

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING GENERAL PLAN AMENDMENT, ZONE CHANGE AND VESTING TENTATIVE MAP (TRACT 8428) FOR THE SOHAY MIXED USE DEVELOPMENT; AND APPROVING THE RELATED MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM; WILLIAM LYON HOMES, INC./CITY OF HAYWARD, HAYWARD AREA RECREATION DISTRICT, ALAMEDA COUNTY FLOOD CONTROL DISTRICT AND BAY AREA RAPID TRANSIT DISTRICT (APPLICANT/OWNERS)

WHEREAS, on July 17, 2017, Steve Jones, on behalf of William Lyon Homes, Inc., submitted General Plan Amendment, Zone Change and Vesting Tentative Map Application No. 201704129, to develop 352 townhome units; 20,000 square feet of commercial space; 2.4 acres of parks and trails; and, related site improvements on an approximately 25-acre site roughly bound by Mission Boulevard on the east, the BART tracks on the west, Industrial Parkway on the south and Valle Vista Avenue on the north. Assessor Parcel Numbers (APNs) 078C-0447-003-01, 078C-0447-003-02, 078C-0447-006-02, 078C-0438-006-00, 078C-0438-005-00, 078C-0438-007-00, 078C-0438-008-00, 078C-0438-009-00, 078C-0438-010-00, 078C-0438-011-01, 078C-0438-019-01, 078C-0435-002-01, 083-0460-006-03, 078C-0436-010-03, 078C-0436-001-07, 078C-0435-006-00, 078C-0455-004-00, 078C-0455-003-00, 078C-0455-005-02, 083-0460-011-00, 083-0460-010-00; and

WHEREAS, on January 12, 2016, the City Council adopted Resolution No. 16-004, authorizing the City Manager to negotiate and execute an agreement with Caltrans to acquire 17 properties along the 238 Bypass Corridor to remediate blight; support transit-oriented, mixed use development; and ensure redevelopment of the properties under a coherent development plan that meets the City's land use goals and other public purposes; and

WHEREAS, on January 19, 2016, the City Council adopted Resolution No. 16-007, authorizing the City Manager to enter into an Exclusive Negotiating Rights Agreement (ENRA), as amended, with William Lyon Homes, the applicant, to develop a conceptual land use plan for the subject properties. The City's goals for the property were to promote economic development opportunities and create transit-oriented development and public open spaces in the Mission/Dixon area; and

WHEREAS, on May 16, 2017, the City Council held a public hearing and adopted Resolution No. 17-058, authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement (PSA) with William Lyon Homes. The PSA detailed the manner in which the subject properties will be conveyed and was subsequently executed on June 2, 2017; and

WHEREAS, on June 26, 2017, the Hayward Area Recreation District (HARD) Board adopted Resolution No. R-1617-90, authorizing the agency to enter into an agreement to exchange the existing Valle Vista Park for a park parcel within the new development, at equal value. At that meeting, the HARD Board recommended that the future park be included in a Lighting and Landscape District to cover on-going maintenance cost; and

WHEREAS, as further contemplated by the PSA and approved in conjunction with the PSA, the City is currently negotiating with the Alameda County Flood Control District (ACFCD) and the Bay Area Rapid Transit District (BART) and the Hayward Area Recreation District (HARD) for purchase and conveyance of three additional properties to include in the proposed development project. Pursuant to conditions of approval of the proposed development, the land sales and land swap are expected to be considered and approved by the respective agencies prior to issuance of grading permits for the project; and

WHEREAS, on November 17, 2017, William Lyon Homes Inc. amended the development application to add 72 multi-family rental units above the proposed commercial buildings along Mission boulevard, and to reconfigure the townhomes to provide a combination of stacked flats with ground floor living space and townhomes for an increase of 48 for sale units resulting in a total 472 residential units on the project site. The applicant also submitted an Affordable Housing Plan to deed restrict 20 rental units (about 27% of rental units) for low income households and 28 for sale units (about 7% of for sale units) for moderate income households for a total of 48 deed restricted units, or slightly over 10% of all units on the site; and

WHEREAS, an Initial Study and Mitigated Negative Declaration were prepared to assess the potential impacts of the Project and circulated for a 20-day public review period from March 30, 2018 through April 20, 2018; and

WHEREAS, on March 30, 2018, notices of this public hearing and the Notice of Intent to Adopt a Mitigated Negative Declaration with Mitigation Monitoring Plan were sent to all property owners and residents within a 300-foot radius of the project site; to interested parties who requested to be notified about the project; was posted at the Alameda County Clerk Recorder's Office; and, was published in The Daily Review; and

WHEREAS, on April 13, 2018, notice of the Planning Commission public hearing regarding the appeal was mailed to all property owners and residents within 300 feet of the project site as well as those who requested such notice; and was published in The Daily Review; and

WHEREAS, on April 26, 2018, the Planning Commission held a duly noticed public hearing on the proposed project and voted 6:0:0 to recommend City Council approval of the project; and

WHEREAS, on April 27, 2018, notice of the City Council public hearing regarding the appeal was mailed to all property owners and residents within 300 feet of the project site as well as those who requested such notice; and was published in The Daily Review; and

WHEREAS, on May 8, 2018, the City Council held a public hearing and accepted public testimony on the proposed project.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts the following findings:

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

- A. 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.
- B. That the proposed MND was prepared by Michael Baker International, on behalf of the City of Hayward acting as the Lead Agency, and that the MND was circulated with a minimum twenty (20) day public review period between March 30, 2018 and April 20, 2018.
- C. 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; 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.
- D. That the proposed MND identified all potential adverse impacts and mitigation measures to reduce the effects of such impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Transportation/Traffic, Tribal Cultural Resources, and Mandatory Findings of Significance. 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.

- E. 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.

### **GENERAL PLAN AMENDMENT**

- A. Substantial proof exists that the proposed change will promote the public health, safety, convenience and general welfare of the residents of Hayward.**

The proposed General Plan amendment from various land use designations to Sustainable Mixed Use and Parks and Recreation will provide a consistent land use designation across 21 scattered sites to develop a cohesive, mixed-use, transit-oriented development with 472 mixed income, multi-family townhouse units, and approximately 20,000 square feet of ground floor retail within one-half mile of the South Hayward BART Station. The proposed development will be connected through a series of trails, pedestrian paseos and sidewalks, bicycle paths while consistent landscaping, street furniture and decorative paving would provide a cohesive identity for the large-scale development.

The proposed development will promote public health, safety and convenience and general welfare of the residents of Hayward in that it will result in development of a disaggregated set of vacant, underutilized parcels that would difficult to develop individually due to their varying sizes and locations as infill parcels surrounded by existing development. It will support public health and environmental sustainability in that it will place high density transit-oriented development near high frequency transit. The project will include a robust pedestrian and bicycle network that will be activated and enhanced through the implementation of transportation demand management measures; construction of off-site improvements such as installation of mid-block crossings; and, expansion of bicycle parking to support and facilitate walking and bicycling throughout the development and to BART.

The development will support the general convenience and welfare of Hayward residents in that it will result in construction of 472 new housing units with a variety of housing types: rental, for sale, multi-family apartments and stacked and row townhomes, at varying levels of affordability and include a public park and commercial space, which will serve the residents of the project and neighboring areas.

**B. The proposed change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans.**

The proposed mixed-use, transit-oriented development is consistent with the overall vision for development along Mission Boulevard and the South Hayward BART/Mission Boulevard Form Based Code (Hayward Municipal Code Chapter 10, Article 24), in that it would place the highest density, mixed use development along the Mission Boulevard corridor while reducing the intensity and density of the development further from the commercial arterial. The project will provide a diversity of housing types at varying levels of affordability and will allow for multi-modal access through an interconnected network of multi-use roadways, open spaces and paths. In addition, the project adheres closely to Form Based Code standards related to building form, height, limited parking, open space design, orientation on the lot and interaction with public spaces.

The proposed development is consistent with multiple General Plan goals and policies to:

- Support development of compact, mixed use and walkable neighborhoods within the City's Priority Development Areas; near regional transit; within the South Hayward neighborhood; and that integrates a mix of land uses into new and established neighborhoods (General Plan Land Use Goal 2 and Policies LU-1.5, LU-1.6, and LU-2.8).
- Create complete neighborhoods with a mix of densities and uses and that provide convenient access to parks and other community amenities and foster commercial and social activity for nearby residents and businesses (LU Goals 3 and 4 and Policies LU-3.5, LU-4.1, and LU-4.3).
- Design mixed use neighborhoods to place retail frontages and outdoor gathering spaces along the public right-of-way while locating parking at the rear of the building; and enhance development with landscaping, lighting, planters and other amenities. Develop highly connected block and street networks; provide alley loaded garages for townhome development; locate parking for multifamily development below apartment buildings; and ensure that windows front streets and public right-of-way (Policies LU-3.4 and LU-3.5).
- Develop a comprehensive, integrated and connected network of transportation facilities to serve all modes of travel (Mobility Goal 1 and Policy M-8.4).
- Encourage active lifestyles and the development of urban infill parks where traditional, large-scale neighborhood and community parks are not appropriate; and construct infrastructure improvements in existing neighborhoods to enable people to drive less and walk, bike or take public transit more (Health and Quality of Life Goal 2 and Policies HQL-10.4 and HQL-11.2)

The proposed land use amendment from Parks and Recreation to Sustainable Mixed Use will result in a reduction of approximately 7.6-acres of land currently designated for Parks and Recreation thereby reducing the land available for future potential development of park and recreation uses and potentially making accomplishment of General Plan Policy HQL-10.2, to establish minimum park acreages per resident, more difficult to achieve. While the amendment would result in a reduction of acreage designated Parks and Recreation, the subject properties are currently vacant and fenced-off from public use and there are no plans or funding sources available to develop a park or other recreational uses on the subject properties. In contrast, the proposed project will result in near-term development of the currently vacant property into a large scale, mixed use development with a variety of open spaces and trails including the relocation, expansion and redevelopment of the Valle Vista Park. Further, there is adequate acreage designated Open Space throughout the City to accommodate the City's ultimate goals related to park acreage per resident upon identification of other funding sources.

Inclusion of conditions of approval related to implementation of a license agreement between the applicant and HARD to allow for continued operation of Valle Vista Park, and the establishment of a time frame for the dedication and completion of the new park within twenty months of issuance of grading permits for the residential development will ensure that the City comes closer to reaching General Plan Policy HQL-10.2, related to expansion of high quality, amenity-rich park area per resident within Hayward.

**C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.**

The proposed infill project is surrounded by existing streets and has access to all utilities, with adequate capacity to serve the proposed development. In addition, the project will be required to install frontage improvements and underground overhead utilities in front of their project site and fronting any public street. A Mitigated Negative Declaration was prepared for the proposed development and found that all impacts related to streets, public facilities, utilities and agencies could be mitigated to a level of less than significant. All mitigation measures were included as conditions of approval for the project.

**D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.**

The proposed development consists of a mixed-use, transit-oriented development that is consistent with the intent of the underlying South Hayward BART/Mission Boulevard Form Based Code as well as multiple General Plan goals and policies for the site and surrounding area.

