

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-\_\_\_\_\_

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

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING VESTING TENTATIVE TRACT MAP APPLICATION AND ZONE CHANGE APPLICATION 201504833 PERTAINING TO THE DEVELOPMENT OF OLYMPIC STATION COMPOSED OF TWENTY-THREE DETACHED SINGLE FAMILY HOMES AT THE NORTHEASTERN CORNER OF OLYMPIC AVENUE AND HUNTWOOD AVENUE

WHEREAS, on October 16, 2015, Perry Hariri of Fortbay Woods, LLC (Applicant) submitted Zone Change and Vesting Tentative Tract Map Application No. 201504833, requesting a zone change for four parcels (APNs. 465-0055-012-03; 465-0055-013; 465-0070-019; and 465-0071-00) located at the northeastern corner of Olympic Avenue and Huntwood Avenue. The zone change would convert the properties from Single-Family Residential District (RS) with a Special Lot Combining District (B4), to Planned Development District and a Vesting Tentative Map to facilitate construction of twenty-three detached single family homes (the “Project”); and

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

WHEREAS, the Planning Commission considered the Project at a noticed public hearing held on May 12, 2016, and recommended unanimously that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and approve the Zone Change and Vesting Tentative Tract Map Application No. 201504833; 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 June 14, 2016.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study (“IS”) was prepared for this project with the finding that a Mitigated Negative Declaration (“MND”) was appropriate because all potential impacts could be

mitigated to a level of less than significant with the implementation of Mitigation Measures that were incorporated as conditions of approval for the Project.

2. That the proposed MND was prepared by Phil Martin & Associates, on behalf of the City of Hayward acting as the Lead Agency, and that the MND was circulated with a minimum thirty (20) day public review period between April 15, 2016 and May 4, 2016.
3. That the proposed MND was independently reviewed, considered and analyzed by the City Council and reflects the independent judgment of the City Council; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); that the City Council adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.
4. That the proposed MND identified all potential adverse impacts, and based on the MND and the whole record before the City Council, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the project complies with CEQA, and that the proposed MND was presented to the City Council, which reviewed and considered the information contained therein prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

#### ZONE CHANGE

6. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies in that the proposed project replaces an existing nonconforming trucking use and introduces a development consistent with the surrounding existing single-family detached neighborhood pattern. The proposed project includes a site layout with individual lots with homes fronting onto the public and a proposed private street within the prescribed density of the General Plan of 8.7-12 dwelling units per net acre. Each home includes a two-car garage with a driveway apron sufficient to park two cars on it. With the exception of the lot standards, the proposed project is in harmony with the surrounding single-family neighborhood and conforms to the General Plan and applicable City policies related to land use, design, and housing as follows:

#### Land Use Policies:

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

- Creating a highly connected block and street network.

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

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

Housing Policies:

Policy H-2.3 Inclusionary Housing: The City shall enforce the Inclusionary Housing Ordinance to ensure that a certain percentage of new residential units will be made affordable to lower- and moderate-income households.

Policy H-3.3 Sustainable Housing Development: The City shall improve affordability by promoting sustainable housing practices that incorporate a ‘whole system’ approach to siting, designing, and constructing housing that is integrated into the building site, consumes less water and improves water quality, reduces the use of energy use, and other resources, and minimizes its impact on the surrounding environment.

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

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

7. Streets and utilities, existing and proposed, are adequate to serve the development in that the proposed project is surrounded by existing streets with access to utilities and adequate capacity to serve the proposed development. In addition, the project shall be required to underground all overhead utilities along the project frontage and along all areas of improvement.
8. The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development or neighborhoods in that small-lot single-family development

is designed to continue the line of single-family development along Olympic and Holyoke Avenues, meet the allowed density called for by the General Plan, and to maximize development potential on the infill site to offer much needed housing in the region while respecting the surrounding residential neighborhood.

9. Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards, which, in the judgment of the Planning staff provides for a high quality and attractive development in that the small-lot single-family development is designed to continue the line of single-family development along Olympic and Holyoke Avenues; meets the density called for by the General Plan; and maximizes development potential on the infill site to offer much needed housing in the region while respecting the surrounding residential neighborhood. In order to accomplish these goals, the proposed PD District development requires smaller lots than are permitted under standard residential development standards as well as lot modifications such as reduced setbacks, increased lot coverage and reduced lot widths and depth. Project amenities including front porches on a majority of the homes to enhance and strengthen the streetscape; homeowners association-maintained front yards to ensure well maintained and cohesive neighborhood presence; a small private park area for residents to gather and interact; and installation of solar photo-voltaic systems for each of the units to reduce energy consumption; all of which will adequately off-set the exceptions requested with the proposed project.

#### VESTING TENTATIVE TRACT MAP 8302

10. The proposed map is consistent with applicable general and specific plans as specified in Section 64541 of the Subdivision Map Act. [Subdivision Map Act §66474(a)] in that The proposed subdivision map is consistent with the allowable uses and the General Plan density designation of Limited Medium Density Residential. The proposed net density of 11 dwelling units per acre (du/ac) is within the allowable density of 8.7 to 12 du/ac.
11. The design and improvement of the proposed subdivision are consistent with applicable general plan and specific plans [Subdivision Map Act §66474(b)], The proposed subdivision, as demonstrated by the findings associated with the Planned Development Rezone application, is consistent with the General Plan goals and policies related to infill development, residential design, encouraging a variety of housing types, sustainable development, and affordable housing (LU 3.6; LU 3.7; H 2.3; H 3.3; H 3.6).
12. The site is physically suitable for the type of development. The subject site, as designed, supports the proposed 23-unit residential subdivision with all the design elements and infrastructure of a typical subdivision.
13. The site is physically suitable for the proposed density of development. The subject site supports the proposed density of 11 dwelling units per acre, which falls within the allowed density of 8.7-12 dwelling units per acre.
14. The design of this infill project and the proposed improvements are not likely to cause

substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The approval of the Vesting Tentative Tract Map 8302, as conditioned, will have no significant impact on the environment, cumulative or otherwise. An Initial Study, Mitigated Negative Declaration, and supporting environmental reports demonstrates that potential impacts in the area of biological resources, hazards and hazardous materials, geology and soils, and noise will be less than significant with the inclusion of the recommended mitigations

- 15. The design of the subdivision or type of improvements are not likely to cause serious public health problems. Adequate capacity exists with the existing utilities, including sanitary sewer, to provide services to the proposed project site thus eliminating the possibility that the development would cause serious public health problems. Any potential risk to public health has been analyzed in the Initial Study and appropriate mitigation measures have been identified in the areas of hazards and hazardous materials, geology and soils, and noise.
- 16. The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. Adequate capacity exists with the existing utilities, including sanitary sewer, to provide services to the proposed project site thus eliminating the possibility that the development would cause serious public health problems. Any potential risk to public health has been analyzed in the Initial Study and appropriate mitigation measures have been identified in the areas of hazards and hazardous materials, geology and soils, and noise.

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 Mitigation Monitoring and Reporting Program, and approves Zone Change and Vesting Tentative Tract Map Application 201504833, subject to the adoption of the companion ordinance (Ordinance No. 16-\_\_\_\_\_) that rezones the four properties located at the northeastern corner of Olympic Avenue and Huntwood Avenue (APNs. 465-0055-012-03; 465-0055-013; 465-0070-019; and 465-0071-00) from Single-Family Residential District (RS) with a Special Lot Combining District (B4), to Planned Development District, to facilitate construction of twenty-three detached single family homes, subject to the attached conditions of approval (“Attachment Ia”).

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

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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

**CONDITIONS OF APPROVAL**

**June 14, 2016**

**Olympic Station (Olympic and Huntwood Avenues) –  
Fortbay Woods, LLC (Applicant)**

**Zone Change and Vesting Tentative Tract Map Application No. 201504833  
(Tract 8302)**

**Zone Change from Single-Family Residential with a Special Lot Combining (RS/B4) ) District to a Planned Development (PD) District, and Vesting Tentative Tract Map 8302, a 23-lot single family subdivision on a 2.5 gross-acre site at the northeastern corner of Olympic and Huntwood Avenues.**

