydrants shall be reviewed and approved by the Fire Department.
115. Blue reflective pavement markers shall be installed at fire hydrant locations. 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).
 116. Submit for proper building permits for the construction of the building to the Building Department.
 117. Buildings are required to install fire sprinkler systems in accordance with NFPA 13D Standards. A separate plan/permit is required prior to the installation of the overhead fire sprinkler system.
 118. Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly.
 119. Underground fire service line serving NFPA 13D sprinkler system shall be installed in accordance with NFPA 24 and the Hayward Public Work Department SD-216. Water meter shall be minimum one-inch in diameter for residential application or four-inch for a (NFPA 13) commercial grade system.
 120. An audible alarm bell (device) shall be installed to sound on the exterior of each individual building. The device shall activate upon any fire sprinkler system waterflow activity.
 121. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any fire sprinkler system waterflow activity.
 122. 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).
 123. When a flow switch is not installed on the riser of a flow thru sprinkler system, smoke alarms shall be interconnected to sound an audible alarm in all sleeping areas within the dwelling unit.
 124. 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.
 125. An approved type spark arrestor shall be installed on any chimney cap.

126. A minimum 4" self-illuminated address shall be installed on the front of the dwelling in a location so as to be visible from the street. Otherwise, a minimum 6" address shall be installed on a contrasting background and shall be in a location approved by the Fire Department.
127. Submit a phase 1 Environmental assessment and any other records regarding site contamination, investigation, remediation, or clearances from other regulatory agencies. Submit final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control to ensure that the property meets residential development investigation and cleanup standards. Allowance may be granted for some grading activities if necessary to ensure environmental clearances.
128. The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4900 if hazardous materials or associated structures are discovered during demolition or during grading. These shall include but shall not be limited to: actual/suspected hazardous materials, underground tanks, or other vessels that may have contained hazardous materials.
129. 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 hazards posed to development construction workers, the environment, future residents and other persons are mitigated.
130. Discovery of Potentially Hazardous Materials or Vessels/Containers shall be reported to the Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4900 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.
131. Use of Hazardous Materials or Generation of Hazardous Waste – During construction, hazardous materials used, and hazardous waste generated shall be properly managed and disposed.
132. Upon next submittal, please provide the water/fire flow test data information on the plan, including static pressure, residual pressure, pitot pressure, test flow, calculated available water flow at 20 PSI and test date. This information may be requested from the Hayward Public Works Department. A new test should be requested to the Hayward Public Works Department (Michelle Tran, michelle.tran@hayward-ca.gov, 510-583-4722) if updated data is not available.