

**CITY OF HAYWARD PLANNING DIVISION
PLANNING COMMISSION
APPLICATION NO. 201706285
VESTING TENTATIVE TRACT MAP 8432, PD REZONE, SITE PLAN REVIEW AND
MITIGATED NEGATIVE DECLARATION WITH MITIGATION MONITORING AND
REPORTING PROGRAM
25941 GADING ROAD
DRAFT CONDITIONS OF APPROVAL**

May 10, 2018

Proposed Vesting Tentative Tract Map, Planned Development (PD) Rezone, Site Plan Review, and Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP) to subdivide two existing parcels into 21 parcels to allow the construction of 18 detached single-family residences with common open space areas and related site improvements at 25941 Gading Road (APNs 454-0020-062-02 & 454-0020-069-00). Application No. 201706285; Tony Dutra (Applicant) on behalf of Dutra Enterprises (Owner).

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) 8432 and the Preliminary Development Plan and Site Plan Review application are approved subject to the vesting tentative tract map and project plans date stamped March 5, 2018, except as modified by the conditions listed below.
3. In accordance with Hayward Municipal Code (HMC) Section 10-3.246, approval of VTTM 8432 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 8432 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 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

11. Mitigation Measure BIO-1: 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.

12. Mitigation Measure BIO-2: 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.

13. Mitigation Measure BIO-3: Tree Preservation Measures

As outlined in the arborist report (HortScience Inc. 2017), Tree Preservation measures are required to protect trees that will be preserved in place and replacement trees that will be planted as required under measures BIO-2.

Design Measures

- a. Include trunk locations and tag numbers on all plans.
- b. Use only herbicides safe for use around trees and labeled for that use, even below pavement.
- c. Design irrigation systems so that no trenching will occur within the Tree Protection Zone.

Pre-construction and Demolition Measures

- a. Prepare a site work plan which identifies access and haul routes, construction trailer and storage areas, etc.
- b. Establish a Tree Protection Zone around each tree to be preserved. For design purposes, the Tree Protection Zone shall be the dripline or property

line for trees 11, 86, and 87. No grading, excavation, construction or storage of materials shall occur within that zone.

- c. Install protection around all trees to be preserved. Use 6-foot chain link fence attached posts sunk into the ground. No entry is permitted into a Tree Protection Zone without permission of the Project Arborist.
- d. Trees to be removed shall be felled so as to fall away from Tree Protection Zone and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees, or grinding the stump below ground.
- e. Trees to be retained may require pruning to provide clearance and/or correct defects in structure. All pruning is to be performed by an ISA Certified Arborist or Certified Tree Worker and shall adhere to the latest editions of the ANSI Z133 and A300 standards as well as the ISA Best Management Practices for Tree Pruning. The pruning contractor shall have the C25/D61 license specification.
- f. 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.

Tree Protection During Construction

- a. Prior to beginning work, the contractors working in the vicinity of trees to be preserved are required to meet with the Project Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.
- b. Any grading, construction, demolition or other work that is expected to encounter tree roots should be monitored by the Project Arborist.
- c. 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.
- d. Fences will be erected to protect trees to be preserved. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the Project Arborist.
- e. Any additional tree pruning needed for clearance during construction must be performed by a qualified arborist and not by construction personnel.
- f. Trees shall be irrigated, except oaks, on a schedule to be determined by the Project Arborist. Each irrigation session shall wet the soil within the Tree Protection Zone to a depth of 30 inch.

14. Mitigation Measure BIO-4: 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 will require monitoring and routine maintenance by a landscape specialist such as occasional pruning, fertilization, mulch, pest management, replanting, and irrigation.

15. Mitigation Measure CUL-1: 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.

16. Mitigation Measure GEO-1: Geotechnical Considerations

The project applicant shall implement all measures and recommendations set forth in the Preliminary Geotechnical Exploration prepared by ENGEO in July 2017 (Appendix B). Recommendations include but are not limited to the following topic areas:

- Grading (demolition and stripping, existing fill removal, selection of materials, differential fill thickness, fill placement)
- Building code seismic design
- Foundation design
- Pavement design
- Drainage
- Stormwater bioretention areas

In addition, a comprehensive site-specific design-level geotechnical exploration shall be prepared 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.