**General**

1. In accordance with Zoning Ordinance Section 10-1.2500 (Planned Development District), this approval is for the Preliminary Development Plan, subject to all conditions listed below, included herein as: **Exhibit A** –Planned Development and Vesting Tentative Tract Map 8302 submitted by Fortbay Woods, LLC, dated February 17, 2016.
2. The project approval shall coincide with the approval period for the Vesting Tentative Tract Map (Tract 8302). If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permits, or three years after approval of Precise Plan application, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended in reliance upon the Precise Plan approval.
3. This approval is subject to the Mitigation Monitoring and Reporting Program included in the City’s Project files as **Exhibit B** to these conditions of approval.
4. The subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
5. The project entrance at Huntwood will be restricted to right in/right out movement with no left turns permitted into or out of the project site. The applicant shall contribute 100% of the cost of extending the median island in Huntwood Avenue to the intersection of Olympic Avenue to the satisfaction of the Director of Public works.

**Precise Plan**

6. In accordance with Zoning Ordinance Section 10-1.2550 and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.
7. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein, and shall be submitted either in advance of or in conjunction with the subdivision improvement plans and Final Map.

8. The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”. Amenities include:
  - a. Photovoltaic solar systems shall be installed on all units. To the greatest extent possible, the project architect shall consult with an energy consultant regarding the design and orientation of roof surfaces and reorient rooflines to maximize solar orientation;
  - b. Installation of pre-wired electrical vehicle charging station in each garage for future residents.
  - c. Installation of tankless waterheaters in all units.
  - d. Developer installed and Homeowner Association maintained front yard landscaping.
  - e. Enhanced architecture and front porches on a majority of the units.
9. The Precise Development Plan shall include the following information and/or details:
  - a. A copy of these conditions of approval shall be included on a full-sized sheet(s).
  - b. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
  - c. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
  - d. Proposed locations, heights, materials and colors of all walls and fences.
  - e. Large expanses of blank wall shall be prohibited and shall be articulated or otherwise treated with design or architectural features.
  - f. Detailed dimensions and materials for all drive aisles, parking areas, and pedestrian paths. The plans shall indicate the areas identified for permeable pavers and porous concrete and utilize decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials on other surfaces.
  - g. Proposed mailbox design and locations, subject to Post Office approval. Mailboxes shall include a locking mechanism to protect against mail theft.
  - h. A final lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. Exterior lighting shall be erected and maintained so that adequate lighting is provided along the private streets. 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 and prior to final inspection 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 and utilitarian equipment such as vents shall be painted to match the roof color.

- m. An area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
  - n. 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.
  - o. Pedestrian lighting at a human scale shall be included along the sidewalks and private open area in addition to any required street lighting for vehicular safety.
- 10. Any proposal for alterations to the proposed site plan and/or design must be approved by the Development Services Director or his/her designee, prior to implementation.
  - 11. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division in accordance with the City of Hayward's Design Guidelines prior to issuance of a building permit for the project.

### Mitigation Measures

- 12. **Mitigation Measure 1 Biological Resources:** Prior to the removal of any on-site or pruning of adjacent trees, the project developer shall obtain a Tree Removal Permit from the City for all trees that require a permit.
- 13. **Mitigation Measure 2 Biological Resources:** The project developer shall follow all recommendations in the Preliminary Arborist Report as approved by the Planning Director to protect the two remaining on-site trees and the eleven off-site trees during and after project construction.
- 14. **Mitigation Measure 3 Geology and Soils:** Prior to issuance of a Building permit, the applicant shall submit a liquefaction report that identifies the construction and design measures that will be incorporated to reduce liquefaction to level acceptable to the City Engineer.
- 15. **Mitigation Measure 4 Geology and Soils:** To the satisfaction of the City Engineer and/or Building Official, final building plans shall incorporate all foundation design recommendations in the geotechnical report including, but not limited to, all foundations shall be sufficiently stiff to move as ridged units with minimal differential movements. This can be accomplished with construction of relatively ridged mat foundations, such as post-tensioned structural mats.
- 16. **Mitigation Measure 5 Hazards and Hazardous Materials:** Prior to issuance of a demolition permit, the contractor shall provide documentation to the City that the existing septic system, including the septic tanks and all associated piping, has been properly abandoned or removed in compliance with all applicable health and safety regulations and city requirements.
- 17. **Mitigation Measure 6 Hazards and Hazardous Materials:** Prior to the issuance of a demolition permit for any structure, the project developer shall provide a building survey to determine if asbestos or lead paint are present. The asbestos and lead paint survey shall be conducted by a Cal-OSHA Certified Asbestos consultant in accordance with sampling criteria of the Asbestos Hazard Emergency Response Act (AHERA). If lead paint and/or asbestos containing materials are found, all lead containing paint and/or asbestos shall be removed and disposed by a licensed and certified lead paint and/or asbestos removal contractor, as applicable in accordance with local, state, and federal regulations prior to the start of activities that would disturb any ACM containing materials or lead paint.

