



CITY OF
HAYWARD
HEART OF THE BAY

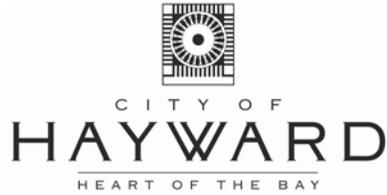
CITY COUNCIL AGENDA
NOVEMBER 15, 2011

MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE BARBARA HALLIDAY
COUNCIL MEMBER OLDEN HENSON
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER BILL QUIRK
COUNCIL MEMBER MARK SALINAS
COUNCIL MEMBER FRANCISCO ZERMEÑO

Table of Contents

Agenda	3
Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on October 25, 2011	
Draft Minutes	7
Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on November 1, 2011	
Draft Minutes	14
Filing Nuisance Abatement/Municipal Code Violations with the County Recorder’s Office for Non-Abatable Code Violations	
Staff Report	20
Attachment I	23
Resolution Authorizing the City Manager to Negotiate and Execute a Ground Lease with Avcon, Inc. for a Parcel of Land at the Hayward Executive Airport	
Staff Report	25
Attachment I Resolution.	27
Attachment II Location Map.	28
Revision of Resolution Authorizing the City Manager to Submit an Application for State Grant Funds Under the BEGIN Program to Finance the Development of an Affordable Homeownership Housing Project at the Corner of A and Walnut Streets	
Staff Report	29
Attachment I Resolution.	31
Approval of a Consulting Agreement and Appropriations for South Hayward BART Project Management, and Approval of Additional Appropriations for Project Legal Expenses	
Staff Report	33
Attachment I Contract Authority Resolution.	37
Attachment II Appropriations Resolution	38
Request to Change the Zoning from Medium Density Residential to Planned Development and to subdivide the Property to Construct 144 Single-Family Homes - Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176 – John Dutra of Dutra Enterprises (Applicant); Dutra, Christensen, Tilley (Owners) - The project is located on multiple parcels totaling 10.9 acres generally located between Eden Avenue and Saklan Road, north of Middle Lane in the Mt. Eden area	
Staff Report	39
Attachment I - Resolution	49
Attachment II - Ordinance.	54
Attachment III - Area Map.	56
Attachment IV - Conditions of Approval.	57
Attachment V - Initial Study and Mitigated Negative Declaration	80
Attachment VI - MMRP	105
Attachment VII - PC agenda report minus attachments.	111

Attachment VIII - PC Meeting Minutes	120
Attachment IX - Resolution of City's CFD policies	129
Attachment X - Plans	139
Countywide Transportation Plan/Transportation Expenditure Plan: City Recommendation to Steering Committee	
Staff Report	177
Attachment I Recommended Projects Location Map	184
Introduction of an Amendment to the Inclusionary Housing Interim Relief Ordinance Clarifying Certain Provisions and Authorizing the City Manager to Amend Certain Inclusionary Housing Agreements to Apply the Provisions of the Interim Relief Ordinance	
Staff Report	185
Attachment I CEQA Resolution	189
Attachment II Ordinance	191
Attachment III Redline Ordinance.	194



CITY COUNCIL MEETING FOR NOVEMBER 15, 2011
777 B STREET, HAYWARD CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 5:00 PM

1. PUBLIC COMMENTS

2. Public Employment

Pursuant to Government Code 54957

- Performance Evaluation
City Manager

3. Conference with Labor Negotiators

Pursuant to Government Code 54957.6

- Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager Morariu, Human Resources Director Robustelli, and Finance Director Vesely
Under Negotiation: All Bargaining Units

4. Adjourn to Special Joint City Council/Redevelopment Agency/Housing Authority Meeting

**SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT AGENCY/
HOUSING AUTHORITY MEETING**
Council Chambers - 7:00 PM

CALL TO ORDER Pledge of Allegiance Council Member Halliday

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATIONS

Certificate of Commendation Presented to Samuel and Lenore Cohen
Business Recognition Award Presented to Serpico Landscaping

PUBLIC COMMENTS: *(The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session, or Informational Staff Presentation items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.)*

ACTION ITEMS: *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

1. Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on October 25, 2011
[Draft Minutes](#)
2. Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on November 1, 2011
[Draft Minutes](#)
3. Filing Nuisance Abatement/Municipal Code Violations with the County Recorder's Office for Non-Abatable Code Violations
[Staff Report](#)
[Attachment I](#)
4. Resolution Authorizing the City Manager to Negotiate and Execute a Ground Lease with Avcon, Inc. for a Parcel of Land at the Hayward Executive Airport
[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Location Map](#)
5. Revision of Resolution Authorizing the City Manager to Submit an Application for State Grant Funds Under the BEGIN Program to Finance the Development of an Affordable Homeownership Housing Project at the Corner of A and Walnut Streets
[Staff Report](#)
[Attachment I Resolution](#)



6. Approval of a Consulting Agreement and Appropriations for South Hayward BART Project Management, and Approval of Additional Appropriations for Project Legal Expenses

[Staff Report](#)

[Attachment I Contract Authority Resolution](#)

[Attachment II Appropriations Resolution](#)

The following order of business applies to items considered as part of Public Hearings and Legislative Business:

- *Disclosures*
 - *Staff Presentation*
 - *City Council Questions*
 - *Public Input*
 - *Council Discussion and Action*
-

PUBLIC HEARING

7. Request to Change the Zoning from Medium Density Residential to Planned Development and to subdivide the Property to Construct 144 Single-Family Homes - Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176 – John Dutra of Dutra Enterprises (Applicant); Dutra, Christensen, Tilley (Owners) - The project is located on multiple parcels totaling 10.9 acres generally located between Eden Avenue and Saklan Road, north of Middle Lane in the Mt. Eden area

[Staff Report](#)

[Attachment I - Resolution](#)

[Attachment II - Ordinance](#)

[Attachment III - Area Map](#)

[Attachment IV - Conditions of Approval](#)

[Attachment V - Initial Study and Mitigated Negative Declaration](#)

[Attachment VI - MMRP](#)

[Attachment VII - PC agenda report minus attachments](#)

[Attachment VIII - PC Meeting Minutes](#)

[Attachment IX - Resolution of City's CFD policies](#)

[Attachment X - Plans](#)

LEGISLATIVE BUSINESS

8. Countywide Transportation Plan/Transportation Expenditure Plan: City Recommendation to Steering Committee

[Staff Report](#)

[Attachment I Recommended Projects Location Map](#)

9. Introduction of an Amendment to the Inclusionary Housing Interim Relief Ordinance Clarifying Certain Provisions and Authorizing the City Manager to Amend Certain Inclusionary Housing Agreements to Apply the Provisions of the Interim Relief Ordinance

[Staff Report](#)

[Attachment I CEQA Resolution](#)



[Attachment II Ordinance](#)
[Attachment III Redline Ordinance](#)

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items

ADJOURNMENT

NOVEMBER 22 AND 29, 2011 MEETINGS CANCELED
DUE TO FURLOUGH AND HOLIDAY

NEXT REGULAR MEETING – 7:00 PM, TUESDAY, DECEMBER 6, 2011

PUBLIC COMMENT RULES: *The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name and their address before speaking and are expected to honor the allotted time. A Speaker's Card must be completed by each speaker and is available from the City Clerk at the meeting.*

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. **PLEASE TAKE FURTHER NOTICE** that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

***Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ***

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

Please visit us on:



NOVEMBER 15, 2011



4



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 25, 2011, 7:00 p.m.**

The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor/Chair Zermeño.

ROLL CALL

Present: COUNCIL/RA/HA MEMBERS Zermeño, Quirk, Halliday, Peixoto,
Salinas, Henson
MAYOR/CHAIR Sweeney
Absent: None

PRESENTATION

Business Recognition Award – Marelich Mechanical

The business recognition award for October 2011 was presented to Marelich Mechanical. Marelick Mechanical began operations in 1932 and moved to Hayward in 1987. Marelich Mechanical's current facility is 105,000 square foot and generates over \$65 million in revenue and employs 225 employees. The award was given in recognition of the contributions this company has made by: locating and expanding their business operations in Hayward; providing livable wage job opportunities to local residents; and contributing to the vitality and economic well-being of the Hayward community. On behalf of Marelich Mechanical, Purchasing Director Pete DeMattos accepted the award and thanked Council for such recognition. He noted that Mr. Keith Atteberry, President and Chief Executive Officer, was not able to attend the meeting. Mr. DeMattos acknowledged the assistance provided by City Building Official Martinez and Fire Marshall Giel.

PUBLIC COMMENTS

Mr. Kim Huggett, Hayward Chamber of Commerce President, thanked everyone for their participation in the Hayward Restaurant Walk and commented that the event was a success. Mr. Huggett announced that Mariachi Fiesta Dos would be performing at City Hall Plaza in remembrance of Día De Los Muertos on Friday, October 28, 2011, and invited all to attend.

Mr. Jeff Houston, Second Street resident, stated that he recently moved to downtown Hayward because of its appeal as a walkable community. Mr. Houston indicated that he used AC Transit and BART on a daily basis and commended the efforts of the City in improving the downtown area.

WORK SESSION

1. Downtown Plan Update

Staff report submitted by Senior Planner Buizer, dated October 11, 2011, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Buizer who provided a synopsis of the report.

Council Member Zermeño stated that his vision for downtown Hayward included specialty shops, art galleries, entertainment centers, full-service restaurants, sports bars, a pedestrian friendly main street, a computerized visitor directory kiosk, and a unique attraction that drew visitors into the City. In an attempt to beautify the downtown area, he stated that the unappealing, chain-link fences needed to be replaced with decorative fences.

Council Member Halliday expressed that she wanted a mix of uses in the downtown including boutique retail. Ms. Halliday noted that to draw people into downtown it was essential to have good lighting, cleanliness, aesthetically pleasing buildings, adequate police presence, better enforcement of the City's Smoking Ordinance, and control of loitering and panhandling. She favored a pedestrian friendly and sustainable downtown. She also envisioned businesses that provide recreational activities, medical services, and art and entertainment uses such as a Performing Arts Center. Council Member Halliday pointed out that the biggest obstacle in transforming the downtown are the property owners who do not care about the appearance of their properties or about bringing their properties to current standards and, as a result, are a hindrance to the growth and further development of downtown.

Council Member Peixoto envisioned a downtown area with a mix of retail and entertainment uses. He suggested evaluating the elements that contribute to the success of existing businesses in downtown and make them thrive. Mr. Peixoto used Buffalo Bills as an example of a successful establishment because it appeals to families and all age groups, the food is sold at reasonable prices, and there is availability of alcoholic beverages. He added that another element making restaurants successful is entertainment. Council Member Peixoto added that detractors are absentee-landlord buildings and noted that Foothill Boulevard is the worst gateway for visitors because of unattractive buildings. He stressed that the City should take a more aggressive approach in dealing with absentee landlords. He stated that ensuring the safety of businesses and visitors in downtown was very important and an adequate level of police presence needed to be maintained.

Council Member Salinas indicated that his vision for downtown included food, entertainment, business, and retail. Mr. Salinas pointed out that there are excellent full-service restaurants throughout Hayward, but could not relocate or expand to the downtown because there were infrastructural drawbacks to the vacant buildings. He stated that for retail and service corridors, between Second Street and Main Street, the City needs to develop clear and aesthetical elements. Council Member Salinas stated that elements in downtown should also appeal to the student population from Cal State University East Bay and Chabot College and added that it would be a good idea to provide shuttle service to and from downtown. Council Member Salinas stated that although a strong police presence was important in the downtown, it should not be overbearing. He mentioned there was ample open space in the downtown area. Finally, he noted that it was important to have a proper execution of ideas and concepts.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 25, 2011, 7:00 p.m.**

Council Member Henson concurred with Council Member Salinas that the City should integrate Cal State University East Bay with the downtown area and focus on attracting residents that already live in close proximity to downtown. Council Member Henson envisioned a hotel situated in downtown and its guests helping support downtown businesses, and mentioned the eleven-story building and former Centennial Hall could be used for this purpose. Council Member Henson supported mixed uses such as entertainment and retail and noted retail stores should be open beyond 6:00 p.m. to encourage visitors in the evening. He also favored a downtown that would provide safe entertainment and suggested proprietors of entertainment venues could help with the costs associated with making the downtown a safe place. Council Member Henson noted that Bistro has thrived as a business in downtown for over thirty years and suggest that staff evaluate what it has been doing to be such a success. He added that the old bank building on Main Street would be ideal as a Performing Arts Theater. He envisioned a downtown that is futuristic but incorporates elements that have already been successful. Finally, he favored e-boards to showcase the retail in downtown.

Council Member Quirk stated that he enjoyed coming to downtown to visit the movie theater, restaurants, the library, museums, businesses, and the Hayward Arts Council. He highlighted that the nightlife at Club ME is an attraction that appeals to younger folks and suggested considering entertainment that appeals to older groups, such as jazz shows. He favored constructing a new library and designating the area currently occupied by the library as open space. Council Member Quirk concurred with Council Members about moving a Performing Arts Center to the downtown, closing off some streets to traffic, such as Main Street, and creating a pedestrian mall. He added that the old Mervyns building and the eleven-story building at the Civic Center Plaza could be utilized as offices buildings and that could also attract more clientele to downtown businesses. Council Member Quirk indicated that four years ago a study was conducted to identify retail uses that were missing in the downtown and suggested tracking those businesses. Council Member Quirk stated that the biggest obstacle to transforming downtown is getting people to come downtown.

Mayor Sweeney asked staff to provide Council with a timeline for the Strategic Growth Council's Sustainable Communities Grant and with alternatives should the funds not be available.

Mayor Sweeney underscored having a balanced approach and favored a safe, walkable, healthy place to live, work, and shop. He stated that he and his wife come to downtown to visit the local bookstore, the movie theater, and the restaurants. Mayor Sweeney envisioned a downtown with ample lighting and police presence. Additionally, he indicated that there was a need for open space in the downtown and showed support for constructing a linear park along the Hayward fault through the downtown area. He noted that deterrents to downtown included stand-alone bars, loitering, which is associated with nuisance, and vacant commercial properties. He agreed with Council Member Halliday that one way of dealing with this problem was to more aggressively enforce the Smoking Ordinance. He added that the approved loop project defeats the walkable concept and noted that dealing with Foothill Boulevard would be another challenge for the City. He commented that it would be difficult to develop a plan that would keep Foothill Boulevard

attractive, viable, and a place to do business. Mayor Sweeney noted that the problems associated with the Green Shutter Hotel also make people passing by uncomfortable.

CONSENT

2. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on October 11, 2011

It was moved by Council/RA/HA Member Henson, seconded by Council/RA/HA Member Zermeño, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of October 11, 2011.

3. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority/Public Finance Authority Meeting on October 18, 2011

It was moved by Council/RA/HA/PFA Member Henson, seconded by Council/RA/HA/PFA Member Zermeño, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority/Public Finance Authority Meeting of October 18, 2011.

4. Sale of Two City-Owned Properties and Grant of Conservation and Access Easements along Hayward Shorelines to East Bay Regional Parks District (EBRPD)

Staff report submitted by Deputy Director of Public Works Fakhrai, dated October 25, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 11-165, “Resolution Finding the Transactions Categorically Exempt from CEQA and Authorizing the City Manager to Negotiate and Execute a Purchase Agreement for the Sale of Two City-Owned Properties and the Grant of Conservation and Access Easements for Four City-Owned Properties Generally Located Along the Hayward Shoreline to East Bay Regional Parks District (EBRPD)”

5. Authorization for City Manager to Execute an Agreement for Professional Services with RMC Water and Environment to Conduct a Wastewater Discharge Local Limits Study

Staff report submitted by Deputy Director of Public Works Ameri, dated October 25, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 11-166, “Resolution Authorizing the City Manager to Execute an Agreement Between the City of Hayward and RMC



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 25, 2011, 7:00 p.m.**

Water and Environment for Professional Services to Conduct an Engineering Evaluation and Technical Analysis of City of Hayward Wastewater Discharge Standards and Limitations for Discharge to the Municipal Sanitary Sewer System in an Amount not to Exceed \$100,000”

Resolution 11-167, “Resolution Amending Resolution 11-094, as Amended, Budget Resolution for Capital Improvement Projects for Fiscal Year 2012, for an Appropriation of Funds From the Sewer Collection System Replacement Fund (Fund 614) to the Wastewater Discharge Local Limits Study Project”

6. Authorization for City Manager to Execute a Lease Purchase Financing Agreement for the Purchase of Police Vehicles

Staff report submitted by Deputy Director of Public Works Ameri, dated October 25, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 11-168, “A Resolution of the City Council of the City of Hayward, Authorizing the Execution and Delivery of an Equipment Lease-Purchase Agreement and an Escrow Agreement with Respect to the Acquisition, Purchase, Financing, and Leasing of Certain Equipment for the Public Benefit; Authorizing the Execution and Delivery of Documents Required in Connection Therewith; and Authorizing the Taking of All Other Actions Necessary to the Consummation of the Transactions Contemplated by this Resolution”

Resolution 11-169, “Resolution Authorizing an Increase of Total Appropriations Authority by \$37,922 for the Lease Purchase Financing of Eighteen Replacement Fleet Vehicles”

PUBLIC HEARING

7. Adoption of the Association of Bay Area Governments’ (ABAG’s) Multi-Jurisdictional-Local Hazard Mitigation Plan (“Taming Natural Disasters”) as the City of Hayward’s Local Hazard Mitigation Plan, and Approval of Amendments to the Conservation and Environmental Protection Element of the General Plan Associated with the City of Hayward’s Annex document to ABAG’s Plan (General Plan Amendment No. PL-2011-0301)

Staff report submitted by Associate Planner Camire, dated October 25, 2011, was filed.

Director of Development Services Rizk provided a synopsis of the report.

In response to Council Member Henson's question, Development Services Director Rizk stated the City of Hayward and the City of Dublin were the last two cities to participate in the Multi-Jurisdictional Local Hazard Mitigation Plan. Director Rizk indicated that the City would be able to revise the Plan prior to the next ABAG's update which was scheduled for 2015. Mr. Henson noted that one of the recommendations in the Plan was to involve more faith-based communities involved with the distribution of disaster preparedness materials. Council Member Henson asserted the need for a regional alert system.

In response to Council Member Zermeño's question, City Manager David stated that due to recent organizational changes, not all members of the Executive Team were aware of the City's Disaster Preparedness Plan, and she commented that she would like to bring a plan before the Council that would give staff the opportunity to conduct a thorough disaster preparedness exercise. Additionally, she indicated that each fire station in Hayward was fully equipped for disaster response, disaster maintenance, and disaster care. Council Member Zermeño shared that one of the Hayward Youth Commission's task was to focus on disaster preparedness and the Commissioners recommended that residents should own bicycle so that in the event of a disaster when cars are inoperable, the public would still have a means of transportation.

Council Member Halliday noted that she participated in a disaster drill. Ms. Halliday emphasized that not only was important to maintain interoperable communications between government agencies and emergency responders, but it would also be important for government agencies to be able to communicate with citizens. City Manager David commented that the City owns software that would allow the City to contact the community and added that the City was also developing a robust email system and Twitter account to communicate with the public. Council Member Halliday added that, should technology be inoperable, the old fashion civil defense system and the use of community volunteers may be needed. She added it was crucial for the City to work with neighborhood groups, schools, churches, mobile home communities, and other organizations to identify safe locations for people to congregate after a disaster and to ensure that enough members of the public are aware of where they can go in order to access emergency supplies.

There being no public comments Mayor Sweeney opened and closed the public hearing at 8:28 p.m.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried unanimously, to adopt the following:

Resolution 11-170, "Resolution Adopting the Association of Bay Area Governments' 2010 Multi-Jurisdictional Local Hazard Mitigation Plan Entitled "Taming Natural Disasters," Including the City of Hayward's Annex Thereto, as the City's Local Hazard Mitigation Plan and Approving a Related General Plan Amendment (PL-2011-0301)"



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 25, 2011, 7:00 p.m.**

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño said he was contacted by a person who had a restaurant proposal for the neighborhood retail center where the new Costco is located and asked staff to relay the information to Legacy Partners. Mr. Zermeño also asked staff, and Council concurred, to address chain-link lots as part of the forthcoming amendments to the Community Preservation Ordinance.

Council Member Salinas acknowledged the successful clean-up and graffiti removal event in downtown on October 22, 2011, and commended the work of the Keep Hayward Clean and Green Task Force. He also announced that, as part of the last summer concert series, Mariachi Mexicanisimo was going to perform at the City Hall Plaza on October 28, 2011.

Mayor Sweeney commended the phenomenal job done by the Keep Hayward Clean and Green Task Force in partnership with California State University East Bay Hayward. He noted that over 300 volunteers participated.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 8:33 p.m., in memory of Lillian Martin, a 63 year resident of Hayward and active member of the community. Ms. Martin is survived by her sons Lawrence, Ralph, Jim, and Paul. Mayor Sweeney noted that donations could be made in her memory to Hayward Rotary Foundation and the Prevent Blindness charity. Mayor Sweeney asked staff to work with the family in finding an appropriate location to plant a tree in her memory.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency/Housing Authority

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Housing Authority



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 1, 2011, 7:00 p.m.**

The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HA Member Quirk.

ROLL CALL

Present: COUNCIL/RA/HA MEMBERS Zermeño, Quirk, Halliday, Peixoto,
Salinas, Henson
MAYOR/CHAIR Sweeney
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson noted that Council met with Labor Negotiators pursuant to Government Code 54957.6 regarding all bargaining units. There was no reportable action.

PUBLIC COMMENTS

Ms. Gloria Ortega, Redevelopment Project Manager, announced the upcoming annual Santa Paws Parade scheduled for Saturday, December 3, 2011. She shared a video of last year's Santa Paws Parade.

Ms. Silvia Brandon-Pérez, Hardeman Street resident, announced that the South Hayward Parish was hosting its annual fundraiser on Thursday, November 3, 2011 at the West Minister Hills Outreach Center. She stated that the proceeds collected from the fundraiser would help provide meals for Hayward residents.

Mr. Jim Drake, Franklin Avenue resident, expressed concern about the tearing down of the dam and restoring the Hetch Hetchy water system and he asked why the City was participating in its reconstruction. Public Works Director Bauman responded that there was no indication that the dam would be torn down and the City continues to obtain water from the San Francisco Public Utilities Commission's Hetch Hetchy system and contributes towards the cost of repair of the system.

Ms. Kelly Greenne, Library Commission Chair, expressed her opposition to the requirement for the City Council's appointed members of the Boards, Commissions, Committees, and Task Force to complete the ethics and harassment prevention trainings. Ms. Greenne requested that commissioners, who were not informed of this requirement prior to their appointment, be grandfathered in. Mayor Sweeney asked that the City Attorney provide information to the Council about this requirement as it pertains to Council's appointed members.

CONSENT

1. Resignation of Flo Samuels from the Community Services Commission

Staff report submitted by City Clerk Lens, dated November 1, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Peixoto, and carried unanimously, to adopt the following:

Resolution 11-171, “Resolution Accepting the Written Resignation of Flo Samuels from the Community Services Commission”

2. Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System (CalPERS) for Calendar Year 2012 pursuant to California Government Code 22892 of the Public Employees Medical and Hospital Care Act

Staff report submitted by Human Resources Director Robustelli, dated November 1, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Peixoto, and carried unanimously, to adopt the following:

Resolution 11-172, “Resolution Authorizing Minimum Employer Contribution Toward Medical Cost as Set by California Public Employee Retirement System for Calendar Year 2012”

LEGISLATIVE BUSINESS

3. Execution of the East Bay Regional Communications System Authority (EBRCSA) Project Operating Agreement and Update on Federal Communications Commission Narrow Banding Initiative

Staff report submitted by Fire Chief Bueno, Police Chief Urban, Technology Services Director Priest, and Finance Director Vesely, dated November 1, 2011, was filed.

City Manager David provided a synopsis of the report.

Council Member Quirk stated that he and Council Member Henson serve on the Council Technology Application Committee (CTAC) and they were advocates of East Bay Regional Communications System (EBRCS) system. In response to Council Member’s Quirk inquiry about the experience that Fire personnel has had with the system, Deputy Fire Chief Contreras stated that initially there had been skepticism about the digital radio technology but after thorough testing, staff was satisfied with the performance of the system.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 1, 2011, 7:00 p.m.**

Council Member Peixoto asked staff if the concern about the lack of limitation on the bond issuance authority of the Joint Powers Agreement (JPA) was still present. City Manager David noted that the City could contain its current debt responsibility to \$6 million; however, she mentioned that the EBRCSA Board had the authority to issue new debt. EBRCSA Executive Director Bill McCammon stated that the JPA Board had the authority to incur additional debt in the future; however, he noted that this would require a 2/3 vote of the JPA Board. Mr. McCammon added that based upon the technology being used to create the EBRCS system, he did not anticipate any large financing of the program in the future.

Council Member Halliday asked staff if the City was going to meet the Federal Communications Commission (FCC) narrowbanding mandate by January 1, 2013. Police Chief Urban stated that the Police Department had narrowband equipment, but it would become obsolete in the next few years, and therefore, the City would need to pursue a phased-in participation approach. City Manager David stated that the equipment used by Public Works and Maintenance Services departments was not utilized on a daily basis, but would be replaced over the next few years as funding becomes available. Fire Chief Bueno added that the EBRCS met the needs of the Fire Department and also provided for interoperability among agencies.

In response to Council Member Halliday's question about comparable costs of utilizing alternative systems and/or equipment, City Manager David responded that had not been explored, but added that there would still be on-going costs associated with operating and maintaining an alternate radio system. Furthermore, Council Member Halliday asked if the EBRCS was doing the necessary power upgrades at the Garin Water Tank and Walpert Ridge sites and was willing to pay its proportionate share of utility costs. Mr. McCammon noted that EBRCS had completed the electrical upgrades to the Walpert Ridge tower and was working on the power upgrades at the Garin Water Tank site and would meet with the City to develop a utility payment agreement.

Council Member Zermeño commented that, in the past, there was negative criticism of Motorola equipment being used for this project. City Manager David noted that the concerns regarding Motorola had been addressed and that the City would be utilizing a Motorola based system for this project.

In response to Council Member Zermeño's inquiry, City Manager David noted that Hayward was the only EBRCSA member that had not signed the agreement. Ms. David added that the cities of Piedmont and Oakland were not member agencies of the JPA and noted that the EBRCS system could function without their involvement, but their lack of participation would leave the system less robust. Ms. David clarified for Mr. Zermeño that the radio units would be allocated based upon the number of squad cars or fire apparatus. Technology Services Director Priest assured Council Member Zermeño that his department would work with the Purchasing Division to ensure obsolete radios were disposed in a green manner.

Council Member Henson commented that full interoperability is a must and not an option for the City and noted that as a member of the EBRCSA Board representing the City and the Alameda County Conference of Mayors, he was pleased to see the proposed system move forward. At the request of Council Member Henson, Mr. McCammon discussed the one-time, recurring, and implementation costs associated with the EBRCS, as presented in the report. Mr. McCammon also provided an overview of the EBRCSA Site Matrix.

Council Member Salinas asked staff about the feasibility of securing grants to finance the system and purchase additional radios. City Manager David was optimistic about that possibility because regional interoperability was a high national priority. In response to Council Member Salinas' inquiry as to how the system could be linked to public safety agencies at the state level, Mr. McCammon noted that Fire agencies throughout the state maintain two systems and added that this project opens the door for interoperability among local, state, and federal agencies. As to the reason why the City of Oakland did not join the EBRCSA, Mr. McCammon explained that Oakland decided not to participate in 2004 and that might have been because Oakland was continuing to build out its own system. He commented that with the EBRCS system, Oakland's public safety units would be able to operate in the EBRCS system in mutual aid situations in which a member agency is involved.

Mayor Sweeney opened the public hearing at 8:05 p.m.

Mr. Jim Drake, Franklin Avenue resident, expressed concern over the length of the contract that the City would have with Motorola and how much it would cost if the City continued to maintain Motorola as the sole provider of the radio equipment. Mr. Drake asked staff if other vendors were also considered to operate the system.

Mayor Sweeney closed the public hearing at 8:07 p.m.

In response to Mr. Drake's concerns, City Manager David stated that the City was not entering into a contract with Motorola, but a contract with the regional interoperability organization. She added that the EBRCS system was currently supported by Motorola equipment.

Council Member Henson offered a motion per staff recommendation and Council Member Quirk seconded the motion.

Council Member Henson thanked City staff and Mr. McCammon for their work on this project. Mr. Henson was confident that the cost of the project would be reduced and he believed there was potential for grants from President Obama's Broadband Initiative, which would give priority to interoperability programs for public safety agencies. Council Member Henson emphasized that he would continue serving as the voice of the City on the EBRCSA Board and he would continue to apprise the Council and the Council Technology Application Committee with additional information as it became available.

Council Member Quirk addressed the concern about member agencies incurring additional debt. He reiterated that for member agencies to have additional debt placed on them, it would require a 2/3 vote of the EBRCSA Board. Council Member Quirk pointed out that it was crucial for the City to



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 1, 2011, 7:00 p.m.**

be interoperable and did not think the estimated cost of \$200,000 to \$300,000 per year was substantial compared to the City's budget. He stated that a significant amount of the implementation of the system was being covered by the EBRCSA group as a whole. He added that there were many advantages to member agencies for being a part of this group.

Council Member Salinas stated support for the proposal, albeit with caution since his primary concern was the City may not have the opportunity to voice its concerns regarding any future debt; however, he was glad that Council Member Henson was a member of the Board and would relay any City concerns to the Board.

Mayor Sweeney recommended that staff report back to the Council regarding any EBRCSA Board discussions about raising the City's debt. Council Member Henson and Council Member Quirk were agreeable to the suggestion on the floor.

Council Member Halliday stated that she opposed the proposal when it was first presented in 2007 due to concerns over the costs of implementation; however, she stated that since then, the cost of the EBRCS system had been considerably reduced and was glad that the City was pursuing interoperability and cooperation among public safety officials throughout the region.

Council Member Zermeño stated that the funding of this project was of concern, but the safety of the public and personnel outweighed the cost.

Mayor Sweeney thanked Council Members Henson, Quirk, and Salinas for their involvement with the project and City Manager David thanked City staff and Executive Director McCammon for all their efforts with the EBRCS project.

It was moved by Council Member Henson, seconded by Council Member Quirk, and carried unanimously, to adopt the following with direction to staff to report back to Council regarding any EBRCSA Board discussion about raising the City's debt.

Resolution 11-173, "Resolution Authorizing the City Manager to Negotiate and Execute an Operating Agreement with the East Bay Regional Communications System Authority (EBRCSA) for Public Radio Communication Services"

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño acknowledged that November 1st marked the Latin tradition of the Day of the Dead.

Council Member Salinas mentioned he met with Interim President of California State University East Bay, Dr. Morishita, to join efforts and work with the City as it relates to the City's priorities.

Mr. Salinas also expressed interest to Dr. Morishita for reactivating an economic summit.

Council Member Halliday commended the Hayward-Funabashi Sister City Committee and City staff for helping organize the 25th Anniversary of the Funabashi-Hayward Sister City Celebration and for hosting the Funabashi delegation. Ms. Halliday also announced the Downtown Hayward Plan Update workshop on November 5, 2011, at City Hall.