17. Mitigation Measure TCR-1: Tribal Cultural Resources Spot-Checking

Initial project-related ground-disturbing activities shall be spot-checked by a qualified archaeological monitor or by an appropriate Native American representative. Spot-checking shall occur on the first day of ground disturbance,

when ground-disturbance moves to a new location on the project site, and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Each spot-checking visit shall include screening of representative soil samples through 1/8-inch mesh. If archaeological resources are encountered, spot-checking shall be increased to full-time monitoring and, if identified resources are of Native American origin, a Native American monitor shall be retained for the duration of the project. Archaeological spot-checking may be reduced or halted at the discretion of the monitor as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of rough grading.

18. Mitigation Measure TCR-2: 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

19. 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.
20. 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.
21. 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. The Plan 3 units shall provide a bedroom suite on the first floor.
 - C. The project shall provide a 2,330-square-foot group open space area with landscaping and an outdoor seating area.

22. 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 (Gading Road). 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.
- 23. 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.
 - 24. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
 - 25. The project shall comply with the provisions of the 2016 California Energy Code section 110.10.

Development Review Services Engineering / Public Works Engineering

- 26. **Subdivision Improvement Agreement:** Prior to the issuance of building permits, the public improvements conditioned as part of this approval require the execution of a Subdivision Improvement Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, surety (i.e. bonds), insurance, and additional deposit for City staff time spent on the project.
- 27. **Street Improvements & Dedications:** Privately engineered studies and design documents shall be submitted to the Director of Public Works for review and approval prior to issuance of building permits. The engineered plans shall include, but not be limited to, the following design requirements:
 - a. Dedicate Gading Road right-of-way to conform to the adjoining and the City adopted plan line.
 - b. Private Street access from Gading Road will be with an accessibility compliant City Standard driveway of width not exceeding 35 ft.

- c. Gading Road fronting the development shall be resurfaced with hot-mix asphalt-concrete (A.C.) overlay across its full width to mitigate the impact of utility trenches and pavement excavations. The new paving shall have thermoplastic striping and markings.
 - d. Private Street and Court shall include non-exclusive easements for the water and sewer improvements to be maintained by the City, public utilities and emergency vehicle access.
 - e. The Public Utilities Easement (PUE) over individual lots for single family homes as shown on the tentative map shall be deleted or adjusted on the final map to maximize tree planting and landscaping areas to the satisfaction of the City Engineer and Landscape Architect.
 - f. Private Street and Court width, between curb faces, shall be no less than 24 feet as per the City of Hayward Standard Details SD-102 Sheet 1 of 4.
 - g. A 5-ft. wide accessibility compliant sidewalk with required ramps shall be provided behind curb fronting residences along the proposed Private Street and Court.
 - h. Private Street with length exceeding 150-ft. require a 40-ft. radius vehicular turn-around at the end as per the City of Hayward Standard Details SD-103 Sheet 1 of 2. Alternately and with approval of the City's Fire Department, the Private Court with a minimum width of 30-feet between curb faces may substitute for the vehicle turn-around as per the City of Hayward Standard Details SD-103 Sheet 2 of 2.
 - i. An on-site and off-site photometric plan shall be provided and the lighting shall comply with the City's Security Ordinance and City Street Lighting Standards. The location and details of all proposed light standards shall be shown on plans to be approved by the City Engineer and Planning Director.
 - j. Gading Road damaged curb and gutter segments, fronting the project site, shall be removed and replaced with new to match existing. Existing sidewalk shall be replaced with accessibility compliant new City Standard Sidewalk.
28. **Grading & Drainage:** A grading and drainage plan is required and shall be submitted with the improvement plans and approved by the Director of Public works prior to building permit issuance. The grading and drainage plan shall include, but not be limited to, the following design and submittal requirements:
- a. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or less (top of wall to bottom of footing) shall be reviewed and approved by Public Works. Earth retaining structures greater than 4-feet in height shall be reviewed and approved by the Building Division of the Development Services Department. The plans should include all proposed underground pipes, building drains, area

- drains and inlets. The on-site storm drainage system (if applicable) shall be designed to convey a 10-year storm event.
- b. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the Director of Public Works prior to issuance of a grading permit.
 - c. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
 - d. The project's Stormwater Control Plan shall be submitted which will show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.
 - e. The property owner shall enter into the City's standard "Stormwater Treatment Measures Maintenance Agreement" as prepared by the City. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for private treatment control and site design measures is bound to the property in perpetuity.
29. **Undergrounding:** Developer shall complete the underground conversion of the utility facilities fronting the project along Gading Road. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of Building Permits.
30. **Construction Damages:** The Developer shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer.
31. **Large Tract Development, Releases:** All required improvement leading and adjacent to units to be occupied shall be installed according to the approved plan, including completion of punch list items. The public shall not be allowed to pass through areas of activity to reach occupied units.
32. **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.
- 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.