18. **Mitigation Measure 7 Hazards and Hazardous Materials:** Prior to issuance of a grading permit, the developer shall submit a post-building demolition sampling plan consistent with the recommendations in the Phase II ESA and approved by the City Engineer.
19. **Mitigation Measure 8 Noise:** Prior to the issuance of a building permit, the project design shall include the acoustical design measures recommended in the noise report to reduce exterior noise levels of the six units closest to Huntwood Avenue to meet City exterior noise level standards.

### **Final Map**

20. Prior to or concurrent with Final Map recordation, developer shall dedicate necessary for the project development, including but not limited to roadway easements along Holyoke Avenue.
21. Prior to recordation, a proposed Final Tract Map shall be submitted for review by the City. The Final Tract Map shall be presented to the City Council for review and action. The City Council meeting will be scheduled approximately sixty (60) days after the Final Map is deemed technically correct, and Subdivision Improvement Plans with supporting documents, reports and agreements are approved by the City. Executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety (90) days from the date of City Council's approval.
22. The Developer/Applicant shall submit a proposed construction phasing and scheduling for the installation of improvements prior to the approval of Final Map.
23. Prior to the recordation of the Final Tract Map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.
24. The final map shall reflect all easements needed to accommodate the project development. The private streets shall be designated as a Public Utility Easement (PUE), Public Assess Easement (PAE), Water Line Easement (WLE), Sanitary Sewer Easement (SSE), and Emergency Vehicle Access Easement (EVAE). Final map shall also reflect all privately maintained easements, including but not limited to the storm water Bio-retention easements between parcels 16-17 and 18-19 to be maintained by HOA.

### **Affordable Housing**

25. The [Affordable Housing Ordinance](#) (AHO) requirements apply to the project. Pursuant to the City's AHO, 10% of all detached single family residences in a project must be set aside and sold at affordable prices to moderate-income households (households earning 120% of the Area Median Income or less). If this option is selected by the developer, prior to the approval of the Final Map, an Affordable Housing Plan (AHP) shall be submitted and approved by the Planning Director. The AHP shall conform to the requirements of the AHO and will memorialize the obligations relevant to compliance with AHO provisions by the project owner. The AHO also allows developers the option to pay an Affordable Housing Impact Fee as established in the City's Master Fee Schedule. Affordable Housing Impact fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the timing for payment of the fees chosen, no final inspection will be approved and no occupancy permit will be issued for any dwelling unit unless all applicable Affordable Housing Impact Fees have been paid in full.

**Public Works Engineering**

26. Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along Huntwood Avenue, Olympic Avenue and Holyoke Avenue, including but not limited to the following:
- a. Removal and replacement of all street trees, curb, gutter, ramps and sidewalk along Holyoke and Olympic Avenue.
  - b. Grind, overlay and restripe half of Huntwood and Olympic Avenue with 2" hot mix asphalt, and dig outs and repair failed pavements as necessary along all frontages.
  - c. Reconstruct the entire curb to curb width of Holyoke Avenue with 4" asphalt.
  - d. Install street lights on street frontages as necessary.
  - e. Install/extend the median along Huntwood Avenue frontage to Olympic Avenue intersection.
  - f. Widen sidewalk along Huntwood Avenue to be ADA compliant around all utility poles and street signs in front of the project.
  - g. Remove and replace any damaged infrastructures along project frontages as directed by City inspector, including but not limited to curb, gutter, and sidewalk.
  - h. Remove, replace, and plant street trees along project frontages per City Landscape Architect direction.

Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Hayward standard detail and specs and built to the city Engineer's satisfaction, and accepted by the City prior to issuance of any first certificate of occupancy for the project.