Council Member Henson announced that the Hayward Unified School District has a new Superintendent, Dr. Donald Evans, and noted he looked forward to both agencies joining efforts to address the City's priorities. On behalf of the National Council of Negro Women (NCNW), he thanked Mayor Sweeney for the Proclamation on their 27th Bay Area Conference and relayed the East Oakland-Hayward Chapter of NCNW would like to work with the City to address issues related to obesity, early childhood development, and student performance.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 8:27 p.m., in memory of Juanita Pinto, a resident of Hayward for over 30 years who lost her battle to cancer. She worked in the Police, Fire, and Landscape departments as a Senior Secretary. She was an active member of the Native Daughters of the Golden West. Mayor Sweeney asked staff to work with the family and find a suitable place to plant a tree in her memory.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency/Housing Authority

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Housing Authority

DATE: November 15, 2011

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Filing Nuisance Abatement/Municipal Code Violations with the County Recorder's Office for Non-Abatable Code Violations

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) confirming the report, non-abatable code violations, and penalty liens associated with the Community Preservation Program.

BACKGROUND

The purpose of the Nuisance Abatement/Municipal Code confirmation is to consider the proposed report and filings of liens with the County Recorder's Office as a third collection tool for the Community Preservation Program. The Resolution will officially confirm the properties in violation and will be filed with the County.

Article 7, Chapter 5 of the Hayward Municipal Code (HMC), otherwise known as the Community Preservation and Improvement Ordinance, currently makes it unlawful for Hayward property owners to allow the condition of their property to deteriorate to the point that it becomes detrimental to the public health, safety, or general welfare of the community. This includes both inhabited properties and vacant properties, whether residential or commercial. Typical violations include debris, trash, vegetation, graffiti, signs, zoning issues, abandoned and/or inoperable vehicles, and the like.

“Public Nuisance” is defined in the Ordinance, as are the procedures for enforcing the provisions of the law. The Ordinance provides due process protections that guarantee the property owners who are cited for violations of the Ordinance notice and the opportunity to be heard.

Staff has identified a need for an alternative method of enforcement and collections for non-abatable violations of the Municipal Code including, but not limited to, fence height(s) and/or locations, required setback(s), illegal structures, businesses operating without an approved Use Permit (if applicable) or failing to comply with the Conditions of Approval of an approved use permit, parking violations, and illegal units. A condition on property is considered non-abatable where City staff cannot perform the abatement and the property owner fails to comply with the City's notices. Non-abatable violations have substantial financial impact to the City.

The lien process is one of several available enforcement and collection tools. Others include seeking injunctions against the property/business owner and/or revocations of the approved Use

Permits and Site Development Review through the City Attorney’s Office and Planning Department.

This additional enforcement process does not affect or change the Administrative Hearing Request process, nor the Special Assessment Process. However, this Nuisance Abatement/Municipal Code Violations lien process is an additional means of enforcement when dealing with non-abatable code violations. Authority for this process is granted under the Community Preservation and Improvement Ordinance and Government Code Section 38773.1.

DISCUSSION

As of the date of this report, there are two (2) properties being submitted to Council for the filing of a Nuisance Abatement/Municipal Code Violations lien as listed below. The unpaid charges, plus any administrative costs of the County, will become a lien of the property title. When the properties are sold or refinanced, the lien will be paid through escrow.

<u>Address</u>	<u>Violation</u>	<u>Lien Amounts</u>
1. 159 El Dorado Avenue	HMC 10-1.245(a) Minimum Design and Performance Standards: Mobile Home being used as habitable space, mobile home not permitted on Residential Zoned property.	\$1,686.00
2. 1575 D Street	HMC 10-1.245 a. (1) through (10) Minimum Design and Performance Standards: Unpermitted structure used as habitable space. HMC 10-1.180 Violations of Zoning Ordinance: Operating a Group Home without an approved Use Permit.	\$1,686.00

Staff sends three letters to the property owner in question and/or, if applicable, to the tenants. The first two letters, sent at intervals, inform the recipient of the right to an Administrative Hearing to dispute factual findings. Letters are sent by proof of service mail. After a minimum of ten (10) days after the second letter, a third letter is delivered by way of a process server. The third letter details all related costs and/or fees and informs the affected parties of the opportunity to request an Administrative Hearing. The letter also encourages them to make the needed correction(s) to bring their properties into compliance. To date, no requests for Administrative Hearing have been requested on either property. A confirmed copy of the Nuisance Abatement/Municipal Code Violations form will be sent to the owner, tenant, and lender once received from the County Recorder’s Office.

FISCAL IMPACT

There is no negative fiscal impact to the City of Hayward resulting from this action. There will be 100% cost recovery reimbursement through the lien process. In order to change ownership of a property, a lien must be satisfied. If the property is sold or the owner refinances, the City will receive 100% reimbursement through escrow. All reimbursed funds are allocated to the General Fund.

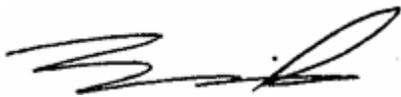
PUBLIC CONTACT

Notice of City Council's confirmation of this report was published in the Daily Review on November 5, 2011.

Prepared by: Stacey Sorensen, Neighborhood Partnership Manager

Recommended by: Kelly McAadoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachment:

Attachment I Resolution confirming the Lien Report

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member

RESOLUTION CONFIRMING THE REPORT AND NON-
ABATABLE CODE VIOLATIONS AND PENALTIES LIEN
LIST ASSOCIATED WITH THE COMMUNITY
PRESERVATION PROGRAM

WHEREAS, in connection with the Community Preservation Program, the Neighborhood Partnership Manager has rendered an itemized report in writing to this Council showing the Community Preservation and Zoning Ordinance non-abatable code violations and related fines, fees, penalties and lien costs for certain properties in the City of Hayward described in the report; and

WHEREAS, the hour of 7 p.m. on Tuesday, November 15, 2011, in the Council Chambers, City Hall, 777 B Street, Hayward, California, was fixed as the time and place for this Council to receive and consider the report, and a copy of the report has been posted and published in the manner required by section 5-7.110 of the Municipal Code; and

WHEREAS, the report was presented at the time and place fixed, and the City Council has considered the report and all comments with respect thereto.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward confirms, except as may be amended by Council, the report of the Neighborhood Partnership Manager of the City of Hayward Community Preservation Program on costs and non-abatable ordinance violations from the properties therein described.

BE IT FURTHER RESOLVED that payments of all fines, fees, penalties and lien costs confirmed hereby may be received by the City of Hayward Finance Director within 10 days from the date of this resolution and thereafter such official shall transmit the unpaid charges to the County Recorder's Office for a Nuisance Abatement Lien on said property(s) listed in report.

IN COUNCIL, HAYWARD, CALIFORNIA November 15, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

MAYOR:

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

DATE: November 15, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Resolution Authorizing the City Manager to Negotiate and Execute a Ground Lease with Avcon, Inc. for a Parcel of Land at the Hayward Executive Airport

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) authorizing the City Manager to negotiate and execute a Ground Lease with Avcon, Inc. for a parcel of land at Hayward Executive Airport.

BACKGROUND

Plot B, Segment VI is a parcel of land at Hayward Executive Airport that occupies approximately 29,850 square feet of area (see Attachment II). Improvements on this site include an enclosed hangar of approximately 7,350 square feet and a paved apron. The lease of the former tenant, Walter Imbrulia, expired on May 31, 2011 in the normal course of business. The tenant vacated the premises on July 1, 2011, after the City granted an extension of time to complete necessary repairs and site clean-up work. The City advertised a Request for Proposals (RFP) to lease the space on August 22, 2011. Five companies responded to the RFP by the September 23, 2011 deadline, and Avcon, Inc. was selected as the most responsive and responsible candidate. Negotiation and execution of a ground lease will allow Avcon, Inc. to occupy this currently vacant site.

DISCUSSION

The hangar and other improvements on the site were originally constructed in 1959. In keeping with the standard of the day at general aviation airports, the hangar was conceived as a fairly rudimentary structure with sheet metal walls, a manually-operated hangar door and “pole-barn” design. Although the hangar remains in serviceable condition today and there is continued demand for aircraft storage space at Hayward Executive, it was not clear at the time the RFP was issued whether there would be a strong market for this particular hangar, in view of the prolonged economic downturn and the hangar’s age. For that reason, staff determined that the initial lease term would be five years.

Five companies responded to the RFP, including: APP Jet Center; Avcon, Inc.; Five Rivers Aviation; SP Aviation; and Suburban Air Corporation. All of these organizations currently operate from other facilities at Hayward Executive Airport.

Based on the selection criteria outlined in the RFP, staff determined that all of the responding organizations have the financial capability to sustain operations. Although all of the respondents had relevant aviation experience, staff determined that Avcon, Inc. had the most extensive aviation experience and it received the highest score in this category. The final selection criterion in the RFP was revenue to the City; the minimum acceptable bid of \$0.30 per square foot of ground area is the present standard ground lease rate charged on other leases at the Airport. Avcon, Inc. provided the highest bid of between \$2.25 and \$2.45 per square foot over the five-year lease period. This is approximately 700% over the minimum bid requirement. It is proposed that the lease would start on December 1, 2011.

ECONOMIC IMPACT

The overall economic impact of this ground lease to the City will be relatively modest. However, Avcon, Inc. has indicated it requires this hangar space to store additional aircraft, presumably resulting in increased fuel sales and the consumption of other services from commercial tenants at the Airport. This may ultimately result in additional employment opportunities.

FISCAL IMPACT

Over the five-year lease period, the City Airport Fund will receive between \$67,162 and \$73,132 annually from Avcon, Inc. This is an increase in annual revenue of over \$60,000, in comparison to the revenue received from the previous long-term tenant. This appears to underscore the increased value of a ground lease that also includes a useable hanger at the Airport, especially compared to a lease originally executed prior to 1960.

PUBLIC CONTACT

Staff advertised the RFP in accordance with normal and customary procedures. The *Hayward Daily Review* newspaper published the Notice for two continuous weeks, and the RFP document was posted for over 30 days on the both Public Works and Hayward Executive Airport webpages. In addition, staff held a pre-proposal conference on September 6, 2011. Interested parties submitted inquiries, and the Airport Manager provided responses up to the RFP deadline of September 23, 2011.

Prepared by: Douglas McNeeley, Airport Manager

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution

Attachment II: Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A GROUND LEASE WITH AVCON, INC.

WHEREAS, the City of Hayward (“City”) owns and operates the Hayward Executive Airport; and

WHEREAS, the City wishes to lease certain property at the Airport known as Plot B, Segment VI; and

WHEREAS, the City issued a Request for Proposals to publically advertise the property for lease; and

WHEREAS, five organizations responded to the Request for Proposals, and after evaluation of the proposals, Avcon, Inc. was determined to be the most responsive and responsible proponent;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is authorized to negotiate and execute a ground lease with Avcon, Inc. in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

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



LOCATION MAP

DATE: November 15, 2011

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Revision of Resolution Authorizing the City Manager to Submit an Application for State Grant Funds Under the BEGIN Program to Finance the Development of an Affordable Homeownership Housing Project at the Corner of A and Walnut Streets

RECOMMENDATION

That the City Council adopts the attached resolution revising Resolution No. 11-143 adopted on July 26, 2011 authorizing the City Manager to submit an application and any related documents to the State Department of Housing and Community Development ("HCD") for funding under the Building Equity and Growth in Neighborhoods ("BEGIN") Program.

BACKGROUND

On July 26, 2011, Council approved Resolution No. 11-143 authorizing the City Manager to submit an application to the State Department of Housing and Community Development ("HCD") for funding under the Building Equity and Growth in Neighborhoods ("BEGIN") Program.¹ If the application is successful, the BEGIN funding would be used to fund a portion of the construction of ten single-family affordable for-sale homes on a City-owned .7 acre parcel of land located at 123-197 A Street (the "Property"). In order to develop the Property, the City has partnered with Habitat for Humanity East Bay ("Habitat"). The Property was acquired in June of 2009 by the Redevelopment Agency of the City of Hayward ("Agency") utilizing Low and Moderate Income Housing ("Low-Mod") funds; therefore, the rules and regulations pertaining to the use of Low-Mod funds, namely use of the funds for housing opportunities benefitting low and moderate income households, will apply to its development.

DISCUSSION

As explained to Council on July 26, at the time of Habitat's submission of the project proposal to the City, HCD had declared a freeze of all its funding. However, a few weeks prior to Council's August recess, HCD announced that it would soon issue a Notice of Funding Availability (NOFA) for the BEGIN Program. In anticipation of the release of the NOFA and in light of the August

¹ The staff report regarding this approval can be found at:
<http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca072611full.pdf>

legislative recess, on July 26, staff requested Council's approval of the resolution with an approximate date based on updates from State staff regarding the release of the NOFA.

Unfortunately, HCD did not actually release the NOFA until September 23, 2011. Since HCD will not accept a resolution that predates the NOFA release, the resolution adopted on July 26 needs to "updated" and adopted by Council again to reflect a date following the NOFA release. All the language in the resolution remains the same. There has not been any material change in Habitat's project proposal since the July 26 Council action.

ECONOMIC IMPACT

This project will help to further the City's goal of achieving a higher homeownership rate while benefitting families that would normally not be able to afford a single family home.

FISCAL IMPACT

There is no immediate fiscal impact to the City with the adoption of a revised resolution authorizing the submittal of a BEGIN Program grant application. The only change to the attached resolution will be the revised adoption date.

PUBLIC CONTACT

Council is not taking a new action with respect to the Property or Habitat's proposal. Therefore, no public contact is necessary at this time.

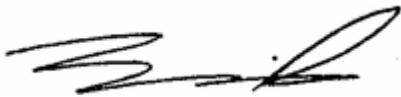
SCHEDULE (or NEXT STEPS)

Staff will continue to update Council on the project on an as-needed basis.

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachment I Revised Resolution Authorizing the City Manager to Submit a BEGIN Grant Application

CITY COUNCIL OF THE CITY OF HAYWARD

RESOLUTION NO. 11 - _____

RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE BEGIN PROGRAM TO FINANCE THE DEVELOPMENT OF A LOW AND VERY LOW INCOME HOMEOWNERSHIP HOUSING PROJECT AT THE CORNER OF A AND WALNUT STREETS

WHEREAS, the City of Hayward, a municipal corporation of the State of California, wishes to apply for and receive an allocation of funds through the State Department of Housing and Community Development (HCD) Building Equity and Growth in Neighborhoods (BEGIN) Program; and.

WHEREAS, HCD has issued a Notice of Funding Availability (“NOFA”) for the BEGIN Program established by Chapter 14.5, Sections 50860 through 50866 of Part 2 of Division 31 of the Health and Safety Code (the “Statute”). Pursuant to the Statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature to the BEGIN program, subject to the terms and conditions of the Statute and the BEGIN Program Guidelines adopted, as amended by HCD on April 21, 2009; and

WHEREAS, the City of Hayward, in response to the BEGIN NOFA issued September 23, 2011, wishes to submit an application to obtain from HCD an allocation of BEGIN Program funds in the amount of \$465,000; and

WHEREAS, if the application for funding is approved, the City of Hayward hereby agrees to use the BEGIN Program funds for development of ten (10) duplex style townhome affordable homeownership units (the "Development") on a City-owned property located at 123-197 "A" Street in the City of Hayward; and

WHEREAS, if the application for funding is approved, the City of Hayward hereby agrees to use the BEGIN Program funds for eligible activities as approved by HCD and in accordance with the BEGIN Program Guidelines; and

WHEREAS, if the City is awarded BEGIN funding pursuant to its application, the City Council desires to have the City Manager execute and cause the implementation of the Standard HCD Agreement for such funds and any amendments and addenda thereto (collectively, the “Standard Agreement”) and such other documents as may be necessary to implement the City’s BEGIN Program (“Other BEGIN Documents”), all in a manner that is consistent with the BEGIN Program Guidelines; and

WHEREAS, after review of the staff report, and the attachments thereto, accompanying this resolution, the City Council desires to adopt the staff recommendation to authorize

the City Manager to submit a BEGIN Program funding application.

NOW, THEREFORE, BE IT RESOLVED by the City Council that:

1. The City Council finds that the above recitals are accurate.

2. The City Council hereby authorizes the City Manager to submit and execute on behalf of the City of Hayward, the BEGIN Program funding application, and, if funding is awarded, the Standard Agreement and any amendments and addenda thereto, and Other BEGIN Documents, all in a manner that is consistent with the BEGIN Program Guidelines.

3. The City Council hereby authorizes and directs the City Manager and her designees to take such steps as are reasonable and necessary to perform the City's obligations under the Standard Agreement and Other BEGIN Documents in a manner that is consistent with the BEGIN Program Guidelines.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

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

DATE: November 15, 2011

TO: Mayor and City Council
Authority Board Chair and Members

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Approval of a Consulting Agreement and Appropriations for South Hayward BART Project Management, and Approval of Additional Appropriations for Project Legal Expenses

RECOMMENDATION

That Council adopts the attached resolutions:

1. Authorizing the City Manager to negotiate and execute a consulting agreement with John DeClercq for project management services related to the South Hayward BART Transit Oriented Development Project; and
2. Appropriating an additional \$270,000 to the project budget from the Housing Authority Capital Fund in order to fund project management and legal expenses related to the project.

BACKGROUND AND DISCUSSION

In 2009, the South Hayward TOD Project was awarded \$47 million of Proposition 1-C Bond "Round II" Infill Infrastructure Grant and Transit Oriented Development Housing Program Funds (the "HCD Funds"). The \$47 million was intended to finance a BART Parking Garage, and certain other infrastructure and affordable housing costs of the TOD Project. As originally proposed to HCD, the TOD Project would commence with a BART Parking Garage and included a significant housing and retail component. It was originally contemplated that the Redevelopment Agency (hereinafter the "Agency") would provide up to \$19.8 million to the TOD Project, including up to \$7.1 million in Low and Moderate Income Housing Funds for the affordable housing included in the TOD Project and up to \$12.7 million for infrastructure and site improvements.

In January 2011, the Developers re-phased the TOD Project and advised that the new "Phase 1" would include 151 affordable units (64 senior units and 87 family units) (the "Phase 1 Affordable Housing Development") and 203 market-rate rental units (the "Phase 1 Market Rate Housing Development"). A work session with Council was held on March 8, 2011 to explain the reasons for the re-phasing, after which, and in connection with the re-phasing, the Development Services

Director approved a minor modification to the approved Preliminary Development Plan on June 8, 2011.

Because of the re-phasing, HCD is required to recalculate the amount of the HCD Funds award. HCD has indicated, based upon the proposed number and type of units, that it will provide \$31.3 million for the TOD Project, consisting of \$16.2 million in Infill Infrastructure Grant Funds ("HCD IIG Funds") and \$15.1 million of Transit Oriented Development Housing Funds ("HCD TOD Funds"). As design of the development is not yet final, it is possible that the Developers may increase the number of units in the Project, in which case, the total IIG funds that might become available would increase to \$18 million, bringing the total possible HCD funds to \$33.1 million. The HCD IIG Funds will pay for a portion of the impact fees, site work and the parking garages serving the Phase 1 Affordable Housing Development and the Phase 1 Market Rate Housing Development. The HCD TOD Funds are permanent financing to support the Phase 1 Affordable Housing Development.

The Housing Authority and City also recently approved (at the June 14, 2011 meeting) approximately \$6 million in funding for the Phase 1 Affordable Housing Development, the majority of which would come from the Housing Authority. On July 26, 2011, the City Council took action to approve a series of items that would allow Phase I of the development to proceed. This included approval of the terms of an Owner Participation Agreement, authorization for the City Manager to sign the State HCD grant documents, approval of a Joint Powers Authority (JPA) with BART, and modification of several project conditions of approval.

Since July 26, staff has proceeded with implementation of the project, including preparation of the required documents, initiation of the BART JPA, and review of plans submitted by the developers. In November of 2009, the City entered into an initial consulting agreement with John DeClercq to serve as a project manager for the South Hayward BART project. This consulting agreement expired on July 31, 2011 and was originally funded through the Redevelopment Agency. After evaluating a comprehensive project schedule and required actions to move the project to construction, staff recommends initiating a new consulting agreement between the Housing Authority and Mr. DeClercq for project management services. Since most of the City's funding for the project is now coming from the Housing Authority, creating a new consulting agreement and funding it under the Housing Authority is the recommended course of action.

The scope of work for Mr. DeClercq's services will include the day-to-day, operational management of the project, coordination of the staff and legal teams, maintaining an overall project schedule and keeping the project moving forward, and assisting in the preparation and review of required project documents. Given vacancies in the Redevelopment Agency, there is not the internal staff capacity to effectively manage this project moving forward given the current project timelines.

In addition to the action of approving a new consulting agreement with Mr. DeClercq, staff is also requesting additional funding for the City's outside counsel, Goldfarb & Lipman, in order to continue their work on the project. The Redevelopment Agency and Housing Authority set aside an annual budget for outside legal counsel. However, the scope and magnitude of the work required by this project will far exceed the annual budgeted amount. As such, staff is requesting a specific appropriation from Housing Authority funds to cover anticipated legal expenses over the next year until the project begins construction (anticipated in October 2012).

ECONOMIC IMPACT

The successful development of the TOD Project will have an immense positive economic impact on south Hayward. The commencement of the housing construction in this area should spur the development of the area. Proposed nearby projects would likely re-commence their planning, leading to construction. The development of housing in the area should lead to stronger interest from retailers, and thereby, planning and construction of retail centers. Initial development under Phase 1 of the Project would also have a positive economic impact by creating approximately 500 immediate high-quality construction, design and engineering services jobs through the three-year development cycle and new housing in the area. The TOD Project will increase BART ridership and decrease vehicle miles traveled and thus will help reduce greenhouse gas emissions associated with vehicles, which is in line with the goals in the City's Climate Action Plan. Total Phase I Project costs are estimated to be more than \$100 million, exclusive of land costs.

FISCAL IMPACT

The anticipated monthly cost of Mr. DeClercq's consulting agreement is between \$9,000-\$12,000 and will be billed on an hourly basis. The initial time period for the consulting agreement will be November 15, 2011 through December 31, 2012. This will enable Mr. DeClercq to provide project management services through the start of project construction, at which point staff will reevaluate the need for additional work. Staff recommends a not to exceed amount of \$170,000, which covers the high end of the anticipated monthly cost and allows for a modest contingency amount.

Based on an estimate provided by the City's outside counsel, staff is requesting an additional appropriation of \$100,000 to the South Hayward capital project to cover anticipated legal expenses through October 2012 (anticipated start of construction).

There is currently approximately \$300,000 in unallocated fund balance in the Housing Authority Capital Fund that staff recommends utilizing towards these expenses. The total appropriations requested for these two expenses is \$270,000.

NEXT STEPS

Following Council and Authority Board approval at this meeting, staff will finalize a consulting agreement with John DeClercq and will take the necessary actions to appropriate the funding authorized.

Prepared and Recommended by: Kelly McAdoo Morariu, Assistant City Manager/Interim
Redevelopment Agency Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution Authorizing Execution of Consulting Agreement for Project Management Services
- Attachment II: Resolution Appropriating Funds for South Hayward BART Project Management and Legal Expenses

HAYWARD HOUSING AUTHORITY

RESOLUTION NO. HA11-__

Introduced by Authority Board Member _____

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE A CONSULTING AGREEMENT WITH JOHN DECLERCQ FOR PROJECT MANAGEMENT SERVICES ASSOCIATED WITH THE SOUTH HAYWARD BART TRANSIT ORIENTED DEVELOPMENT PROJECT

BE IT RESOLVED by the Housing Authority Board of the City of Hayward that the Executive Director is hereby authorized and directed to negotiate and execute a consulting agreement with John DeClercq for project management services associated with the South Hayward BART Transit Oriented Development Project, in an amount not to exceed \$170,000 in a form to be approved by Authority Counsel.

HAYWARD, CALIFORNIA, November 15, 2011.

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:

CHAIR:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ATTEST: _____

Secretary of the Housing Authority of the City of Hayward

APPROVED AS TO FORM:

General Counsel

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-__

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 11-094, BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2012, FOR AN APPROPRIATION OF FUNDS FROM THE HOUSING AUTHORITY CAPITAL FUND (FUND 242) TO THE SOUTH HAYWARD BART PROJECT NO. 5076

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 11-094, Budget Resolution for Capital Projects for Fiscal Year 2012, is hereby amended by approving an additional appropriation of \$270,000 from the Housing Authority Capital Fund (Fund 242) to the South Hayward BART Project, Project No. 5076.

IN COUNCIL, HAYWARD, CALIFORNIA, November 15, 2011.

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

DATE: November 15, 2011

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Request to Change the Zoning from Medium Density Residential to Planned Development and to subdivide the Property to Construct 144 Single-Family Homes - Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176 – John Dutra of Dutra Enterprises (Applicant); Dutra, Christensen, Tilley (Owners) - The project is located on multiple parcels totaling 10.9 acres generally located between Eden Avenue and Saklan Road, north of Middle Lane in the Mt. Eden area

RECOMMENDATION

That the City Council approves the attached resolution (Attachment I) adopting the Mitigated Negative Declaration (MND) (Attachment V) and the Mitigation Monitoring and Reporting Program (Attachment VI) and approving the Vesting Tentative Tract Map Application for the proposed 144 single-family homes, subject to the recommended conditions of approval (Attachment IV); and introduces the attached ordinance (Attachment II) related to the zone change to a Planned Development District.

SUMMARY

This proposal for a mix of seventy-nine detached and sixty-five attached units from Dutra Enterprises, Inc., located between Eden Avenue and Saklan Road in the Mt. Eden neighborhood, is supported by the Planning Commission and staff because the proposed density, 13.2 dwelling units per acre, is consistent with General Plan density. Although the project proponent seeks a Planned Development District designation related to a reduction in number of parking spaces per unit, reduced lot size and reduced yard setbacks, the project is well-designed and is consistent with the general development pattern in the neighborhood. The project incorporates private and group open spaces to serve the future owners of these homes. Lastly, the project proposes to exceed the requirements of the City’s Green Building Ordinance.

BACKGROUND

The project site is located within an area annexed to the City of Hayward effective March 2007. This particular project is located north of the KB Home project (Eden Pointe), that was reviewed by the Planning Commission and ultimately approved by the City Council in March 2006 and is now fully built. The area's infrastructure improvements have since been implemented as well.

October 20, 2011 Planning Commission Hearing: The Planning Commission considered this proposal at the October 20, 2011 meeting. As reflected in the attached meeting minutes (Attachment IX), the Commission voted 7:0 to recommend that the City Council approve the project. The Commission was very supportive of the proposed project recognizing the efforts of the applicant to incorporate a variety of housing types, the provision of both private and group open space areas, incorporation of universal design features, enhancing the neighborhood with attractive home designs, and creating a truly walkable neighborhood. The Commission was pleased to see the applicant was proposing to exceed green building standards and encouraged the future developer to partner with a solar or cool roof company when the homes are constructed.

There was some discussion by the Commission regarding creation of a residential preferential parking district should parking become an issue. The Commission requested that staff explore the idea of requiring said district in the future much like is being sought in the South Hayward BART area. Should this be a concern of the Council, staff can prepare such a condition for consideration, although it should be noted that other areas where such parking districts exist in the City involve potential parking by non-residents (e.g., Chabot College, County office complex, etc).

DISCUSSION

Project Description: The project requires a Zone Change from Medium Density Residential District to Planned Development District, and a Vesting Tentative Tract Map to subdivide the property in order to construct seventy-nine detached and sixty-five attached single family homes. The project site is approximately 10.9 acres and the resulting density is 13.2 dwelling units per acre, consistent with the Medium Density General Plan designation for the property, which allows up to 17.4 dwelling units per acre. The project site is bounded by Eden Avenue, Saklan Road, and Middle Lane. The project site is located within an existing single-family residential neighborhood that includes a mix of one-, two-, and three-story single-family homes. The project site is comprised of about thirteen different parcels that are primarily vacant, with five parcels developed with single family residences and other structures.

The proposed units are accessed off Saklan Road, Eden Avenue, and three new proposed private streets that will provide access to units via private drive courts. All proposed units have a two-car garage. Most units have garages that are accessed via the private courts. Thirty-one of the proposed units have private driveways with direct access off the private streets. Staff recommends Condition of Approval 12.f. requiring the use of decorative pavers for these driveways to reduce the amount of impervious asphalt driveway surfaces and improve the appearance of the driveways to these homes. The thirty one units that have private driveways will also accommodate two cars within the driveways. All other guest parking, totaling ninety-one parking spaces, will be available on the surrounding public and private streets.

The Zoning Ordinance requires single-family homes to provide two covered parking spaces per unit. In addition, if a lot abuts a public or private street that does not have a parking lane, then an additional two parking spaces shall be provided. Seventy-six units abut private streets or courts that are not wide enough to allow parking and as such, an additional 152 parking spaces would be required. Based on these standards, this proposed development would require a total of 440 parking spaces, 288 as covered spaces within garages and 152 open parking spaces. Between the covered garage parking and the spaces within driveways, the project will be providing 350 parking spaces, which is ninety less than the required number of spaces. Other small-lot, single-family communities that have been approved in the recent past have provided an average of three parking spaces per unit, which is consistent with this proposal. In summary, the project design meets the Code requirements for covered parking spaces, but shows 90 fewer on-site uncovered parking spaces than is required for single-family home developments. However, there is available parking on the public and private streets surrounding the development that can accommodate an additional 91 vehicles.

The front entries for the units are oriented toward the surrounding streets or common paseos, with each unit shown with a private side or rear yard. The project includes seven different plans ranging in size from 1,366 square feet to 2,350 square feet with Plans 1-4 offering three bedrooms, and Plans 5-7 offering three bedrooms plus an office, which can be converted to a fourth bedroom. The newly constructed attached and detached units constructed by KB Home just south in this neighborhood are comparable in size to the proposed units. All proposed units are two-story and are similar to the architectural style used by KB Home, though some of the units in the KB Home development to the south are three stories. Of the sixty-five attached units, seventeen buildings will be in a triplex configuration, while seven buildings will be in a duplex configuration. All plans include ground-floor living space, including kitchen and a powder room, and second-floor bedrooms. Plans 5-7, amounting to approximately one-third of the proposed units, include options for ground-floor bedrooms with full bathrooms.

Inclusionary Housing Ordinance: In January 2011, the City Council adopted an Ordinance providing interim relief from the Inclusionary Housing Ordinance effective until December 31, 2012. The Relief Ordinance allows a developer to pay an inclusionary housing in-lieu fee “by right” without special approval, rather than providing the units on-site. In this particular case, the applicants have indicated they will pay the in-lieu fee as allowed for in the Relief Ordinance. A development of seventy-nine attached and sixty-five detached units is required to have thirteen affordable units under the Inclusionary Housing Interim Relief Ordinance. The in-lieu fee cost is \$80,000 per affordable unit for a total of \$1,040,000.

Rezoning to Planned Development District: The proposal involves a modification of the current zoning designation from Medium Density Residential District to Planned Development District. Under the current zoning designation, the project would not be feasible without modifications to some of the development standards. The purpose of the Planned Development District is to encourage development through efficient and attractive space utilization that might not otherwise be achieved through strict application of the development standards.

The Medium Density Residential zoning district requires a 5,000 square foot minimum lot size, which, like the Single-Family Residential zoning district, does not recognize the trend of

developments not only in Hayward, but throughout the region and nation that entail single-family homes with private yard space on smaller lots. At one time, staff was developing standards for such “hybrid” home configurations to be incorporated into the zoning ordinance, but did not complete the project as it was dropped from the list of Council priorities.