The proposed development is consistent with the existing, surrounding development in that it will place the highest density and highest intensity mixed use development along Mission Boulevard, which is a major commercial arterial where such development is envisioned and encouraged. The lower intensity townhome development will be placed along Valle Vista Avenue, within the internal neighborhoods and along Dixon Street, consistent with the existing, surrounding mix of single family and multi-family residential development. Good neighbor fencing, landscaping and well-designed paseos and structures will ensure that the future development is compatible with and a beneficial addition to the neighborhood.

All future development surrounding the project site will be subject to the same standards, requirements, goals and policies therefore the proposed development will also be consistent with future development anticipated and planned within the area.

### **ZONE CHANGE**

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

The proposed development is consistent with the overall vision for development along Mission Boulevard and the South Hayward BART/Mission Boulevard Form Based Code in that it will place the highest density and intensity mixed use development along Mission Boulevard while stepping back development as it moves further from the commercial arterial and high frequency transit. In addition, it adheres closely with Form Based Code development standards related to building form, height, open space design, building orientation on the lot and design of building interface with public spaces.

The proposed development is also consistent with multiple General Plan goals and policies to:

- Support development of compact, mixed use and walkable neighborhoods within the City's Priority Development Areas; near regional transit; within the South Hayward neighborhood; and that integrates a mix of land uses into new and established neighborhoods (General Plan Land Use Goal 2 and Policies LU-1.5, LU-1.6, and LU-2.8).
- Create complete neighborhoods with a mix of densities and uses and that provide convenient access to parks and other community amenities and foster commercial and social activity for nearby residents and businesses (LU Goals 3 and 4 and Policies LU-3.5, LU-4.1, and LU-4.3).
- Design mixed use neighborhoods to place retail frontages and outdoor gathering spaces along the public right-of-way while locating parking at the rear of the

building; and enhance development with landscaping, lighting, planters and other amenities. Develop highly connected block and street networks; provide alley loaded garages for townhome development; locate parking for multifamily development below apartment buildings; and ensure that windows front streets and public right-of-way (Policies LU-3.4 and LU-3.5).

- Develop a comprehensive, integrated and connected network of transportation facilities to serve all modes of travel (Mobility Goal 1 and Policy M-8.4).
- Encourage active lifestyles and the development of urban infill parks where traditional, large-scale neighborhood and community parks are not appropriate; and construct infrastructure improvements in existing neighborhoods to enable people to drive less and walk, bike or take public transit more (Health and Quality of Life Goal 2 and Policies HQL-10.4 and HQL-11.2)

As conditioned, the proposed development will support General Plan Policy HQL-10.2, in that will result in the near-term development of an expanded and improved park within the development.

The proposed development also is consistent with the surrounding development in that it will place the highest density and highest intensity mixed use development along Mission Boulevard, where such development is envisioned and encouraged. The lower intensity townhome development will be placed along Valle Vista Avenue, within the internal neighborhoods and along Dixon Street, consistent with the existing, surrounding mix of single family and multi-family residential development.

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

The proposed infill project site is surrounded by existing streets and has access to utilities with adequate capacity to serve the proposed development. In addition, the project shall be required to underground any overhead utilities in front of their project site and fronting any public street. A Mitigated Negative Declaration was prepared for the proposed development and found that all impacts related to streets, public facilities, utilities and agencies could be mitigated to a level of less than significant. All mitigation measures were included as conditions of approval for the project.

**C. 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.**



The proposed development will create a residential environment of sustained desirability and stability because it will contain a mix of land uses and housing types within the development. The residential component will include 472 residential units that will be a mix of rental/for-sale units and include various housing types, including multi-family apartments, stacked flat townhomes, and traditional multi-level townhome at a range of affordability levels. The project will also include approximately 20,000 square feet of commercial development and a robust network of multi-user paseos and pedestrian/bicycle facilities to connect the development. Consistent landscaping, street furniture and decorative paving will further provide a cohesive identity for the project.

Overall, the proposed architecture of the varied neighborhoods will lend to the sustained desirability of the neighborhoods. It provides a mix of contemporary design for the mixed-use buildings and cluster townhomes nearest Mission Boulevard, and more traditional residential development townhome neighborhoods. The contemporary buildings will have parapet roofs with varying heights, horizontal and vertical plane breaks with building pop-outs, balconies with metal railings, and varied color and materials including a mix of stucco and lap siding. The more traditional townhomes will have hip roofs; balconies with metal railings; building plane off-sets; stucco finish with wood and stone accents; and, varied color palettes.

The site layout for the for the cluster and townhome neighborhoods would be connected through a network of pedestrian trails, sidewalks and small open space nodes that would facilitate community development and engagement with neighbors thus developing neighborhood of sustained desirability and foster stability in the neighborhoods. With the addition of common open space for the multi-family residential development, as conditioned, the multi-family residential component would be a residential environment of sustained desirability and foster community and stability for the subject residents.

As proposed, the development includes relocation and expansion of Valle Vista Park, provided the park be annexed into a Lighting and Landscaping Assessment District to cover ongoing maintenance of the park.

- D. In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule.**

The development is not intended to be phased, but it anticipates approval of several different final maps for the various neighborhoods and related improvements. Each final map would provide a sufficient proportion of total planned common open space, facilities and services including off-site improvements provided that those improvements are designed, approved and bonded against or constructed prior to approval of the final maps for the related area. The proposed development also

includes the relocation and expansion of the existing park on-site to another location, which is acceptable provided that the new park be dedicated and operational within a certain timeframe of permit issuance.

- E. 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.**

As described in Zone Change Finding A above, the proposed development is generally consistent with the overall vision for development along Mission Boulevard and the South Hayward BART/Mission Boulevard Form Based Code. However, the Planned Development designation is needed to ensure maximum flexibility to layout the proposed development with varying development densities and intensities across the site. The proposed development would meet the purpose and intent of the PD District zoning in that it would result in efficient and attractive space utilization that places mixed use development nearest the commercial arterial and high frequency transit while locating less intense townhome development around a planned park and along a trail parkway.

Any exceptions or latitudes related to blending density across the site or deviation from other applicable zoning standards would be off-set by the placement of solar photovoltaic panels on all the residential and mixed-use buildings, and installation of off-site improvements such as mid-block crossings on public right-of-way to facilitate walking and bicycling throughout the development and to BART.

### **VESTING TENTATIVE MAP**

- A. That the proposed map is consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]**

The proposed project is the requires a General Plan Amendment and Zone Change to Planned Development District. If the land use changes are adopted, the proposed subdivision would be consistent with the allowable uses and densities within the Sustainable Mixed-Use land use designation. The proposed development is not subject to a specific plan.

- B. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans. [Subdivision Map Act §66474(b)]**

The proposed subdivision is consistent with the residential densities for projects in the Sustainable Mixed-Use General Plan land use designation, as well as specific goals and policies outlined in in General Plan Finding B, and Planned Development Zone Change Finding A, listed above.

The existing and proposed internal roadways are designed to accommodate the anticipated traffic. Utilities, including water, sewer, and storm drain facilities, will be provided to accommodate the proposed development. Further, the Mitigated Negative Declaration and Mitigation and Monitoring Plan prepared for the project identified adequate mitigation measures to reduce all possible impacts to a level of less than significant.

**C. That the site is physically suitable for the type of development. [Subdivision Map Act §66474(c)]**

A preliminary geotechnical investigation was prepared by Engeo (dated June 6, 2017), demonstrating that the proposed development is feasible on all the subject parcels provided that design-level geotechnical investigations are prepared to identify specific design features for future development of the various parcels, and that recommendations from the reports are reviewed and approved by the City, and subsequently incorporated into the Improvement Plans for the proposed project.

**D. That the site is physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]**

A preliminary geotechnical investigation was prepared by Engeo (dated June 6, 2017), demonstrating that the proposed development is feasible on the various parcels. Furthermore, the Initial Study and Mitigated Negative Declaration, including supporting environmental reports identified potential impacts to roadways, and identified feasible mitigation measures for the proposed project that were incorporated as conditions of approval for the project.

**E. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]**

A Biological Resources Assessment was completed for the site by WRA Environmental Consultants in July 2017. The Assessment and Initial Study prepared for the project concluded that the project area contains one sensitive biological community, the Alameda County Flood Control channel, which would remain in place with the proposed project. Pedestrian bridges proposed over the channel would be designed to avoid the banks and bed of the channel and span the channel to minimize any impact to the facility. In addition, design elements would be installed to catch debris from the pedestrian bridges.

The report also identified moderate potential to impact three special status species; however, those impacts would be reduced to a level of less than significant by conducting pre-construction surveys prior to the issuance of permits for the project. Thus, mitigation measures included as conditions of approval for the proposed

project will ensure that the design of the subdivision and proposed improvements will not cause substantial environmental damage or to injure wildlife, fish or their habitat.

**F. That the design of the subdivision or type of improvements is not likely to cause serious public health problems. [Subdivision Map Act §66474(f)]**

The development is an infill site surrounded by infrastructure with adequate capacity to serve the future development. The Initial Study and proposed Mitigated Negative Declaration concluded that the project could result in adverse Air Quality impacts related to construction-related dust and toxic air contaminants. However, incorporation of mitigation measures included as conditions of approval for the proposed project would ensure that the proposed project will not cause serious public health problems and reduce any potential impacts to a level of less than significant.

**G. That the design of the subdivision or the 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. [Subdivision Map Act §66474(g)]**

The proposed project will not conflict with existing easements for access through or use of the property provided that the land sales and swaps are accomplished in accordance with the conditions of approval. The proposed private roadways and pedestrian facilities will be open and accessible to the public, as conditioned.

## **ALTERNATIVE AFFORDABLE HOUSING PLAN**

Pursuant to HMC Section 10-17.230, the Applicant may propose alternatives to meet the requirements set forth in the Affordable Housing Ordinance if the decision-making body finds that such an alternative would provide a greater benefit to the City than the other options explicitly described in this Article. The following findings provides justification for allowing the proposed alternative Affordable Housing Plan:

- A. The alternative affordability plan proposes to deed restrict 20 multi-family rental units for low income households and 28 one-bedroom townhome flats for sale to moderate income households. The proposal includes a significantly higher proportion of multi-family rental units for low income households (27%) than is required by the Ordinance (6% split between low and very low for a total of four very low and four low income units) and a lesser number of units than is required for the for-sale product, a total of 28 (7%) where 40 (10%) are required.
- B. The proposed alternative is acceptable in that it would result in a higher proportion of rental units than for sale units which will benefit more low-income, renter households. According to American Community Survey data, a significantly higher number of renter households in California are low income. Under this proposal, the

City would lose the opportunity to have four very low-income units. On balance, the City believes that the gain of 15 low-income, deed restricted units outweighs the drawback of losing the four very low-income units.

- C. The proposed for sale units would be significantly smaller than the standard townhome models; however, the units would be entirely located on the ground floor to allow for aging in place and would be more affordable by design in a market where most for sale product on the market is large and expensive. These smaller homes would appeal to seniors and retirees looking to downsize, millennials or others who want to reduce their carbon footprint by living in a smaller unit.