27. Prior to building permit issuance, submit the following documents for review and approval, or for City project records/files:
- a. Copy of the Notice of Intent filed with State Water Resources Control Board;
  - b. Engineer's estimate of costs, including landscape improvements;
  - c. Easement document;
  - d. Signed Public Improvement Agreement; and
  - e. Public Improvement bonds.
28. To avoid or reduce the potential impact related to the site specific geotechnical hazards related to seismic hazards, the project developer shall implement the following mitigation measures:
- a. The applicant shall submit a final grading plan subject to review by the City Engineer prior to issuance of grading permits.
  - b. New construction will comply with the latest California Building Code and mitigation measures outlined in the Geotechnical Investigation report.
  - c. For each building constructed in the development plan area, the required site specific geotechnical investigation shall address expansive soils and provide appropriate engineering and construction techniques to reduce potential damage to buildings.

- d. To reduce the potential impacts related to the presence of low to moderately expansive clays in the subsurface soils of the project site, mitigation measures to avoid the effects of expansive soils outlined in the Geotechnical Investigation shall be followed.
- 29. Prior to building permit issuance, developer shall execute a public improvement agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the agreement.
- 30. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed, at no cost to the City of Hayward.
- 31. Unless indicated otherwise, the design for development shall comply with the following:
  - a) All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Articles 1 and 3, and Standard Specifications and Details.
  - b) All construction shall meet the California Building Codes (CBC) and all applicable City of Hayward Building Codes and amendments.
  - c) Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Codes and amendments.
- 32. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from the City.
- 33. It is applicant’s responsibility to get permit or approval from all affected agencies or private parties. Please provide a copy of these permits or approval to the City with your building permit application submittal.
- 34. The developer shall submit an AutoCAD file format (release 2010 or later) in a CD of approved map and ‘as-built’ improvement plans showing all public improvements and utility layouts that can be used to update the City’s Base Maps.
- 35. A Registered Civil Engineer shall prepare all Civil Engineering improvement plans; a Licensed Architect shall prepare all architectural plans; and a Licensed Landscape Architect shall prepare all landscape unless otherwise indicated herein.
- 36. All public improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.

**Private Street**

- 37. The proposed new street shall be private and owned and maintained by the Homeowners Association (HOA).
- 38. The on-site streetlights and pedestrian lighting on the private street and private park shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Photometric plans shall be submitted with the improvement plans. Such fixtures shall have shields to minimize “spill-over”.

**Storm**

39. A detailed drainage plan, to be approved by the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a ten (10) year storm and incorporating onsite storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount and velocity shall not be altered by the development. The detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be approved by the City Engineer and by the ACFC&WCD prior to issuance of any construction or grading permit.
40. The on-site storm drain system is privately owned and maintained by the property management association.
41. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
42. Improvements for storm drain systems shall incorporate the following:
  - a) The locations and design of storm drains shall meet the City's standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
  - b) Storm drain pipes in streets and alleys shall be a minimum of twelve inches in diameter with a minimum cover of three feet over the pipe.
  - c) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City. Development of this site shall not augment runoff to the ACFC&WCD's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities.
  - d) The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
  - e) No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
  - f) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
  - g) The starting water surface elevation(s) for the proposed project's hydraulic calculations and the corresponding determination of grate/rim elevations for all the on-site storm drainage structures shall be based on Federal Emergency Management Agency's Flood Insurance Study for the 100-year storm event.

- h) Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.

### Water Quality

43. Developer shall comply with the regional permits requirements for both construction and post-construction requirements. Storm water management shall be in compliance with Municipal Regional Permit.
44. The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans and/or grading permit application:
- a) A Stormwater Treatment Measures Maintenance Agreement shall be submitted to Public Works - Engineering and Transportation Department staff for review and approval. Once approved, the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
  - b) The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
  - c) The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into flow-through planters and direct runoff shall discharge into a landscaped area or a bioretention area prior to stormwater runoff entering an underground pipe system.
  - d) The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit.
  - e) The bioretention treatment area shall be designed using a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of 5 inches per hour.
  - f) The following documents pursuant to the Cleanwater Program requirements:
    1. Hydromodification Management Worksheet;
    2. Infiltration/Rainwater Harvesting and Use Feasibility Screening Worksheet;
    3. Development and Building Application Information Impervious Surface Form;
    4. Project Applicant Checklist of Stormwater Requirements for Development Projects;
    5. C.3 and C.6 Data Collection Form; and,
    6. Numeric Sizing Criteria used for stormwater treatment (Calculations).
45. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
46. Construction activities which disturb 1 acre or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. Following are the specific requirements for regulated construction sites:

- a. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with a design to reduce discharge of pollutants and sediments into the downstream storm drain system during the construction. The plan shall meet the approval of the City Engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report.
  - b. Before commencing any grading or construction activities at the project site, the developer may need to obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.
47. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

### **Sewer**

48. 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.
49. 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 (). 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.
50. The proposed development will have sewer service via a new 8" main that connects to the existing 8" sewer main in Huntwood Avenue.
51. Each SFR shall have an individual sanitary sewer lateral. Each sanitary sewer lateral shall have at least one cleanout and be constructed per SD-312.
52. The current Sanitary Sewer Connection fee for a SFR is \$7,700 per unit.

### **Water**

53. The development's proposed water main and valves shall be public, owned and maintained by the City. If the water mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.
54. All public water mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Water Mains and Fire Hydrants," latest revision at the time of permit approval (
55. The proposed development will have water service via a new 8" main that connects to the existing 12" water main in Huntwood Avenue and the existing 8" water main in Holyoke Avenue. The new public water main shall include all valves and appurtenances required by the City and shall be constructed at the applicant's/developers expense.
56. All water mains must be looped. Dead end water mains will not be allowed. Water mains must be connected to other water mains.

57. 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 piping materials with the City's approval.
58. All connections to existing water mains shall be performed by City Water Distribution Personnel at the applicant's/developer's expense.
59. All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. The developer may only construct new services in conjunction with their construction of new water mains. The water services for the lots that front onto Olympic Avenue (lots 15-23) will need to be installed by City Water Distribution Personnel.
60. City records indicate that the parcel at 645 Olympic Avenue currently has one existing 5/8" meter x 3/4" domestic service (Service # 34012). If this water service cannot be reused for the proposed development, it shall be abandoned by City Water Distribution Personnel at the applicant's/-developer's expense.
61. **Domestic:** Each single-family residence (SFR) shall have an individual domestic water meter. Based on the water fixtures shown on the plans, each unit would have 36.5 water fixture units, which would require a minimum 3/4" water meter. Facilities fees for residential meters are calculated based on the domestic water demand for the home (excluding fire service demand). The current cost for the installation of a 1" domestic meter (required to meet the fire demand) on an existing service line is \$10,240 (\$310 installation fee + \$9,730 facilities fee + \$200 radio read fee). The current cost for the installation of a 1" service line and 1" domestic meter is \$13,430 (\$3,500 installation fee + \$9,730 facilities fee + \$200 radio read fee).
62. **Fire:** Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire services shall have an above ground Double Check Valve Assembly, per City Standards SD-201 and SD-204.
63. **Combined Residential Services:** The development could use combined residential domestic and fire services for each residence. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1 inch (combined or not) and the maximum size for combined services is 2 inches. If the calculated fire demand exceeds 160 GPM, a separate fire service will be required. Note that, per CBC 2010 R313, flow-through or multipurpose systems may not require a backflow device (SD-216 is attached). Also note that combined services must connect directly to the water main (manifold layouts are not allowed).
64. **Irrigation:** It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping. Currently, the cost for an irrigation service and meter is \$19,910 for 1", \$37,200 for 1.5" and \$56,940 for 2". The applicant/developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation water meter, per SD-202. Backflow preventions assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.
65. All domestic and irrigation water meters shall be radio-read type.
66. 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.

67. 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 on 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.

### **Solid Waste**

68. At the time of your building permit, please show the location of where trash, recycle, and organics carts will be stored. A 3 feet by 9 feet area in the garage, side yard, or backyard is required. If located in the garage a clear space of 20 feet by 19 feet is required for the parking of cars.
69. Please submit the Construction and Demolition Debris Recycling Statement at the time of your building permit (section 4 of the attached document). 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 also find the form online at [http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/PUBLIC-WORKSUES/documents/2014/C-D\\_Recycling\\_Form\\_2014-12-12.pdf](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/PUBLIC-WORKSUES/documents/2014/C-D_Recycling_Form_2014-12-12.pdf).