The development proposes smaller lots than the minimum size required under the Medium Density Residential zoning district. Proposed lot sizes range from 1,400 square feet to 4,350 square feet with the average lot size of 2,252 square feet. The triplex and duplex units are located on the smallest of the lots with an average lot size of 1,666 sq. ft., while the detached units are located on the largest lots with an average lot size of 2,735 sq. ft. The overall proposed density is, however, consistent with the existing Medium Density Residential General Plan designation.

The Zoning Ordinance requires a twenty-foot front yard setback, five-foot side yard setbacks and twenty-foot rear yard setbacks for single family detached units. No building setbacks are required on townhouse lots except for those buildings on the perimeter, which shall follow the setback for single family detached units. The plans for the proposed units show varied setbacks from those established by the Medium Density Residential zoning regulations. The side yard setback varies, but in no case is less than four feet. The front yard setback also varies, but is typically ten feet for the units along the common paseos and in no case less than seven feet for those units fronting the private streets. Rear yard setbacks vary, but in no case are less than 3.5 feet for those units with rear loaded garages.

Multi-family developments of four or more dwelling units within the Medium Density Residential District are also required to provide a combination of private and group open space. No open space for single-family homes is required, given such open space would be provided within single-family lots that meet established setbacks. Such multi-family developments must provide a minimum of 350 square feet of useable open space for each dwelling unit, with at least 100 square feet per unit being utilized for group open space. Private open space may not include required front or street side yards, exceed a three percent slope, be less than 100 square feet in area, or have a dimension less than ten feet. Group open space must be centrally located to all residents, cannot have a greater than five percent slope and not be less than 400 square feet in area.

A multi-family development of 144 dwelling units would be required to provide 50,400 square feet of open space, of which at least 14,400 square feet would be required to be designated for group open space. The total amount of private and group open space being provided is 59,337 square feet, of which 19,703 square feet is being designated for group open space. The development proposes two group open space areas. The smaller of the two spaces, located on the corner of Saklan Road and Private Street “A”, is proposed as a passive space largely to preserve an existing tree. The larger of the two spaces, centrally located within the development along Private Street “B”, is proposed with a tot lot, turf, and picnic areas. In addition, the project site is less than a quarter-mile from Greenwood Park, which will be expanded and remodeled in the near future.

For multi-family developments, private open space for each unit is not required. However, each unit in this project would include a private side or rear yard area. The private open space areas range in size from 100 square feet up to 1,750 square feet. Fifty of the 144 units provide 250 square feet of private open space. An additional 43 units provide a minimum of 200 square feet of private

open space. In summary, the development is providing the amount of open space required by the Zoning Ordinance if these were considered multi-family units

To offset the relaxation of applicable development standards including parking, minimum lot size and yard setbacks, the project applicant is proposing to exceed other City standards. The City's Green Building Ordinance requires new homes to meet a minimum of fifty points on the GreenPoint Rated checklist. Condition of Approval 132 requires each unit in this proposal to achieve a minimum of seventy-five points on the GreenPoint Rated checklist for each home.

In addition, California Building Code requires a percentage of units within a residential development to have accessible and adaptable units. Accessible units are those where the public or common-use areas can be approached, entered and used by persons with disabilities. Adaptable units are those units that are designed with elements and spaces allowing units to be adapted or adjusted to accommodate the user. The Code standard is approximately ten percent of the units located in buildings with three or more units. Based on the configuration of the proposed floor plans, almost thirty percent of the units have the ability to be converted to accessible units and an additional fifteen percent have the ability to be adaptable, which will exceed this standard.

Lastly, the Zoning Ordinance allows homes to be constructed as tall as forty feet. The proposed two-story units have a maximum height of just under thirty feet, so that they would be more compatible with surrounding development.

Findings for the Zone Change/Preliminary Development Plan: In order for a Planned Development District to be approved, the City Council must make four findings. Staff's responses to those findings follow and are incorporated in the attached ordinance.

- (1) The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.

The project is consistent with the existing General Plan designation and policies related to providing a variety of housing types. The combination of attached and detached two-story single-family homes proposed on this site is similar in density to those homes built just to the south as part of the KB Home development and consistent with the overall development pattern in the area. The exteriors of the homes are consistent with the design of the other homes in the neighborhood, including the most recent development by KB Home. The additional units proposed with this project help to fulfill housing goals reflected in the Housing Element, which specifically indicated the Mt. Eden neighborhood as one of four neighborhoods suitable for additional housing. In addition, the project minimizes impervious surfaces and runoff by utilizing available parking spaces along the public and private streets.

- (2) Streets and utilities, existing or proposed, are adequate to serve the development.

As part of the Mt. Eden Annexation Phase 1, a funding mechanism was established to address the infrastructure conditions in the neighborhood. With this funding mechanism in place, the streets and utilities have been upgraded to accommodate growth in this area. The

proposed project is an in-fill development site surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.

- (3) The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

The project applicant has proposed a development achieving an integration of density and livability. The site design maintains the continuity of the existing street design established by the adjacent KB Home development. The useable open space, with the proposed tot lot and community park areas, includes identified pedestrian connectivity to allow for better circulation within the development and provides access to surrounding amenities such as Greenwood Park, shopping, and public transit, which aides in the sustainability of the development over time. Lastly, the home designs offer a wide and flexible range of livability and lifestyles by integrating universal design features in many of the units.

- (4) Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

The project is consistent with the General Plan and Mt. Eden Neighborhood Plan in that the development is consistent with the allowable density established in the General Plan, as well as policies regarding provision of a variety of housing choices and for townhouse developments to provide play areas for children. The applicant is seeking a Planned Development designation to provide flexibility in the site layout of the units.

To off-set the flexibility the applicant desires, the project proposes to exceed the standards required under the Green Building Ordinance. The applicant has proposed and the project has been conditioned to achieve a minimum seventy-five point GreenPoint rating where the minimum required by the ordinance is fifty points. In addition, California Building Code requires that grouped housing, such as this project, would be required to have ten percent of the units be able to be converted to accessible units. Based on the configuration of the proposed floor plans, almost thirty percent of the units have the ability to be converted to accessible units. Lastly, the Zoning Ordinance allows homes to be constructed as tall as forty feet. The proposed two-story units have a maximum height of just under thirty feet, so that they would be more compatible with surrounding development.

Vesting Tentative Tract Map 8086: A vesting tentative tract map is being processed with this proposal to create individual parcels of land for each residential unit. If the vesting tentative map is approved, a final map will be processed and recorded, allowing each unit to be sold separately. The developer is proposing a vesting tentative map so that the developer gains, for a period of three years after the date of approval or conditional approval of the vesting tentative map, the right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect on the date on which the developer's application for a vesting

tentative is deemed complete. The date that the vesting tentative map application was deemed complete was September 2, 2011.

The proposed subdivision creates one-hundred sixty-three parcels for seventy-nine detached, sixty-five attached single family homes, two common parks, a planter strip along the north side, easterly end of Street 'A' for future roadway widening, and fifteen parcels for three private streets and thirteen private courts. All private streets and private courts shall have a minimum twenty-four-foot wide travel lane, and will be constructed to the same standards as a public street. The proposed travel lane is adequate for circulation and meets the Fire Department accessibility requirements. The private streets are to be designated as fire lanes and no parking will be allowed except in the designated parking areas along two private streets that have a curb-to-curb width of twenty-eight feet for parking on one side, and thirty-six feet for parking on both sides of the street. Fire lane signage will be installed on private streets and curbs will be painted red as directed by the Fire Chief and City Engineer. Full frontage improvements, including curb, gutter, and sidewalk, have been installed with recent street improvements along Saklan Road, Middle Lane, and Eden Avenue. As a recommended condition, any damage to these public street improvements during construction will be repaired, and the full width of these surrounding streets with project frontage shall be slurry sealed prior to the issuance of final construction report for tract acceptance.

The existing utilities in the project vicinity, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within the public utility easement and connected to existing utilities in the surrounding streets. On-site storm drainage will be connected to existing systems in the surrounding streets. Sanitary sewer and water mains will be publicly owned and maintained by the City. However, the proposed on-site storm drain system and clean-water treatment facilities/improvements required for such projects will be privately owned and maintained by the Homeowners' Association. Any overhead utility lines as well as any new utility lines will be required to be placed underground as part of the development improvements.

The formation of a Homeowners' Association (HOA) and the creation of Conditions, Covenants, and Restrictions (CC&R's) will be required so that the HOA will be responsible for maintaining all private streets, private courts, private street lights, private utilities, and other privately owned common areas and facilities on the site, including, but not limited to, two parks, clean-water treatment facilities, landscaping, preservation and replacement of trees, as well as decorative paving. The cost of any necessary repairs not performed by the HOA and required to be performed by the City under the on-site decorative paved areas, including the replacement cost of the paving, shall be borne by the HOA. The common area landscaping includes all areas except the private yards. The CC&R's will also contain a standard condition that if the homeowners' association fails to maintain the common areas, private streets, lights, and utilities, the City of Hayward will have the right to enter the subdivision and perform the necessary work to maintain these areas and lien the properties for their proportionate share of the costs.

Findings for the Vesting Tentative Tract Map: In order for a Vesting Tentative Tract Map to be approved, the City Council must make the following findings, as recommended by staff:

- (1) The approval of Vesting Tentative Map Tract 8086, as conditioned, will have no

significant impact on the environment, cumulative or otherwise. A Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.

- (2) The tentative tract map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Plan, and the City of Hayward Zoning Ordinance.
- (3) Upon the completion of remediation recommended by the project Geotechnical Engineer, the site is physically suitable for the proposed type of development.
- (4) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (5) The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
- (6) Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project.
- (7) None of the findings set forth in Section 66474 of the Subdivision Map Act for denial of a tentative map have been made.

ENVIRONMENTAL REVIEW

This proposal is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. Staff has prepared a Mitigated Negative Declaration and Initial Study (Attachment V), which indicates there will be no significant environmental impacts resulting from the project provided the mitigation measures, including implementing tree protection and tree replacement, performing a design level geotechnical analysis, and following all recommendations in the preliminary geotechnical assessment, are incorporated into the project. The environmental document was made available for public review from October 8, 2011 through October 27, 2011. No comments were received.

ECONOMIC AND FISCAL IMPACT

The development is within the County Redevelopment Project Area. The City of Hayward receives tax increment pass through payments from the County, and these will increase over time as the Redevelopment Area reaches its sunset date. In addition, the applicant is required to pay \$1,684,962 in park in-lieu fees (\$11,953 per detached unit and \$11,395 per attached unit) and School Impact fees of \$2.97 per square foot prior to issuance of Certificates of Occupancy. The applicant will also be paying \$1,040,000 in in-lieu fees (\$80,000 per unit) for the thirteen inclusionary housing units that would normally be required to be built at the site. The future Home Owners Association will also be responsible for maintaining all private streets and courts within the development as well as the stormwater treatment facilities and improvements.

The project will also have impacts on city services such as Police, Fire, and Public services. The project is located within Benefit District 411-06 and as such, each additional unit beyond the existing units must pay a Benefit District Fee in the amount of \$10,008 plus a \$300 administration cost per additional unit, which covers the off-site area wide infrastructure improvements

Related to City services, such as police and fire services, an analysis will be required to be performed to determine whether the proposed development will generate demands for service that would exceed the level of service currently provided in the Project area. In accordance with the City's adopted goals and policies for community facilities districts and special tax districts (see Attachment IX), the project proponent shall file a petition agreeing to the formation of a community services district for the project area, provided an analysis to be paid by the developer and approved by the City indicates adequate public services required for the development would not be provided with existing or projected resources. Staff recommends a new condition of approval be included, as reflected with new Condition No. 100 in Attachment IV.

PUBLIC CONTACT

When the application was first received, notice was sent to all property owners within a 300-foot radius of the project site indicating the City had received an application for development on this site and informing the public of a preliminary meeting that would be held to provide an opportunity to review and comment on the project. This meeting was held on June 30, 2011. Two neighborhood residents attended this meeting and expressed their support for the proposed project. They liked the design of the homes and were pleased that the proposal included two-story single-family attached and detached homes. In addition, a notice of this public hearing was published in *The Daily Review* newspaper and sent to all property owners within a 300-foot radius.

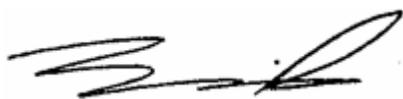
NEXT STEPS

Assuming the City Council approves the project, the applicant will need to submit a Precise Development Plan and Improvement Plans for review and approval by various City departments. Once the City approves the Precise Development Plan and Improvement Plans, the applicant will work with City staff to obtain City Council approval of a final map to ultimately allow for issuance of construction permits and construction of the project.

Prepared by: Sara Buizer, AICP, Senior Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution
Attachment II	Ordinance
Attachment III	Area Map
Attachment IV	Recommended Conditions of Approval
Attachment V	Initial Study and Mitigated Negative Declaration
Attachment VI	Mitigation Monitoring and Reporting Program
Attachment VII	Planning Commission Staff Report minus attachments
Attachment VIII	Planning Commission Meeting Minutes
Attachment IX	Resolution 09-049
Attachment X	Plans

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE MITIGATED NEGATIVE
DECLARATION AND THE MITIGATION MONITORING AND REPORTING
PROGRAM AND APPROVING VESTING TENTATIVE TRACT MAP
APPLICATION PL-2011-0176 AND ZONE CHANGE APPLICATION
PL-2011-0175 PERTAINING TO A PROPOSED 144-UNIT
SINGLE-FAMILY RESIDENTIAL COMMUNITY IN THE MT. EDEN AREA

WHEREAS, on July 22, 2011, Dutra Enterprises, Inc. (Applicant) submitted Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176, which involves a request to a) change the zoning from Medium Density Residential to Planned Development and b) to subdivide the various properties located between Eden Avenue and Saklan Road, north of Middle Lane to facilitate construction of seventy-nine detached and sixty-five attached single-family housing units (the “Project”); and

WHEREAS, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been prepared to assess and mitigate the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on October 20, 2011, and has unanimously recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; approve PL-2011-175ZC, reclassifying the property from Medium Density Residential to Planned Development; and approve PL-2011-0176TTM, the vesting tentative map application for the 144-unit single-family residential community; and

WHEREAS, notice of a public hearing was published in the manner required by law and the hearing was duly held by the City Council on November 15, 2011.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental

Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.

2. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare do not affect area views. Also, compliance with the City's Design Guidelines will ensure visual impacts are minimized. Landscape plans will also be required to ensure that structures are appropriately screened.
3. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland.
4. The project will not result in significant impacts related to changes in air quality. When the property is developed the City will require the developer to submit a construction Best Management Practice (BMP) program prior to the issuance of any grading or building permit.
5. The project, proposed on properties surrounded by other residential development and within an urbanized area, will not result in significant impacts to biological resources. Any trees removed are required to be replaced as per the City's Tree Preservation ordinance.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The project will not result in significant impacts to geology and soils. The project is located west of the Hayward fault, which poses potential risk to any development in the city of Hayward. Recommendations of the project geotechnical engineer will be required to be incorporated into project design and implemented throughout construction, to address such items as seismic shaking. Construction will also be required to comply with the California Building Code standards to minimize seismic risk due to ground shaking.
8. The project will not lead to the exposure of people to hazardous materials.
9. The project will be required to meet all water quality standards as part of the normal development review and construction process, to be addressed in a Stormwater Pollution Prevention Plan and Erosion Control Plan that utilize best management practices. Drainage improvements will be required to accommodate stormwater runoff, so as not to negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.
10. The project proposes amendments to the Hayward zoning designation for the site, but is still consistent with the overall density supported by the Hayward General Plan. In

addition, the project will be required to be consistent with the City of Hayward's Design Guidelines.

11. The project will not result in any long-term noise impacts. Construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of the future building permits for the homes.
12. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan.
13. The project will not result in a significant impact to public services in that development is at least as intensive as that proposed was analyzed in the Hayward General Plan EIR and found to have less-than-significant impacts.

ZONE CHANGE

14. The project is consistent with the existing General Plan designation and policies related to providing a variety of housing types. The combination of attached and detached two-story single-family homes proposed on this site is similar in density to those homes built just south as part of the KB Home development and consistent with the overall development pattern in the area. The exteriors of the homes are consistent with the design of the other homes in the neighborhood, including the most recent development by KB Home. The additional units proposed with this project help to fulfill housing goals reflected in the Housing Element which specifically indicated the Mt. Eden neighborhood as one of four neighborhoods suitable for additional housing.
15. As part of the Mt. Eden Annexation Phase 1, a funding mechanism was established to address the infrastructure conditions in the neighborhood. With this funding mechanism in place, the streets and utilities have been upgraded to accommodate growth in this area. The proposed project is an in-fill development site surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.
16. The project applicant has proposed a development achieving an integration of density, and livability. The site design maintains the continuity of the existing street design. Some useable open space with the tot lot and community park areas as well as pedestrian connectivity is provided which allows for better circulation and access to surrounding amenities such Greenwood Park, shopping and public transit. Lastly, the home designs offer a wide and flexible range of livability and lifestyles by integrating universal design features in many of the units.
17. The project is consistent with the General Plan and Mt. Eden Neighborhood Plan in that the development is consistent with the allowable density established in the General Plan as well as policies regarding provision of a variety of housing choices and for townhouse developments to provide play areas for children. The applicant is seeking a Planned

Development designation to provide flexibility in the site layout of the units. To off-set the flexibility the applicant desires, the project proposes to exceed the standards required under the Green Building Ordinance. The applicant has proposed and the project has been conditioned to achieve a minimum 75 point GreenPoint rating where the minimum required by the ordinance is 50 points. In addition, California Building Code requires that grouped housing, such as this project, would be required to have 10 percent of the units be able to be converted to accessible units. Based on the configuration of the proposed floor plans, almost 30 percent of the units have the ability to be converted to accessible units. Lastly, the Zoning Ordinance allows homes to be constructed as tall as 40 feet. The proposed two-story units have a maximum height of 29 feet 11 inches, so that they would be more compatible with surrounding development.

VESTING TENTATIVE TRACT MAP

18. The approval of Vesting Tentative Map Tract 8086, as conditioned, will have no significant impact on the environment, cumulative or otherwise. A Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.
19. The tentative tract map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Plan, and the City of Hayward Zoning Ordinance.
20. Upon the completion of remediation recommended by the project Geotechnical Engineer the site is physically suitable for the proposed type of development.
21. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
22. The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
23. Upon completion of the proposed improvements the streets and utilities would be adequate to serve the project.
24. None of the findings set forth in Section 66474 of the Subdivision Map Act for denial of a tentative map have been made.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approves Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application PL-2011-0176, subject to the adoption of the companion ordinance rezoning the properties located between Eden Avenue and Saklan Road and north of Middle Lane (APNs 441-0087-002-02, 441-0087-001-02, 441-0095-014-02, 441-

0095-015-02, 441-0095-016-02, 441-0095-013-02, 441-0095-025-02, 441-0095-024-02, 441-0095-010-02, 441-0095-011-04, 441-0095-023-02, 441-0095-022-02, 441-0095-021-02, and 441-0095-020-02) from Medium Density Residential to Planned Development District.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH ZONE CHANGE APPLICATION NO. PL-2011-0175 RELATING TO THE EDEN COMMONS RESIDENTIAL DEVELOPMENT

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the properties located between Eden Avenue and Saklan Road just north of Middle Lane (APNs 441-0087-002-02, 441-0087-001-02, 441-0095-014-02, 441-0095-015-02, 441-0095-016-02, 441-0095-013-02, 441-0095-025-02, 441-0095-024-02, 441-0095-010-02, 441-0095-011-04, 441-0095-023-02, 441-0095-022-02, 441-0095-021-02, and 441-0095-020-02) from Medium Density Residential to Planned Development District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the _____ day of November, 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of December, 2011, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

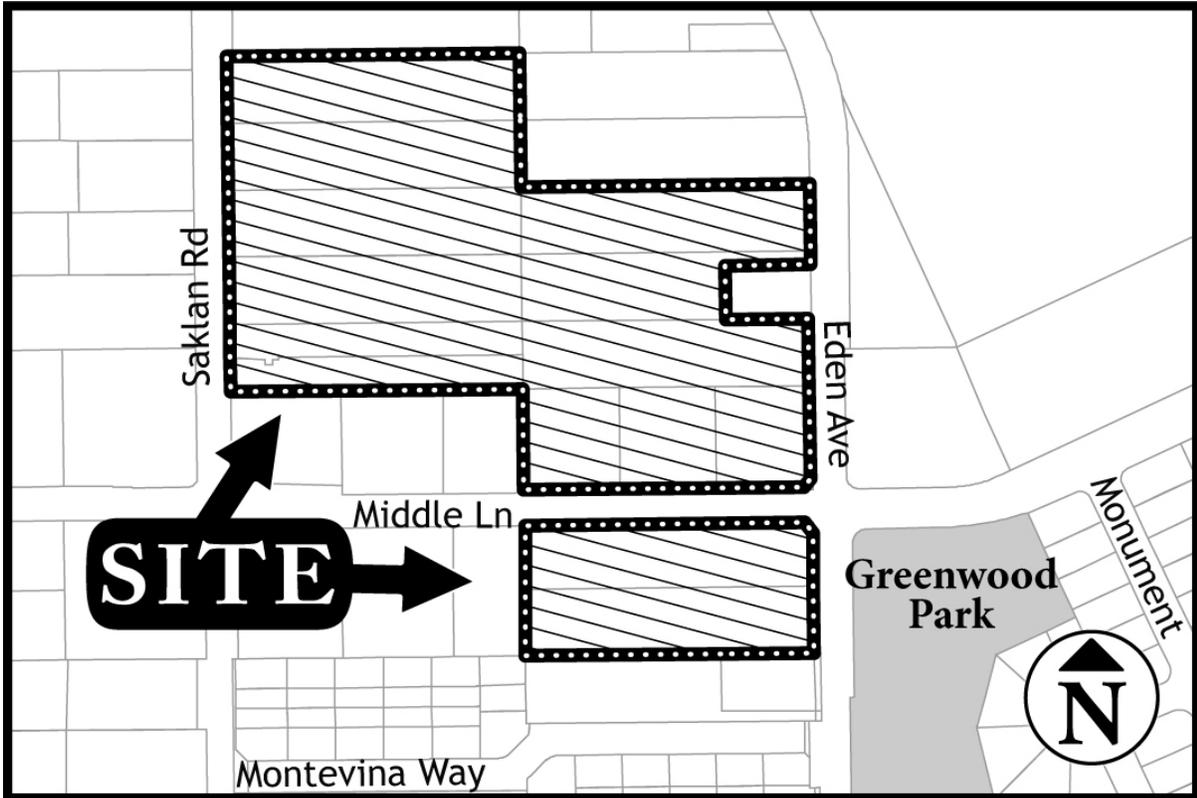
DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Vicinity Map



CONDITIONS OF APPROVAL

**Zone Change Application No. PL-2011-0175 and
Vesting Tentative Tract Map Application No. PL-2011-0176**

Dutra Enterprises, Inc. (Applicant)

GENERAL

1. Zone Change Application No. PL-2011-0175 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. The Preliminary Development Plan Approval shall coincide with the approval period for the Vesting Tentative Tract Map.
2. If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the Precise Development Plan Approval, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the Precise Plan approval.
3. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
4. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to the Zoning Ordinance, must be approved by the Planning Director prior to implementation.
5. This approval is tied to Vesting Tentative Tract Map 8086 and all conditions of approval of that map shall also apply to this approval.
6. 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.
7. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.
8. All construction shall meet the California Building Code (CBC) and all applicable City of Hayward Building Department Ordinances (Ordinance #10-15 thru #10-18) and amendments.
9. Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Department Ordinances (Ordinance #10-14) and amendments in use by the Hayward Fire Department.

10. The applicant/developer's Registered Civil Engineer shall perform all design work for the tract improvement plans unless otherwise indicated.

PRIOR TO THE APPROVAL OF THE PRECISE PLAN

The Precise Plan shall be in substantial conformance with the approved Preliminary Plan and shall be submitted in conjunction with a tract improvement plans and final map.

Planning Division

11. The Precise Plan shall also include provisions for project staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for noise and dust control, and common area landscaping.
12. The Precise Plan shall include the following:
- a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
 - b) Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
 - c) Details and locations of any decorative walls shall be included and approved by the Planning Director.
 - d) Show an exterior hose bib for each patio, or porch area.
 - e) Show fencing and fencing details. The pavement at the private driveway entries shall be enhanced by the use of decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials. The location, design and materials shall be approved by the Planning Director. Consideration shall be given to utilizing this material for the entire length of the interior streets.
 - f) Pedestrian walkways fronting the building(s) and the private driveways for the 31 units taking access of the private roads shall be enhanced with decorative materials such as inset brick, exposed aggregate, bomanite stamped concrete, interlocking pavers or other approved material.
 - g) Grouped mailbox design and locations, subject to Post Office approval, shall be approved by the Planning Director. The shown locations may need to be modified so they can more easily be accessed by both the Post Office and future residents.
 - h) 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 is provided in all common areas. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.

- i) All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located behind solid board fences or walls not to exceed the height of the air conditioner unless otherwise approved by the Planning Director. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- j) All parking spaces are to meet minimum City of Hayward on-street and off-street parking standards.
- k) An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
- l) A color and materials board shall be submitted to the Planning Director for review and approval. No changes to colors shall be made after construction unless approved by the Planning Director.
- m) 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, to be approved by the Planning Director.
- n) No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building Code. Roof apparatus, such as vents, shall be painted to match the roof color.
- o) If desired, a maximum of one identification sign per public road entrance shall be permitted. The signs shall conform to Section 10-7.403(b)(2) of the Sign Ordinance regulations, with the locations to be approved by the Planning Director. Sign design, colors, and materials shall reflect the architectural style of the project and shall be approved by the Planning Director.
- p) Rooflines shall be articulated to break up bulky facades. Dormer elements are acceptable. Large expanses of blank wall are not allowed. Articulate such expanses to avoid bulkiness.
- q) All decorative window treatments shall be extended to all elevations.
- r) All rear and side entries shall be protected by roofs with rooflines to match the pitch of roof.
- s) All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. All two car garages shall have the interior dimensions of 20-foot width by 19-foot depth. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.

Landscape Division

13. Prior to the approval of the tract improvement plans, a detailed landscaping and irrigation plan for the site shall be prepared by a licensed landscape architect and wet-stamped and wet-signed plans shall be submitted for review and approval by the City's Landscape Architect. Planting and irrigation shall comply with the City's *Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes*.
14. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be 22" x 34" without an exception.
15. Street Trees. Provide one 24-inch box street tree per 20 to 40 lineal feet in the front and side landscape setback areas or fraction thereof. All trees shall be planted a minimum of 5-foot away from any underground utilities, a minimum of 15 feet from a light pole, and a minimum 30 feet from the face of a traffic signal, or as otherwise specified by the city. Trees shall be planted according to the City Standard Detail SD-122 and the detail shall be included in the landscape plans.
16. Trees shall be preserved in accordance with the *Tree Preservation Ordinance*. Provide a comprehensive arborists report by a licensed arborist on all existing trees within the limit of project area including health, species, caliper, approximate height, canopy diameter, and value using the latest edition of "Guide for Plant Appraisal" by the International Society of Arboriculture. Provide ISA worksheet per each trees are subjected for valuation. The arborists report and valuation shall be reviewed and approved by the City.
17. The applicant shall follow all recommendations in the tree evaluation report prepared by Hortscience including protection of all trees to be preserved during construction. All removed trees shall be mitigated within the project area. Tree mitigation shall be provided above and beyond the required trees.
18. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

PRIOR TO THE APPROVAL OF THE TRACT IMPROVEMENT PLANS

19. In conjunction with the Precise Plan, applicant/developer shall submit tract improvement plans and final map application for the entire project. Said improvement plans and final map shall

meet all City standards and submittal requirements except as expressly approved for this Planned Development. The following information shall be submitted with or in conjunction with improvement plans and final map. The City reserves the right to include more detailed conditions of approval regarding required infrastructure based on these more detailed plans:

- a. A detailed drainage plan, to be approved by the ACFC&WCD and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a 10-year storm and incorporating onsite storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount and velocity shall not be altered by the development. The detailed drainage plan shall be approved by the ACFC&WCD prior to issuance of any construction or grading permit.
- b. A detailed Stormwater Treatment Plan, following City ordinances and conforming to Regional Water Quality Control Board's "Staff recommendation for new and redevelopment controls for storm water programs."

Improvement Plans

Public Streets: Saklan Road, Middle Lane and Eden Avenue

20. The street improvements and utility installations shall be consistent with the proposed Mt. Eden Area Annexation improvement plans and any right-of-way to accommodate these improvements shall be dedicated to the City.
21. The design and location of street approaches including pedestrian ramps shall be approved by the City Engineer.
22. The south curb return of private Street 'A' at Saklan Road shall be designed with a bulb-out alignment mirror image of the north curb return of Street 'A'.
23. All existing utility poles shall be removed and overhead utility lines along the project Eden Avenue frontage shall be placed underground. Location of utility joint trench shall be reviewed and approved by the City Engineer.
24. Full width of Saklan Road, Middle Lane and Eden Avenue within the project frontage shall be slurry sealed prior to the issuance of final construction report for tract acceptance.
25. All existing driveways that are not used shall be removed and replaced with City standard Portland Cement Concrete curb, gutter and sidewalk.

26. The luminaries of existing street light along the project frontages shall be replaced with LED light. Submit photometric plans, and if necessary, calculations with the improvement plans to demonstrate that existing street light or relocated street light configurations are adequate.
27. Any damaged and/or broken sidewalk associated with the development construction along Saklan Road, Middle Lane and Eden Avenue as determined by the City Inspector shall be removed and replaced.

Private Streets

28. Proposed private streets shall be owned-and-maintained by the homeowners association.
29. Proposed private street improvements shall be designed, generally reflective of the alignment and width shown on the submitted vesting tentative tract map, and as approved by the City Engineer. The private street cross-sections shall have the following dimensions:
30. Unless otherwise specified herein, all private streets shall incorporate a cross-section of a forty-six-foot wide right-of-way with a thirty-six-foot curb-to-curb width, accommodating two travel lanes and parking on each side of the street. A 4.5-foot-wide sidewalk shall be located adjacent to the back of curb on each sides of the street.
31. The property line of Lot 120 on Street 'A' shall be designed to accommodate a forty-six-foot wide street right-of-way.
32. Pedestrian ramps shall be installed at the end of sidewalk on Lot 120 and across Street 'A' on Lot 119.
33. The eastern end of Street 'A' from Lot 120 to Eden Avenue as shown on the tentative map shall incorporated a 33.5-foot wide right-of-way with a twenty-eight-foot curb to curb width, accommodating two travel lane, and parking space and a 4.5-foot sidewalk shall be located adjacent to the back of curb on the south side of Street 'A.'
34. The private Street 'C' as identified on the tentative tract map, shall incorporate a 29.5-foot-wide right-of-way with a 24-foot curb-to-curb width, accommodating two travel lanes with no parking on the street. A 4.5-foot-wide sidewalk, abutting the back-of-curb, shall be located on one side (north and east side) of Street 'C'.
35. The private street pavement sections shall be designed to public street standards. The private street shall be designed with a TI of six and minimum AC thickness of four inches.
36. The private street approaches shall conform to the City Standard SD-110A and be enhanced with at least ten feet of raised decorative paving (e.g., interlocking pavers or stamped colored concrete, or bands of decorative paving, etc.). The Planning Director shall approve the material, color and design, and the City Engineer shall approve the pavement section for the decorative

paving. Decorative pavements shall be capable of supporting a 75,000 lb. GVW load per Fire Department's requirement.