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 approving General Plan Amendment, Zone Change and Vesting Tentative Tract Map Application 201704129, subject to the adoption of the companion ordinance (Ordinance No. 18-\_\_\_) rezoning 21 properties located Mission Boulevard on the east, the BART tracks on the west, Industrial Parkway on the south and Valle Vista Avenue on the north. Assessor Parcel Numbers (APNs) 078C-0447-003-01, 078C-0447-003-02, 078C-0447-006-02, 078C-0438-006-00, 078C-0438-005-00, 078C-0438-007-00, 078C-0438-008-00, 078C-0438-009-00, 078C-0438-010-00, 078C-0438-011-01, 078C-0438-019-01, 078C-0435-002-01, 083-0460-006-03, 078C-0436-010-03, 078C-0436-001-07, 078C-0435-006-00, 078C-0455-004-00, 078C-0455-003-00, 078C-0455-005-02, 083-0460-011-00, 083-0460-010-00, subject to the attached conditions of approval (Exhibit I.a); and,

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Hayward hereby authorizes the acceptance of the BART, ACFC and HARD properties which are described in the Staff Report and contemplated to be acquired by the City in the PSA and further authorizes the City Manager or her designee to execute any and all documents necessary to cause the City to accept such properties and complete the City's acquisition and later disposition of such properties to William Lyon Homes, or its affiliate.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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

**GENERAL PLAN AMENDMENT, ZONE CHANGE & VESTING TENTATIVE MAP (TRACT 8428) APPLICATION NO. 201704129**

– Applicant: William Lyon Homes/Owners: City of Hayward, Hayward Area Recreation District, Alameda County Flood Control District, Bay Area Rapid Transit District – General Plan Amendment, Rezoning, approval of Vesting Tentative Map (Tract 8428), site plan review, improvement plans, formation of a lighting and landscaping district, grading and building permits, purchase and sale agreements, and approval of acquisition agreements to construct 472 multi-family housing units (72 rental apartments and 400 townhomes); approximately 20,000 square feet of retail space; 2.4 acres of parkland and trails; and, related site improvements on an approximately 25-acre site roughly bound by Mission Boulevard on the east, the BART tracks on the west, Industrial Parkway on the south and Valle Vista Avenue on the north. Assessor Parcel Numbers (APNs) 078C-0447-003-01, 078C-0447-003-02, 078C-0447-006-02, 078C-0438-006-00, 078C-0438-005-00, 078C-0438-007-00, 078C-0438-008-00, 078C-0438-009-00, 078C-0438-010-00, 078C-0438-011-01, 078C-0438-019-01, 078C-0435-002-01, 083-0460-006-03, 078C-0436-010-03, 078C-0436-001-07, 078C-0435-006-00, 078C-0455-004-00, 078C-0455-003-00, 078C-0455-005-02, 083-0460-011-00, 083-0460-010-00.

**GENERAL**

1. The developer shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit. (DS)
2. General Plan Amendment, Rezoning and Vesting Tentative Map Application No. 201704129, is approved subject to the Architectural Plans and Vesting Tentative Map plans date stamped February 1, 2018, except as modified by the conditions listed below. (DS)
3. All uses within the commercial portion of the proposed Planned Development District shall follow the Use Table in the South Hayward Form Based Code, as amended. (DS)
4. The Vesting Tentative Map approval shall align with the timeframes set forth in the Subdivision Map Act, and all related automatic and Applicant-initiated extensions. (DS)
5. Any proposal for alterations to the conditionally approved site plan and/or design that does not require a variance to any zoning ordinance standard shall be subject to approval by the Development Services Director or his/her designee, prior to implementation. Alterations requiring a variance or exception shall be subject to review and approval by the Planning Commission. (DS)
6. The Applicant shall submit an application for a Master Sign Program in accordance with Hayward Municipal Code (HMC) Section 10-7.210, prior to the installation of

any signage for the commercial development. The sign program shall include a provision to install artistic renderings or signage in windows of vacant commercial tenant spaces and “Coming Soon” signs for future commercial tenants if the tenant space is under construction. Signage associated with the Park and wayfinding and interpretive signage along the public pathways shall be reviewed and approved with the Park improvement plans. (DS)

7. The permittee, property owner or designated representative shall allow City code enforcement staff access to the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws. (DS)
8. All permit charges accrued in the processing of General Plan Amendment, Rezoning and Vesting Tentative Map Application No. 201704129 shall be paid in full prior to consideration of a request for approval extensions and/or submittal of building permits for the development. (DS)
9. The mixed-use buildings shall be under vertical construction before a certificate of occupancy is issued for the first “for sale” condominium unit and shall be completed prior to issuance of the 321<sup>st</sup> certificate of occupancy for the “for sale” condominium units. (DS)
10. The property owner shall demolish any vacant structures within 60 days of their being made vacant. (DS)
11. The property owner shall be responsible for securing and clearing any vacant structure(s) prior to demolition and commencement of construction activities. (DS)
12. Prior to, during and following demolition of vacant structures, the property owner shall be responsible for securing and maintaining the site in accordance with HMC Chapter 4, Article 1, Public Nuisances; HMC Chapter 5, Article 7, Community Preservation and Improvement Ordinance; and the California Building Code, among other applicable regulations. (DS)

### **MITIGATION MEASURES**

13. **Mitigation Measure AQ-1:** Prior to the issuance of grading or building permits, the City of Hayward shall ensure that the BAAQMD Basic Construction Mitigation Measures are noted on the construction documents. These Basic Construction Mitigation Measures include the following:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.



- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.
14. **Mitigation Measure AQ-2:** Prior to the issuance of grading or building permits, the project Applicant or the Applicant's designated contractor shall provide to the City of Hayward a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet average of at least 71 percent reduction in diesel PM emissions compared to the current statewide construction fleet emissions target, by one or more of the following methods:
- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet, at a minimum, the EPA particulate matter emissions standards for Tier 4 engines or equivalent; and/or
  - The use of equipment that includes CARB-certified Level 3 diesel particulate filters or alternatively fueled equipment (i.e., non-diesel); and/or
  - Other added exhaust devices, or a combination of measures, provided that these measures are approved by the City and are demonstrated to achieve the fleet average minimum 71 percent reduction in diesel PM emissions.
15. **Mitigation Measure BIO-1: Preconstruction roost assessment survey.** A qualified biologist shall conduct a roost assessment survey of the existing buildings on the project site. The survey shall assess use of the structures for roosting as well as for the potential presence of bats. If the biologist finds no evidence of or potential to support bat roosting, no further measures are required. If evidence of bat roosting is present, the additional measures described below shall be implemented:

- a. Work activities outside the maternity roosting season: If evidence of bat roosting is discovered during the preconstruction roost assessment and demolition is planned during the period from August 1 through February 28 (outside the bat maternity roosting season), a qualified biologist shall implement passive exclusion measures to prevent bats from re-entering the structures. After sufficient time to allow bats to escape and a follow-up survey to determine if bats have vacated the roost, demolition may continue and impacts to special-status bat species will be avoided.
  - b. Work activities during the maternity roosting season: If the preconstruction roost assessment discovers evidence of bat roosting in buildings during the maternity roosting season (March 1 through July 31) and determines maternity roosting bats are present, demolition of maternity roost structures shall be avoided during the maternity roosting season or until a qualified biologist determines the roost has been vacated.
16. **Mitigation Measure BIO-2: Preconstruction nesting bird survey.** If ground disturbance or removal of vegetation occurs during the breeding bird season (February 1 through August 15), preconstruction surveys shall be performed by a qualified biologist no more than 14 days prior to commencement of such activities to determine the presence and location of nesting bird species. If active nests are present, establishment of temporary no work buffers around active nests will prevent adverse impacts to nesting birds. The appropriate buffer distance shall be determined by a qualified biologist, depending on species, surrounding vegetation, and topography. Once active nests become inactive, such as when young fledge the nest, or the nest is subject to predation, work may continue in the buffer area and no adverse impact to birds will result.
17. **Mitigation Measure BIO-3:** To satisfy the requirements of the Hayward Tree Protection Ordinance, a tree removal and cutting permit application shall be submitted to the City of Hayward. The findings, information, and tree appraisals of the arborist's report dated June 20, 2017 (see Appendix D of **Appendix BIO**) shall be included with the permit application. All protected trees identified in the arborist's report that would be removed as a result of the project shall be replaced at a one-to-one ratio with like-size, like-kind trees or an equal value tree or trees, or other acceptable mitigation per the determination of the City's Landscape Architect. All required measures and conditions of approval included in the permit, including replacement of like-size, like-kind trees or an equal value tree or trees or acceptable mitigation, shall be implemented.
18. **Mitigation Measure CUL-1:** If prehistoric or historic-period archaeological deposits or paleontological resources are discovered during project construction activities, all work within 25 feet of the discovery shall be redirected and the archaeologist/paleontologist shall assess the situation, consult with agencies as appropriate, and make recommendations regarding the treatment of the discovery. Impacts to archaeological deposits and paleontological resources should be avoided

by project activities, but if such impacts cannot be avoided, the deposits shall be evaluated for their California Register eligibility. If the deposits are not California Register-eligible, no further protection of the finds is necessary. If the deposits are California Register-eligible, they shall be protected from project-related impacts or such impacts mitigated. Mitigation may consist of, but is not necessarily limited to, systematic recovery and analysis of paleontological resources and archaeological deposits, recording the resource, preparing a report of findings, and accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate.

19. **Mitigation Measure CUL-2:** Any human remains encountered during project ground-disturbing activities shall be treated in accordance with California Health and Safety Code Section 7050.5. The project Applicant shall inform its contractor(s) of the project area's sensitivity for human remains and verify that the following directive has been included in the appropriate contract documents:
  - a. If  
human remains are encountered during project activities, the project Applicant or its contractor shall comply with the requirements of California Health and Safety Code Section 7050.5. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the Alameda County coroner has determined the manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation or to his or her authorized representative. At the same time, an archaeologist shall be contacted to assess the situation and consult with agencies as appropriate. Project personnel/construction workers shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American most likely descendant to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods within 48 hours of being allowed access to the site.
20. **Mitigation Measure HAZ-1:** Prior to demolition of existing structures on the project site, asbestos-containing materials and lead-based paint surveys shall be conducted to determine the presence of hazardous building materials and results of those surveys shall be provided prior to the issuance of demolition or building permits. Should asbestos-containing materials, lead-based paint, or other hazardous substance-containing building materials be identified, these materials would be removed using proper techniques in compliance with all applicable state and federal regulations, including the Bay Area Air Quality Management District (BAAQMD) rule related to asbestos.
21. **Mitigation Measure HYD-1:** Flooding Impacts. Prior to construction in a 100-year floodplain area, project developers shall do one of the following:

- a. Submit a hydrology and hydraulic study prepared by a California registered civil engineer proposing to remove the site from the 100-year flood hazard area by increasing the topographic elevation of the site or similar steps to minimize flood hazards. The study shall demonstrate that floodwaters would not be increased on any surrounding sites, to the satisfaction of City staff.
  - b. Comply with Hayward Municipal Code Section 9-4.110, General Construction Standards, which establishes minimum health and safety standards for construction in a flood hazard area.
  - c. Apply to the City for a Conditional Letter of Map Revision (CLOMR) to remove the site from the FEMA Flood Insurance Rate Map 100-year flood hazard area (South Hayward BART/Mission Boulevard Form-Based Code EIR mitigation measure Hyd-3; Concept Design Plan EIR mitigation measure 4.4-2).
22. **Mitigation Measure NOI-1:** The project Applicant shall demonstrate to the City that any proposed HVAC systems for buildings in the project do not produce noise in excess of Lmax 60 dB measured at a property line adjacent to off-site and new proposed project residential uses or noise in excess of Lmax 70 dB measured at a property line adjacent to off-site and new proposed project commercial or industrial uses. Acceptable demonstration would be one or more of the following:
- a. Provide manufacturers specifications for the proposed HVAC systems that indicate the systems would not produce noise in excess of Lmax 60 dB measured at a distance of 3 feet for systems near residential property lines or noise in excess of Lmax 70 dB measured at a distance of 3 feet for systems near commercial or industrial property lines.
  - b. If manufacturers specifications are not available, provide site plans that indicate the following minimum setback distance for HVAC systems from property lines (assuming that a residential system would produce a noise of Lmax 75 dB measured at a distance of 3 feet and a commercial HVAC system would produce a noise of Lmax 90 dB measured at a distance of three feet):
    - I. For residential HVAC systems operating during nighttime hours and located adjacent to residential uses, HVAC systems shall be set back a minimum of 20 feet from property lines or 10 feet with adequate noise shielding.
    - II. For commercial HVAC systems operating during daytime hours only and located adjacent to residential, commercial, or industrial property lines, equipment shall be set back a minimum of 35 feet from property lines or 20 feet with adequate noise shielding.
    - III. Adequate shielding is a sound enclosure or solid barrier constructed of solid material with no gaps that, at a minimum, would block the line of sight between the HVAC system and potential sensitive receptor locations

on adjacent property (e.g., a person standing at a window, a person standing outside, a person standing on a balcony or deck).