### **Other Utilities**

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

## Landscaping and Irrigation Plans

76. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.
77. Prior to the approval of improvement plans or issuance of the first building permit, detailed landscape and irrigation plans shall be reviewed and approved by the City and shall be a part of approved improvement plans and the building permit submittal. The plans shall be prepared by a licensed landscape architect on an accurately surveyed base plan showing all above and underground utilities and shall comply with the City's *Tree Preservation Ordinance*, *Bay-Friendly Water Efficient Landscape Ordinance*, *Hayward Environmentally Friendly Landscape Guidelines and Checklist for the landscape professional*, and *Municipal Codes*. Dripline of the existing trees to be saved shall be shown on the plan.
78. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be 22-inches by 34-inches without an exception. A four-inch wide by four inch high blank signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain two signature lines and dates for City of Hayward, Landscape Architect/Planner and City Engineer. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer
79. Removed trees shall be replaced with equal value determined by the appraised value in the approved arborist in accordance with Tree Preservation Ordinance Section 10-15.13 and 10-15.20.
80. A tree removal permit in addition to grading permit is required prior to the removal of any existing trees.
81. 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. Tree pruning and removal should be scheduled outside of the breeding season to avoid scheduling delays. Breeding bird surveys should be conducted prior to tree work. Qualified biologist should be involved in establishing work butters for active nests.
82. Prior to the issuance of a grading or building permit, a tree preservation bond, surety or deposit, equal in value to the trees to be preserved, shall be provided by the developer. If any trees that are designated as saved are removed or damaged during construction shall be replaced with trees of equal size and equal value. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition. The developer shall provide an arborist's report evaluating the conditions of the trees.
83. Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Trees shall be fenced at the drip line throughout
84. Trees shall not be planted in a public utility easement area.
85. Each Unit shall have a minimum one 24"-box tree planted within the front yard setback or as determined by the City Landscape Architect where there is a conflict with utilities.
86. Trees and shrubs shall not be planted in the flow line of the bio-retention area. Wider planting areas shall be provided when lack of planting areas prevents required trees to be planted. This area shall be irrigated on a separate valve.
87. Bio-Retention and Bio-Infiltration Treatment Area: Additional 24" wide leveled area shall be provided when the treatment area is located adjacent to structure and/or paving before the

- treatment side slope begins. Irrigation for bio-retention area shall be provided with matched precipitation rotator nozzle type on a separate valve.
88. One of the landscape ordinance requirements is providing appropriate plan spacing to allow natural plant growth without being subjecting plants to routine cutbacks and shearing.
  89. A separate irrigation meter shall be provided for all landscape improvements including common open space.
  90. A hose-bib shall be located within each private yard.
  91. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs.
  92. Prior to the issuance of Certificate of Occupancy, the project landscape architect shall inspect, accept and provide an Appendix C of Bay Friendly Landscape Ordinance - Certificate of Completion for landscape improvements. The final Certificate of Completion form shall be submitted to the City Planning Division prior to requesting a City Landscape Architect inspection. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of improvements.
  93. A covenant or deed restriction shall be recorded requiring that the Homeowners Association properly maintain the front yard landscaping and street trees, and replace any dead or dying plant material.
  94. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within fifteen days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.
  95. The developer shall not obstruct the noted sight distance areas. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
  96. Inspection for Models: Landscape inspection shall be required prior to issuance of a Temporary Certificate of Occupancy, and another inspection prior to issuance of a Certificate of Occupancy at the time of converting the model for sale. The project landscape architect shall inspect and accept the installation prior to requesting an inspection from the City Landscape Architect. The project landscape architect shall complete Appendix C, Certificate of Completion Part 1 through Part 7 shall be faxed/e-mailed/turned in prior to requesting an inspection from the City Landscape Architect.

## **Fire Prevention**

### ***Access***

97. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus 75,000 lbs. and shall be surfaced so as to provide all-weather driving capability.

98. Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane, 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.

### ***Water Supply***

99. Provide water/fire flow test data information on the plan, including static pressure, residual pressure, pitot pressure, test flow, calculated available water flow at 20psi and test date. The data should be less than 5 years old. This information may be available for Hayward Public Works Department. A new flow test should be requested if update water data is not available.
100. The required fire flow shall not be less than 1,500gpm @ 20 PSI. (***Plan shows 2 new hydrants on Olympic Ave.***)
101. Underground fire service line shall be installed in accordance with NFPA 24.
102. New fire hydrants shall be double steamer type equipped with (2) 4-1/2" outlets and (1) 2-1/2" outlet. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants. Vehicular protection may be required for the fire hydrants.