37. Upon any necessary repairs to the public facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners' association.
38. No on-street parking shall be allowed on Street 'C', and on the north side, eastern end of Street 'A'. "No Parking Fire Lane" (T29) signs shall be installed on both sides of C Street and along the north side of Street 'A' from Lot 120 to Eden Avenue. The locations of signs shall be approved by the Fire Chief and City Engineer.
39. The on-site streetlights and pedestrian lighting shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Submit photometric plans with the improvement plans. Such fixtures shall have shields to minimize "spill-over" lighting on adjacent properties that are not part of the tract.
40. The interior intersections shall be designed to meet Fire Department access and turning movements. Pedestrian ramps shall be installed to facilitate access and circulation throughout the development.

Private Courts

41. Proposed private courts shall be owned-and-maintained by the homeowners association.
42. Proposed private court improvements shall be designed, generally reflective of the alignment and width shown on the submitted vesting tentative tract map, and as approved by the City Engineer. Unless otherwise specified herein, all private courts shall incorporate a cross-section of a 25-foot-wide right-of-way with a 24-foot curb-to-curb width, accommodating two travel lanes.
43. The fire apparatus road in Court A exceeds 150 feet. One fire hydrant shall be installed nearby Lots A and 89. The road shall be at least 26 feet in width extended ten feet beyond the hydrant location and onto Court A.
44. Entrances to Private Courts shall conform to the City Standard SD-108A with detectable warning surface on both sides.
45. No parking shall be allowed within the private courts. Curbs shall be painted red along BOTH sides of the private courts.
46. The private court pavement sections shall be designed to public street standards. The private court shall be designed with a TI of five and minimum AC thickness of four inches

47. The on-site pedestrian lighting shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Such fixtures shall have shields to minimize “spill-over” lighting on adjacent properties that are not part of the tract. If independent street light poles are proposed within the private courts, an alternative plan for providing decorative lighting attached to the buildings shall be provided.
48. The private courts shall not extend more than 5 feet beyond the garage door entries of the end units served by such courts, unless needed for designated parking spaces.

Single-Family Driveway with Sidewalk (along Private Street ‘A’ and ‘B’)

49. Unless another alternative design is approved by the City Engineer, driveways for Lots 62, 64, 76, 78, 80 and 82 shall be placed (flipped) to other side of the lot to ensure City Standard detail SD-108A without detectable warning surface can be constructed in compliance with accessibility requirement.

Storm Drainage

50. Storm drain systems in private streets and courts shall be private systems owned-and-maintained by the homeowners association.
51. The storm drains in the street shall be located 1-foot from the face of curb for pipes 24 inches in diameter and smaller and 2 feet from the face of curb for pipes 27 to 48 inches in diameter. Alternative design shall be approved by the City Engineer.
52. Minimum storm drain pipes in the street shall be 12-inch in diameter RCP pipes Minimum cover over the pipe shall be three feet.
53. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
54. The latest edition of the Alameda County Flood Control and Water Conservation District’s Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District staff and the City Engineer. Development of this site is not to augment runoff to the District’s downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities. If there is augmented project-generated runoff, off-site and/or on-site mitigation

55. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with off-site and/or on-site improvements.
56. No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
57. All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods. Refer to City Standard SD-401A.
58. Proposed control flow storm drain manholes shall be designed with 36-inch opening (i.e. ACPWA SD-401) for maintenance purposes. The proposed weir structures shall be carefully designed to ensure that stormwater runoff will be contained within the underground structures and will not spill out of the SDMH cover and/or nearby inlet structures.

Storm Water Quality Requirements

59. The owner shall provide pertinent information for the preparation of a Stormwater Treatment Measures Maintenance Agreement by Engineering and Transportation Division staff. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
60. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with a design to reduce discharge of pollutants and sediments into the downstream storm drain system. The plan shall meet the approval of the City Engineer.
61. Before commencing any grading or construction activities at the project site, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.
62. The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
63. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prevent the entry of pollutants into storm water runoff. Roof leaders and direct runoff shall discharge into a landscaped area or a grassy swale prior to stormwater runoff entering an underground pipe system.

64. The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit (page 30). The provision C.3.e-i-ii shall not apply if the project is approved by the City Council prior to December 1, 2011. In addition, the California Stormwater Quality Association's Stormwater Best Management Practice Handbook New Development and Redevelopment, Subsection 5.5 on pages 5 – 12 has a section titled "BMP Design Criteria for Flow and Volume." Those materials are available on the internet at www.cabmphandbooks.com for your reference.
65. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. Where feasible, as determined by the City Engineer and Landscape Architect, landscaping should be designed and operated to treat stormwater runoff. Landscaping shall also comply with the City's "water efficient landscape ordinance."
66. The applicant/developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

Sanitary Sewer System

67. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application for service and payment. Sewer connection fees are due and payable prior to final inspection.
68. Sanitary sewer mains and appurtenances within the private streets and private courts shall be a public system owned-and-maintained by the City, and shall be designed and constructed in accordance with the City Standards and Specifications.
69. All public sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12-inch in diameter or less)," latest revision at the time of permit approval.
70. All on-site sanitary sewer mains shall be 8 inches in diameter and a manhole shall be installed at the change of flow direction, and at the beginning and the end of each sanitary sewer main. The sanitary sewer mains shall be located a minimum of ten feet horizontally from the water mains.
71. Sewer mains and services must be located at least 10 feet horizontally from and one-foot vertically below any parallel water mains and laterals.
72. The sanitary sewer mains shall be located a minimum of four feet horizontally and one foot vertically from the main storm pipes.

73. Each residential unit shall have a separate sanitary sewer lateral connection to the public main. The sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.
74. Any existing sanitary sewer laterals that are no longer in use shall be removed.

Water System

75. Water service is available subject to standard conditions and fees in effect at the time of application and payment.
76. The water mains in private streets shall be public, owned and maintained by the City. The water mains shall be a looped system and located 5 feet from the face of curb.
77. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12-inch in diameter or less) and Fire Hydrants," latest revision at the time of permit approval.
78. Each dwelling unit shall have its own domestic water meter. Based on the submitted plans, the number of fixture units in each unit range from 25.5 to 34, which will require a minimum ¾" water meter.
79. Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire services shall have an above ground Double Check Valve Assembly, per City Standards SD-201 and SD-204.
80. 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 in diameter.
81. Separate irrigation water meters shall be installed for landscaping purposes. The landscape plans indicate that a 1.5" irrigation meter will be installed on lot 119 on Street A and in between lots 50 and 51 on Middle Lane.
82. A Reduced Pressure Backflow Prevention Assembly shall be installed on each irrigation water meter, per City Standard SD-202.
83. All water meters shall be radio-read type.
84. Water meters shall be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218. Water meters in new developments must be located along a thru street (road, court, etc.) to facilitate meter reading. Water meters located on narrow dead-end driveways or courts shall not be allowed.

85. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and on foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials, with the City's approval.
86. All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. The developer may only construct new services in conjunction with the construction of new water mains.
87. Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
88. All existing water services that are no longer in use shall be abandoned by City Water Distribution Personnel at the applicant's/developer's expense.

Fire Protection

89. Fire Department requirements shall be as follows:
 - a. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.
 - b. All public and private streets and private courts, shall be designed with an all-weather surface pavement.
 - c. Private streets "A", "B" and "C" and private courts, shall be dedicated fire lanes. Parking of vehicles shall only be allowed in designated parking stalls. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department.
 - d. The minimum width of fire lane is 20 feet. The minimum width of fire lane with fire hydrants is 26 feet. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be maintained at all time.
 - e. Fire lane of 20 to 26 feet wide shall be posted on both sides as a fire lane; 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
 - f. Private streets shall be dedicated fire lanes. Parking of vehicles shall only be allowed in designated parking stalls. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department.
 - g. All public streets, private streets and private courts shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. Such standard is also applicable to pavers or decorative concrete.
 - h. Addressing of the buildings shall be in compliance with the Hayward Fire Department requirements. All buildings shall have a minimum 4 inch self-illuminated address installed on the front of the building so as to be visible from the street. A decorative address monument sign shall be installed at each court entrance, indicating the building

addresses for the units served by such court. Minimum size numbers shall be 6 inches in height on a contrasting background.

- i. 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 a modified double steamer, capable of flowing 1,500 gallons per minute at 20 PSI for a two-hour duration. The design and layout of the hydrants shall be reviewed and approved by the Fire Dept.
- j. The hydrant at Lot 119 should be moved to the location at Lot 73
- k. Blue reflective pavement markers shall be installed at fire hydrant locations.
- l. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).
- m. Fire hydrants for the development shall be operational and in service prior to the start of any combustible construction and /or storage of combustible construction materials.
- n. A health-based and water quality clearance shall be obtained from either the State Department of Toxic Substances Control or the California Regional Water Quality Control Board – San Francisco Bay Region. If it is determined that remediation of soil and/or groundwater is necessary, oversight of one of these two agencies would be required.
- o. All building construction shall meet the requirements of the 2010 California Residential Code.
- p. All buildings shall be installed with automatic fire sprinkler system in accordance to the 2010 NFPA 13D. The minimum water meter size shall be 1 inch. Fire permits are required for sprinkler installation.

Other Utilities

90. All overhead lines along the property frontage as shown on sheet C-3.1 of the Tentative Map set shall be placed underground.
91. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and local cable company regulations. All facilities necessary to provide service to the dwellings, including transformers and switchgear, shall also be undergrounded.
92. All electric system, including transformers, shall be installed underground within the development. Design and installation shall be in accordance with Pacific Gas and Electric Company regulations.
93. The joint trench design and location shall meet the approval of the City Engineer.
94. All utilities, including water mains, located underneath decorative paving or "turf block" shall be encased in steel sleeves.
95. Ductile iron pipe is required in all "off-street" easements, and control valves are required in streets before entering such easements.

96. All surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed private streets, driveways or public streets shall be located outside of the sidewalk within the Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Hayward Fire Chief.
97. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.
98. No utilities shall be located in the small planting areas between two driveways for all attached units.
99. The developer/subdivider shall provide and install appropriate facilities such as conduit, junction boxes, individual stub-outs, etc., to allow for future installation of a City-owned and maintained fiber optic network within the subdivision.

PRIOR TO THE APPROVAL, OR FILING, OF FINAL MAP

100. In the event that the City determines that a Community Facilities District (CFD) for public services is required, based on Chapter 8, Article 17 of the Hayward Municipal Code, as amended by City Council Resolution 09-049, the developer shall post an initial deposit of \$20,000 with the City prior to or concurrent with the submittal of the final subdivision map and improvement plans to cover the City's costs for analyzing the need for a CFD and for forming the CFD. The developer shall pay for total costs associated with formation of the CFD, via additional deposits, if required. The exact extent of the responsibilities and public services of the CFD shall be determined during the formation of the District. Formation shall be completed prior to occupancy of the first residential unit.
101. Submit the following documents for review, approval or for project records:
 - a. Copy of the Notice of Intent filed with State Water Resources Control Board;
 - b. Engineer's estimate of costs, including landscape improvements;
 - c. Signed Final Map;
 - d. Signed Subdivision Agreement; and,
 - e. Subdivision bonds.
102. Final Map shall be approved by the City Council. The City Council meeting will be scheduled approximately sixty days after the Final Map is deemed technically correct, and Improvement Plans with supporting documents, reports and agreements are approved by the City Engineer. Executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety days from the date of City Council's approval.

103. The proposed subdivision is located in the Benefit District 411-06, formed on January 16, 2007; therefore, it is subject to the following fees and credit:

- a. The developer/subdividers shall have a credit for twelve existing units within the development as shown in the Exhibit C of the Engineer's Report for the Benefit District 411-06.
- b. The developer/subdivider shall be obligated to pay a Benefit District Fee in the amount of \$10,008 per additional unit after twelve building permits have been issued.
- c. For each additional unit for which a Benefit District Fee is due, the developer/subdivider shall also pay the City additional \$300 per each additional unit to cover the cost of collecting and administering the Benefit District Fees.

Dedications, Easements

104. The final map shall reflect all easements needed to accommodate the public portions of the sanitary sewer and water systems. The private streets and private courts shall be designated as a Public Utility Easement (PUE), Public Assess Easement (PAE), Water Line Easement (WLS), Sanitary Sewer Easement (SSE), Emergency Vehicle Access Easement (EVAE) and Private Utility and Maintenance Easement (PUME)..

105. Prior to the approval of the final map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.

Agreement and Bonds

106. The developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332 of the Municipal Code: Security for Installation of Improvements. Insurance shall be provided per the terms of the subdivision agreement.

Homeowners Association and Covenants, Conditions and Restrictions

107. A property homeowners association shall be created and shall be responsible for maintaining all private streets, private courts, private street lights, private utilities, and other privately owned common areas and facilities on the site, including, but not limited to landscaping, preservation and replacement of trees, as well as decorative paving that extends into public streets. For any necessary repairs done by the City in locations under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the

decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.

108. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Conditions, Covenants and Restrictions (CC&R's) creating a property homeowners association shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
- a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
 - b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
 - c. The association shall be managed and maintained by a professional property management company.
 - d. The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
 - e. A covenant or deed restriction shall be recorded with each lot requiring the property owner to properly maintain the front yard landscaping, and street trees, and to replace any dead or dying plant material (over 30% of the plant dead) within 15 days of first notification.
 - f. A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the 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 properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
 - g. A requirement 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.
 - h. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.

- i. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.
- j. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, the formation of a design review committee and its power to review changes proposed on a building exterior and its color scheme, and the right of the homeowners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- k. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
- l. Any transformer shall be located underground and shall be located within the right-of-way or public utility easement.
- m. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- n. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
- o. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
- p. Street sweeping of private streets and private courts shall be conducted at least once a month.

PRIOR TO CONSTRUCTION OR GRADING

109. If any appropriate historical artifacts are unearthed on the site within the area covered by the final map in connection with the construction of the proposed project than all ground-disturbing activities within 30 feet of where the artifacts is found shall be immediately stopped and an archaeologist shall be called to monitor and evaluate the resource.
110. If any human remains are found during grading or construction, all ground-disturbing activities shall be immediately stopped and the following parties must be contacted: The City of Hayward Planning Director, the contractor's point of contact, the Coroner of the County of Alameda, the native American Heritage Commission (NAHC) in Sacramento and the Yrgin band of Ohlones.
111. Prior to issuance of a building permit, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project. Recommendations of the project geotechnical

consultants, Engeo Inc., that were identified in the preliminary geotechnical investigation shall also be implemented.

112. All recommendations as outlined in the Environmental Noise Assessment prepared by Illingworth and Rodkin, Inc. shall be followed and incorporated into the site design.
113. Prior to the issuance of a grading or building permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved. The bond, surety or deposit shall be returned two years after the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition. The developer shall provide an arborist's report evaluating the condition of the trees at that time.
114. An encroachment permit shall be obtained from the Alameda County Flood Control and Water Conservation District (ACFCD) prior to connection to the Flood Control District's storm drain system on Saklan Road and Eden Avenue.
115. Prior to the issuance of a grading permit and/or the beginning of any construction activity on-site, the Developer's Engineer shall complete the Development Building Application Form Information: 1) Impervious Material Form and 2) Operation and Maintenance Information for Storm Water Treatment measures Form.
116. Recommendations of the project geotechnical consultant, Engeo Inc., shall be implemented, including those related to ground-motion parameters for use in structural design of buildings.
117. A full geotechnical evaluation shall be conducted; and if liquefaction is determined to be probable, measures as recommended by the project geotechnical consultant shall be implemented.
118. A full geotechnical evaluation shall be conducted and if highly-expansive soils are determined to be present, measures as recommended by the project geotechnical consultant shall be implemented.
119. At times as specified below:
 - a. A health-based and water quality clearance shall be obtained from either the State Department of Toxic Substance Control or the California Regional Water Quality Control Board (SF Bay Region), prior to start of grading or construction. If it is determined that remediation of soil and/or groundwater is necessary, oversight of one of these two agencies would be required.
 - b. State-certified lead-based paint (LBP) and asbestos professional(s) shall be retained to perform a LBP and asbestos containing material (ACM) survey of structures for testing and confirmation of LBP and ACM within and around the structures, and if such surveys show the presence of such substances, remediation plans shall be

- developed and implemented, in accordance with State and federal regulations. This information shall be provided before issuance of any deconstruction permits.
- c. All domestic water wells and septic tanks and leach lines from the project site shall be destroyed and removed, in accordance with local, County and State regulations.

Fire Hazardous Materials

120. Prior to grading: Houses, 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.
121. All wells, septic tank systems and others subsurface structures shall be removed properly in order not to pose a threat to the development construction workers, future residents or the environment. These structures shall be documented and removed under permit when required.
122. The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials or associated structures are discovered during demolition or during grading. These structures shall include, but shall not be limited to: actual hazardous materials, underground tanks, or other vessels that may have contained hazardous materials.
123. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

124. Required water system improvements shall be completed and operational prior to the start of combustible construction.

DURING CONSTRUCTION

125. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
 - a. Grading and site construction activities shall be limited to the hours 7:30 AM to 6:00 PM Monday through Friday with no work on weekends and Holidays unless revised hours and days are authorized by the City Engineer. Building construction hours are subject to Building Official's approval.
 - b. Grading and construction equipment shall be properly muffled.
 - c. Unnecessary idling of grading and construction equipment is prohibited.
 - d. Stationary noise-generating construction equipment, such as compressors, shall be

- located as far as practical from occupied residential units.
- e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise.
 - f. The developer shall participate in the City's recycling program during construction.
 - g. Daily clean up of trash and debris shall occur along all peripheral streets.
 - h. 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.
 - i. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site.
 - j. All unpaved access roads, parking areas and staging areas at construction sites shall be paved, have water applied three times daily, or non-toxic soil stabilizers applied.
 - k. All paved access roads, parking areas and staging areas at construction sites shall be swept daily (with water sweepers).
 - l. Inactive construction areas (previously graded areas inactive for 10-days or more) shall have non-toxic soil stabilizers applied, or shall be hydroseeded.
 - m. Exposed stockpiles (dirt, sand, etc.) shall be enclosed, covered, watered twice daily or applied with non-toxic soil binders.
 - n. Construction debris shall be gathered on a regular basis and placed in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, tarps on the ground are to be used to collect fallen debris or splatters that could contribute to storm water pollution.
 - o. All dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site shall be removed. During wet weather, driving vehicles off paved areas and other outdoor work areas shall be avoided.
 - p. The sidewalks and public street pavement adjoining the project site shall be broom-swept on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
 - q. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
 - r. Filter materials (such as sandbags, filter fabric, etc.) shall be installed 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; 3) street washing activities; or 4) saw cutting asphalt or concrete activities, or in order to retain any debris or dirt flowing into the storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles shall be properly disposed in the trash.
 - s. A contained and covered area shall be created 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.
 - t. Cleaning machinery, tools, brushes, etc., or rinsing containers, into a street, gutter, storm drain or stream is prohibited (see City's *"Building Maintenance/Remodeling"* flyer for more information).
 - u. Concrete/gunite supply trucks or concrete/plasters finishing operations shall not discharge washwater into street gutters or drains.

- v. The applicant/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.
126. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.
127. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.
128. 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.
129. Tree protection measures information shall be provided for the off-site trees that are proposed to remain in place, where the site improvements or home construction would occur within the drip lines of such trees.
130. Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Trees shall be fenced at the drip line throughout the construction period and shall be maintained in a healthy condition throughout the construction period. Where trees are being removed, mitigation for the removed trees equal to their value shall be provided as outlined in the City Tree Preservation Ordinance.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

131. The developer shall cause to be recorded an avigation easement for each unit to the satisfaction of the Public Works Director, prior to occupancy.
132. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of issuance of the building permit. All Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.
133. Prior to issuance of a Certificate of Occupancy for any of the new dwelling units, the applicant shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated in accordance with the City's Green Building Ordinance. Each home is required to meet a minimum of 75 points on the GreenPoint Rated checklist.

134. The final map shall be filed in the County Recorder's Office prior to the issuance of a Certificate of Occupancy of any unit.
135. The developer/subdivider shall be obligated for the following fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Vesting Tentative Map was accepted as complete, unless otherwise indicated hereinafter:
- a. Supplemental Building Construction and Improvement Tax
 - b. School Impact Fee
 - c. Water facilities fees, water installation fees and sewer connection fees at the rate in effect at the time of application for water and sewer service and payment of said fees for each dwelling unit, and
 - d. Park dedication in-lieu fees for new dwelling units.
136. Before the 72nd Certificate of Occupancy is issued, the park improvements on both parcels designated as parkland shall be commenced, and before the 115th Certificate of Occupancy is issued, the construction of these two parks shall be completed.
137. Prior to granting occupancy, water service meters shall be installed by City crews at the developer's expense. The application for water services shall be presented to the City Inspector.
138. Prior to the City setting the water meters, the subdivider shall provide the Water Department with certified costs covering the installation of the public water mains and appurtenances.
139. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
140. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
141. Prior to Certificate of Occupancy, the required Affordable Housing In-Lieu fee of \$80,000 per affordable unit shall be paid.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

142. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.

143. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80 percent of the dwelling units, whichever first occurs.
144. The improvements associated with the Pacific Gas and Electric Company, SBC (phone) company and local cable company shall be installed to the satisfaction of the respective companies.
145. Prior to the sale of any individual unit/lot, or prior to the acceptance of tract improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses. A reserve fund shall be maintained to cover the costs of replacement and repair of all improvements shown on the approved plans.
146. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
147. The subdivider shall submit an Auto CAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.
148. The subdivider shall submit an "as built" plan indicating the following:
 - a. 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.
 - b. All the site improvements, except landscaping specie, buildings and appurtenant structures. And,
 - c. Final Geotechnical Report.



**CITY OF HAYWARD
MITIGATED NEGATIVE DECLARATION**

Notice is hereby given that the City of Hayward finds that could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Project title: Eden Commons; Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176.

Description of project: The project proposes a subdivision of approximately 10.9 acres in order to develop 144 single-family homes and a tot lot that would be provided access from both public and private streets. Sixty-five of the units are proposed to be attached, with the remaining seventy-nine units proposed as detached. The project is located generally between Eden Avenue and Saklan Road, and between Middle Lane and North Lane, in the Mt. Eden area of Hayward. The subject site is part of an area annexed into the City of Hayward, effective March of 2007.

Approval of the project would require a change to the zoning designation for the site, from *Medium Density Residential (RM)* to *Planned Development (PD)*.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project, with the mitigation measures identified in the attached initial study checklist, will not have a significant effect on the environment.

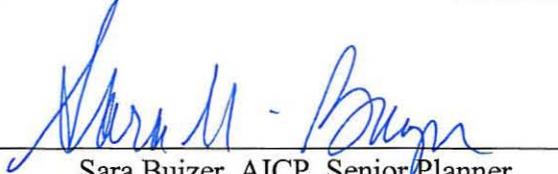
FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare do not affect area views. Also, compliance with the City's Design Guidelines will ensure visual impacts are minimized. Landscape plans will also be required to ensure that structures are appropriately screened.
3. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland.
4. The project will not result in significant impacts related to changes in air quality. When the property is developed the City will require the developer to submit a construction Best

Management Practice (BMP) program prior to the issuance of any grading or building permit.

5. The project, proposed on properties surrounded by other residential development and within an urbanized area, will not result in significant impacts to biological resources. Any trees removed are required to be replaced as per the City's Tree Preservation ordinance.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The project will not result in significant impacts to geology and soils. The project is located west of the Hayward fault, which poses potential risk to any development in the city of Hayward. Recommendations of the project geotechnical engineer will be required to be incorporated into project design and implemented throughout construction, to address such items as seismic shaking. Construction will also be required to comply with the California Building Code standards to minimize seismic risk due to ground shaking.
8. The project will not lead to the exposure of people to hazardous materials.
9. The project will be required to meet all water quality standards as part of the normal development review and construction process, to be addressed in a Stormwater Pollution Prevention Plan and Erosion Control Plan that utilize best management practices. Drainage improvements will be required to accommodate stormwater runoff, so as not to negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.
10. The project proposes amendments to the Hayward zoning designation for the site, but is still consistent with the overall density supported by the Hayward General Plan. In addition, the project will be required to be consistent with the City of Hayward's Design Guidelines.
11. The project will not result in any long-term noise impacts. Construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of the future building permits for the homes.
12. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan.
13. The project will not result in a significant impact to public services in that development is at least as intensive as that proposed was analyzed in the Hayward General Plan EIR and found to have less-than-significant impacts.

III. PERSON WHO PREPARED INITIAL STUDY:



Sara Buizer, AICP, Senior Planner

Dated: September 23, 2011

I. COPY OF ENVIRONMENTAL CHECKLIST IS ATTACHED

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4200



**DEPARTMENT OF DEVELOPMENT SERVICES
Planning Division**

INITIAL STUDY CHECKLIST

Project Title: Eden Commons

Lead agency name/address: City of Hayward / 777 B Street, Hayward

Contact person: Sara Buizer, AICP, Senior Planner

Project location: Generally between Eden Avenue and Saklan Road, and between Middle Lane and North Lane, in the Mt. Eden area of Hayward.

Project sponsors

Name and Address: Dutra Enterprises, Inc.; 43430 Mission Blvd., Suite 210, Fremont, CA 94539

Existing General Plan Designation: Medium Density Residential

Existing Zoning: RM (Medium Density Residential)

Project description: The project proposes a subdivision of approximately 10.9 acres in order to develop 144 single-family homes and a tot lot that would be provided access from both public and private streets. Sixty-five of the units are proposed to be attached, with the remaining seventy-nine units proposed as detached. The subject site is part of an area annexed into the City of Hayward, effective March of 2007.

Approval of the project would require a change to the zoning designation for the site, from *Medium Density Residential (RM)* to *Planned Development (PD)*.

Surrounding land uses

and setting: The project site is comprised of thirteen parcels, which primarily contain residential developments. The project site is surrounded by similarly-developed residential sites and the recently completed KB Homes development, which consists of 149 single-family homes. The general area is in the western portion of the City and is completely surrounded by incorporated Hayward.

Other public agencies whose approval is required: None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

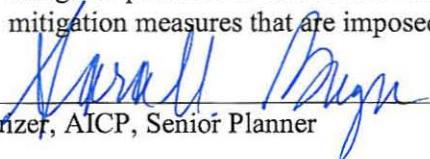
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities / Service Systems | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


 Sara Buizer, AICP, Senior Planner

Date 9/23/11

EVALUATION OF ENVIRONMENTAL IMPACTS:

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? Comment <i>There are no designated scenic vistas in the vicinity of the project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? Comment <i>The project is not located within a state scenic highway; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? Comment <i>The existing site is a mix of developed and undeveloped land. The proposed single family homes will add to the visual character of the site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? Comment <i>The new residential units will add some additional light to this area, but the amount is considered less than significant given the surrounding developed area; no mitigation is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

II. AGRICULTURE AND FOREST

RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? Comment <i>The project does not involve any Prime Farmland, Unique Farmland or Farmland of Statewide Importance; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? Comment <i>The project site is not zoned for agricultural uses nor under a Williamson Act contract; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? Comment <i>The project does not involve the rezoning of forest land or timberland; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use? Comment <i>The project does not involve the loss of forest land or involve conversion of forest land; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? Comment <i>The project does not involve changes to the environment that could result in conversion of Farmland or forest land; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan? Comment <i>The project is a residential in-fill project located near public transit and will not conflict with the goals of the air quality plan; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? Comment <i>The Bay Area Air Quality Management District (BAAQMD) has established screening criteria as part of their CEQA guidance to assist in determining if a proposed project could result in potentially significant air quality impacts. Based on the District's criteria, the proposed project screens below what would require additional evaluation; thus the proposed project will not violate any air quality standard and the impact is less than significant.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? Comment <i>The proposed project meets the screening criteria in Table 3-1 of the Air District's CEQA Guidelines; thus, it can be determined that the project would result in a less-than-significant cumulative impact to air quality from criteria air pollutants and precursor emissions.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>d) Expose sensitive receptors to substantial pollutant concentrations? Comment <i>The project is an in-fill development located in an already developed area that will not involve exposing sensitive receptors to substantial pollutant concentrations; thus the impact is less than significant.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>e) Create objectionable odors affecting a substantial number of people? Comment <i>The project is an in-fill residential development that will not create any objectionable odors; thus no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES -- Would the project:

<p>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? Comment <i>The project site is located in an area that is largely developed and does not contain plant or wildlife special-status species; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? Comment <i>The project area is largely developed and does not contain any riparian habitat or sensitive natural communities; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? Comment <i>The project site, located in an urban setting, contains no wetlands; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? Comment <i>The project site, located in an urban setting, and will not interfere with the movement of any migratory fish or wildlife species; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? Comment <i>The project site contains many trees that will be impacted and proposes removal of 101 trees and the preservation of thirteen trees including a large coast live oak on Saklan Road. HortScience prepared a tree report identifying methods for tree preservation and tree replacement to mitigate for the potential impacts. Following these recommendations will reduce impacts to a level of insignificance.</i></p> <p>Mitigation Measure 1: <i>The applicant shall follow all recommendations in the tree evaluation report including protection of all trees to be preserved during all phases of the development and replacement of all removed trees based on the value of the removed trees.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? Comment <i>The project site is not located in an area covered by an adopted Habitat Conservation Plan or Natural Community Conservation Plan; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? Comment: <i>Given the project site is largely developed with structures constructed in 1920, 1942 and 1988 and are not historically significant, no such impacts are anticipated to occur.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? Comment <i>There are no known archaeological resources in the vicinity; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? Comment <i>There are no known paleontological resources or unique geological features on or near the site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries? Comment <i>There are no known human remains nor cemeteries nearby the project site; however, standard procedures for grading operations would be followed during development, which require that if any such remains or resources are discovered, grading operations are halted and the resources/remains are evaluated by a qualified professional and, if necessary, mitigation plans are formulated and implemented. These standard measures would be conditions of approval should the project be approved.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. Comment: <i>The project site is not within the State's Earthquake Fault Zone. Therefore, impacts related to fault rupture are not anticipated.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>ii) Strong seismic ground shaking? Comment: <i>An earthquake of moderate to high magnitude could cause considerable ground shaking at the site; however, all structures will be designed using sound engineering judgment and adhere to the latest California Building Code (CBC) requirements, thus the impact is considered less than significant.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>iii) Seismic-related ground failure, including liquefaction? Comment: <i>The site is located within an area that may be susceptible to liquefaction. A design level geotechnical evaluation shall be conducted and submitted for review and approval prior to issuance of building permits and if liquefaction is determined to be probable, measures as recommended by the project geotechnical consultant shall be implemented. Such measures, such as special foundation construction, will reduce the significance of liquefaction-related impacts to a level of insignificance.</i></p> <p>Mitigation Measure 2: <i>Prior to issuance of a Building permit, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>iv) Landslides? Comment: <i>Due to the relatively flat site topography, landslides are not likely; thus no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>b) Result in substantial soil erosion or the loss of topsoil? Comment: <i>Although the project would result in an increase in impervious surface, the project site is relatively flat and erosion control measures that are typically required for such projects, including but not limited to gravelling construction entrances and protecting drain inlets will address such impacts. Therefore, the potential for substantial erosion or loss of topsoil is considered insignificant.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? Comment: <i>The site is relatively flat and such impacts are not anticipated.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? Comment: <i>According to the Preliminary Geotechnical Assessment, moderate to highly expansive clay soils were observed near the surface of the site. The assessment recommends that exposed soils be kept moist prior to placement of concrete for foundation construction and includes recommendations for the grading phase for soil compaction to reduce the swell potential. Provided the recommendations in the preliminary geotechnical assessment are followed, the impacts of the expansive soils will be mitigated to a less than significant level.</i></p> <p>Mitigation Measure 3: <i>All recommendations outlined in the preliminary geotechnical assessment, including, but not limited to, keeping exposed soils moist prior to concrete placement for foundation construction and proper compaction of clay soils to reduce swell potential shall be incorporated in the final design in order to mitigate for the presence of expansive soils on the project site.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? Comment: <i>The project will be connected to an existing sewer system with sufficient capacity and does not involve septic tanks or other alternative wastewater; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--------------------------------------	---	------------------------------------	--------------