- c. Provide a noise study prepared by a qualified acoustical professional for specific building sites and with specific equipment specifications that demonstrates the noise produced by building mechanical equipment would not produce noise in excess of the standards specified in Municipal Code Section 4-1.03.1.
23. **Mitigation Measure NOI-2:** Project plans shall include specifications for any building mechanical equipment mounted at grade level within 10 feet of a sensitive use property line (e.g., residences, schools, hospitals, elder-care facilities) to require vibration isolation per ASHRAE guidelines.
24. **Mitigation Measure NOI-3:** Heavy equipment, including bulldozers and haul trucks, shall be restricted from operating within 25 feet of existing structures to the extent feasible. Within 50 feet of existing structures, only nonvibratory soil and pavement compaction methods shall be used.

A construction liaison shall be designated to ensure coordination between construction staff and neighbors to minimize disruptions due to construction vibration. Neighboring property owners within 200 feet of construction activity shall be notified in writing of the contact information for the construction liaison.

25. **Mitigation Measure NOI-4:** The project Applicant shall ensure through contract specifications that construction noise and vibration abatement practices are implemented by contractors to minimize construction noise and vibration levels. Contract specifications shall be included in the construction document, which shall be reviewed by the City of Hayward prior to issuance of a demolition or grading permit. The construction noise and vibration abatement practices shall include the following:
- a. In conformance with Section 4-1.03-4 of the City's Municipal Code, construction activities between 7:00 a.m. and 7:00 p.m. Monday through Saturday or between 10:00 a.m. and 6:00 p.m. on Sundays or holidays, unless other construction hours are permitted by the City Engineer or Chief Building Official, shall not include any individual equipment that produces a noise level exceeding 83 dB measured at 25 feet, nor shall activities produce a noise level outside the project property lines in excess of 86 dB. During all other hours, noise shall not exceed the limits defined in Municipal Code Section 4-1.03.1 (70 dB daytime or 60 dB nighttime, measured at residential property lines).
  - b. If noise-generating construction activities must occur within 50 feet of a noise-sensitive property line (e.g., residences, schools, hospitals, elder-care facilities) and would generate a noise level greater than 86 dB, a noise barrier is to be

installed between the source and the neighboring property to reduce noise. The barrier shall be minimum of 8 feet high and continuous, with no gaps or holes.

- c. Construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, shall be turned off when not in use for more than five minutes.
  - d. Stationary noise sources and staging areas shall be located as far away as is feasible from existing noise-sensitive receivers. Locating stationary noise sources near existing roadways away from adjacent properties is preferred. If located otherwise, stationary noise sources are to be enclosed or shielded from neighboring noise-sensitive properties with noise barriers to the extent feasible.
  - e. Electric air compressors and similar power tools shall be used rather than diesel equipment, where feasible.
  - f. Air compressors and pneumatic equipment shall be equipped with mufflers, and impact tools shall be equipped with shrouds or shields, where feasible.
  - g. Construction vehicle routes shall be selected to avoid quieter residential streets where possible.
  - h. A construction liaison shall be designated to ensure coordination between construction staff and neighbors to minimize disruptions due to construction noise. Neighboring property owners within 200 feet of construction activity shall be notified in writing of the contact information for the construction liaison.
26. **Mitigation Measure TRA-1: Under Background plus Project Conditions**, there would be a significant impact at the intersection of Industrial Parkway and Huntwood Avenue (#3), which would continue to operate at LOS F during the PM peak hour with an increased delay of 6.7 seconds. This impact would be mitigated by an adjustment in traffic signal cycle and green time allocation (splits), which would improve the intersection operations with an increase in delay of less than 5.0 seconds during the PM peak hour.
27. **Mitigation Measure TRA-2: Under Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Mission Boulevard and Industrial Parkway (#1), which would continue to operate at LOS F during the AM and PM peak hours with an increased delay of 7.4–8.4 seconds. This impact would be mitigated by an adjustment in traffic signal cycle and green time allocation (splits), which would improve intersection operations, with an increase in delay of less than 5.0 seconds during the AM peak hour and to LOS E during the PM peak hour.
28. **Mitigation Measure TRA-3: Under Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Industrial Parkway and Dixon Street (#2), which would continue to operate at LOS F during the AM and PM peak

hours with an increased delay of 14.3–18.2 seconds. This impact would be mitigated by an adjustment in traffic signal cycle and green time allocation (splits), which would improve intersection operations, with an increase in delay of less than 5.0 seconds during the AM peak hour and to LOS D during the PM peak hour.

29. **Mitigation Measure TRA-4:** Under **Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Industrial Parkway and Huntwood Avenue (#3), which would continue to operate at LOS F during the AM and PM peak hours with an increased delay of 8.0–8.4 seconds. This impact would be mitigated by an adjustment in traffic signal cycle and green time allocation (splits), which would improve intersection operations, with an increase in delay of less than 5.0 seconds during the AM and PM peak hours.
30. **Mitigation Measure TRA-5:** Under **Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Industrial Parkway and Industrial Parkway Southwest (#4), which would continue to operate at LOS F during the AM and PM peak hours with an increased delay of 5.7–10.4 seconds. This impact would be mitigated by an adjustment in traffic signal cycle and green time allocation (splits), which would improve intersection operations, with an increase in delay of less than 5.0 seconds during the AM and PM peak hours.
31. **Measure TRA-6:** Under **Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Mission Boulevard and Valle Vista Avenue (#5), which would continue to operate at LOS F during the AM peak hour with an increased delay of 23.8 seconds, which is above the 5.0-second threshold for intersections already operating at a deficient level of service. Widening and restriping the eastbound approach to one left- only lane and one right turn lane would improve the operations at the Mission Boulevard/Valle Vista Avenue intersection to LOS E in the AM peak hour and LOS B in the PM peak hour. The developer's fair share of the improvement cost is 17 percent for Cumulative plus Project conditions and 51 percent for Background plus Project conditions. **Appendix TIA** illustrates the fair-share calculations.
32. **Mitigation Measure TRA-7:** Under **Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Mission Boulevard and Tennyson Road (#6) during the AM peak hour. An adjustment in traffic signal cycle and green time allocation (splits) would improve the intersection operations, with an increase in delay of less than 5.0 seconds during the AM peak hour.
33. **Mitigation Measure TRA-8:** Under **Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Tennyson Road and Dixon Street (#7), which would continue to operate at LOS F during the PM peak hour with an increased delay of 5.3 seconds. This impact would be mitigated by an adjustment in traffic signal cycle and green time allocation (splits), which would improve intersection operations, with an increase in delay of less than 5.0 seconds during the PM peak hour.

34. **Mitigation Measure TRA-9:** Under **Cumulative plus Project Conditions**, there would be a significant impact at the intersection of Dixon Street and Valle Vista Avenue (#8), which would continue to operate at LOS F during the AM and PM peak hours with an increased delay of 21.3–29.7 seconds. The installation of a traffic signal would improve operations to an acceptable level of service during both peak hours. As a result of the mitigation measure, intersection conditions would improve to LOS B with 15.4 seconds of delay in the AM peak hour and LOS C with 29.8 seconds of delay in the PM peak hour. The developer's fair share of the improvement cost is 5 percent for Cumulative plus Project Conditions and 28 percent for Background plus Project conditions. **Appendix TIA** illustrates the fair-share calculations.
35. **Mitigation Measure TCR-1:** If tribal cultural resources are discovered during project construction activities, all work within 25 feet of the discovery shall be redirected and the tribal monitor shall assess the situation, consult with agencies as appropriate, and make recommendations regarding the treatment of the discovery. Impacts to tribal cultural resources should be avoided by project activities, but if such impacts cannot be avoided, the resources shall be evaluated for their California Register eligibility. If the tribal cultural resource is not California Register-eligible, no further protection of the find is necessary. If the tribal cultural resource is California Register-eligible, it shall be protected from project-related impacts or such impacts mitigated. Mitigation may consist of, but is not necessarily limited to, systematic recovery and analysis, recording the resource, preparation of a report of findings, and accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate.

#### **LAND SWAPS & SALES**

36. The developer may acquire (or obtain adequate rights, in a form approved by the City, to ensure that the project remains as shown in the plans accompanying these conditions) the property currently owned by the Hayward Area Recreation District (HARD) and referred to as Lot 5 in related agreements, prior to the issuance of grading permits, improvement plans and building permits for the project area (PA 1). Alternatively, if the property acquisition is not completed prior to the issuance of grading permits for PA 1, it will be considered a major modification of the project, subject to additional environmental review. (DS)
37. The developer may acquire the project property currently owned by the Bay Area Rapid Transit District (BART), and Alameda County Flood Control District (ACFCD). If the developer does not acquire the BART and ACFCD property, before obtaining a grading permit for the applicable project area (PA 3), the developer shall submit or update the grading, improvement and building plans to reflect the development of the remaining project site (PA 3). (DS).



**PRIOR TO ISSUANCE OF BUILDING PERMITS****Precise Plan**

38. In accordance with Zoning Ordinance Section 10-1.2550, and prior to approval of building permits, the applicant shall submit a Precise Development Plan to the Planning Division for review and approval. (DS)
39. 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. (DS)
40. 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 shall include:
  - a. Photovoltaic solar systems shall be installed on all condominium buildings to service all residential units within each building. Photovoltaic solar systems shall be installed and implemented for use on the common areas, commercial and residential portions of the mixed-use buildings. 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. Trails, parkways, public access easements and mid-block crossings that provide continuous multi-modal access through and across the site shall be recorded as part of the final map for the related area. Improvements shall be installed for the related area prior to issuance of certificates for the respective Planning Area/final map. (DS)
41. The plans shall be modified to provide a minimum of 29 short term bicycle spaces and a total of 26 long term bicycle parking spaces within PA MU and the Park. The Planning Division shall review and approve the short and long-term bicycle parking designs and locations prior to approval of building permits for the mixed-use buildings.
  - a. Of the 29 short term bicycle spaces, 18 shall be provided in various locations around the commercial development within PA MU and 11 shall be provided at the Park.