### ***Fire Protection***

103. Each new structure shall be protected with an Automatic Fire Sprinkler system in accordance with NFPA 13D Standards. (***Deferred Submittal***)
104. According to the requirement of Hayward Public Works Department, a static pressure of 80 PSI should be used when a water test data indicates a higher pressure. The residual pressure should be adjusted accordingly.
105. Underground fire service line that serving NFPA 13D system connection to the city main shall be installed in accordance with the Hayward Public Work Department ***SD-216***. Water meter shall be minimum one-inch in diameter.
106. An audible alarm bell (device) shall be installed on the fire sprinkler system riser.
107. 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.
108. 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).
109. 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.
110. All building units shall have approved address numbers, building numbers. Address identification of shall be placed in a position that is plainly legible and visible from the street or road fronting the property. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.
111. 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.

### ***Hazardous Materials***

112. Provide a Phase I Environmental Assessment and any associated documents associated with sampling, testing and cleanup of the property. Include any regulatory clearances of the property for residential development. For questions, please contact Hugh Murphy at (510) 583-4924.

***Prior to Certificate of Occupancy***

113. Final fire department/hazardous materials inspection is required to verify that requirements for fire protection facilities have been met, and actual construction of all fire protection equipment has been completed in accordance with the approved plan. Please contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.

**Homeowner's Association**

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

- to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.
- v) The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within ten (10) days of receipt of a copy of the resolution.
  - g. The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.
  - h. Each owner shall automatically become a member of the Association(s) and shall be subject to a proportionate share of maintenance expenses.
  - i. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
  - j. The HOA shall be managed and maintained by a professional property management company.
  - k. The HOA shall own and maintain the private roadways, alleys and common and on-site storm drain systems within the development, excluding those located within the public right-of-way.
  - l. The HOA shall be responsible for the maintenance of front yard landscaping for all of the units.
  - m. 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.
  - n. 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.
  - o. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
  - p. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. The HOA shall conduct at least semi-annual inspections to confirm that all residents are using their garages for parking their cars and not for storage. Residents shall make garages available for such inspections, as appropriate. An automatic garage door opening mechanism shall be provided for all garage doors.
  - q. The residents shall not use common parking spaces for storage of recreational vehicles, camper shells, boats or trailers. These parking spaces shall be monitored by the Association. The Association shall remove vehicles parked contrary to this provision. The CC&R's shall include authority for the HOA to tow illegally-parked vehicles.

- r. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the Association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- s. The HOA shall maintain all fencing, parking surfaces, common landscaping, lighting, drainage facilities, project signs, exterior building elevations, etc. The CC&Rs shall include provisions as to a reasonable time period that the building shall be repainted, the limitations of work (modifications) allowed on the exterior of the buildings, and its power to review changes proposed on a building exterior and its color scheme, and the right of the Association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean.
- t. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- u. 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.
- v. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
- w. 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.

### **Construction Impacts**

- 115. The developer shall ensure that unpaved construction areas are sprinkled with water as necessary to reduce dust generation. Construction equipment shall be maintained and operated in such a way as to minimize exhaust emissions. If construction activity is postponed, graded or vacant land shall immediately be revegetated.
- 116. All diesel powered equipment ( $\geq$  100 horsepower) shall be California Air Resources Board (CARB) Tier 3 Certified or better.
- 117. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
  - a. Grading and site construction activities shall be limited to the hours 8:00 AM to 5:00 PM Monday through Friday with no work on weekends and Holidays unless revised hours and days are authorized by the City Engineer. Building construction hours are subject to Building Official's approval;
  - b. Grading and construction equipment shall be properly muffled;

- c. Unnecessary idling of grading and construction equipment is prohibited;
- d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
- e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information.
- f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
- g. Daily clean-up of trash and debris shall occur on project street frontages, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
- h. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
- i. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
- j. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
- k. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
- l. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- m. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- n. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
- o. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
- p. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
- r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
- t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have

the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;

- u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information;
  - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
  - w. The developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
118. In the event that human remains, archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be retained to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.