VII. GREENHOUSE GAS EMISSIONS --
Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? **Comment** *The Bay Area Air Quality Management District (BAAQMD) has established screening criteria as part of their CEQA guidance to assist in determining if a proposed project could result in operational-related impacts to Greenhouse Gases. The project exceeds the screening criteria for operational greenhouse gases; however, once the actual impact is calculated using the Urban Land Use Emissions Model (URBEMIS), it was determined that the operational impact resulted in 4.2MT of CO²e/SP/year, which is below the threshold of 4.6MT of CO²e/SP/year; thus the impact is considered less-than-significant.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? **Comment** *As discussed in VIIa above, the project will not exceed the threshold for operation greenhouse gases. In addition, the project will be in compliance with the City of Hayward Green Building Ordinance; thus no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? **Comment** *The project is an in-fill residential project that does not involve the transport or use of hazardous materials; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? **Comment:** *Phase I and Phase II assessments were conducted on the thirteen parcels and although the properties had previously been used for agricultural purposes and small concentrations of hazardous materials had been found, it is the opinion of ETIC Engineering that these adverse environmental conditions have been mitigated and that further environmental assessment is not warranted; thus no mitigation is required.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? Comment: <i>The project will not emit hazardous materials or substances, thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? Comment: <i>The project site is not on a list of hazardous materials sites; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? Comment: <i>Although the site is located within two miles of the Hayward Executive Airport, development is proposed that is consistent with the Hayward General Plan, consisting of two-story residential units. Therefore, safety hazard related impacts are considered to be less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? Comment: <i>The site is not located within the vicinity of a private air strip and therefore, no such impacts would occur as a result of the project.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? Comment: <i>The project would not interfere with an adopted emergency response plan or emergency evacuation plan. In fact, the project would result in extension of the City's public water system to the area, thereby improving fire-fighting capabilities in the area.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? Comment: <i>The project site is located within a suburban setting, away from areas with wildland fire potential. Therefore, no such impacts related to wildland fires are anticipated.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

IX. HYDROLOGY AND WATER QUALITY

-- Would the project:

a) Violate any water quality standards or waste discharge requirements? Comment <i>The project will comply with all water quality and wastewater discharge requirements of the city; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? Comment <i>The project will be connected to the existing water supply and will not involve the use of water wells and will not deplete groundwater supplies or interfere with groundwater recharge; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? Comment <i>The project site is an infill site. All drainage from the site is required to be treated before it enters the storm drain system and managed such that post-development run-off rates do not exceed pre-development run-off rates; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? Comment <i>The project site is an infill site. All drainage from the site is required to be treated before it enters the storm drain system and managed such that post-development run-off rates do not exceed pre-development run-off rates; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <u>Comment</u> <i>The project site is an infill site. All drainage from the site is required to be treated before it enters the storm drain system and there is sufficient capacity to handle any drainage from the property; thus, the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality? <u>Comment</u> <i>The project site is an infill. All drainage from the site is required to be treated before it enters the storm drain system; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <u>Comment</u> <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <u>Comment</u> <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <u>Comment</u> <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <u>Comment</u> <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X. LAND USE AND PLANNING -- Would the project:				
a) Physically divide an established community? <u>Comment:</u> <i>The development is proposed in a developed suburban setting and would not divide an established community.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? Comment <i>The project involves construction of 144 new single-family homes and is consistent with the designated General Plan density. The project does include a request to modify the zoning designation; however, the Planned Development designation is to allow for flexibility in the development standards, not to accommodate additional density not anticipated by the General Plan, thus no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>c) Conflict with any applicable habitat conservation plan or natural community conservation plan? Comment <i>The project site is not covered by any habitat conservation plan or natural community conservation plan; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>XI. MINERAL RESOURCES -- Would the project:</p>				
<p>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? Comment <i>There are no known mineral resources on the project site; thus no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? Comment <i>There are no known mineral resources on the project site; thus no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--------------------------------------	---	------------------------------------	--------------

XII. NOISE -- Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? **Comment:**

A Noise Assessment was conducted on July 14th to 18th, 2011 by the project's acoustical consultant, Illingworth & Rodkin, Inc. The noise exposure at the project site would exceed 55 L_{dn} throughout due to aircraft overflights. Noise generated by aircraft cannot reasonably be reduced in exterior areas to meet the single-family standard. Another source of noise impact is from adjacent traffic. Most primary outdoor areas, however, are located behind the homes and thus acoustically shielded from the traffic noise. Some of the homes along Eden Avenue and Middle Lane will be exposed to higher noise levels. To reduce exterior noise levels in these identified yards, a solid noise barrier fence of six feet is recommended. The homes adjacent to Eden Avenue, Middle Lane and Saklan Road will have interior noise levels that exceed standards when any windows are open. To mitigate this condition, those homes are required to be equipped with a standard central air handling system equipped with a 'summer switch' which allows the fan to circulate air without furnace or air conditioning operation. Following the recommendations in the Noise assessment will reduce potential impacts to a level of insignificance.

Mitigation Measure 4: *All recommendations as outlined in the Environmental Noise Assessment prepared by Illingworth and Rodkin, Inc. shall be followed and incorporated into the site design so as to mitigate any potential noise impacts to an insignificant level.*

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	-------------------------------------	--------------------------	--------------------------

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? **Comment:** *No significant vibration impacts are anticipated for the project site.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? **Comment:** *The project is a residential development and will not involve an increase in the ambient noise levels in the area; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Comment Existing residential development will experience a slight increase in ambient noise levels during the construction of the proposed project.; construction is limited to the allowable hours per the City's Noise Ordinance; thus the impact is considered less-than-significant and no mitigation is required.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? Comment: As indicated in the Mt. Eden Annexation Final EIR, based on Figure 7.3 in the General Plan EIR, the Project area is not impacted by significant noise levels from Oakland International Airport or Hayward Executive Airport. Concerns with nuisance issues associated with touch and go aircraft flights will be addressed with project conditions of approval, which will require that aviation easements be recorded that would ensure disclosure and notification to future property owners of touch and go aircraft operations in the vicinity.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? Comment The project is not located within the vicinity of a private air strip; thus, no impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. POPULATION AND HOUSING --

Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? Comment The project involves the construction of 144 new residential units, however, the residential development is consistent with the density established by the City's General Plan; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? Comment: <i>The project involves the demolition of a few homes in order to construct an additional 144 single family units; however, the majority of the project site is vacant and the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? Comment: <i>The project involves the demolition of a few homes in order to construct an additional 144 single family units; however, the majority of the project site is vacant and the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

XIV. PUBLIC SERVICES --

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection? Comment: <i>No such facilities are required and therefore, no such impacts are expected to occur.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection? Comment: <i>No such facilities are required and therefore, no such impacts are expected to occur.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools? Comment: <i>The project site is within the Eden Gardens Elementary School, Ochoa Middle School and Mt. Eden High School attendance areas of the Hayward Unified School District. The developer will be required to pay school impact mitigation fees, which, per State law, is considered full mitigation.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks? Comment: <i>The project proponent would be required to pay park dedication in-lieu fees. Such measures would reduce such impacts to levels of insignificance</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

Other public facilities? **Comment**
Approval of the project may impact long-term maintenance of roads, streetlights and other public facilities; however, the project does not exceed density envisioned by the general Plan thus the impact is considered less than significant.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

XV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? **Comment** *The project proposes to include some common areas within the development, including a 15,000 square foot space that includes a tot lot and each residential unit provides private yard areas. The development is also located near Greenwood Park and future residents will be able to utilize this facility. In addition, the developer will be required to pay applicable park in-lieu fees; thus the impact is considered less-than-significant.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? **Comment** *The project proposes to include some common areas within the development, including a 15,000 square foot space that includes a tot lot and each residential unit provides private yard areas. The development is also located near Greenwood Park and future residents will be able to utilize this facility. In addition, the developer will be required to pay applicable park in-lieu fees; thus the impact is considered less-than-significant.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

XVI. TRANSPORTATION/TRAFFIC --
 Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? **Comment:** *Hexagon Transportation Consultants, Inc. prepared a Transportation Impact Analysis for the proposed project and the project will not conflict with any applicable plans, ordinance, nor policies related to the circulation system; thus no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways **Comment:** *No level of service will be impacted by the construction of the additional residential units on an existing in-fill lot; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? **Comment:** *The project involves no change to air traffic patterns; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? **Comment:** *The project has been designed to meet all City requirements, including site distance and will not increase any hazards; thus no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

e) Result in inadequate emergency access? **Comment:** *The project is on an in-fill site completely accessible and will not result in inadequate emergency access; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? Comment <i>The project does not involve any conflicts or changes to policies, plans or programs related to public transit, bicycle or pedestrian facilities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. UTILITIES AND SERVICE SYSTEMS

-- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? Comment <i>The project will not exceed wastewater treatment requirements; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------	-------------------------------------	--------------------------

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Comply with federal, state, and local statutes and regulations related to solid waste? <u>Comment</u> <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? <u>Comment:</u> <i>As discussed under the Biology Resources section, the project would entail removal of some protected trees, as defined by the City of Hayward's Tree Preservation Ordinance. Mitigation measures, including installation of tree protection measures for preserved trees and replacement of all removed trees, have been identified to reduce such impacts to levels of insignificance.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	-------------------------------------	--------------------------	--------------------------

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? <u>Comment:</u> <i>The proposed 144-lot development is consistent with the density of development identified in both the City's General Plan and the Mt. Eden Annexation EIR, therefore, no such impacts are anticipated.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</p> <p>Comment: <i>As indicated in the Biological Resources, Geology and Soils, and Noise sections, the project could cause substantial adverse effects on human beings due to loss of significant trees, potential seismic ground shaking, liquefaction and expansive soils, noise exposure to residents in new housing units located along Saklan Road and Eden Avenue, and temporary noise construction impacts on existing residents. Mitigation measures, including the protection of preserved trees and replacement of all removed trees, preparation of a design level geotechnical evaluation and incorporation of all recommendations into the final project design, incorporation of all preliminary recommendations in the final project design to address expansive soils and incorporation of noise recommendations into the final design of the project, have been identified to reduce such impacts to levels of insignificance.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Eden Commons –
Dutra Enterprises, Inc.
Mitigation Monitoring and Reporting Program**

**Planned Development Application No. PL-2011-0175 PD;
Vesting Tentative Tract Map Application No. PL-2011-0176 (TTM 8086);
Dutra Enterprises, Inc. (Applicant)
Dutra, Christensen, Tilley (Owners)**

October 8, 2011

<p>Significant Environmental Impact</p>	<p>Mitigation Measure</p>	<p>Implementing Responsibility</p>	<p>Monitoring Responsibility</p>	<p>Timing</p>
<p><u>Impact IV-e (Biological Resources):</u> <i>The project site contains many trees that will be impacted and proposes removal of 101 trees and the preservation of thirteen trees including a large coast live oak on Saklan Road. HortScience prepared a tree report identifying methods for tree preservation and tree replacement to mitigate for the potential impacts. Following these recommendations will reduce impacts to a level of insignificance.</i></p>	<p><u>Mitigation Measure 1:</u> <i>The applicant shall follow all recommendations in the tree evaluation report including protection of all trees to be preserved during all phases of the development and replacement of all removed trees based on the value of the removed trees.</i></p>	<p>Project developers, including project contractor.</p>	<p>City of Hayward Planning Division, Engineering and Transportation Division and Building Division</p>	<p>Prior to start of grading or construction.</p>

<p align="center">Significant Environmental Impact</p>	<p align="center">Mitigation Measure</p>	<p align="center">Implementing Responsibility</p>	<p align="center">Monitoring Responsibility</p>	<p align="center">Timing</p>
<p><u>Impact VI-a-iii (Geology and Soils):</u> <i>The site is located within an area that may be susceptible to liquefaction. A design level geotechnical evaluation shall be conducted and submitted for review and approval prior to issuance of building permits and if liquefaction is determined to be probable, measures as recommended by the project geotechnical consultant shall be implemented. Such measures, such as special foundation construction, will reduce the significance of liquefaction-related impacts to a level of insignificance.</i></p>	<p><u>Mitigation Measure 2:</u> <i>Prior to issuance of a Building permit, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.</i></p>	<p>Project developers, including project contractor.</p>	<p>City of Hayward Planning Division, Engineering and Transportation Division and Building Division</p>	<p>Prior to start of grading or construction.</p>

<p align="center">Significant Environmental Impact</p>	<p align="center">Mitigation Measure</p>	<p align="center">Implementing Responsibility</p>	<p align="center">Monitoring Responsibility</p>	<p align="center">Timing</p>
<p><u>Impact VI-d (Geology and Soils):</u> <i>According to the Preliminary Geotechnical Assessment, moderate to highly expansive clay soils were observed near the surface of the site. The assessment recommends that exposed soils be kept moist prior to placement of concrete for foundation construction and includes recommendations for the grading phase for soil compaction to reduce the swell potential. Provided the recommendations in the preliminary geotechnical assessment are followed, the impacts of the expansive soils will be mitigated to a less than significant level.</i></p>	<p><u>Mitigation Measure 3:</u> <i>All recommendations outlined in the preliminary geotechnical assessment, including, but not limited to, keeping exposed soils moist prior to concrete placement for foundation construction and proper compaction of clay soils to reduce swell potential shall be incorporated in the final design in order to mitigate for the presence of expansive soils on the project site.</i></p>	<p>Project developers, including project contractor.</p>	<p>City of Hayward Planning Division, Engineering and Transportation Division and Building Division</p>	<p>Prior to start of grading or construction.</p>

<p>Significant Environmental Impact</p>	<p>Mitigation Measure</p>	<p>Implementing Responsibility</p>	<p>Monitoring Responsibility</p>	<p>Timing</p>
<p><u>Impact XII -a (Noise):</u> <i>A Noise Assessment was conducted on July 14th to 18th, 2011 by the project’s acoustical consultant, Illingworth & Rodkin, Inc. The noise exposure at the project site would exceed 55 L_{dn} throughout due to aircraft overflights. Noise generated by aircraft cannot reasonably be reduced in exterior areas to meet the single-family standard. Another source of noise impact is from adjacent traffic. Most primary outdoor areas, however, are located behind the homes and thus acoustically shielded from the traffic noise. Some of the homes along Eden Avenue and Middle Lane will be exposed to higher noise levels. To reduce exterior noise levels in these identified yards, a solid noise barrier fence of six feet is recommended. The homes adjacent to Eden Avenue, Middle Lane and Saklan Road will have interior noise levels that exceed standards when any windows are open. To mitigate this condition, those homes are required to be equipped with a standard central air handling system equipped with a ‘summer switch’ which allows the fan to circulate air without furnace or air conditioning operation. Following the recommendations in the Noise assessment will reduce potential impacts to a level of insignificance.</i></p>	<p><u>Mitigation Measure 4:</u> <i>All recommendations as outlined in the Environmental Noise Assessment prepared by Illingworth and Rodkin, Inc. shall be followed and incorporated into the site design so as to mitigate any potential noise impacts to an insignificant level.</i></p>	<p>Project developers, including project contractor.</p>	<p>City of Hayward Planning Division, Engineering and Transportation Division and Building Division</p>	<p>Prior to start of grading or construction.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
---	---------------------------	--	--------------------------------------	---------------



DATE: October 20, 2011

TO: Planning Commission

FROM: Sara Buizer, AICP, Senior Planner

SUBJECT: **Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176 – John Dutra of Dutra Enterprises (Applicant); Dutra, Christensen, Tilley (Owners) – Request to Change the Zoning from Medium Density Residential to Planned Development and to Subdivide the Property to Construct 144 Single-Family Homes**

The Project is located on multiple parcels totaling 10.9 acres generally located between Eden Avenue and Saklan Road, north of Middle Lane in the Mt. Eden area

RECOMMENDATION

Staff recommends that the Planning Commission recommends approval to the City Council of the proposed project, including 1) adoption of the attached Mitigated Negative Declaration (MND), Mitigation Monitoring and Reporting Program, and 2) approval of the Zone Change and Vesting Tentative Tract Map, subject to the attached Findings and Conditions of Approval.

SUMMARY

This proposal for a mix of detached and attached units from Dutra Enterprises, Inc., located between Eden Avenue and Saklan Road in the Mt. Eden neighborhood, is supported by staff because the proposed density, 13.2 dwelling units per acre, is consistent with General Plan density. Although the project proponent seeks a Planned Development District designation related to a reduction in number of parking spaces per unit, reduced lot size and reduced yard setbacks, the project is well-designed and is consistent with the general development pattern in the neighborhood. The project incorporates private and group open spaces to serve the future owners of these homes. Lastly, the project proposes to exceed the requirements of the City's Green Building Ordinance.

BACKGROUND

The project site is located within an area annexed to the City of Hayward effective March 2007. This particular project is located north of the KB Home project (Eden Pointe), that was reviewed by the Planning Commission and ultimately approved by the City Council in March 2006 and is now fully built. The area's infrastructure improvements have since been implemented as well.

DISCUSSION AND STAFF ANALYSIS

Project Description-

The project requires a Zone Change from Medium Density Residential District to Planned Development District, and a Vesting Tentative Tract Map to subdivide the property in order to construct seventy-nine detached and sixty-five attached single family homes. The project site is approximately 10.9 acres and the resulting density is 13.2 dwelling units per acre, consistent with the Medium Density General Plan land use designation for the property, which allows up to 17.4 dwelling units per acre. The project site is bounded by Eden Avenue, Saklan Road and Middle Lane. The project site is located within an existing single-family residential neighborhood that includes a mix of one-, two-, and three-story single-family homes. The project site is comprised of about thirteen different parcels that are primarily vacant, with five parcels developed with single family residences and other structures.

The proposed units will be accessed off Saklan Road, Eden Avenue and three new proposed private streets that will provide access to units via private drive courts. All proposed units will have a two-car garage. Most units will have garages that are accessed via the private courts. Thirty-one of the proposed units will have private driveways with direct access off the private streets. Staff recommends Condition of Approval 12.f. requiring the use of decorative pavement for these driveways to reduce the amount of impervious driveway surfaces. The thirty one units that have private driveways will also accommodate two cars within the driveways. All other guest parking, totaling 91 parking spaces, will be available on the surrounding public and private streets.

The Zoning Ordinance requires single-family homes to provide two covered parking spaces per unit. In addition, if a lot abuts a public or private street that has no parking lane, then an additional two parking spaces shall be provided. Seventy six units abut private streets or courts that are not wide enough to allow parking and as such, an additional 152 parking spaces would be required. Based on these standards, this proposed development would require a total of 440 parking spaces, 288 as covered spaces within garages and the additional as 152 open parking spaces. Between the covered garage parking and the spaces within driveways, the project will be providing 350 parking spaces, which is less than the required number of spaces. In summary, the project design meets the Code requirements for covered parking spaces, but shows 90 fewer on-site uncovered parking spaces than is required for single-family home developments. However, there is available parking on the public and private streets within and bordering the development that can accommodate an additional 91 cars.

The front entries for all units are shown oriented toward the surrounding streets or common paseos, with each unit shown with a private side or rear yard. The project includes seven different plans ranging in size from 1,366 square feet to 2,350 square feet with Plans 1-4 offering three bedrooms, and Plans 5-7 offering three bedrooms plus an office, which can be converted to a fourth a bedroom. The newly constructed attached and detached units constructed by KB Home just south in this neighborhood are comparable in size to the proposed units. All proposed units are two-story and are similar to the architectural style used by KB Home, though some of the units in the KB Home development to the south are three stories. Of the sixty five attached units, 17 buildings will be in a triplex configuration, while seven buildings will be in a duplex configuration. All plans include

ground-floor living space, including kitchen and a powder room, and second-floor bedrooms. Plans 5-7, amounting to approximately one-third of the proposed units, include options for ground-floor bedrooms with full bathrooms.

Inclusionary Housing Ordinance-

In January 2011, the City Council adopted an Ordinance providing interim relief from the Inclusionary Housing Ordinance effective until December 31, 2012. The Relief Ordinance allows a developer to pay an inclusionary housing in-lieu fee “by right” without special approval, rather than providing the units on-site. In this particular case, the applicant has indicated they will pay the in-lieu fee as allowed by the Relief Ordinance. A development of seventy-nine attached and sixty-five detached units is required to have 13 affordable units under the Inclusionary Housing Interim Relief Ordinance. The in-lieu fee cost is \$80,000 per affordable unit for a total of \$1,040,000.

Rezoning to Planned Development District -

The proposal involves a modification of the current zoning designation from Medium Density Residential District to Planned Development District. Under the current zoning designation, the project would not be feasible without modifications to some of the development standards. The purpose of the Planned Development District is to encourage development through efficient and attractive space utilization that might not otherwise be achieved through strict application of the development standards.

The Medium Density Residential zoning district requires a 5,000 square foot minimum lot size, which like the Single Family Residential zoning district, does not recognize the trend of developments not only in Hayward, but throughout the region and nation that entail single-family homes with private yard space on smaller lots. At one time, staff was developing standards for such “hybrid” home configurations to be incorporated into the zoning ordinance, but did not complete the project as it was dropped from the list of Council priorities.

The development proposes smaller lots than the minimum size required under the Medium Density Residential zoning district. Proposed lot sizes range from 1,400 square feet to 4,350 square feet with the average lot size of 2,252 square feet. The triplex and duplex units are located on the smallest of the lots with an average lot size of 1,666 sq. ft., while the detached units are located on the largest lots with an average lot size of 2,735 sq. ft. The overall proposed density is, however, consistent with the existing Medium Density Residential General Plan designation.

The Zoning Ordinance requires a 20 foot front yard setback, 5 foot side yard setbacks and 20 foot rear yard setbacks for single-family detached units. No building setbacks are required on townhouse lots except for those buildings on the perimeter which shall follow those for single family detached units. The plans for the proposed units show varied setbacks from those established by the Medium Density Residential zoning regulations. The side yard setback varies, but in no case is less than four feet. The front yard setback also varies, but is typically ten feet for the units along the common paseos and in no case less than seven feet for those units fronting the private streets. Rear yard setbacks vary, but in no case are less than 3.5 feet for those units with rear loaded garages.

Multi-family developments of four or more dwelling units within the Medium Density Residential District are also required to provide a combination of private and group open space. No open space for single-family homes is required, given such open space would be provided within single-family lots that meet established setbacks. Such multi-family developments must provide a minimum of 350 square feet of useable open space for each dwelling unit, with at least 100 square feet per unit being utilized for group open space. Private open space may not include required front or street side yards, exceed a 3 percent slope, be less than 100 square feet in area, or have a dimension less than 10 feet. Group open space must be centrally located to all residents, cannot have a greater than 5 percent slope and not be less than 400 square feet in area. A multi-family development of 144 dwelling units would be required to provide 50,400 square feet of open space, of which at least 14,400 square feet would be required to be designated for group open space. The total amount of private and group open space being provided is 59,337 square feet, of which 19,703 square feet is being designated for group open space.

For multi-family developments, private open space for each unit is not required. However, each unit would include a private side or rear yard area. The private open space areas range in size from 100 square feet up to 1,750 square feet. Fifty of the 144 units provide 250 square feet of private open space. An additional 43 units provide a minimum of 200 square feet of private open space. The development also proposes two group open space areas totaling 19,703 square feet. The smaller of the two spaces, located on the corner of Saklan Road and Private Street "A" is proposed as a passive space largely to preserve an existing tree. The larger of the two spaces, centrally located within the development along Private Street "B", is proposed with a tot lot, turf, and picnic areas. In addition, the project site is less than a quarter-mile from Greenwood Park, which is expected to be expanded and remodeled in the near future. In summary, the development is providing the amount of open space as required by the Zoning Ordinance if these were considered multi-family units.

To offset the relaxation of applicable development standards, including parking, minimum lot size and yard setbacks, the project applicant is proposing to exceed other City standards. The City's Green Building Ordinance requires new homes to meet a minimum of 50 points on the GreenPoint Rated checklist. Condition of Approval 132 requires each unit in this proposal to achieve a minimum of 75 points on the GreenPoint Rated checklist for each home. In addition, California Building Code requires a percentage of units within a residential development to have accessible and adaptable units. Accessible units are those where the public or common-use areas can be approached, entered and used by persons with disabilities. Adaptable units are those units that are designed with elements and spaces allowing the units to be adapted or adjusted to accommodate the user. Generally the standard is approximately 10 percent of the units located in buildings with three or more units. Based on the configuration of the proposed floor plans, almost 30 percent of the units have the ability to be converted to accessible units and an additional 15 percent have the ability to be adaptable, which will exceed this standard. Lastly, the Zoning ordinance allows homes to be constructed as tall as 40 feet. The proposed two-story units have a maximum height of 29 feet 11 inches, so that they would be more compatible with surrounding development.

Findings for the Zone Change/Preliminary Development Plan - In order for a Planned Development District to be approved, the City Council must make four findings. Staff's responses to those findings follow.

- (1) The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.

The project is consistent with the existing General Plan designation and policies related to providing a variety of housing types. The combination of attached and detached two-story single-family homes proposed on this site is similar in density to those homes built just to the south as part of the KB Home development and consistent with the overall development pattern in the area. The exteriors of the homes are consistent with the design of the other homes in the neighborhood, including the most recent development by KB Home. The additional units proposed with this project help to fulfill housing goals reflected in the Housing Element which specifically indicated the Mt. Eden neighborhood as one of four neighborhoods suitable for additional housing. In addition, the project minimizes impervious surfaces and runoff by utilizing available parking spaces along the public and private streets.

- (2) Streets and utilities, existing or proposed, are adequate to serve the development.

As part of the Mt. Eden Annexation Phase 1, a funding mechanism was established to address the infrastructure conditions in the neighborhood. With this funding mechanism in place, the streets and utilities have been upgraded to accommodate growth in this area. The proposed project is an in-fill development site surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.

- (3) The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

The project applicant has proposed a development achieving an integration of density and livability. The site design maintains the continuity of the existing street design established by the adjacent KB Home development. The useable open space, with the proposed tot lot and community park areas, includes identified pedestrian connectivity to allow for better circulation within the development and provides access to surrounding amenities such as Greenwood Park, shopping and public transit, which aides in the sustainability of the development over time. Lastly, the home designs offer a wide and flexible range of livability and lifestyles by integrating universal design features in many of the units.

- (4) Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

The project is consistent with the General Plan and Mt. Eden Neighborhood Plan in that the development is consistent with the allowable density established in the General Plan as well as policies regarding provision of a variety of housing choices and for townhouse developments to provide play areas for children. The applicant is seeking a Planned

Development designation to provide flexibility in the site layout of the units. To off-set the flexibility the applicant desires, the project proposes to exceed the standards required under the Green Building Ordinance. The applicant has proposed and the project has been conditioned to achieve a minimum 75 point GreenPoint rating where the minimum required by the ordinance is 50 points. In addition, California Building Code requires that grouped housing, such as this project, would be required to have 10 percent of the units be able to be converted to accessible units. Based on the configuration of the proposed floor plans, almost 30 percent of the units have the ability to be converted to accessible units. Lastly, the Zoning ordinance allows homes to be constructed as tall as 40 feet. The proposed two-story units have a maximum height of 29 feet 11 inches, so that they would be more compatible with surrounding development.

Vesting Tentative Tract Map 8086-

A vesting tentative tract map is being processed with this proposal to create individual parcels of land for each residential unit. If the vesting tentative map is approved, a final map will be processed and recorded, allowing each unit to be sold separately. The developer is proposing a vesting tentative map so that the developer gains, for a period of three years after the date of approval or conditional approval of the vesting tentative map, the right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect on the date on which the developer's application for a vesting tentative is deemed complete. The date that the vesting tentative map application was deemed complete was September 2, 2011.

The proposed subdivision creates one-hundred sixty-three parcels for seventy-nine detached and sixty-five attached single family homes, two common parks, a planter strip along the north side, easterly end of Street 'A' for future roadway widening, and fifteen parcels for three private streets and thirteen private courts. All private streets and private courts shall have a minimum twenty-four-foot wide travel lane, and will be constructed to the same standards as a public street. The proposed travel lane is adequate for circulation and meets the Fire Department accessibility requirements. The private streets are to be designated as fire lanes and no parking will be allowed except in the designated parking areas along the two proposed private streets that have a curb-to-curb width of twenty-eight feet for parking on one side, and thirty-six feet for parking on both sides of the street. Fire lane signage will be installed on private streets and curbs will be painted red as directed by the Fire Chief and City Engineer. Full frontage improvements, including curb, gutter and sidewalk, have been installed with recent street improvements along Saklan Road, Middle Lane and Eden Avenue. As a recommended condition, any damage to these public street improvements during construction will be repaired, and the full width of these surrounding streets with project frontage shall be slurry sealed prior to the issuance of final construction report for tract acceptance.

The existing utilities in the project vicinity, including sanitary sewer, water and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within the public utility easement and connected to existing utilities in the surrounding streets. On-site storm drainage will be connected to existing systems in the surrounding streets. Sanitary sewer and water mains will be publicly owned and maintained by the City. However, the proposed on-site storm drain system and cleanwater treatment facilities will be privately owned and maintained by the Homeowners' Association. Any overhead utility lines as well as any new utility lines will be required to be placed underground as part of the development improvements.

The formation of a Homeowners' Association (HOA) and the creation of Conditions, Covenants, and Restrictions (CC&R's) is recommended to be required so that the HOA will be responsible for maintaining all private streets, private courts, private street lights, private utilities, and other privately owned common areas and facilities on the site, including, but not limited to, two parks, cleanwater treatment facilities, landscaping, preservation and replacement of trees, as well as decorative paving. The cost of any necessary repairs performed by the City under the on-site decorative paved areas, including the replacement cost of the paving, shall be borne by the HOA. The common area landscaping includes all areas except the private yards. The CC&R's will also contain a standard condition that if the homeowners' association fails to maintain the common areas, private streets, lights and utilities, the City of Hayward will have the right to enter the subdivision and perform the necessary work to maintain these areas and lien the properties for their proportionate share of the costs.

Findings for the Vesting Tentative Tract Map - In order for a Vesting Tentative Tract Map to be approved, the Planning Commission must make the following findings, as recommended by staff:

- (1) The approval of Vesting Tentative Map Tract 8086, as conditioned, will have no significant impact on the environment, cumulative or otherwise. A Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.
- (2) The tentative tract map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Plan, and the City of Hayward Zoning Ordinance.
- (3) Upon the completion of remediation recommended by the project Geotechnical Engineer the site is physically suitable for the proposed type of development.
- (4) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (5) The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
- (6) Upon completion of the proposed improvements the streets and utilities would be adequate to serve the project.
- (7) None of the findings set forth in Section 66474 of the Subdivision Map Act for denial of a tentative map have been made.

ENVIRONMENTAL REVIEW

This proposal is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. Staff has prepared a Mitigated Negative Declaration and Initial Study (Attachment D), which indicates there will be no significant environmental impacts resulting from the project provided the identified mitigation measures are incorporated into the project, including implementing tree protection and tree replacement, performing a design level geotechnical analysis, and following all recommendations in the preliminary geotechnical assessment. The environmental document was made available for public review from October 8, 2011 through October 27, 2011. No comments were received as of the writing of this report.