- b. Of the 26 long-term bicycle parking spaces, a total of 25 shall be provided within PA MU (two for the retail area and 23 for the residents); and two shall be provided within the Park. (DS)
42. A seven-foot-tall fence channel fence or other similar decorative fencing shall be installed between the project site and the adjacent properties along the trail parkway and driveway running west from Dixon Street into the PA 3 neighborhood. The design shall be reviewed and approved by the Planning Division prior to approval of the landscape plans in the respective tract. (DS)
43. To satisfy the common open space requirement for the multi-family residential component, the applicant shall either:
- a. Modify the PA MU plans to provide a minimum 7,200 square foot common group open space (100 square feet per residential unit) for use by residents of the mixed-use buildings. If provided on-site, common group open space requirement may be satisfied through providing an indoor facility and/or accessible rooftop gathering space, or combination thereof; however, it shall be accessible only by residents of the mixed-use buildings. The final location, size and amenities provided within the common open space area(s) shall be reviewed and approved by the Planning Division; or
  - b. Offer membership to private off-site recreational facilities such as health or swim club. If provided off-site, the membership shall be ongoing and provided to all residents who would like to participate in the benefit; or
  - c. Provide a combination of on-site common open space and off-site private recreational amenities.

The proposed combination of on and/or off-site amenities shall be reviewed and approved by the Planning Division prior to issuance of building permits for the PA MU buildings. (DS)

44. All paseos and open space nodes within the residential neighborhoods shall be shown on improvement plans with square footage, dimensions, planned programming including but not limited to furniture such as benches, water fountain, exercise or play equipment and any other planned programming for the area. The final locations, sizes, programming and furniture shall be review and approved by the Planning Division and Landscape Architect prior to the issuance of building permits. (DS-L)
45. Pavement around the retail buildings and entrances to residential neighborhoods shall be enhanced with integral colors, texture, pattern and decorative banding with different material, color and texture. The final enhanced pavement design, including color and materials shall be reviewed and approved by the Planning Division prior to the issuance of building permits. (DS-L)

46. 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. (DS)
47. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division prior to issuance of a building permit for the project. (DS)
48. The applicant shall install two construction related signs on Mission Boulevard and Industrial Parkway advertising and including renderings of the proposed development. The applicant shall provide the location, size and method of installation of the signs on the Precise Plan submittal. (DS)
49. 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. All architectural and site modifications described in Condition Nos. 39 through 42 above.
  - c. 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.
  - d. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum four-inch self-illuminated or six-inch on contrasting background to ensure visibility from the street. See also Condition No. 138 below.
  - e. Large expanses of blank wall shall be prohibited and shall be articulated or otherwise treated with design or architectural features.
  - f. Proposed mailbox design and locations, subject to Post Office approval.
  - g. A final lighting plan shall show all exterior lighting design for commercial residential, and public and private common spaces. Exterior lighting shall be architecturally compatible with the structure to which it is affixed and erected and maintained so that adequate lighting is provided along the pathways, walkways and private streets. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project (see also Condition No. 60d below).

- h. 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 (see also Condition No. 21, MM NOI-1 above).
- i. 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.
- j. 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 from all perspectives, unless other noise mitigation is required.
- k. All rooftop mechanical equipment, other than solar panels, shall be fully and completely screened from view by the proposed roof structure or appropriate screening that is reviewed and approved by the Planning Division. Solar panels shall be screened from view on mixed use and PA 1 buildings using parapets, if possible. 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 surface to which it is adhered.
- l. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for the number of cars designated to be parked in the garage. As an alternative, an area within the fenced-in common area may be used for the garbage and recycling containers provided that the receptacle storage area is not located within areas identified as common open space for the residents. The final locations of trash bin locations shall be reviewed and approved by the Planning Division.
- m. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. Individual townhome garages shall have minimum interior dimensions of 20-foot width by 19-foot depth for two cars side-by-side, 11-foot width by 19-foot depth for a one-car garage and 11-foot width by 38-foot depth for tandem two-car garages. Commercial and multi-family residential parking shall have minimum nine-foot width by 19-foot depth or follow compact parking standards which have eight-foot width by 15-foot depth for up to 30% of parking stalls. 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. (DS)

#### Affordable Housing

- 50. This development is subject to the requirements of the Affordable Housing Ordinance (AHO) set forth in HMC Chapter 10, Article 17. Pursuant to HMC Section 10-17.205(d), the Applicant may propose alternatives not listed in the ordinance if approved by the Decision-Making Body. According to the proposed Affordable

Housing Plan, 10% of the units on the project site would be set aside for affordable housing. Specifically, 20 rental units (eight studio units, four one-bedroom units and eight two-bedroom units) would be deed restricted for low-income households; and 28 ground floor one-bedroom for sale units would be deed restricted for moderate income households.

Pursuant to HMC Section 10-17.515, the developer shall enter into an Affordable Housing Agreement (AHA) that shall include all elements set forth in the ordinance prior to the approval of a final map or issuance of the first building permit, whichever occurs first. The form of the AHA resale and rental restrictions, deeds of trust, option agreements and other documents shall be approved by the City Manager or designee prior to execution of Agreement. (Housing)

#### Parkland Dedication Fees and Credits

51. This development is subject to the requirements of the Property Developers – Obligations for Parks and Recreation set forth in HMC Chapter 10, Article 16.
  - a. Per HMC Section 10-16.10, the applicant shall dedicate land, pay a fee in lieu thereof, or do a combination of both for park and recreation purposes. The land dedication and in lieu fee amount shall be the requirement and fee in effect at the time of building permit issuance for the development.
  - b. Pursuant to HMC Section 10-16.47, Developer Provided Park and Recreation Improvements, a land dedication credit shall be provided publicly accessible park and open spaces. Per the proposed project, the applicant is seeking a credit for Park expansion and a public trail planned through the development. A credit may be provided subject to the following limitations:
    - I. The credit for the proposed Park and parkway shall net out the acreage in the existing Valle Vista Park (approximately one acre) that will be relocated and replaced with the new park and shall exclude land within the Alameda County Flood Control District (ACFCD) channel that is not accessible to the public.
    - II. The developer may receive partial or full credit for improvements to the relocated and expanded Park and parkway, including the pedestrian bridges over the ACFCD channel. However, the developer shall not receive a credit for costs related to required frontage improvements pursuant to HMC Section 10-16.25, or any required drainage, soil or non-visible improvements pursuant to Provision C3 of the Alameda Cleanwater Program related to the proposed commercial and residential uses. (DS)
52. To determine the final amount of the fee credit for improvements, the developer shall submit an Engineer's Estimate for the Park and parkway improvements which shall be reviewed and approved by the City's Public Works - Engineering Division

and the Planning Division in consultation with HARD. The ultimate determination of the amount of credit for land dedication and improvements shall be based on the City's review and approval of the Engineer's Estimate to the satisfaction of the City Engineer. The City reserves the right to cap costs associated with the credit for materials, labor or equipment according to recently completed work, jobs or other known information if the City believes that the Engineer's Estimate is unreasonable or otherwise overstating project-related cost. The Engineer's Estimate shall be submitted and approved by the City prior to the issuance of building permits for the project. (DS)

53. Prior to or concurrently with the developer's acquisition of the HARD property, the applicant shall enter into a license with the City or its designee in order for the City or its designee to operate the Lot 5 park. The license agreement shall address maintenance and liability obligations during ongoing park operations and otherwise ensure that the Lot 5 park will be operated comparable to its existing use and not increase the City's or HARD's obligations beyond those existing as of the date of these conditions. The applicant may not terminate the park license until the applicant obtains a grading permit for construction of Lot 5 and the proposed park on Parcel 10. (DS)
54. The Applicant shall enter into a Park Improvement Agreement (PIA) with the City and HARD to develop the final park layout, design and improvements. The PIA shall be reviewed and approved by the Applicant, the City or its designee and HARD or its designee prior to approval of the landscape plan for the first Tract of project and shall be recorded against title to the proposed project. The PIA shall include plan review opportunities at regular milestones of the construction documents. (DS)
55. The proposed Park on Parcel 10 including all related improvements and the parkway trail to PA 3 shall be constructed, operational and dedicated to the City or HARD within twenty months of the issuance of the first grading permit for the first phase of the project. If the applicant does not complete construction of the Park within the twenty-month period described above, the City may require the Park to be dedicated without the completed improvements. Prior to issuance of the grading permit, the developer will provide a bond benefiting the City in a form approved by the City in an amount sufficient to assure completion of the construction of the Park to the City. (DS)
56. The developer shall obtain an encroachment permit from the Alameda County Department of Public Works and/or Alameda County Flood Control and Water Conservation District (ACFCD), as applicable, prior to construction of any improvements on the public maintenance pathway. The developer is responsible for complying with all Alameda County permit application requirements, fees or other requirements related to improving the maintenance access easement for public use. (DS)

57. The pedestrian bridges that cross the ACFCD channel from the Park to PA-2 neighborhood shall remain open and accessible to the public at all times and shall not be restricted with gates or other apparatus. (DS)

Transportation and Parking Demand Management

58. The Applicant or designee shall implement Transportation Demand Management (TDM) outlined in the Transportation Demand Management Plan (dated February 28, 2018) and included as Appendix TIA to the Initial Study and Mitigated Negative Declaration as follows:
- a. The Applicant or designee shall compile and distribute information regarding all TDM measures outlined in the approved TDM Plan to all first-time residents and commercial tenants through provision of a TDM Contact Person and Tenant Welcome Packet.
  - b. The Applicant or designee shall provide multimodal wayfinding signs, as outlined in the approved TDM Plan, throughout the Project site. The Signs and locations shall be included in the Signing & Striping Plans and submitted for review and approval by Public Works.
  - c. The Applicant or designee shall provide resources for real time transportation information in the Tenant Welcome Packet.
  - d. The Applicant or designee shall provide short and long-term bicycle storage per the City's bicycle parking requirements. Bicycle parking facilities shall be indicated on the Precise Plan and Improvement Plans. See also Condition No. 40.
  - e. The Applicant or designee shall provide information regarding commuter tax benefit programs for employees of the retail tenants and employees of any residential leasing/housing office(s) in the Tenant Welcome Packet.
  - f. The Applicant or designee shall provide Clipper Cards at one per household until the initial amount of \$200,000.00 is expended. This measure shall commence immediately upon project opening date. Clipper Cards can be used toward public transportation on BART and AC Transit among other providers.
  - g. The Applicant or designee shall advertise and promote the following programs in the Welcome Packet:
    - 511 Ride Matching Assistance
    - Carpool/Vanpool Incentives for New Users
    - "Guaranteed Ride Home"
    - AC Transit "Easy Pass"
  - h. The Applicant or designee shall provide coupons for bicycle maintenance service at a local bicycle shop for all residents on an annual basis.