Landscape

- 33. Public utility easement along the north side of the Street A will be relocated to the sidewalk area. The base information shall be updated in coordination with the civil plan.
- 34. Bio-retention area shall not extend into the public storm drain easement by Lot 9.
- 35. Rolled/ramping curb shall be considered at the entire Lot A the park frontage.
- 36. One additional tree shall be added for Lot 1 between Lot 1 and 2.
- 37. Mature plant sizes and proposed spacing shall be revised for Olea Little Ollie, Pittosporum tobira, Rosmarinus, Salvia leucantha, stachys (spreading with surface

runner), *Westringia* f. *Wynyabbie Highlight*, *Carex tumulicola*, *Thymus* and *Arctostaphylos Pacific Mist*.

38. Front yard landscape shall be maintained by HOA; therefore, the water budget calculations for MAWA and ETWU shall include all common open space, bio-retention and front yard landscaped areas. Typical lot water budget calculations shall not be applicable for this project.
39. Root barriers shall be installed linearly against the paving edge in all instances where a tree is planted within seven of pavement or buildings, and as recommended by the manufacturer.
40. All above ground mechanical equipment shall be screened from the street with five-gallon shrubs.
41. Required conceptual irrigation plan was not submitted as a part of Site Plan Review application process. Detailed irrigation plans, specifications and details shall be submitted for the City's approval.
42. 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.
43. Prior to issuance of the first building permit, detailed landscape and irrigation improvement plans shall be approved by the City. Once approved, Mylar of the approved improvement plans shall be submitted to the City for approval signature. Copies of the signed improvement plans shall be submitted as a part of the building permit submittal. No building permit shall be issued prior to approval of landscape and irrigation improvement plans.
44. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. Mylar shall be wet-signed and shall be provided with a bar scale. The size of Mylar shall be twenty-two (22) inches by thirty-four (34) inches without an exception. A signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain two signature lines and two date lines for City of Hayward, Landscape Architect and City Engineer. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
45. A tree preservation bond equaling the total appraised value of the trees for preservation in the approved arborist report shall be submitted to City Landscape Architect prior to issuance of grading permit. The bond shall remain in effect throughout the construction period and until completion of the entire project improvements. 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

46. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the commencement of clearing and grading operations, tree protection measures in compliance with the project arborist's recommendation and the City codes shall be installed.
47. A tree removal permit shall be obtained prior to the removal of any tree in addition to grading permit.
48. Minimum twelve inches wide band of large size Noiya Cobblestone shall be provided around overflow catch basin or bubble up basin.
49. Three-inch deep mulch with organic recycled chipped wood in dark brown color shall be required for all planting areas including bio-treatment areas.
50. Bio-treatment area, when wider than ten feet, shall be irrigated with matched precipitation rotator type, or as efficient overhead spray irrigation system that allows "cycle and soaking" program function. When the treatment area width is less than ten feet, efficient irrigation system that meets the current ordinance requirements shall be provided. The irrigation for bio-retention area shall be provided on a separate valve.
51. All common area landscaping, irrigation and other required improvements shall be installed in accordance with the approved improvement plans prior to acceptance of tract improvements, or occupancy of eighty-percent (80%) of the dwelling units, whichever first occurs. Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted upon acceptance of the landscape improvements for the Tract to the Department of Public Works Engineering by the developer.
52. For Model Homes: Municipal Code Article 12, Section 10-12.17 Public Education, Model Homes: All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this Article.
 - A. Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient theme.
 - B. Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.
53. Inspection for Models: Landscape inspection shall be required prior to issuance of TCO, and another inspection prior to issuance of 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 City Landscape Architect. The project landscape architect shall complete Appendix C. Certificate of Completion in the City's Bay-Friendly Water Efficient Landscape Ordinance. The

completed Certificate of Completion Part 1 through Part 7 shall be faxed/e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.

54. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed in accordance to the approved plan and accepted by the City Landscape Architect. Before requesting an inspection from the City Landscape Architect, the project landscape architect shall inspect and accept landscape improvements and shall complete Appendix C. Certificate of Completion in the City's Bay-Friendly Water Efficient Landscape Ordinance. The completed Certificate of Completion Part 1 through Part 7 or applicable parts shall be faxed/e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.
55. Landscaping shall be maintained by HOA and shall be in a healthy, weed-free condition at all times and shall maintain irrigation system to function as designed to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which contribute pollution to the Bay. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Three inches deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood in the shades of Dark Brown Color, and the depth shall be maintained at three inches deep. All nursery stakes shall be removed during tree installation and staking poles shall be removed when the tree is established or when the trunk diameter of the tree is equal or larger to the diameter of the staking pole. All trees planted as a part of the development as shown on the approved landscape plans shall be "Protected" and shall be subjected to Tree Preservation Ordinance. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by City Landscape Architect. Any damaged or removed trees without a permit shall be replaced in accordance with Tree Preservation Ordinance or as determined by City Landscape Architect within the timeframe established by the City and pursuant to the Municipal Code. Irrigation system shall be tested periodically to maintain uniform distribution of irrigation water; irrigation controller shall be programmed seasonally; irrigation system should be shut-off during winter season; and the whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.
56. A covenant or deed restriction shall address that all trees planted by the developer are "Protected Tree" including the trees in rear yards in accordance with the City's Tree Preservation Ordinance. A tree removal and a pruning permit from City Landscape Architect shall be required prior to removal and pruning of all Protected Tree. All removed trees shall be replaced in accordance with the City's Tree Preservation Ordinance. 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 HMC.

Public Works Transportation

57. Applicant shall maintain the existing striping on Gading Road for the section that will be ground & overlayed along the project frontage. Applicant shall submit a Signing & Striping Plan to Public Works-Engineering detailing signing & striping. Signing & striping plan shall be approved by the City Engineer prior to issuance of building occupancy permits.
58. Applicant shall not modify existing No Parking restrictions along the project frontage on Gading Road.

Utilities and Environmental Services

59. Please ensure the Hydro-Flo pavers at the entry to the private drive off Gading Road can accommodate a 50,000-pound garbage truck on a weekly basis.
60. Construction & Demolition Debris: The City requires that construction and demolition debris be recycled per certain ordinance requirements. At the time of your building permit, submittal of the Debris Recycling Statement will be required. The form can also be found at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.
61. 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.
62. All public water mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Water Mains and Fire Hydrants," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>).
63. All water mains must be looped. Dead end water mains will not be allowed. Water mains must be connected to other water mains.
64. All connections to existing water mains shall be performed by City Water Distribution Personnel at the applicant's/developer's expense.
65. 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.
66. Each single-family residence (SFR) 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.

67. 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.
68. 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" (combined or not) and the maximum size for combined services is 2". 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).
69. Irrigation: It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping. 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.
70. 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. Water meter boxes in driveway aisle areas shall have steel H20 rated lids.
71. 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.
72. The proposed fire hydrant between lot 3 and 4 is located near the existing gas line in lot 3. Per the plans, it is proposed to remove the existing gas line in lot 3. If the existing gas line in lot 3 is not removed, the fire hydrant shall be relocated per the requirements of the Fire Department.
73. City records indicate that 25941 Gading Road is served by an existing septic system. The septic system must be abandoned in accordance with Alameda County Environmental Health's Land Use Program regulations.
74. 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.

75. 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 <http://user.govoutreach.com/hayward/faq.php?cid=11188>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline.
76. 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.
77. 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

78. Design of the public streets and private streets and courts shall meet all City of Hayward and California Fire Code Standards.
79. All public and private streets and private courts shall be designed with an all-weather surface pavement.
80. 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.
81. 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.
82. 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 (Clow 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.
83. Blue reflective pavement markers shall be installed at fire hydrant locations in the street. If fire hydrants are located to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).
84. Buildings are required to install fire sprinkler systems in accordance with NFPA 13D Standards for residential buildings. A separate plan/permit is required prior to the

installation of the overhead fire sprinkler system. All fire overhead fire sprinkler systems shall be designed and installed by a Licensed C-16 Contractor. (**Deferred Submittal**)

85. Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly.
86. 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 a minimum of one-inch in diameter for residential application.
87. 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 water flow activity and in some applications, monitored for integrity.
88. An interior audible alarm device shall be installed within residential dwellings in a location to be heard throughout the home. The device shall activate upon any fire sprinkler system water flow activity.
89. All bedrooms and hallway areas shall be equipped with smoke detectors, CO detectors and/or combination CO/Smoke detectors, hard-wired with battery backup. Installation shall conform to the California Building Code (CBC).
90. 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.
91. 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.
92. A minimum 4" self-illuminated address shall be installed on the front of the dwelling in a location 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.
93. 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.
94. 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.

95. If hazardous materials storage and/or use are to be a part of the facility's permanent operations, then a Chemical Inventory Packet shall be prepared and submittal with building plans to the City of Hayward Fire Department at the time of application for construction permits.
96. 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.
97. 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.
98. Use of Hazardous Materials or Generation of Hazardous Waste – During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.