PUBLIC OUTREACH

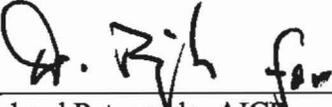
When the application was first received, notice was sent to all property owners within a 300-foot radius of the project site indicating staff had received an application for development on this site and that a preliminary meeting that would be held to provide the public an opportunity to review and comment on the project. That meeting was held on June 30, 2011, where two neighborhood residents expressed their support for the proposed project. They liked the design of the homes and were pleased that the proposal included two-story single-family attached and detached homes. In addition, a notice of this public hearing was sent to all property owners within a 300-foot radius.

SCHEDULE

Following the Planning Commission hearing and assuming the Commission recommends approval of the project, the City Council is tentatively scheduled to hear the item along with the Planning Commission's recommendation on November 15, and render a decision on the proposed Mitigated Negative Declaration, Zone Change and Vesting Tentative Tract Map Applications. Should the Council approve the project, the applicant will work toward complying with the conditions of approval to allow approval of a precise development plan and approval of a final map and subsequent construction permits, ultimately allowing for construction of the project.

Prepared by: Sara Buizer, AICP, Senior Planner

Recommended by:


Richard Patenaude, AICP
Planning Manager

Approved by:


David Rizk, AICP
Development Services Director

Attachments

- Attachment A: Area and Zoning Map
- Attachment B: Findings for Approval
- Attachment C: Conditions of Approval
- Attachment D: Initial Study and Mitigated Negative Declaration
- Attachment E: Mitigation Monitoring and Reporting Program
- Attachment F: Plans



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2011, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00p.m.by Chair Loché.

ROLL CALL

Present: COMMISSIONERS: Faria, Lamnin, Lavelle, Márquez, McDermott, Mendall
CHAIRPERSON: Loché
Absent: COMMISSIONER:

Commissioner Márquez led in the Pledge of Allegiance.

Staff Members Present: Buizer, Conneely, Nguyen, Patenaude, Philis

General Public Present: 24

PUBLIC COMMENTS

None

PUBLIC HEARING

- Zone Change Application No. PL-2011-0175 and Vesting Tentative Tract Map Application No. PL-2011-0176** – John Dutra of Dutra Enterprises (Applicant); Dutra, Christensen, Tilley (Owners) – Request to change the zoning from Medium Density Residential to Planned Development and to subdivide the property to construct 144 single-family homes.

The project is located on multiple parcels totaling 10.9 acres generally located between Eden Avenue and Saklan Road, north of Middle Lane in the Mt. Eden area.

Senior Planner Sara Buizer gave a brief synopsis of the report.

Commissioner Faria asked how the proposed project would impact parking for the Walker Landing neighborhood. Senior Planner Buizer said there were four to six parcels between the developments and said she would not be able to speculate on the impact.

Commissioner Márquez asked how the project would impact City services such as fire and police. Senior Planner Buizer said any development would have an impact on services, and that the cost per unit hadn't been calculated so she couldn't quantify the amount. Commissioner Marquez asked if the fire station on West Winton was still in operation and Planner Manager Richard Patenaude confirmed it was. Mr. Patenaude also mentioned that both the fire and police departments had reviewed the project, supplied conditions for the project, and had not indicated any service issues because of the project.

Commissioner Márquez asked how many units would have the option of a ground level bedroom and Senior Planner Buizer said approximately one third of the units, mostly the larger, detached units, and the option would also include a full bathroom. Regarding accessibility, Commissioner Márquez asked if units had any steps leading to the front door and Senior Planner Buizer said she didn't think so.

Commissioner Lamnin thanked City staff and the applicant for incorporating requests made by the Commission based on City priorities. She asked about nearby local retail services and Senior Planner Buizer said she wasn't aware of any new amenities coming to the area, but said pedestrian passageways were included in the development plan to allow for better access to existing retail amenities. Commissioner Lamnin asked staff to address bicycle accessibility for the complex and when staff could not, Commissioner Lamnin pointed out that the City had a Bicycle Master Plan and that she was concerned about the amount of on-street parking and whether bicycles were being accommodated. Commissioner Lamnin also mentioned there had been questions about the quality of KB Homes and asked if KB would be contracted and whether the City had received any complaints or comments about KB units already constructed. Senior Planner Buizer said she hadn't heard any complaints and noted that several City staff members had purchased homes in the first KB Home development and only had wonderful things to say about the developer.

Commission McDermott asked staff to explain the impact of the Inclusionary Housing ordinance, in effect until the end of 2012, on the development including any restrictions. Senior Planner Buizer said that as long as the development received its entitlements while the ordinance was in effect there were no restrictions, although she added that the ordinance may be going back to Council to clarify some ambiguities. Commissioner McDermott asked for confirmation that the developer would be paying \$80,000 for 13 units in-lieu of having affordable housing and staff said that was correct. Commissioner McDermott asked about the impact of the development on enrollment levels for local schools and Senior Planner Buizer said payment of school impact fees should eliminate any impact. Commissioner McDermott said her concern was about physically accommodating more students and Planning Manager Patenaude said school district plans were based on existing General Plan densities and attendance levels conformed to their plans.

Commission Lavelle asked what the Vesting Tentative Tract Map conferred upon the developer, and the development itself, and Development Review Engineer John Nguyen explained that when a Vesting Tentative Tract Map was approved, the standard improvement plan would be set at that time regardless of when construction actually finished. As an example, Mr. Nguyen explained that if a private street width was set at 24 feet now and 10 years later Council increased the minimum width to 36 or 40 feet, the developer would not be obligated to widen the road. Commissioner Lavelle asked for confirmation that the development plan, if approved, would remain exactly the same regardless of what development company constructed the homes, and Mr. Nguyen explained that while the standard improvement plan would remain the same, the plan would have to adapt to any changes to the building code.

Regarding Condition of Approval number 12(n), which limits mechanical equipment other than solar panels from being placed on the roof, Commissioner Lavelle asked if that included sky lights or solar tubes. Senior Planner Buizer said no, the intent was to prohibit air compressors or other large pieces of equipment. Commissioner Lavelle confirmed that residents in the middle unit of the triplexes would be allowed to put in a skylight and staff said yes. Commissioner Lavelle asked staff to comment on Condition number 135 which limited when the Certificate of Occupancy could be issued, and Senior Planner Buizer explained that the condition required the contractor to create community and open space areas in a timely fashion so residents of the first units sold had the amenities available. Ms. Buizer commented that this condition had not been placed on other projects and as a result, those amenities were being constructed at the end of the project. Commissioner Lavelle asked if the number for each unit had any significance and Development Review Engineer Nguyen explained that Unit 72 marked 50% of total number of units.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2011, 7:00 p.m.
777 B Street, Hayward, CA94541**

Commissioner Mendall disclosed that he met with the applicant earlier in the week and toured the site earlier in the day. Regarding the Benefit District mentioned in Condition 102, Commissioner Mendall asked how the collected fees were used and Senior Buizer explained that the district was set up when the property was first annexed into the City to pay for off-site improvements like sidewalks, curbs, gutters, landscape and street trees. She said the Dutas originally funded the cost of those improvements and now the benefit district fees would reimburse them. Commissioner Mendall asked if the benefit district expired and Mr. Nguyen said in 15 years from January 16, 2007.

Commissioner Mendall asked what the total amount of park in-lieu fees would be, as mentioned in Condition number 134(d), and Senior Planner Buizer explained that the total amount was based on the number of detached and attached housing units. She said the fee per unit was a little over \$11,000 each, multiplied by 144 units, would total the park in-lieu dedication cost Dutra Enterprises would be required to pay.

Commissioner Mendall pointed out that the project was short 91 required on-site parking spaces and asked staff to use a map to show the Commission the private and public streets where parking would be allowed to compensate for those 91 spaces. Senior Planner Buizer said parking would be allowed on all streets wide enough to accommodate it and that included Saklan Avenue, Eden Avenue, Middle Lane, part of private street A (within the development), both sides of private street B, but no parking will be allowed on private street C because it was too narrow. Commissioner Mendall asked what percentage of the needed 91 spaces could be accommodated on those streets and Senior Planner Buizer said 75-80% on the private streets alone.

Commissioner Mendall said a problem the City was having with parking in some of the existing, denser neighborhoods was people using their garage for uses other than storing their vehicles. He said he was pleased that the Home Owners Association (HOA) for this project, as part of the conditions of approval, was required to enforce the rule that garages be used for vehicles only. He asked if a Parking Benefit District could be created if, in the future, further development made street parking a problem, and suggested adding a condition that allowed for the creation of a Parking District if the City deemed it necessary. He suggested staff consider the idea before the project goes before Council and Planning Manager Patenaude said staff would prepare a response to the suggestion.

Commissioner Márquez disclosed that she met with the applicant on Tuesday. She noted that the report mentioned that two residents living in the area had voiced support for the project and asked if staff had received any other comments. Senior Planner Buizer said feedback had been limited and noted that at public meetings held earlier, nearby property owners generally supported the project and liked the design.

Chair Loché disclosed that he also met with the applicant earlier in the week and then asked if staff had taken into consideration the proximity of Chabot College to the project when recommending approval. Staff said no. Regarding proposed setbacks, Chair Loché said he understood the trend of moving toward smaller lot sizes, but commented that the rear a setback of 3.5 or 4 feet appeared drastic and asked if other projects with similar setbacks had been approved. Senior Planner Buizer said yes, and explained that most projects with rear-loading garages had a 3.5 foot setback to the access road to stop residents from parking illegally in front of their driveways and creating a fire access problem.

Chair Loché asked if any plans or changes were proposed for Greenwood Park, located near the project, and Senior Planner Buizer said she was processing an application for a development on the property adjacent to the park, and although staff was still working on negotiation terms, the expansion of Greenwood Park was part of that plan. She said that project would come before the Commission in the next few months.

Commissioner Mendall asked if the \$1.5 million in park in-lieu fees generated by the proposed project would be dedicated for the Greenwood Park expansion and Senior Planner Buizer said no, the funds would go into the park zone, and explained that monies had already been earmarked for the Greenwood Park expansion from the first KB Home development. Commissioner Mendall confirmed with staff that Greenwood was a Hayward Area Recreation Department park and the two on-site “pocket parks” would be maintained by the HOA.

Chair Loché opened the Public Hearing at 7:39 p.m.

Jesús Armas, business address on Main Street, spoke on behalf of Dutra Enterprises, identified the applicant, CEO John Dutra, and the project architect, Jill Williams. Mr. Armas said in many ways the project was a continuation of something started 20 years ago when the City first considered annexing the islands. The annexation required that an environmental assessment be performed and that addressed many of the questions raised by Commissioners. Regarding public safety, he said a report produced for LAFCO determined that public safety needs could be met by the City under the medium density designation and zoning. The impact on schools was also studied, Mr. Armas said, and it was found that Eden Gardens Elementary and Ochoa Middle School could accommodate the increased student population. Mr. Armas noted that Dutra Enterprises has built on the original project approved by council in 2006 enhancing some of the elements introduced by KB Homes. Regarding retail uses, he pointed out that a two acre parcel located at West and Clawiter was already zoned Neighborhood Commercial. Mr. Armas mentioned that the project would generate around \$1.7 million in park in-lieu fees, which was similar to the amount KB paid. Mr. Armas said Dutra Enterprises had met with the Park District and conceptual plans had been developed for Greenwood Park. He noted that the park would essentially double in size, and although no neighborhood meetings have been held yet to finalize plans, there has been discussion regarding adding restrooms, a barbecue area, and skateboard area. Regarding the Benefit District, Mr. Armas said that Dutra Enterprises had funded \$13 million of infrastructure work with the understanding that money would be repaid in two ways: through the County Redevelopment Agency and through a Benefit District. Under city regulations, Mr. Armas said only water and sewer elements are eligible for coverage in the district. Finally, Mr. Armas noted that if the project was recommended by the Commission and approved by the City Council, all the conditions of approval would move forward “with the land” and if the builder had any changes, those changes would have to come back to the Commission or Council for approval. He then introduced Dutra Enterprises CEO John Dutra.

John Dutra, Dutra Enterprises, said his company would be celebrating its 40th anniversary next April. He noted that Dutra Enterprises had been working with the City for the last 10 years in the Eden/Saklan area. He said he has enjoyed working with the City of Hayward and had built a trust that Dutra was building a quality product. He provided background on the project explaining that his father made the annexation possible because he was successful in providing a funding mechanism for the infrastructure and all 149 units in the KB development had sold. For phase II, he said Dutra Enterprises would be doing the same thing or better. Mr. Dutra said that at this time, they are in concurrence with all conditions of approval.

Jill Williams, principal with KTG Y Group, business address in Oakland, presented a 3-D rendering of the project site coming in at A Street and moving through the development to end at the centralized park area. She also displayed a PowerPoint slide showing the preservation of an oak tree and the available open space. She discussed Dutra’s desire to complement and add to the existing development by offering more variety in housing types and that led to the mix in floor plans including integrating a first floor bedroom into not only the front-loading homes, but in one alley-loading unit as well. Ms. Williams said they tried to give individuality to the duets and triplexes and “worked hard” to carve out a patio area for the center unit to bring in light from two sides. She said she would be happy to answer any questions about accessibility and mentioned that, regarding green points, looked forward to exceeding City standards, would definitely reach 75 points, and would deliver a very sustainable new neighborhood to Hayward.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2011, 7:00 p.m.
777 B Street, Hayward, CA94541**

Mike Giosso, Eden Avenue resident, said he had been a resident in the area for about 40 years. Mr. Giosso said that his property was originally located in the County when the processed first started and the development had improved his neighborhood dramatically. He said he supported the proposed project. Chair Loché asked him if he lived closed by to the new development and Mr. Giosso said he currently lived in the KB development, but kept his original home selling a portion of the property.

Malvina Okuda, Keets Lane resident, explained that her family owned property on Saklan Avenue, near the development, and had chosen not to sell to Dutra Enterprises. At the time of annexation for the first development, Ms. Okuda said her family was told that the use of their property would not need to change and noted that a rental property was located on the property as well as a garage and some large construction vehicles. Ms. Okuda asked for confirmation that the current project would not change their usage rights and Planning Manager Patenaude said the project would not interfere with the rights of the owner. Secondly, Ms. Okuda said a portion of her land was taken as part of the annexation and she asked if more land would be needed for infrastructure improvements. Senior Planner Buizer said the improvements along Eden and Saklan were complete and there were no plans to widen the existing road. Ms. Okuda also confirmed with staff that the development would include no affordable housing units. Finally, Ms. Okuda explained that her property was surrounded by a chain link fence and asked if more fencing would be added and if she would be responsible to pay for it. Senior Planner Buizer said the only new fencing would be along Saklan Avenue and Ms. Okuda clarified with Mr. Dutra that he didn't purchase another piece of property in foreclosure and he confirmed he did not. Ms. Okuda asked about the impact of the new development on a sewer line her family installed long ago, also under a benefits district, and Chair Loché asked her to write a letter and staff would respond.

Commissioner Mendall asked Ms. Okuda what she thought about the KB development in general. She said she was a little nervous about the development because the property had been a "country area" and her current tenant had hens and roosters and she was concerned that a resident in the new development might complain and they would have to get rid of them. Commissioner Mendall encouraged her to sit down with staff to discuss, and possibly alleviate, these concerns. Ms. Okuda mentioned that the roads are much better now with no potholes. Planning Manager Patenaude stated that property owners that had uses that were legal under the County at the time of annexation may continue those uses until they themselves abandon them.

Commissioner Mendall asked Mr. Armas to display a map that detailed the availability of street parking spaces. Mr. Armas did so explaining that they looked at the parking capacity of all of the interior streets, excluding Street C and part of Street A, and determined that any home fronting one of these streets would have sufficient space to park. Commissioner Mendall confirmed that 91 spaces would be provided by those interior streets alone and Mr. Armas said yes. Regarding the on-site park, Commissioner Mendall said it was "in a really nice spot" and would be a community gathering place and suggested park benches. Mr. Armas said benches were included in the central area, around the play structure, but said suggestions were welcomed indicating that the plans were conceptual and that they would be working with a landscape architect in the future. Commissioner Mendall said he imagined a family holding a 5-year-olds' birthday party there and noted they would need a couple of benches, a picnic table or two, an area to run, and with the play area already planned, that would create the greatest value. Mr. Armas said he agreed and noted the park area was almost a third of an acre.

Commissioner Márquez asked Mr. Armas how many parking spaces were available in each driveway. Mr. Armas said every single family home would have two covered spaces and two in the apron. Units with

courtyard access would not have the ability to park on the street, he said, those areas would be marked as a fire lane.

Regarding Commissioner McDermott's comment about the inclusionary housing ordinance, Mr. Armas explained that Council voted to give applicants the opportunity to make the argument that contributing funds was more effective than building affordable housing units. A few years ago, Mr. Armas said, to encourage residential development, for a short time, Council said that anyone who received discretionary approval by December 2012, by right, had the ability to pay the fee and in this instance, he said, Dutra Enterprises was availing itself of that option. The payment would go into a trust fund for the City to use in any way they deem most effective, he said. Commissioner McDermott thanked him for the explanation.

Commissioner Lamnin disclosed that she met with the applicant earlier in the day and took a self tour of the site. Regarding fences, she asked if there would be fences along Saklan Road or other public streets outside the development and Mr. Armas said if the units face the street there would be no fence. Commissioner Lamnin commented that people not living in the development might want to use the facilities and although that wasn't necessarily a bad thing, suggested they take that into consideration.

Commissioner Lamnin then asked where the sales area would be located and Mr. Armas said that hadn't been determined. Mr. Dutra said the developer would decide, but would probably select the prime lots in the complex, for example, across from the on-site park. Commissioner Lamnin confirmed that the street names A, B, and C were just place holders and Mr. Dutra said yes.

Chair Loché closed the Public Hearing at 8:10 p.m.

Commissioner Faria thanked Ms. Okuda for coming forward, providing some background, and giving her opinion. Commissioner Faria said she lived in the area and had had the exact same questions regarding the uses by residents already in the neighborhood. She said the responses answered a lot of questions.

Chair Loché said this was the most exciting project that the commission had seen in quite some time and he was glad people had come to the meeting to see what transpired.

Commissioner Mendall said he liked the development and thought it was better than the first. He acknowledged that the density of the project, the parking issues, and the setbacks, but said he was pleased to see that the applicant worked with staff to find compromises to make up for those. Commissioner Mendall highlighted the 75 green points and the fact that the development did not maximize the density, as past projects have, noting the density was 25% below what was allowed and fit with the neighborhood. He said the universal design elements in 30% of the homes was "a good thing." He also said he liked that the garage was on the same level as the kitchen, the height of the buildings, the open space, and noted that the cut-throughs and on-site park and nearby park, would make the development a walkable area.

Commissioner Mendall made a motion to recommend approval of the proposed project to the City Council including, 1. adoption of the Mitigated Negative Declaration (MND), Mitigation Monitoring and Reporting Program, and 2. approval of the Zone Change and Vesting Tentative Tract Map, subject to the Findings and Conditions of Approval. Commissioner Márquez seconded the motion.

Commissioner Márquez said she was in support of Commissioner Mendall's motion saying that the applicant had done a tremendous job researching and working with the community and that she appreciated the investment they had made in the past. She noted that Dutra Enterprises had been open to feedback, said Senior Planner Buizer did an excellent job, and said she was glad the homes were not three-story. She also said she appreciated the open space, universal design, the park, and the preservation of the existing tree.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2011, 7:00 p.m.
777 B Street, Hayward, CA94541**

Commissioner McDermott asked Assistant City Attorney Conneely if she should recuse herself because she was friends with the Dutra family and Ms. Conneely responded that as long as she could remain impartial she could act on the item.

Commissioner McDermott stated that she was familiar with the area, and thought the project would add to existing development. She said it was nice to see a residential development that encouraged residents to walk and said that would probably help Southland Mall and push them to make improvements to the mall. She concluded by saying it was a nice development, that she knew the family and that they would do a good job. Commissioner McDermott said this project wasn't a 100% perfect but still an excellent development.

Commissioner Lavelle disclosed that she also met with the developer and was fully supportive of the motion agreeing with comments made by Commissioner Mendall and Márquez. She thanked the Dutrás for their willingness to step forward and build the utilities years ago. She noted that she was on the Commission when phase one was reviewed and at that time, many residents expressed heartfelt comments and concerns regarding switching to the City's sewer system. Commissioner Lavelle said it was wonderful that the development was complete and that no residents had come forward to oppose this project. She noted that that said a lot about the Dutra family. She complimented Ms. Williams on the modern look of the development, the effort to create different spacing of the front, doorway entries, window treatments, and façade treatments. Commissioner Lavelle said she liked that conditions like 12(p), which limits large expanses of blank wall (like the side of the house), were included, as well as another that required that all decorative window treatments extend to all elevations. These are important details, she said, that make Hayward look attractive and helped maintain home values over time. Commissioner Lavelle concurred with Commissioner Mendall's comment that garages should be used for cars, rather than storage or living area, and noted the HOA would have to enforce that rule to alleviate the need to park on the street, and commented that because of the limited street parking the development would probably self-police. Commissioner Lavelle said she also agreed with Commissioner Lamnin's comment that the development should accommodate bicycles and suggested that the on-site park have a bike rack. She concluded by noting that residents could also shop the retail plaza with Target and the new Fresh & Easy at A and Hesperian and that there were plenty of new and existing retail options for residents to shop in Hayward.

Commissioner Lamnin said she was also supportive of the project saying that a lot had been done to make it an asset to the community. She encouraged Dutra Enterprises to partner with solar and cool-roof companies to create a package that potential homeowners could take advantage of when financing a home. She also suggested clear communication channels, including signage, so residents and neighbors like Ms. Okuda, would know who to call or where to go for questions or issues like noise complaints, etc. Commissioner Lamnin also suggested that the HOA consider the need for parking permits in the future, and inclusion of language in CC&R regarding rental units due to the proximity of Chabot College. She also suggested electrical outlets at the park so people can plug in computers or music and the selection of a play structure that would appeal to older kids as well as tots.

Commissioner Faria said she would also be supporting the project saying it was very attractive. She suggested including a pet area for the park to accommodate the different ages of residents and those that may have pets instead of children.

Chair Loché said this was a very, very attractive project and that he would certainly be supporting the motion. He said this neighborhood was one of the four identified in the Housing Element as a location to meet the housing goals of the City of Hayward. "This is the perfect place," he said noting that it was the right project

that looked the way you'd want it to look, and he commented that past residential developers hadn't done all they could to build a quality product in Hayward. Chair Loché said he liked the variety of housing types and said that taking into the consideration the size of project, that it came without any complaints was just shocking! He said he was glad that Ms. Okuda had voiced her questions, but the fact that not one other person said "Please don't do this," didn't happen very often. Chair Loché said the close proximity of the project to Chabot College was a great thing and suggested Wi-Fi for the area. "We're a very connected City," he said. He concluded by saying that the small blocks would make the neighborhood very walkable. He then called for the vote.

The motion passed 7:0:0.

AYES: Commissioners Faria, Lamnin, Márquez, Mendall, McDermott, Lavelle
Chair Loché
NOES:
ABSENT:
ABSTAINED:

COMMISSION REPORTS

2. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude mentioned that the initial report on the earthquakes that occurred earlier in the day, and earlier in the meeting, was 4.2 and 4.0, respectively and were centered in Berkeley. He then reviewed future meeting topics including workshops on the implementation of the Historic Preservation Program and the downtown plan efforts. He noted that both would follow input from the City Council, but the Commissioners would meet and be able to provide comments about the downtown plan before the CalPoly students arrived to do more assisting.

Commissioner Lamnin asked if downtown plan had already gone before Council and Planning Manager Patenaude said it would go to Council the following Tuesday.

Commissioner Mendall asked for the workshop reports earlier so they could have more time to review. Planning Manager Patenaude suggested that Commissioners read the Council reports as they would be very similar to the Planning Commission reports.

3. Commissioners' Announcements, Referrals

Commissioner Mendall gave an update for the Sustainability Committee noting that meetings were now held quarterly. He mentioned the County was discussing starting a commercial recycling program and approving a county-wide plastic bag ban.

Commissioner Lamnin mentioned that at the last meeting she had requested staff correct lane markings on Carlos Bee and noted that had been done and the road felt much safer. She also noted that due to previous commitments, she wouldn't be able to attend the next two meetings. And finally, Commissioner Lamnin said she had been walking around downtown earlier in the evening and there was a "wonderful feeling" due to the Restaurant Walk fundraiser being held for the library. Participants of the event got to enjoy sample fare from local restaurants and she said there was a real "community feeling" and it was exciting to see people discussing where to go next. "Kudos to those who planned the event," she said.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2011, 7:00 p.m.
777 B Street, Hayward, CA94541**

APPROVAL OF MINUTES

4. None

ADJOURNMENT

Chair Loché adjourned the meeting at 8:33 p.m.

APPROVED:

Mariellen Faria, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk

CITY OF HAYWARD

RESOLUTION NO. 09-049

Introduced by Council Member Henson

RESOLUTION APPROVING AMENDED AND RESTATED
LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended, being Sections 53311 and following of the California Government Code (the "Act"), and prior to the institution of any proceedings thereunder, the legislative body of a local agency must adopt goals and policies as provided in the Act; and

WHEREAS, the City Council of the City of Hayward previously approved "Local Goals and Policies for Community Facilities Districts" by Ordinance No. 01-13, entitled "An Ordinance Adding Article 17 to Chapter 8 of the Hayward Municipal Code Relating to Adopting Local Goals and Policies for the Establishment of Community Facilities Districts," adopted on October 9, 2001 (the "Existing Goals and Policies"); and

WHEREAS, the Existing Goals and Policies provide that they may be amended or supplemented by resolution of the City Council; and

WHEREAS, the City Council wishes to amend and restate the Existing Goals and Policies for the purpose of complying with the requirements of the Act and to further update the Existing Goals and Policies.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward as follows:

1. Approval. The "Amended and Restated Local Goals and Policies for Community Facilities Districts" (the "Amended Goals and Policies") on file with the City Clerk, which amend and restate the Existing Goals and Policies, are hereby found to meet the requirements of the Act and are hereby adopted by the Council for the purposes of compliance with the Act, subject to further amendment by the Council as may be required from time to time.

2. Effective Date. This resolution and the Amended Goals and Policies shall be effective from and after the date of the adoption of this resolution by the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA April 21, 2009

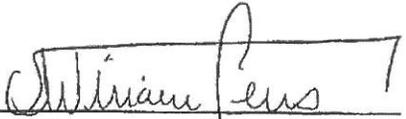
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeño, Halliday, May Dowling, Henson
MAYOR: Sweeney

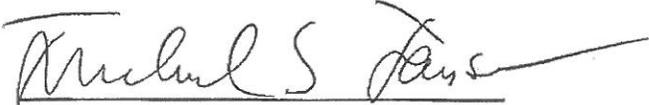
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Quirk

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward

CITY OF HAYWARD

AMENDED AND RESTATED LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS AND SPECIAL TAX DISTRICTS

I. GENERAL.

Section 53312.7(a) of the California Government Code requires that the City of Hayward (the "City") consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act") prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act.

These Amended and Restated Local Goals and Policies for Community Facilities Districts (the "Policies") amend and supercede prior Local Goals and Policies adopted by the City on October 9, 2001.

These Policies provide guidance and conditions for the conduct by the City of proceedings for, and the issuance of bonds secured by special taxes levied in, a special tax district or a community facilities district ("CFD") established under the Act or an ordinance adopted by the City in its capacity as a charter city pursuant to Section 3, 5 and 7 of Article XI of the California Constitution (an "Ordinance"). The Policies are intended to be general in nature; specific details will depend on the nature of each particular financing. The Policies are applicable to financings under the Act or an Ordinance and are intended to comply with Section 53312.7 (a) of the Government Code. These Policies shall not apply to any assessment financing or any certificate of participation or similar financings involving leases of or security in public property. The Policies are subject to amendment by the City Council at any time.

In each and every circumstance, the decision as to whether or not the City will make use of the Act or an Ordinance is a decision that will be made solely by the City. Nothing contained herein shall be construed as obligating the City to make use of the Act or an Ordinance in any circumstance or as granting to any person any right to have the City make use of the Act or an Ordinance in any circumstance.

II. FINANCING PRIORITIES.

Eligible Public Facilities. The public facilities eligible to be financed by a CFD must be owned by a public agency or public utility, and must have a useful life of at least five years, except that up to five percent of the proceeds of an issue may be used for facilities owned and operated by a privately-owned public utility. The development or redevelopment proposed within a CFD must be consistent with the City's general plan and must have received any required legislative approvals such as zoning or specific plan approvals prior to the issuance of public debt. A CFD shall not vest any rights to future land use on any properties, including those which are responsible for paying special taxes.

The list of eligible public facilities include, but are not limited to, the following:

- Cultural facilities
- Elementary and secondary school sites and facilities
- Flood control facilities
- Governmental facilities

- Landscaping on public property or in public easements
- Libraries
- Parks and recreational facilities
- Police and fire protection facilities
- Potable and reclaimed water facilities
- Public utilities
- Sanitary sewer facilities
- Storm drain facilities
- Streets and street lighting
- Traffic signals and safety lighting
- Utility relocations
- Other facilities as may be permitted pursuant to the Act or an Ordinance as it may be amended from time to time.

If appropriate, the City shall prepare a public facilities financing plan as a part of the specific plan or other land use document that identifies the public facilities required to serve a project, and the type of financing to be utilized for each facility. The City will attempt to schedule construction of CFD-financed facilities in a manner such that private development will not occur ahead of the installation of public infrastructure necessary to support that development.

Eligible Public Services. In general, the services eligible to be financed by a CFD (the "Services") are those identified in the Act or an Ordinance which are provided by the City, including:

- Fire protection and suppression services and ambulance and paramedic services
- Flood and storm protection including operation and maintenance of storm drainage systems and sandstorm protection systems
- Library services
- Maintenance and lighting of streets and roads
- Maintenance and lighting of parks, parkways and open space
- Operation and maintenance of museums and cultural facilities
- Police protection services
- Recreation program services
- Services related to removal or remedial reation for the cleanup of hazardous substance released or threatened to be released in the environment
- Other services as may be permitted pursuant to the Act or an Ordinance as it may be amended from time to time.

The City may finance services to be provided by another local agency if it determines the public convenience and necessity require it to do so, although the City prioritizes financing services to be provided by the City as described below. If appropriate, the City shall prepare a public services financing plan as a part of the specific plan or other land use document that identifies the public services required to serve a project and the source of funding for each such service.

Eligible Private Facilities. Financed improvements may be privately-owned in the specific circumstances, and subject to the conditions, set forth in the Act or an Ordinance.

Eligible Prior Debt. A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act or an Ordinance, as applicable.