- i. The Applicant or designee shall maintain 10 dedicated Car Share parking spaces throughout the Project Area.
  - j. The Applicant or designee shall provide EV Charging Stations with dedicated public EV parking spaces for use by retail patrons, park patrons and residential area visitors/guests. The number of designated public EV parking spaces shall be determined by CalGreen Parking Requirements (per Building Division). Each designated EV parking space shall include an EV Charging Station. EV Charging Stations shall be installed in public spaces prior to the issuance of occupancy permits in buildings adjacent to the spaces. (PW-ET)
  - k. The Homeowners Association shall provide a \$400 Clipper Card annually to each for sale household unless the household declines the benefit in writing.
59. In addition to implementation of TDM measures, Applicant or designee shall monitor the TDM Program through a TDM Coordinator and submit to the City, on an annual basis, a survey of commute characteristics of project residents and employees and a report on the results of the survey. The surveys shall not coincide with a special event or promotion geared toward increasing alternative modes of transportation (e.g. Bike to Work Day, Walk to School Day) and the applicant or designee shall provide incentives or other means to achieve a minimum of 65 percent of residents must respond to the survey each year. The annual report shall include the status of the overall TDM Program. The first report shall be submitted to the City within one year of issuance of first occupancy permit for the first building constructed on-site. (PW-ET).
60. The Applicant shall acknowledge that the City reserves the right to inspect the project for TDM Program effectiveness and automobile trip reduction and may impose additional measures or penalties if the project does not meet a total of 9% automobile trip reduction as outlined in the Project's TDM Plan. (PW-ET).
61. The TDM Coordinator's contact information shall be provided to all employees and residents of both multi-family residential and condominiums of the Sohay development, and the TDM Coordinator shall be responsible for monitoring parking and resolving parking complaints/disputes throughout the commercial, mixed-use and townhome development. (PW-ET)

#### Building Plans

62. The development shall be GreenPoint Rated with evidence of such certification/rating to be submitted prior to issuance of the first certificate of occupancy for the development. (DS)
63. Plans for building permit applications shall incorporate/comply with the following:



- a. Compliance with applicable Building and Fire Codes.
  - b. The project shall comply with disabled access provisions of 2016 CBC Chapter 11A. All required accessible and/or adaptable units shall be called out on the plans and unit counts shall comply with the counts required in the code.
  - c. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
  - d. A 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 to ensure a safe environment is provided in all common areas, while minimizing impacts on surrounding properties. Exterior lighting shall be shielded and deflected away from neighboring properties and away from windows of the proposed buildings. The final design and location of lighting fixtures shall reflect the architectural style of the building and shall be reviewed and approved by the Planning Division prior to approval of building permits. (DS)
64. Utilities, meters, and mechanical equipment when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen so that they are not visible from the street. Sufficient access for meter-reading by utility staff must be provided to all meters. (DS/U-ES)
65. Any transformer shall be located underground or screened from view by landscaping and shall be located outside any front or side street yard. (DS/PW-ET)

Final Map:

66. Subdivision Improvement Agreement: Prior to the approval of each Final Map within the development, the applicant shall execute a Subdivision Improvement Agreement with the City that guarantees the completion of the required public improvements necessary to support each subdivision to the satisfaction of the Director of Public Works. Each agreement shall include privately engineered plans, surety (i.e. bonds), insurance, and additional deposit for City staff time spent on the project. (DS/PW-ET)
67. 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. Prior to or concurrent with applicable final map recordation, developer shall record a reciprocal easement, ingress/egress easement and maintenance agreement(s) to address all common utilities, crossing utilities and all common access ways. (DS/PW-ET)

Required Improvements & Submittals:

68. A Phase I Environmental Site Assessment (dated April 15, 2016) and a Phase II Environmental Site Assessment (dated July 27, 2016) were submitted to the City of Hayward for this project. Updated reports shall be submitted to the Hazardous Materials Division that include a discussion about uses, investigations, data gaps and review of near surface soils for potential contamination prior to the issuance of grading permits for the applicable areas. The applicant shall contact the Hayward Fire Department, Hazardous Material Office prior to preparing the updated reports. If additional work is deemed necessary based on the findings and conclusions of the updated reports, then the applicant may be required to submit a final clearance documentation from either the California Regional Water Quality Control Board or the Department of Toxic Substance Control to ensure that the property meets residential development investigation and cleanup standards. Allowances may be granted for some grading activities if necessary to ensure environmental and health based clearances. (Haz Mat)
69. The Applicant shall submit Signing & Striping plans, to be included with Improvement Plans, to Public Works Engineering and Transportation for review and approval. The Signing and Striping plans shall include both on-site (private) and off-site (public) roadways. For off-site (public) roadways, signing and striping plans shall include all locations (both sides of street) that front project areas/lots. The Signing and Striping Plans shall further include proposed pedestrian crosswalks and associated signage on Mission Boulevard and on Dixon Street as indicated in the approved Traffic Study. The Signing and Striping Plans shall be approved by Public Works and the City Engineer prior to issuance of first Building permit. (PW-ET)
70. Off-street private parking shall only be allowed within the proposed parking bay location(s). Where no parking is designated, the curbs shall be painted red and "No Parking" signs shall be installed along the sides of the access driveway. The locations of signs and red curbs shall be approved by the Fire Chief and City Engineer. Fire lanes shall be kept free of cars, materials, or other obstructions. (PW-ET)
71. The Applicant shall submit photometric plans, to be included in the Improvement Plans package, to Public Works for review and approval. Photometric plans shall include both on-site (private) and off-site (public) areas. For off-site (public) areas, photometric plans shall include all locations that front project areas/lots, including roadways. The Photometric Plans shall be approved by Public Works and the City Engineer prior to issuance of first Building permit. (PW-ET)
72. 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 unless otherwise stated below. In addition to improvement plans associated and required for each subsequent Final Map, the applicant shall submit an improvement plan for backbone improvements (i.e. sewer, water, and street improvements) for review and approval by the City Engineer prior to approval of

the first final map. The engineered plans shall include, but not be limited to, the following design requirements:

- a. 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.
- b. As part of the backbone improvements plan, the applicant shall modify the eastbound approach at the intersection of Mission Boulevard and Valle Vista Avenue, including widening as necessary, to include one 11-foot exclusive left turn pocket and one 11-foot through-right lane. Applicant shall submit detailed plans for this modification to Public Works as part of the backbone Improvement Plans, which shall be reviewed and approved by Public Works and the City Engineer prior to approval of the first final map. Furthermore, Applicant shall be responsible for construction and all costs associated with this modification, including any need to modify the existing traffic signal, loop detectors or hardware and signing and striping to accommodate the widened roadway.
- c. The applicant shall install and maintain a public multi-use bike and pedestrian trail across PA 2-3 that connects to the Mission Seniors trail located north of the project site. The applicant shall dedicate and maintain the Public Access Easement at a minimum of 8 feet wide with 2 feet buffer on both sides (total 12 feet) to meet FHWA standards. The trail shall remain unlocked, ungated and accessible for public use between the hours of 6:00 AM and 8:00 PM on all days of the week. Location and design of the trail shall be reviewed and approved by City of Hayward Public Works-Transportation Division prior to issuance of Certificate of Occupancy for the development.
- d. The applicant shall contribute to the City twenty percent (20%) of the total cost toward design and installation of a HAWK signal, crosswalk, sidewalk ramps, median modifications and associated signage on Mission Boulevard between Project Area (PA 2-3) and the proposed retail space and park. The total cost, in dollars, will be determined by Public Works and the City Engineer. The Applicant's contribution amount shall be paid in full prior to issuance of building permits.
- e. Concurrent with the improvements in the PA 3 areas, the applicant shall install a raised decorative crosswalk, bulb-outs, pedestrian signage and striping, and pedestrian flashing beacons on Dixon Street between PA 2-2 and PA 3-1. Raised crosswalk and bulb-outs plans shall be submitted to Public Works for review and approval. Signage and pavement markings shall be included in the Signing & Striping Plan.

- f. Applicant shall contribute 5 percent (per MM for Cumulative Plus Project) of the total cost toward design and installation of a traffic signal at the intersection of Dixon Street and Valle Vista Avenue. The total cost and applicant's contribution, in dollar amount, shall be determined by Public Works and City Engineer. Payment shall be submitted prior to approval of improvement plans and issuance of building permits.
- g. The developer shall establish a public access easement on the PA-3 trail that extends from Dixon Street to Industrial Parkway. The easement shall be recorded and reflected on the Final Map recorded for the property.
- h. Project shall dedicate five feet of right-of-way along Valle Vista Avenue fronting PA 1 as shown on Sheet TM1.1 to a total of 30 feet half street right of way. Project shall dedicate 30 feet of right-of-way and P.U.E as needed based on ultimate Joint Trench Plans along Valle Vista Avenue fronting PA 2-4 as shown on Sheet TM4.1 to a total of 60 feet right-of-way along the PA2-4 frontage.
- i. Valle Vista Avenue street pavement shall be widened and resurfaced with a minimum two-inch thick hot-mix-A.C. to provide a 40-foot wide travel way between curb faces. Concrete curbs, gutters and a minimum 5-foot wide sidewalk shall be provided on both sides of Valle Vista Avenue across the subdivision frontages. Signs and street markings shall be provided. Valle Vista Avenue right-of-way shall have a total width of 60-feet with six-foot wide public utilities easements along both sides across the subdivision frontages.
- j. An easement for public access shall be dedicated over Lane 1-1A and Drive Aisle RB as labeled on TM 1.7 as well as across all project street connections to the satisfaction of the Director of Public Works. This is to ensure the applicant will not restrict parking for and access to the public park.
- k. An easement shall be granted to ACFC for ingress-egress rights between parcel APN 083-0455-010-02 and the nearest Public Street(s) to the satisfaction of ACFC and Director of Public Works.
- l. Existing damaged curb, gutter and sidewalk along Industrial Parkway and Dixon Street frontages shall be replaced in kind.
- m. Existing overhead public utilities along all streets frontage shall be removed and placed in underground conduits and vaults. Undergrounding of overhead public utilities shall be limited to the extents shown on Sheet TM0.4.
- n. Existing non-LED street lights shall be converted to LED along all project frontages.
- o. Segments of Mission Boulevard, Valle Vista Avenue and Dixon Street pavements with excavations related to the project shall be repaired with T-trench sections

and resurfaced with a minimum two-inch thick hot-mix A.C. across their full or partial widths as required by the City Engineer.

- p. Vehicular access from Mission Boulevard into PA-MU shall have curb returns with landscaped bulb outs as shown on sheet TM1-4. (PW-ET)
- 73. Applicant shall contribute cost of City staff time necessary to re-time the traffic signals identified in the approved Traffic Study as Mitigation Measures. The Applicant's fair-share amount for this task is \$2,000.00 and shall be paid prior to issuance of building permits. (PW-ET)
- 74. It is Applicant's responsibility to get permit or approval from all affected agencies or private parties. Copies of applicable permits or approvals shall be provided to the City with building permit application submittal. (DS)

Grading and Drainage:

- 75. A grading and drainage plan showing proposed finish grades and drainage is required and shall be submitted with the improvement plans prior to building permit issuance. Applicant has the option to apply for a rough grading permit. The grading and drainage plan shall include, but not be limited to, the following design & submittal requirements:
  - a. All on-site storm drainage conveyance facilities and earth retaining structures four feet in height or less (top of wall to bottom of footing) shall be reviewed and approved by Public Works. Earth retaining structures greater than four 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. This project involves a land disturbance of one or more acres therefore 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. For subdivision PA 2-3 of the Tentative Map, a Geological Report prepared by a registered Engineering Geologist must be submitted to and accepted by the City prior to the issuance of a grading permit.