Priorities for Financing. The priority that various kinds of public facilities and services will have for financing through the City's use of the Act or an Ordinance is as follows:

- (a) City services authorized to be financed pursuant to the Act or an Ordinance;
- (b) Backbone infrastructure to be owned and/or operated by the City that is required to serve proposed development and that is identified in an infrastructure master plan, specific plan or other appropriate document approved by the City as a major backbone infrastructure element;
- (c) Other public facilities to be owned and/or operated by the City for which there is a clearly demonstrated public benefit; and
- (d) Public facilities to be owned and/or operated by a public agency other than the City, including such public facilities financed *in lieu* of the payment of development fees imposed by such public agency. If the proposed financing is consistent with a public facilities financing plan approved by the City, or the proposed facilities are otherwise consistent with approved land use plans for the property, the City shall consider entering into a joint financing agreement or joint powers authority in order to finance these facilities. A joint agreement with the public agency that will own and operate any such facility must be entered into at the time specified in the Act or an Ordinance.
- (e) Fee obligations imposed by government agencies the proceeds of which fees are to be used to fund public capital improvements of the nature listed above. The City will not, generally, consider an application to finance fee obligations, but may consider such financing on a case-by-case basis.
- (f) Services provided by a public agency other than the City. If the proposed financing is consistent with a public services financing plan approved by the City, or the proposed facilities are otherwise consistent with approved land use plans for the property, the City shall consider entering into a joint financing agreement or joint powers authority in order to finance these services. A joint agreement with the public agency providing the services must be entered into at the time specified in the Act or an Ordinance.
- (g) Privately owned facilities (that is, facilities not owned by a local agency) will, generally, not be financed through the City's use of the Act or an Ordinance; provided, however, that the City may consider the financing of such facilities on a case by case basis.

In-tract infrastructure will, generally, not be financed through the City's use of the Act or an Ordinance, provided however, that the City may consider the financing of such facilities on a case by case basis.

III. BOND ISSUE CREDIT QUALITY REQUIREMENTS

The following are minimum requirements related to issuance of CFD bond issues by the City. Under extraordinary real estate or bond market conditions, the City may, at its own discretion, require more restrictive criteria or additional credit enhancement to improve credit quality.

Value-to-Public Lien Ratio. Generally, CFD bond issues should have at least a three-to-one property value to public lien ratio after calculating the value of the financed public improvements to be installed, unless otherwise specifically approved by the City Council as provided in Section 53345.8(b)

or (c) of the Act. Property value may be based on either an appraisal (as described in VI below) or on assessed values as indicated on the county assessor's tax roll. The public lien amount shall include the bond issue currently being sold plus the portion of any existing public indebtedness secured by a lien on the properties to be taxed.

Entitlement Status. The City will require all major land use approvals and governmental permits necessary for development of land in the CFD to be substantially in place before bonds may be issued.

Reserve Fund. In order to enhance the credit quality of CFD bond issues, the City generally will require that each such bond issue be secured by a reserve fund. Generally, each such reserve fund will be required to be funded with cash in an amount no less than the least of (a) 10% of the initial principal amount of the bonds of such issue, (b) maximum annual debt service on the bonds of such issue, or (c) 125% of the average annual debt service on the bonds of such issue.

Bond Structure for Owner-Occupied Residential Property. Generally, for a CFD created by a landowner vote where special taxes will be received primarily from owner-occupied residential properties, bonds for such CFD will be structured such that, once principal amortization thereof has commenced, debt service thereon will be substantially level.

Failure to Meet Credit Criteria. Less than a three-to-one property value to public lien ratio, excessive tax delinquencies, or projects of uncertain economic viability may cause the City to disallow the sale of bonds, or require additional credit enhancement prior to bond sale. The City may consider exceptions to the above policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement or other reasons specified by the City, and/or which otherwise provide extraordinary public benefits, to the extent permitted by and subject to any applicable requirements of the Act.

If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution, in a form and upon terms and conditions satisfactory to the City. Any security required to be provided by the applicant may be discharged by the City upon satisfaction of the applicable credit criteria specified by the City.

As an alternative to providing other security, and subject to federal tax law, the applicant may request that a portion of the bond proceeds be placed in escrow with a trustee or fiscal agent in an amount sufficient to assure the financing will meet the applicable credit criteria, including, but not limited to, meeting a value-to-lien ratio of at least three-to-one on the outstanding proceeds. The escrowed proceeds shall be released at such times and in such amounts as may be necessary to assure the applicable credit criteria has been met. Generally, in the event escrow bonds are issued, all interest during the escrow period shall be gross funded. Generally, an escrow bond structure for CFD bonds will not be employed unless such a structure advances an extraordinary City development or financial objective.

Suitable Investors. The City will require that bond financings be structured so that bonds are purchased and owned by suitable investors. For example, the City may require placement of bonds with a limited number of sophisticated investors, large bond denominations and/or transfer restrictions in situations where there is an insufficient value-to-lien ratio, where a substantial amount of the property within a CFD is undeveloped, where tax delinquencies are present in parcels within the CFD, and in any other situation identified by the City.

IV. DISCLOSURES

Purchasers of Property. As a minimum, any disclosures mandated by applicable state law to inform prospective purchasers of their obligations under the CFD shall apply to each CFD. In addition, there may be additional requirements mandated by the City for particular kinds of financings on a case-by-case basis. The City may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD.

Disclosure Requirements for the Resale of Lots. The City shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Act. This notice shall be provided by the City within five working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

Continuing Bond Disclosure. Landowners in a CFD that are responsible for ten percent (10%) or more of the annual special taxes must agree to provide: (i) initial disclosure at the time of issuance of any bonds; and (ii) annual disclosure as required under Rule 15c2-12 of the Securities Exchange Commission until the special tax obligation of the property owned by such owner drops below 10%.

V. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Minimum Special Tax Levels. Special tax formulas shall provide for minimum special tax levels which satisfy the following payment obligations of a CFD: (a) 110 percent gross debt service coverage for all CFD bonded indebtedness, (b) the administrative expenses of the CFD. Administrative costs of the CFD shall be prioritized ahead of all CFD bonded indebtedness. Generally, the rate and method of apportionment for CFD special taxes will be required to include a back-up tax so that changes in development within the CFD would not result in the inability to levy special taxes that would produce special tax revenues in such amounts.

In addition, the special tax formula may provide for the following to be included in the special tax levels: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts equal to projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of authorized facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, and (h) the costs of services, (i) the costs incurred to resolve or foreclose on delinquent parcels, and (i) any other costs or payments permitted by law. In structuring the special tax, projected annual interest earnings on bond reserve funds may not be included as revenue for purposes of the calculation.

Generally, the special tax rate and method of apportionment for a CFD will be structured so as to allow the prepayment by property owners of special taxes levied to finance facilities.

Reasonable Basis of Apportionment. The special tax formula shall be reasonable in allocating the CFD's payment obligations to parcels within the CFD. Exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

Aggregate Tax Burden. For Non-residential Property. The total projected non-residential property tax levels for any CFD (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding property owners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) must be reasonable, and will be considered by the City on a case-by-case basis.

For Residential Property. The total projected residential property tax levels (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding homeowners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) for any CFD (or, if a CFD has multiple improvement areas, for each improvement area and not the entire CFD) shall not exceed, at the time of CFD formation, the lesser of (i) 2.0% of the estimated sales prices of the respective homes to be constructed in the CFD (with such prices to be determined by reference to an absorption study or appraisal prepared for the CFD or such other information as the City shall determine), (ii) any maximum specified in the Act, or (iii) lesser amount as may be determined by the City on a case-by-case basis. The annual increase, if any, in the maximum special tax for any parcel shall not exceed any maximum specified in the Act. The increase in the special tax levied on any residential parcel as a consequence of delinquency or default by the owner of any other parcel shall not exceed any maximum specified in the Act.

Levy on Entire Parcels. Special taxes will only be levied on an entire county assessor's parcel, and any allocation of special tax liability of a county assessor's parcel to leasehold or possessory interest in the fee ownership of such county assessor's parcel shall be the responsibility of the fee owner of such parcel and the City shall have no responsibility therefor and has no interest therein. Failure of the owner of any county assessor's parcel to pay or cause to be paid any special taxes in full when due, shall subject the entire parcel to foreclosure in accordance with the Act.

Feasibility Analysis. The City may retain a special tax consultant and/or real estate market consultant to prepare a report or other analysis which: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.

VI. APPRAISALS

The definitions, standards and assumptions to be used for appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California, (including, but not limited to, the California Debt and Investment and Advisory Commission). The appraiser shall be selected by or otherwise acceptable to the City, and the appraisal shall be coordinated by and under the direction of, or otherwise as acceptable to, the City.

The appraisal must be dated within three months of the date the bonds are priced, unless the City Council determines a longer time is appropriate.

All costs associated with the preparation of the appraisal report shall be paid by the entity requesting the establishment of the CFD, if applicable, through the advance deposit mechanism described below.

VII. CITY PROCEEDINGS

Petition. For new development projects, a petition meeting the requirements of the applicable authorizing law will be required. The applicant is urged to obtain unanimous waivers of the election waiting period. In applying to the City for formation of a CFD, the applicant must specify any reasonably expected impediments to obtaining petitions, including from co-owners and/or lenders of record (where required). Waiver of the petition shall be made only upon showing of extraordinary hardship. For existing development, petitions are preferred, but may be waived, depending on the nature of the project and degree of public importance.

Deposits and Reimbursements. All City staff and consultant costs incurred in the evaluation of CFD applications and the establishment of the CFD will be paid by the entity, if any, requesting the establishment of the CFD by advance deposit increments. The City shall not incur any expenses for processing and administering a CFD that are not paid by the applicant or from CFD bond proceeds. In general, expenses not chargeable to the CFD shall be directly borne by the proponents of the CFD.

Generally any petition for formation of a CFD to fund Public Facilities shall be accompanied by an initial deposit in the amount not less than \$75,000 to fund initial staff and consultant costs associated with CFD review and implementation. If additional funds are needed to off-set costs and expenses incurred by the City, the City shall make written demand upon the applicant for such funds. If the applicant fails to make any deposit of additional funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

The City shall not accrue or pay any interest on any portion of the deposit refunded to any applicant or the costs and expenses reimbursed to an applicant. Neither the City nor the CFD shall be required to reimburse any applicant or property owner from any funds other than the proceeds of bonds issued by the CFD or special taxes levied in the CFD.

Representatives. The City and the applicant shall each designate a representative for each financing district proceeding. The representatives shall be responsible for coordinating the activities of their respective interests and shall be the spokespersons for each such interest. The purpose of this requirement is to avoid duplication of effort and misunderstandings from failure to communicate effectively. In the case of the City, it allows the City's consultants to report to a single official who will, in turn, communicate with other staff members.

Time Schedule. The final schedule of events for any proceeding shall be determined by the City, in consultation with its financing team and the applicant. Any changes will require approval by the appropriate City official. Time schedules will (unless specific exceptions are allowed) observe established City Council meeting schedules and agenda deadlines. To the extent possible, financings will be scheduled to allow debt service to be placed on the tax rolls with a minimum of capitalized interest.

VIII. FINANCING TERMS AND CONDITIONS OF BONDS.

No Impact On City's Credit. All terms and conditions of any CFD bonds shall be established by the City. The City will control, manage and invest all CFD issued bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or credit rating of the City through the special taxes, credit enhancements, foreclosure covenant, and reserve funds.

April 21, 2009

All statements and material related to the sale of bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City is pledged to security or repayment of the Bonds. The sole source of pledged revenues to repay CFD bonds are special taxes, bond proceeds and reserve funds held under the bond document, and the proceeds of foreclosure proceedings and additional security instruments provided at the time of bond issuance.

Finance Team Selection. The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, disclosure counsel, financial advisors, appraiser, market absorption/pricing consultant, and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

IX. EXCEPTIONS TO THESE POLICIES.

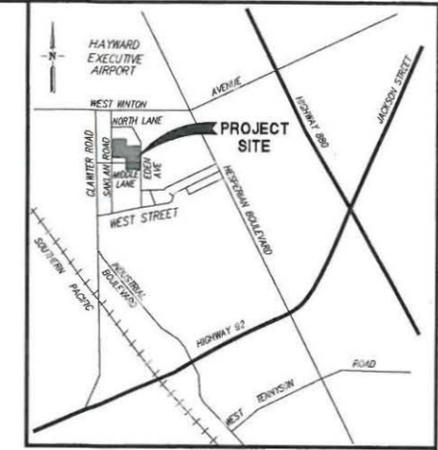
The City may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special benefits to be derived from such waiver. Such waivers only will be granted by action of the City Council.

BENCHMARK:

NGS BENCHMARK N 1370
IN TOP OF THE WEST EDGE OF THE CONCRETE CATCH BASIN ON THE
NORTHEAST CORNER OF THE INTERSECTION OF CLAWTER ROAD AND
WEST WINTON AVENUE, DISK STAMPED "N 1370 1983"
ELEVATION= 33.41' DATUM NGVD 29

VESTING TENTATIVE MAP TRACT 8086 - EDEN COMMONS

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



VICINITY MAP
NOT TO SCALE

PROPOSED	DESCRIPTION	EXISTING
---	TRACT BOUNDARY	---
---	LOT LINE	---
---	RIGHT OF WAY	---
---	CENTER LINE	---
---	RETAINING WALL	---
---	EASEMENT LINE	---
---	STORM DRAIN	---
---	SANITARY SEWER	---
---	WATER	---
---	CURB & GUTTER	---
---	SIDEWALK	---
■	STORM WATER INLET	□
■	FIELD INLET	□
•	AREA DRAIN	•
→	DIRECTION OF FLOW	→
○	MANHOLE	○
⊕	FIRE HYDRANT (DOUBLE STEAMER)	⊕
→	BLOW OFF	→
+	GATE VALVE	+
+	SAVE TREE	+
+	REMOVE TREE	+
○	CONTOUR ELEVATIONS	○
○	SPOT ELEVATION	○
0.5%	SLOPE	(0.7% ±)

ABBREVIATIONS

AB	AGGREGATE BASE	PSDE	PRIVATE STORM DRAIN EASEMENT
AC	ASPHALT CONCRETE	PSE	PUBLIC SERVICE EASEMENT
BW	BOTTOM OF WALL	PUE	PUBLIC UTILITY EASEMENT
EVAE	EMERGENCY VEHICLE ACCESS EASEMENT	PUME	PRIVATE UTILITY AND MAINTENANCE EASEMENT
EX	EXISTING	RCP	REINFORCED CONCRETE PIPE
FC	FACE OF CURB	RET	CURB RETURN
FF	FINISH FLOOR	RW	RIGHT OF WAY
FG	FINISHED GRADE	SDE	STORM DRAIN EASEMENT
FI	FIELD INLET	SSE	SANITARY SEWER EASEMENT
FL	FLOW LINE	SM	STORM WATER INLET
GB	GRADE BREAK	SWE	SIDEWALK EASEMENT
GE	GARAGE ELEVATION	SWK	SIDEWALK
GR	GRATE	TC	TOP OF CURB
HP	HIGH POINT	TW	TOP OF WALL
INV	INVERT ELEVATION	WLE	WATER LINE EASEMENT
LL	LOT LINE		
MH	MANHOLE		
PAE	PRIVATE ACCESS EASEMENT		
PL	PROPERTY LINE		

CIVIL SHEET INDEX

SHEET NO.	DESCRIPTION
C-1.0	GENERAL NOTES
C-1.1	EXISTING SITE CONDITIONS PLAN
C-1.2	TYPICAL SECTIONS & DETAILS
C-2.1	PRELIMINARY GRADING PLAN
C-2.2	PRELIMINARY GRADING PLAN
C-2.3	PRELIMINARY GRADING PLAN
C-3.1	OVERALL UTILITY SYSTEM PLAN
C-3.2	PRELIMINARY UTILITY PLAN
C-3.3	PRELIMINARY UTILITY PLAN
C-3.4	PRELIMINARY UTILITY PLAN
C-4.1	PRELIMINARY STORMWATER TREATMENT PLAN



LOCATION MAP
SCALE: 1" = 100'

GENERAL NOTES

- OWNERS:** CHRISTIANSEN, MARC A. 1400 CALHOUN STREET HAYWARD, CA 94544; DUTRA ENTERPRISES, INC. 43430 MISSION BOULEVARD, SUITE 210 FREMONT, CA 94539 TEL: (510) 353-9984 CONTACT: JOHN J. DUTRA
- APPLICANT:** DUTRA ENTERPRISES, INC. 43430 MISSION BOULEVARD, SUITE 210 FREMONT, CA 94539 TEL: (510) 353-9984 CONTACT: JOHN J. DUTRA
- CIVIL ENGINEER:** RUGGERI-JENSEN-AZAR 4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588 TEL: (925) 227-9100 CONTACT: JARED FREY
- GEOTECHNICAL ENGINEER:** ENGED INCORPORATED 2010 CROW CANYON PLACE, SUITE 250 SAN RAMON, CA 94583 TEL: (925) 866-9000 CONTACT: RANDY HILDEBRANT
- ARCHITECT:** KTG GROUP, INC. 580 SECOND STREET, SUITE 200 OAKLAND, CA 94607 TEL: (510) 272-2910 CONTACT: JILL D. WILLIAMS
- LANDSCAPE ARCHITECT:** RIPLEY DESIGN GROUP 1615 BONANZA STREET, SUITE 314 WALNUT CREEK, CA 94596 TEL: (925) 938-7377 CONTACT: ANNKA CARPENTER
- ASSESSOR'S PARCEL NUMBERS:** 441-0095-025-02, 441-0095-024-02, 441-0095-023-02, 441-0095-022-02, 441-0095-021-02, 441-0095-020-02, 441-0095-019-02, 441-0095-018-02, 441-0095-017-02, 441-0095-016-02, 441-0095-015-02, 441-0095-014-02, 441-0087-001-00, 441-0087-002-00
- CURRENT USE:** SINGLE-FAMILY DETACHED
- CURRENT GENERAL PLAN DESIGNATION:** MDR : MEDIUM DENSITY RESIDENTIAL
- PROPOSED USE:** SINGLE-FAMILY DETACHED, DUPLEXES, TRIPLEXES
- EXISTING ZONING:** RM : MEDIUM DENSITY RESIDENTIAL
- PROPOSED ZONING:** PLANNED DEVELOPMENT
- GROSS SITE AREA:** 10.9 ACRES
- NET DEVELOPMENT AREAS:** 10.5 ACRES
- PROPOSED SITE DENSITY:** 8.7 TO 17.4 (UNITS/ACRE)
- TOTAL NUMBER OF PROPOSED LOTS:** 163 LOTS
- PUBLIC OPEN SPACE:** LOTS A AND B (18,235 SQ. FT.)
- UTILITIES:**
 - a. WATER: CITY OF HAYWARD
 - b. SANITARY SEWER: CITY OF HAYWARD
 - c. STORM DRAIN: CITY OF HAYWARD
 - d. FIRE: CITY OF HAYWARD
 - e. GAS AND ELECTRIC: PACIFIC GAS AND ELECTRIC
 - f. TELEPHONE: AT&T
 - g. CABLE TV: COMCAST
- TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED ON AERIAL TOPOGRAPHIC SURVEY PROVIDED BY AERO-GEODETIC CORPORATION IN AUGUST 2007.**
- THIS PROPERTY LIES WITHIN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), AS SHOWN IN FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 288 OF 725, DATED AUGUST 3, 2009.**
- ALL EROSION CONTROL MEASURES SHALL BE IN CONFORMANCE WITH THE CRITERIA AND STANDARDS OF THE CITY OF HAYWARD.**
- THE HOMEOWNERS' ASSOCIATION WILL OWN AND MAINTAIN ALL PRIVATE STREETS, PRIVATE COURTS AND LOTS A, B AND C.**
- BUILDING CONSTRUCTION SHALL MEET THE REQUIREMENTS OF THE 2010 CALIFORNIA RESIDENTIAL CODE.**
- ALL PRIVATE STREET ENTRANCES FROM PUBLIC RIGHT OF WAY SHALL HAVE CITY STANDARD DRIVEWAYS PER STANDARD CITY DRAWING SD-110A WITH RAISED DECORATIVE PAVING.**

OWNERS' STATEMENT

WE (MARC A. CHRISTIANSEN, DUTRA ENTERPRISES INC, AND GERALD M TILLEY TR) AGREE TO THE FILING OF SAID MAP AND AGREE TO COMPLY WITH THE PROVISIONS OF THE CITY OF HAYWARD SUBDIVISION ORDINANCE AND THE STATE MAP ACT AS THEY APPLY TO THE PROCESSING AND APPROVAL OF SAID MAP.

Marc A. Christiansen
MARC A. CHRISTIANSEN

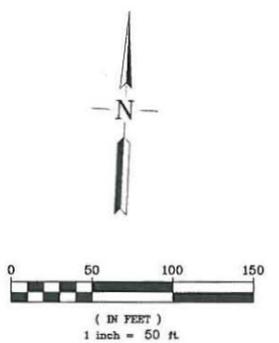
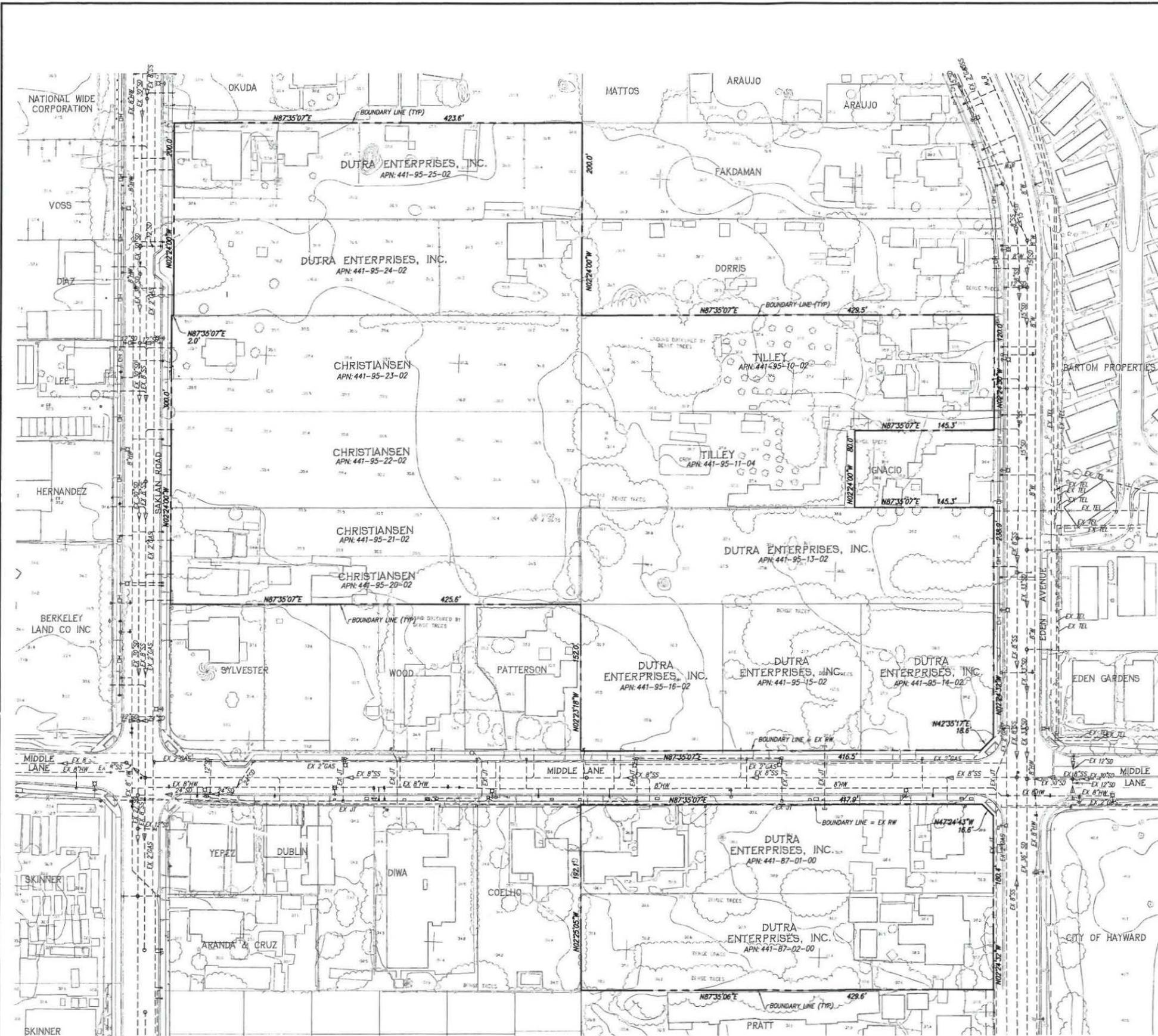
John J. Dutra
DUTRA ENTERPRISES, INC.

Gerald M. Tilley
GERALD M. TILLEY TR



RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

REVISED: SEPTEMBER 12, 2011
REVISED: AUGUST 16, 2011
DATE: JULY 22, 2011 JOB NO. 111017 SHEET **C-1.0**

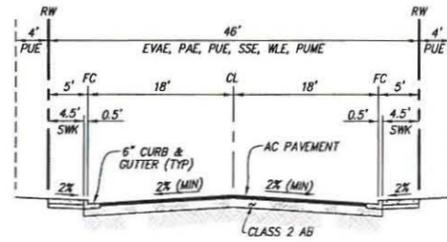


NOTE:
 1. EXISTING OVERHEAD LINES ALONG THE PROJECT FRONTAGE SHALL BE UNDERGROUND AND EXISTING JOINT POLES SHALL BE REMOVED.

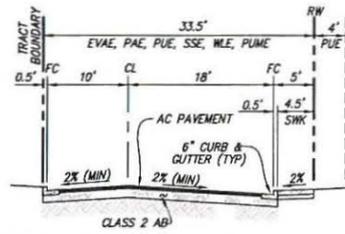
VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
EXISTING SITE CONDITIONS PLAN
 CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
 4690 CHASOT DRIVE, SUITE 200 PLEASANTON, CA 94588
 PHONE: (925) 227-9100 FAX: (925) 227-9300

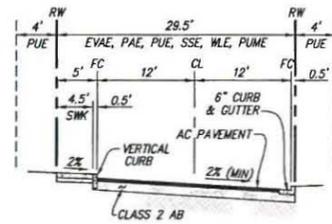
REVISED: SEPTEMBER 12, 2011
 DATE: JULY 22, 2011 JOB NO. 111017 SHEET **C-1.1**



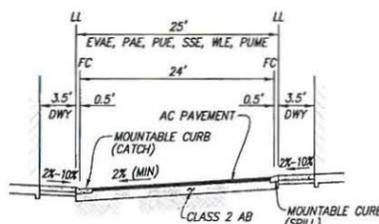
STREETS 'A' & 'B' (PRIVATE STREET)
NOT TO SCALE



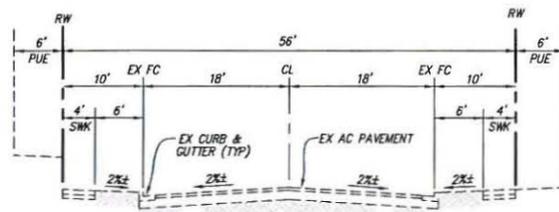
STREET 'A' AT EAST END (PRIVATE STREET)
NOT TO SCALE



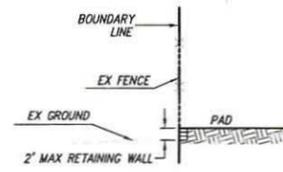
STREET 'C' (PRIVATE STREET)
NOT TO SCALE



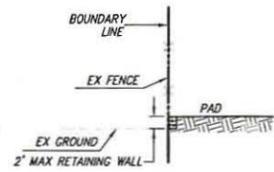
PRIVATE COURT
NOT TO SCALE



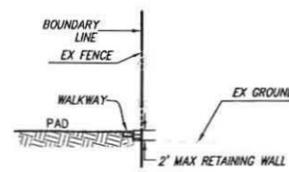
MIDDLE LANE (PUBLIC STREET)
NOT TO SCALE



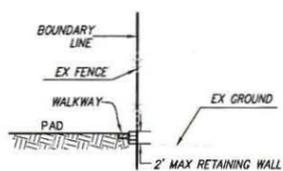
SECTION A-A
NOT TO SCALE



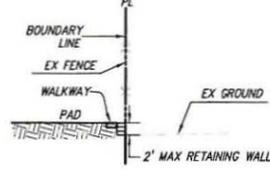
SECTION B-B
NOT TO SCALE



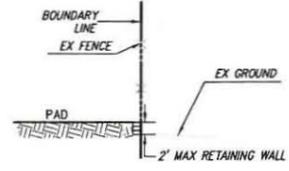
SECTION C-C
NOT TO SCALE



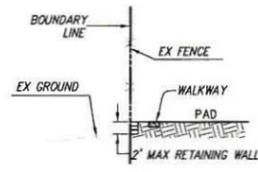
SECTION D-D
NOT TO SCALE



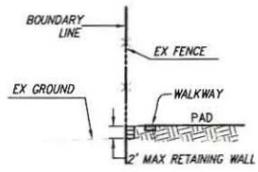
SECTION E-E
NOT TO SCALE



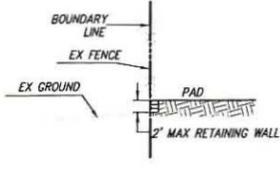
SECTION F-F
NOT TO SCALE



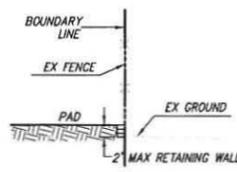
SECTION G-G
NOT TO SCALE



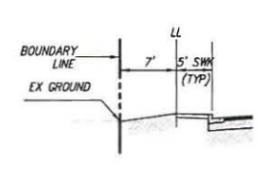
SECTION H-H
NOT TO SCALE



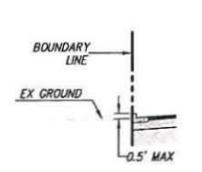
SECTION I-I
NOT TO SCALE



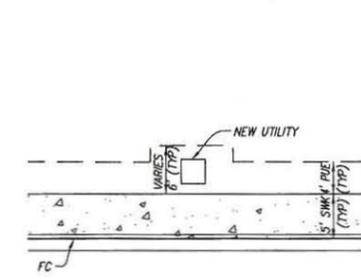
SECTION K-K
NOT TO SCALE



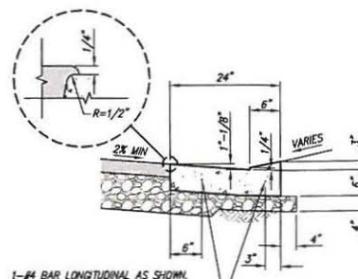
SECTION L-L
NOT TO SCALE



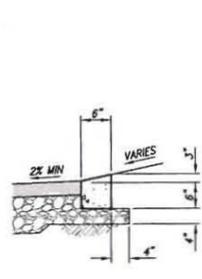
SECTION M-M
NOT TO SCALE



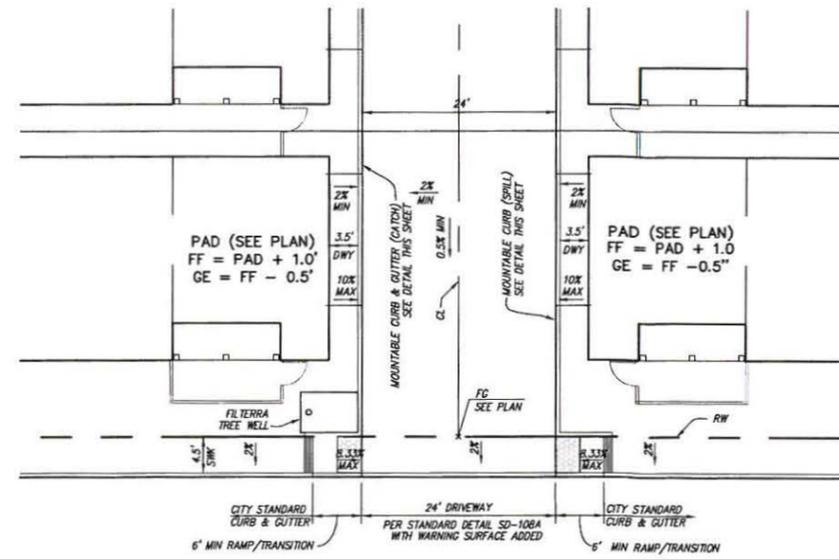
TYPICAL PUE AT NEW UTILITY DETAIL
SCALE: 1" = 10"