- e. The project's Stormwater Control Plan which will include, but not be limited to, drainage management areas, location and details of all treatment control measures and site design measures, and sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.
  - f. An updated stormwater requirements checklist shall be submitted to and accepted by the City prior to issuance of building permits.
  - g. Prior to map recordation, 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. (PW-ET)
76. Applicant shall identify opportunities for rainwater harvesting and indicate where barrels or other containers will be placed to capture runoff from all residential buildings. (PW-ET)
77. The on-site storm drain system shall be privately owned and maintained by the property management association and homeowner's association. (DS/PW-ET)

Flood Zone Requirements:

78. Portions of the project site is within the Federal Emergency Management Agency (FEMA) Flood Zone AE and those portions are subject to the following conditions:
- a. The lowest floor elevation of the proposed buildings shall be elevated to at least one foot above the base flood elevation (BFE).
  - b. Building support utility systems within the flood zone such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the BFE or protected from flood damage.
  - c. An Elevation Certificate (FEMA Form 086-0-33) for the proposed structures within the flood zone, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required for the built structure prior to issuance of any certificates of occupancy. (DS/PW-ET)

Utilities: Water

79. Modify Improvement Plans Sheet TM 5.5B to extend water main in court 3-1A and court 3-1B to loop on the side of the buildings 3-1.3 and 3-1.6. Modifications shall be shown on improvements plans prior to approval of improvement plans and issuance of building permits. (U-ES)

80. The development's water mains shall be public, owned and maintained by the City. If the water mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10-foot wide easement shall be granted to the City. (U-ES)
81. All water mains must be looped. Dead end water mains will not be allowed. Water mains must be connected to other water mains, via dedicated easements if necessary. (U-ES)
82. Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement. (U-ES)
83. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12-inch diameter or less) and Fire Hydrants," latest revision at the time of permit approval. (U-ES)
84. All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. This includes relocating existing services and water main tie-ins. The developer may only construct new services in conjunction with their construction of new water mains. (U-ES)
85. Existing water services, if any, that cannot be reused for the proposed development shall be abandoned by City Water Distribution Personnel at the developer's expense. (U-ES)
86. Each dwelling unit shall have an individual domestic water meter. Facilities fees for residential connections are based on the domestic demand for the home. A larger water meter may be installed if the service is combined with a private fire service. The developer is required to pay water facilities fees and installation charges for connections to water mains and work performed by City forces. (U-ES)
87. The initial single retail space shall have an individual master domestic water meter. Separate meters shall be installed if and when the retail space is subdivided into separate spaces. Facilities fee for non-residential connections are based on the water meter size required to meet the indoor demand for the operation. (U-ES)
88. 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 Standard Details SD-201 and SD-204. (U-ES)
89. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is one-inch. (U-ES)

90. Separate irrigation water meter(s) shall be installed for landscaping purposes. The size will be based on the gallon per minute demand of the irrigation system. (U-ES)
91. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each irrigation water meter, per City Standard 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. (U-ES)
92. All water meters shall be radio-read type. (U-ES)
93. 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. (U-ES)
94. The existing 6-inch water main along Valle Vista Avenue between Mission Boulevard and Dixon Street shall be replaced with a minimum 12-inch water main as shown on sheet TM 0.4. (U-ES)
95. The existing 6-inch water main along Dixon Street shall be replaced with a minimum 12-inch water main between Valle Vista Avenue and the entrance to PA-3 as shown on sheet TM 0.4. (U-ES)

Utilities: Sewer

96. 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-foot wide easement shall be granted to the City. (U-ES)
97. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12-inch Diameter or Less)," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline. (U-ES)



98. Each single-family residential dwelling unit shall have an individual sanitary sewer lateral. The sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312. (U-ES)
99. The applicant/developer shall install a grease control device to control fat, oil and grease discharge from any food service establishments. The type, size, and location of the device shall be approved by the Utilities & Environmental Services Department and shall be installed prior to occupancy of the commercial tenant space(s). (U-ES)
100. The developer is responsible for payment of sewer connection fees at the current rates at the time and application for water and sewer service is submitted.
  - a. Sewer connection fees for residential connections are charged on a flat fee per number of residential units.
  - b. Sewer connection fees for non-residential connections are calculated based on the volume (in gallons per day) and strength of the wastewater discharge (in measures of CBOD and SS). (U-ES)
101. The existing eight-inch sewer main along Valle Vista Avenue between Mission Boulevard and Dixon Street shall be replaced with a minimum 12-inch sewer main as shown on sheet TM 0.4. (U-ES)
102. The existing 10-inch sewer main along Dixon Street shall be replaced with a minimum 12-inch sewer main between Valle Vista Avenue and the entrance to PA-3 as shown on sheet TM 0.4. (U-ES)

Utilities: Solid Waste

103. Submit a Solid Waste Handling Plan as a sheet in the site plans as part of your building permit submittal. The Solid Waste Handling Plan shall be reviewed and approved by the Utilities & Environmental Services Department prior to issuance of building permits. The plan should include the following details:
  - a. How residential and commercial waste will be collected and conveyed from the individual units to the appropriate dedicated enclosure(s) for pickup; and
  - b. The waste collection vehicle access to each trash enclosure onsite; and
  - c. The weekly volumes of trash, recyclables, and organics generated for the residential and commercial portions of the project. (U-ES)
104. The building permit submittal shall provide details on any proposed commercial uses including but not limited to whether restaurants, retail, grocery stores, etc. are planned in the commercial spaces. If the proposed development does not have

confirmed commercial tenants (i.e. a speculative development), City staff reserves the right to require modifications to the enclosures constructed by the Applicant to include more enclosures and/or to revise the dimensions of the constructed enclosures as individual tenants submit their plans. (U-ES)

105. All trash enclosures must adhere to all the basic design guidelines provided in Section 3 of the City's Standard Design Requirements for Collection & Storage of Trash, Recyclables and Organics for Commercial (Business) and Multi-Family Projects. The building permit submittal shall include a detailed set of plans that show the design details of the enclosures, including the location of all bins and label each bin with the capacity (ex: three cubic yards, four cubic yards, etc.) as well as the type of waste (trash, recyclables, organics). (U-ES)
106. Ensure each residence has access to either a bin or cart into which they can separate food waste for composting. (U-ES)
107. A Construction and Demolition Debris Recycling Statement shall be submitted with building permit applications. The minimum debris recycling requirements are 100% for asphalt, concrete, and similar materials, and 65% of remaining debris. (U-ES)

Utilities: Other

108. All service to the development shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and local 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. (DS/PW-ET)
109. 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. (DS/PW-ET)
110. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the development. (DS/PW-ET)
111. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards. (DS/PW-ET)
112. The improvements associated with the Pacific Gas and Electric Company, AT&T (phone) company and local cable company shall be installed to the satisfaction of the respective companies. (DS/PW-ET)

Landscaping and Irrigation

## Model Homes:

113. Pursuant to HMC 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 as follows:
  - 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. (DS-L)
114. Inspections for Model Homes: Landscape inspection shall be required prior to issuance of Temporary Certificate of Occupancy (TCO), and a follow-up inspection shall be conducted prior to issuance of Certificate of Occupancy (C of O) 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 or mailed to the City's Landscape Architect prior to scheduling a request for an inspection from the City Landscape Architect. (DS-L)

## Landscaping Submittals:

115. The improvement plans shall be prepared by a licensed landscape architect on an accurately surveyed base plan. The plans shall comply with the City's water efficient landscape ordinance (California Building Code Title 23) and all relevant Municipal Codes. (DS-L)
116. No building permit shall be issued prior to approval of landscape and irrigation improvement plans for the tract in which the building is located. This does not apply to building permits for model buildings. Prior to issuance of the first building permit, detailed landscape and irrigation improvement plans shall be approved by the City. Mylar of the final, approved improvement plans shall be submitted to the City for approval signature. Copies of the final, approved and signed improvement plans shall be submitted as a part of the building permit submittal. (DS-L)
117. 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. 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. (DS-L)

118. Landscape Improvement Plans shall include landscape statement: "I have complied with the criteria of City of Hayward Bay-Friendly Water Efficient Landscape Ordinance and applied them for the efficient use of water in the landscape and irrigation design plan." (DS-L)
119. All plans shall be numbered consecutively. (DS-L)
120. All plans shall be legible. No plans shall sacrifice the readability for the sake of consolidating information one sheet. (DS-L)

Landscape Design and Layout:

121. The bio-retention areas south of Building 2-3.1 and the south of Lane 2-A are located adjacent to the walkway. Improvement plans shall include cross sections of these areas to ensure that there is not an elevation drop that would compromise pedestrian safety next to the walkway. Cross sections and pathway plans shall account for the fact that C.3 soil mix with high sand content shifts and settles more than standard planting soil. (DS-L)
122. Group open space shall be usable and cross slopes shall not exceed five percent (5%). The following areas do not meet that standards and cannot be utilized to meet group open space unless modified to meet the slope requirements:
  - a. The area between the public sidewalk and the parallel walkway to the east of Building 2-4.5, which has a slope of two to one (2:1);
  - b. The paseo between the parallel walkways between Building 2-3.5 and 2-3.4 and Building 2-3.3 and 2-3.2 have a slope of two to one (2:1), and does not meet the minimum cross slope allowance. (DS-L)
123. Pursuant to HMC Section 10-12.07, (2), (C), plant spacing shall not be closer the minimum spread provided in reference books to allow mature plant growth without subjecting plants to routine cutbacks and shearing. Reference plant books in the landscape ordinance and additional reference books of "Landscape Plants for California Gardens" by Robert Perry and "California Native Plants for the Garden" by Carol Bornstein, David Fross and Bart O'Brien shall be used, and the list of reference book shall be provided in the plant legend. (DS-L)
124. WUCOLS Edition IV published in 2014 shall be used for water use requirements. (DS-L)
125. *Platanus acerifolia* 'Columbia' shall be specified in place of 'Bloodgood'. Bloodgood variety is known to be resistant to anthracnose but Columbia variety is known to be resistant to both anthracnose and mildew. (DS-L)

126. *Rhus lancea* shall not be specified for having short life span, invasive root system and dying back internal branches as matures. (DS-L)
127. Artificial turf shall only be used for recreational purposes where traditional turf would have been specified. Artificial turf shall not be used as a paving type. (DS-L)
128. A tree inventory plan shall provide on the mitigation summary chart. The mitigation summary chart shall provide trees to be removed, value of trees to be removed, trees with assigned identification numbers in the arborists report, total value of mitigation, and proposed tree sizes and their value equaling the mitigation value. Tree mitigation shall be provided above and beyond providing required trees such as street trees, front yard trees, parking shade trees and screening trees. (DS-L)
129. 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. (DS-L)

Fire Department:

130. Area PA 2-3 is located within the City of Hayward Wildland/Urban Interface Area, and shall meet the construction requirements as stated in the City of Hayward Hillside Design and Urban/Wildland Interface Guidelines, which includes Class A roofing materials and exterior non-combustible siding materials (such as stucco), and double-pane windows. Wood shake or treated wood shake roofs is prohibited. The building construction shall comply with the requirements contained in the California Residential Code Section R327.
  - a. All decks shall comply with requirements of the Hayward Fire Department Urban Wildland Interface Deck Construction.
  - b. Construct fences with an open wire mesh or noncombustible material within ten feet of a structure to prevent fire from spreading to the structure.
  - c. Provide spark arrestors with one-fourth inch metal mesh screens on all chimneys. Homeowners should inspect spark arrestors every year to ensure mesh screen integrity.
  - d. Restrict outdoor storage of firewood, kindling, or compost material within 30 feet of any structure, unless the material is stored in an approved bin or enclosure.

- e. Chimneys shall be located a minimum of ten feet away from existing tree canopies.
  - f. Enclose all roof eaves with minimum required attic vents covered with metal mesh in accordance with Chapter 7A of California Building Code. The dimensions of mesh openings shall be a minimum one-sixteenth-inch and shall not exceed one-eighth-inch in size. (Fire)
- 131. Design of the public streets and private streets and courts shall meet all City of Hayward and California Fire Code Standards. (Fire)
  - 132. All public and private streets and private courts shall be designed with an all-weather surface pavement. (Fire)
  - 133. All public streets, private streets and private courts shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. This standard is also applicable to pavers or decorative concrete. (Fire)
  - 134. 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. (Fire)
  - 135. 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 two and one-half inch outlet and one four and one-half inch 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. (Fire)
  - 136. 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). (Fire)
  - 137. Buildings are required to install fire sprinkler systems in accordance with NFPA 13 for commercial retail buildings and 13/13D 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. (Fire)
  - 138. Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly. (Fire)

139. Underground fire service line serving NFPA 13D/13 sprinkler system shall be installed in accordance with NFPA 24 and the Hayward Public Work Department SD-216/204. Water meter shall be a minimum of one-inch in diameter for residential application or four-inch for a (NFPA 13) commercial grade system. (Fire)
140. 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. (Fire)
141. 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. (Fire)
142. 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). (Fire)
143. 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. (Fire)
144. CO detectors should be placed near the sleeping area on a wall about five feet above the floor. The detector may be placed on the ceiling. Each floor needs a separate detector. (Fire)
145. A minimum four-inch tall self-illuminated address shall be installed on the front of the dwelling in a location to be visible from the street. Otherwise, a minimum six-inch tall address shall be installed on a contrasting background and shall be in a location approved by the Fire Department. (Fire)
146. Fire Department Connection (FDC) – The Fire Department Connection shall be located on the street side of the building or in a location approved by the Fire Department. A sign shall be attached to the fire department connection with letters having a minimal 1-inch height and height and shall indicate the type of service for which the FDC is intended, (i.e., AUTOSPKR, STANDPIPE, etc.). (Fire)
147. Fire Alarm System Required. A manual fire alarm system shall be installed in a Group R-2 Occupancy when the building contains more than 16 dwelling units. System design and installation shall meet the CFC and NFPA 72 Standards as well as all ADA requirements. (Fire)
148. Standpipe system required. Per California Fire Code and City of Hayward Ordinance 905, buildings three stories or more in height shall have an approved standpipe system. (Fire)

#### Hazardous Materials

149. 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. (Haz Mat)
150. 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. (Fire)
151. 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. (Fire)
152. Use of Hazardous Materials or Generation of Hazardous Waste. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed. (Fire)

#### **DURING CONSTRUCTION**

153. 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. (DS/PW-ET)
154. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
  - a. In conformance with Section 4-1.03-4 of the City's Municipal Code, construction activities between 7:00 a.m. and 7:00 p.m. Monday through Saturday or between 10:00 a.m. and 6:00 p.m. on Sundays or holidays, unless other construction hours are permitted by the City Engineer or Chief Building Official, shall not include any individual equipment that produces a noise level exceeding 83 dB measured at 25 feet, nor shall activities produce a noise level outside the project property lines in excess of 86 dB. During all other hours, noise shall not exceed the limits defined in Municipal Code Section 4-1.03.1 (70 dB daytime or 60 dB nighttime, measured at residential property lines).
  - b. Grading and construction equipment shall be properly muffled;



- c. Unnecessary idling of grading and construction equipment is prohibited;
- d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
- e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. 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. (DS/PW-ET)
155. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer. (PW-ET)
156. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications. (DS)

157. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans. (DS-L)
158. 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. (DS/PW-ET)

**PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY & FINAL INSPECTION**

159. Lighting and Landscaping Assessment District: Prior to the issuance of the first certificate of occupancy for the development, the applicant shall form a benefit zone(s) to annex within the City's Landscape and Lighting Assessment District 96-1 (LLD) to provide funding for operations maintenance and servicing of amenities, facilities, landscaping, hardscape, and lighting improvements in public rights-of-way, public areas, and public parks as follows (all other areas not specifically listed below would be maintained by the HOA):
  - a. Public park as shown as Parcel P or designated as "PARK" on the Vesting Tentative Map adjacent to the Alameda County Flood Control Channel and between Mission Boulevard and Dixon Street.
  - b. Eight-foot-wide trail and necessary lighting and landscaping within Parcel 3-1 and a ten-foot-wide public access easement across lots and parcels as shown on the tentative map from Dixon Street to Industrial Parkway.
  - c. Public walkway feature across the Alameda Flood Control Channel and over Lots 2-1.1 and 2-1.2 on the Tentative Map.
160. Prior to the issuance of Certificate of Occupancy for a specific building, all landscape and irrigation adjacent to the specific building 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. (DS-L)
161. Children's playground equipment certification: Health and Safety Code in Chapter 4 titled "Safe Recreational Land Use (115725 – 115800)" calls for compliance with standard of ASTM and federal Consumer Protection and Safety Commission. Playground equipment is required an inspection by a certified playground safety inspector by the National Playground Safety Institute, and the certification letter

shall be submitted City Landscape Architect prior to the final inspection and issuance of Certificate of Occupancy. (DS-L)

162. Prior to final inspection and issuance of final certificates of occupancy, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Public Works Director and Development Services Director or his/her designees. (DS/PW-ET)
163. Prior to issuance of final certificates of occupancy or final building inspections, the developer shall submit "as built" plans indicating the following:
  - a. Approved landscape and irrigation improvements;
  - b. All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.;
  - c. All the site improvements, except landscaping species, buildings and appurtenant structures; and
  - d. Final Geotechnical Report. (PW-ET)
164. 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 final inspection, to ensure that the maintenance is bound to the property in perpetuity. (PW-ET).
165. As-built plans for all public improvements shall be prepared on Mylar (22-inch by 34-inch sheets) and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The 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 satisfaction and accepted by the City prior to issuance of any certificate of occupancy for the project. (PW-ET).

Property Management Company:

166. Prior to final inspections or issuance of final certificates of occupancy for the commercial and multi-family residential building(s), the owner shall provide evidence that a suitable property management firm has been selected, and a Property Management Plan (PMP) that specifics maintenance details, schedules and responsibilities, shall be submitted and approved by the Development Services Director. (DS)

167. The rent charged for a residential unit shall be unbundled from the cost of a parking space. The rents for units who choose not to purchase a parking space shall be reduced by an amount equal to that charged for a parking space.
168. The PMP shall include/address the following provisions:
- a. Description of how the stormwater best management practices associated with privately owned improvements and landscaping shall be maintained.
  - b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Property Management Company.
  - c. The Property Management Company shall maintain on-site storm drain systems on the PA MU site.
  - d. If the Property Management Company fails to maintain the common facilities, landscaping and irrigation in all common areas for which it is responsible so that tenants, guests, customers or adjacent owners will be impacted regarding the enjoyment, use or property value of the/their project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the property for the costs.
  - e. A requirement that the building exteriors and fences shall be maintained free of graffiti. The Property Management Company shall inspect the premises on a weekly basis and any graffiti shall be removed within 72 hours of inspection or within 72 hours of notification by the City.
  - f. The premises shall be kept clean and free of debris at all times.
  - g. Color change selections shall be compatible with the existing setting.
  - h. Balconies may not be used for storage and personal items may not be draped over the railings.
  - i. The residents shall not use parking spaces for the storage of recreational vehicles, camper shells, boats or trailers. These spaces shall be monitored by the property management firm, which shall remove vehicles parked contrary to this provision. The lease agreements of all tenants shall include language that gives the property management firm the authority to tow illegally-parked vehicles. (DS)
  - j. Landscaping shall be maintained by the Property Management Company and shall be 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 ten days of the inspection. Three-inch 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. (DS-L)

- k. All trees planted as a part of the development and as shown on the approved landscape plans shall be "Protected" and shall be subject to the City's 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 the City's Tree Preservation Ordinance within the timeframe established by the City and pursuant to the Municipal Code. (DS-L)
- l. Irrigation systems 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. (DS-L)

Homeowner's Association:

- 169. 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 Homeowner's Association (HOA) for the property, shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&Rs shall include the following provisions:
  - a. The HOA shall be managed and maintained by a professional property management company.
  - b. 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.
  - c. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association.
  - d. 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 **72 hours** of inspection or within **72 hours** of notification by the City.
  - e. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition.

- f. 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.
  - g. On-site streetlights and pedestrian lighting, not including those maintained by the LLD, shall be owned and maintained by the HOA and shall have a decorative design approved by the Planning Director and the City Engineer.
  - h. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
  - i. The garage for each unit shall be maintained for off-street parking for one or two vehicles, as designed, and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.
  - j. The residents shall not use parking spaces for storage of recreational vehicles, camper shells, boats or trailers. These parking spaces shall be monitored by the HOA. The HOA shall remove vehicles parked contrary to this provision. The CC&R's shall include authority for the HOA to tow illegally parked vehicles.
  - k. 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. (DS/PW-ET)
170. **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. (DS/PW-ET)
171. **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. (DS/PW-ET)

172. **Conceptual Multi-Phased Exhibit (Unit Release Plan):** Prior to issuance of certificates of occupancy for any unit within the project, an exhibit showing the proposed phased closures/openings during the course of construction and phased unit releases shall be submitted to the satisfaction of the City Engineer. Positive methods must be in place to separate adjacent construction activities from occupied units. All improvements, including punch list, must be complete prior to the occupancy of 80% of the dwelling units. (DS/PW-ET)
173. Prior to issuance of certificate of occupancy or final inspection, the developer shall pay the following additional fees/taxes, in accordance with existing regulations. The amounts of the fees/taxes shall be in accordance with the fee schedule or codes in effect at the time of building permit application submittal, unless otherwise indicated herein:
- a. Supplemental Building Construction and Improvement Tax;
  - b. School Impact Fee; and
  - c. Park In-Lieu Fee, as applicable. (DS)

Conditions Generated by Following Department Staffs:

DS: Development Services Department

DS-L: Development Services Department - Landscaping

PW-ET: Public Works – Engineering and Transportation Dept.

U-ES: Utilities and Environmental Services Department

Fire: Fire Department

Haz Mat: Hazardous Materials Division

Housing: Housing Division