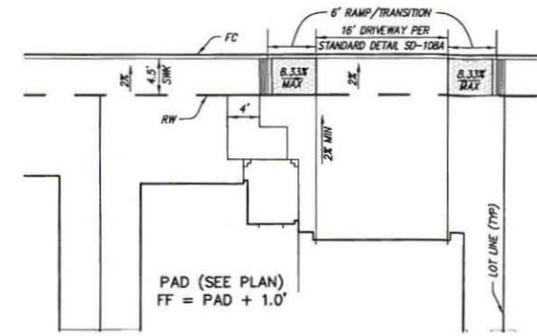
PRIVATE COURT MOUNTABLE CURB AND GUTTER AT DRIVEWAY (CATCH)
NOT TO SCALE



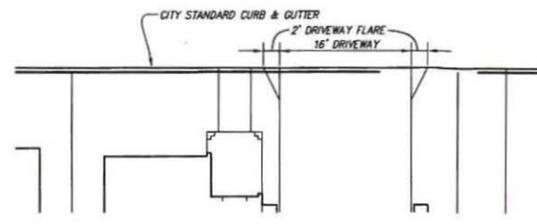
MOUNTABLE CURB AT DRIVEWAY (SPILL)
NOT TO SCALE



TYPICAL 'COURT' DRIVEWAY DETAIL
SCALE: 1" = 10"



TYPICAL 'SINGLE FAMILY' DRIVEWAY WITH SIDEWALK DETAIL
SCALE: 1" = 10"



TYPICAL 'SINGLE FAMILY' DRIVEWAY WITHOUT SIDEWALK DETAIL
SCALE: 1" = 10"

VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
TYPICAL SECTIONS & DETAILS
CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



RUGGERI-JENSEN-AZAR

ENGINEERS • PLANNERS • SURVEYORS
4650 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9100

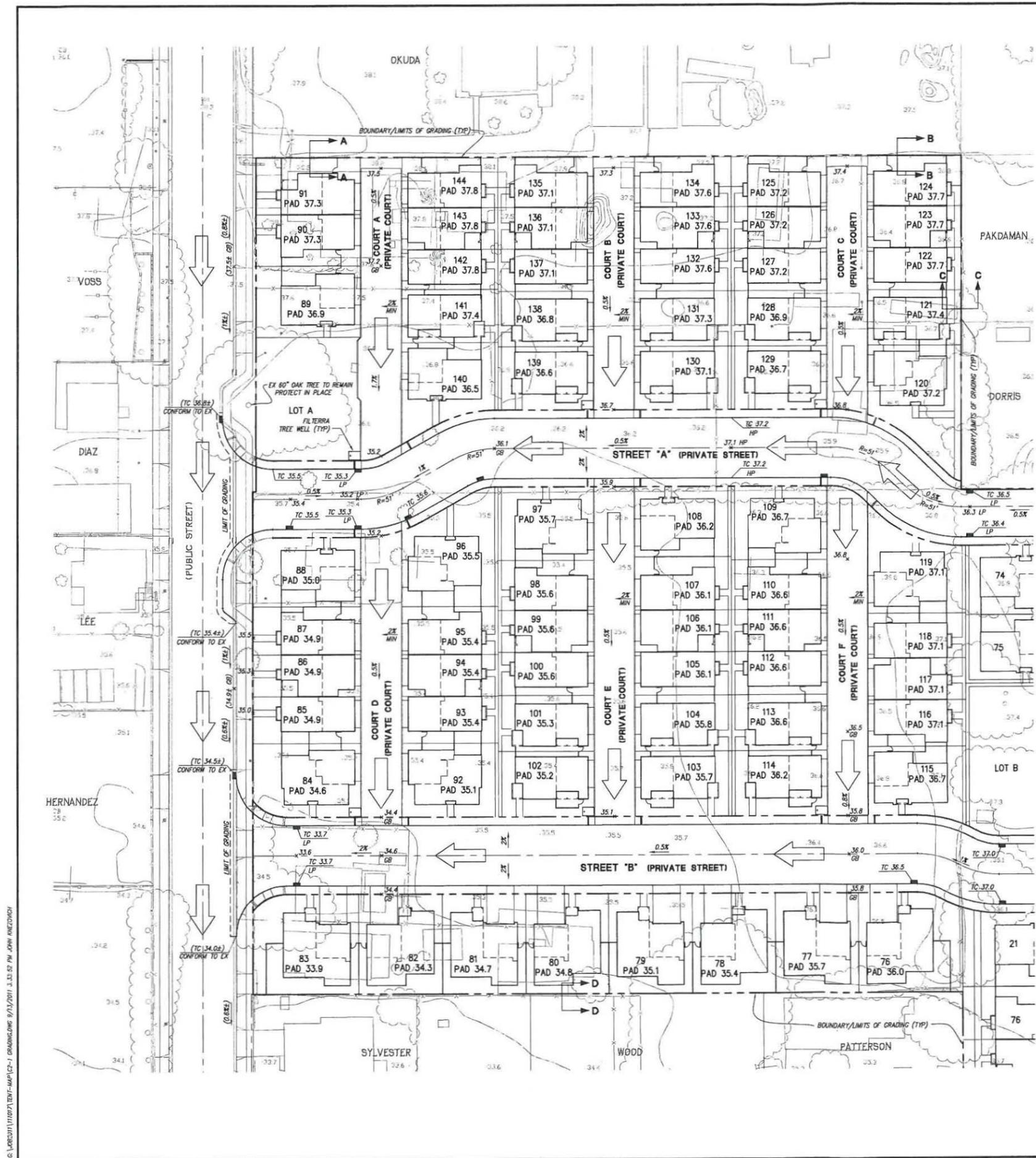
REVISED: SEPTEMBER 30, 2011
REVISED: SEPTEMBER 12, 2011
DATE: JULY 22, 2011

JOB NO. 111017

SHEET C-1.2

NOTES:

1. PER CITY OF HAYWARD, THE TRAFFIC INDEX (TI) FOR ALL PRIVATE STREETS SHALL BE TI = 6.0, AND FOR ALL PRIVATE COURTS, TI = 5.0.
2. CUT AND FILL SLOPES SHALL NOT EXCEED THE RATIO 2:1.
3. FINISH FLOOR AND GARAGE ELEVATION HAVE BEEN ASSUMED AS SHOWN PER DETAILS ON THIS SHEET.



SEE SHEET C-2.2



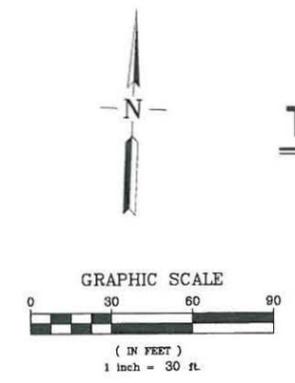
- NOTES:**
1. SEE GRADING SECTIONS ON SHEET C-1.2
 2. EXISTING DRIVEWAYS ALONG PROPERTY FRONTAGE SHALL BE REMOVED AND REPLACED WITH CITY STANDARD CURB, GUTTER, AND SIDEWALK.
 3. INDIVIDUAL LOT WALKWAYS SHALL NOT CONFLICT WITH SIDEWALK RAMPS FOR DRIVEWAYS.

ESTIMATED EARTHWORK QUANTITIES

ITEMS	CUT (C.Y.)	FILL (C.Y.)
LOTS	3,000	3,100
STREETS	5,900	-
TRENCH SPOIL	8,500	-
SHRINKAGE (10% ASSUMED)	-	300
TOTAL	17,400	3,400
EXPORT	14,000	-

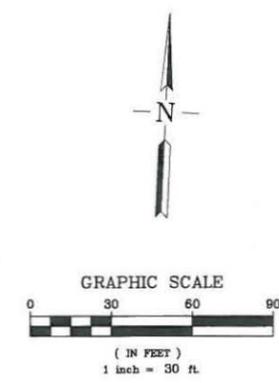
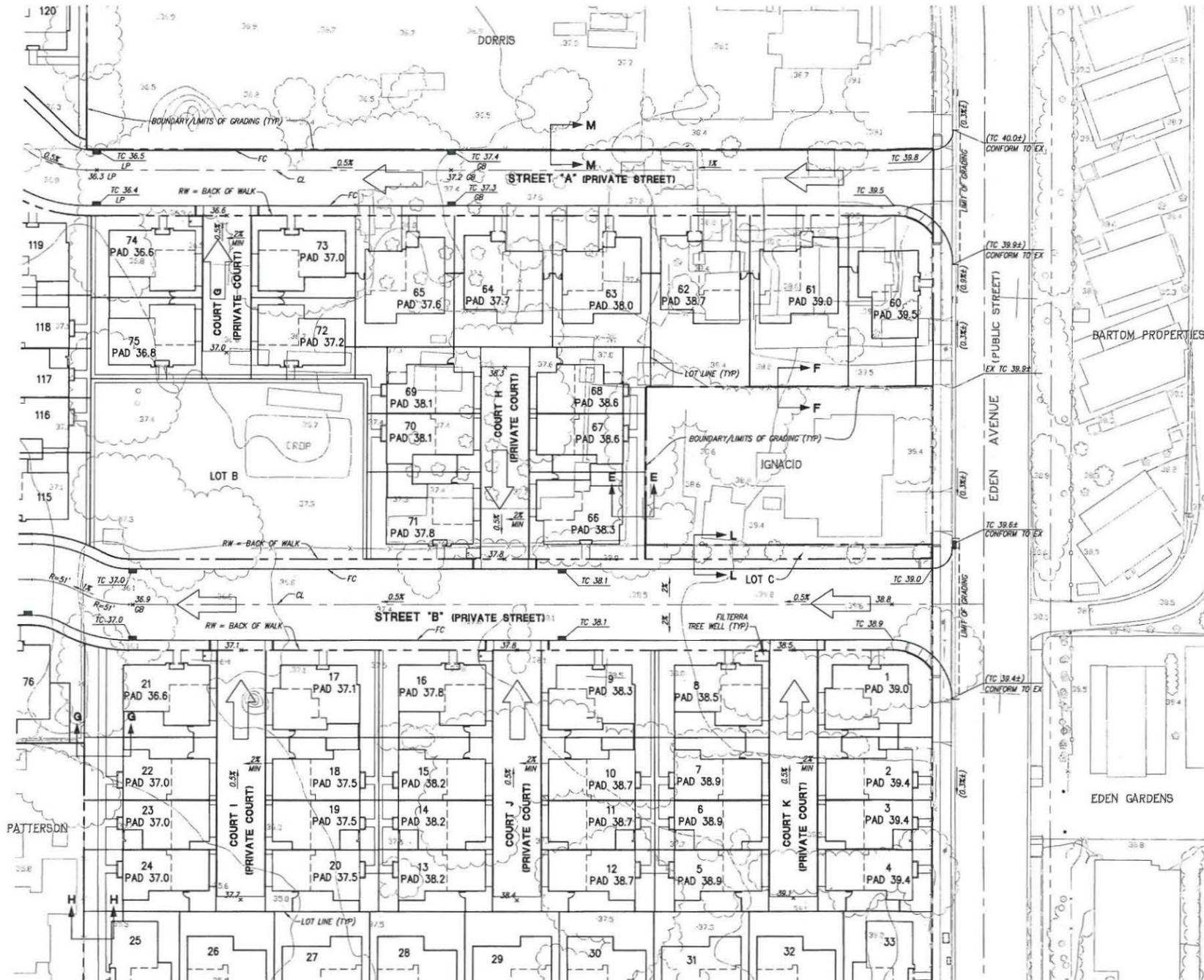
1. ALL QUANTITIES SHOWN ON THIS PLAN ARE APPROXIMATE. CALCULATED CUT AND FILL ARE TO "MASS GRADE" AND EXISTING GROUND. THE ACTUAL AMOUNT OF EARTH MOVED IS VARIABLE DEPENDENT ON COMPACTION, CONSOLIDATION, STRIPPING REQUIREMENTS, AND THE CONTRACTOR'S METHOD OF OPERATION.

VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
PRELIMINARY GRADING PLAN
 CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
 4690 CHASOT DRIVE, SUITE 200 PLEASANTON, CA 94588
 PHONE: (925) 227-9100 FAX: (925) 227-9300
 REVISED: SEPTEMBER 12, 2011
 REVISED: AUGUST 16, 2011
 DATE: JULY 22, 2011 JOB NO. 111017 SHEET **C-2.1**

SEE SHEET C-2.1



- NOTES:**
1. SEE GRADING SECTIONS ON SHEET C-1.2
 2. EXISTING DRIVEWAYS ALONG PROPERTY FRONTAGE SHALL BE REMOVED AND REPLACED WITH CITY STANDARD CURB, GUTTER, AND SIDEWALK.
 3. INDIVIDUAL LOT WALKWAYS SHALL NOT CONFLICT WITH SIDEWALK RAMP FOR DRIVEWAYS.

SEE SHEET C-2.3

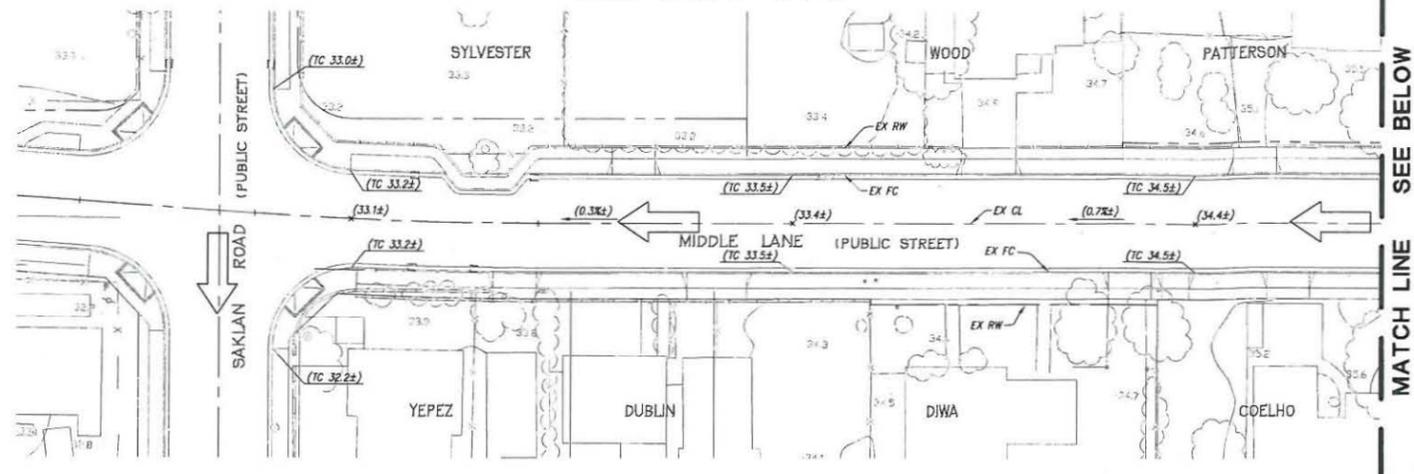
**VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
PRELIMINARY GRADING PLAN**
CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
4800 CHASOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

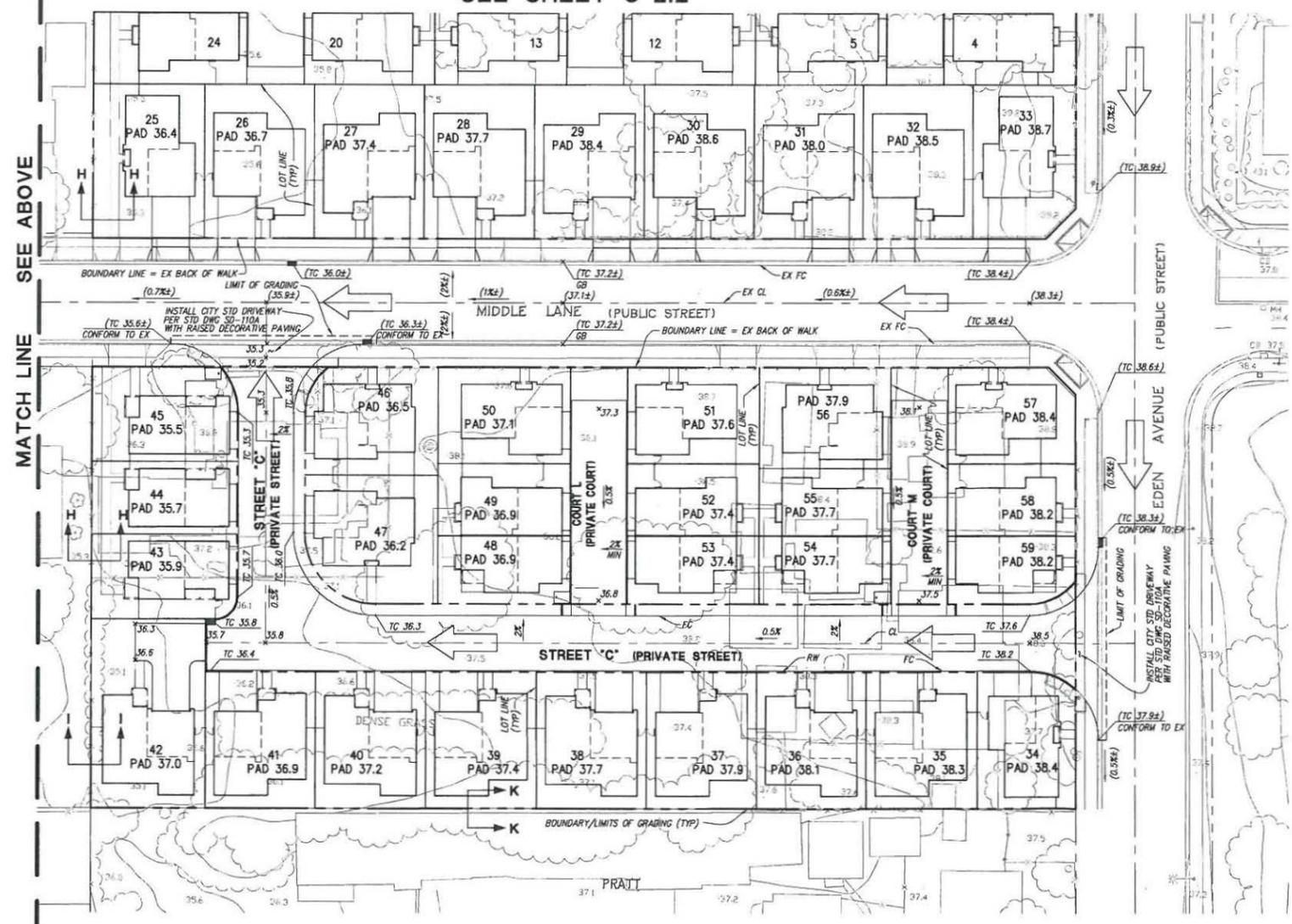
REVISED: SEPTEMBER 12, 2011
DATE: JULY 22, 2011 JOB NO. 111017 SHEET C-2.2

© LURER2011\111017\TENT-MAP\C2-2 GRADING.PLC 9/12/2011 3:56:48 PM JOHN KNEZOVICH

SEE SHEET C-2.1

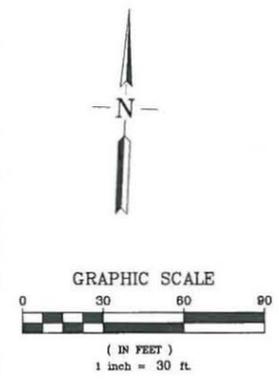


SEE SHEET C-2.2

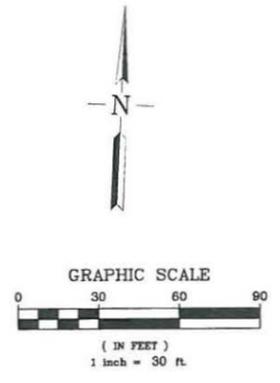
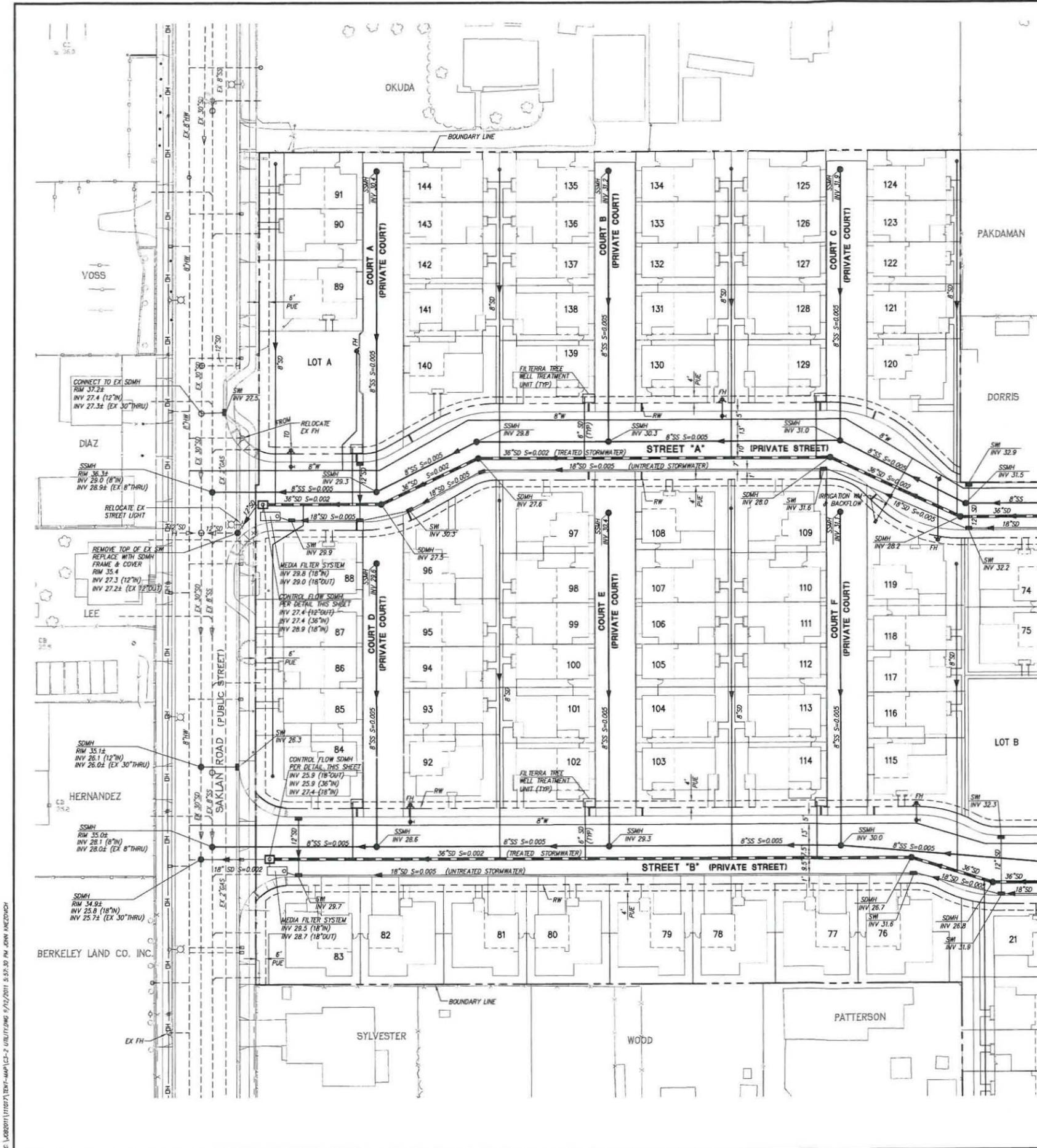


- NOTES:**
1. SEE GRADING SECTIONS ON SHEET C-1.2
 2. EXISTING DRIVEWAYS ALONG PROPERTY FRONTAGE SHALL BE REMOVED AND REPLACED WITH CITY STANDARD CURB, GUTTER, AND SIDEWALK.
 3. INDIVIDUAL LOT WALKWAYS SHALL NOT CONFLICT WITH SIDEWALK RAMPS FOR DRIVEWAYS.

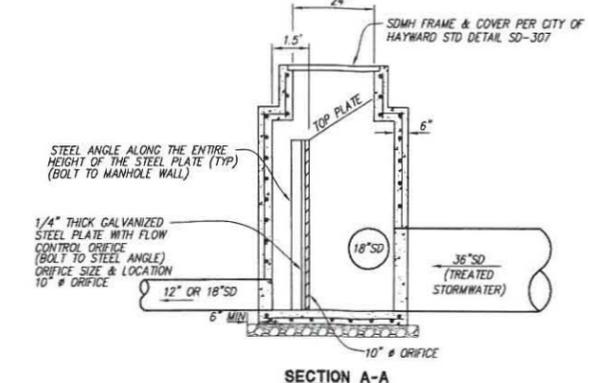
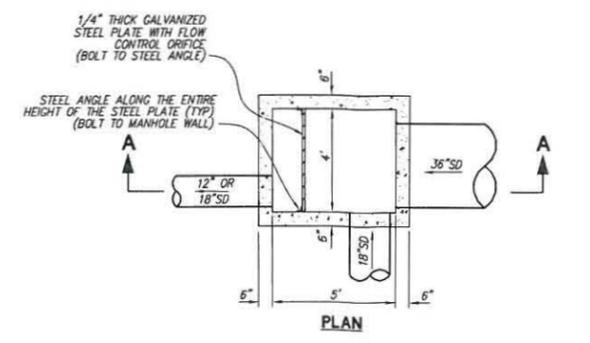
VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
PRELIMINARY GRADING PLAN
 CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



RJA
RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
 4695 CHABOT DRIVE, SUITE 200 • FLEMINGTON, CA 94538
 PHONE: (925) 227-9100 FAX: (925) 227-9300
 REVISED: SEPTEMBER 12, 2011
 REVISED: AUGUST 16, 2011
 DATE: JULY 22, 2011



- NOTES:
 1. SEWER MAINS IN PRIVATE COURTS SHALL BE LOCATED AT COURT CENTER LINE.
 2. SEE SHEET 3.1 FOR TYPICAL COURT UTILITY DETAIL.



CONTROL FLOW STORM DRAIN MANHOLE
 NOT TO SCALE

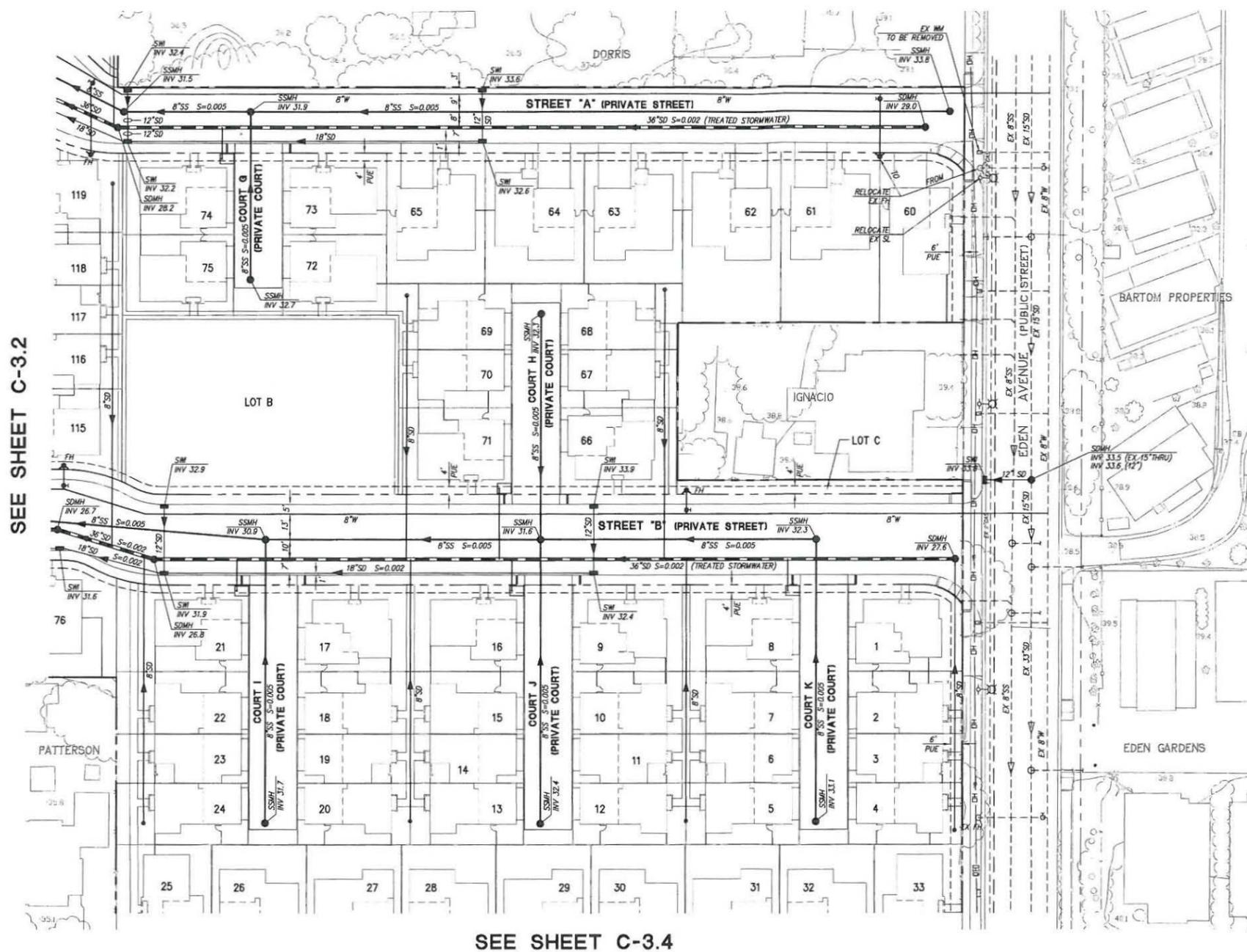
VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
PRELIMINARY UTILITY PLAN
 CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
 4600 CHASEOT DRIVE, SUITE 200 PLEASANTON, CA 94588
 PHONE: (925) 227-3100 FAX: (925) 227-9300
 REVISED: SEPTEMBER 12, 2011
 REVISED: AUGUST 16, 2011
 DATE: JULY 22, 2011

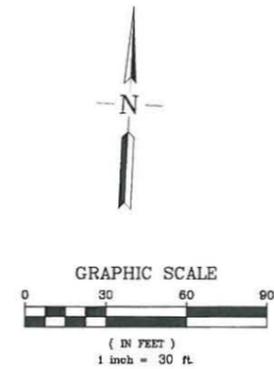
C:\ARB001\11017\TEMP-MAP\C3-2 UTILITY.DWG 5/12/2011 3:57:30 PM JHW MWD024

SEE SHEET C-3.3



SEE SHEET C-3.2

SEE SHEET C-3.4



NOTES:

1. SEWER MAINS IN PRIVATE COURTS SHALL BE LOCATED AT COURT CENTER LINE.
2. SEE SHEET 3.1 FOR TYPICAL COURT UTILITY DETAIL.

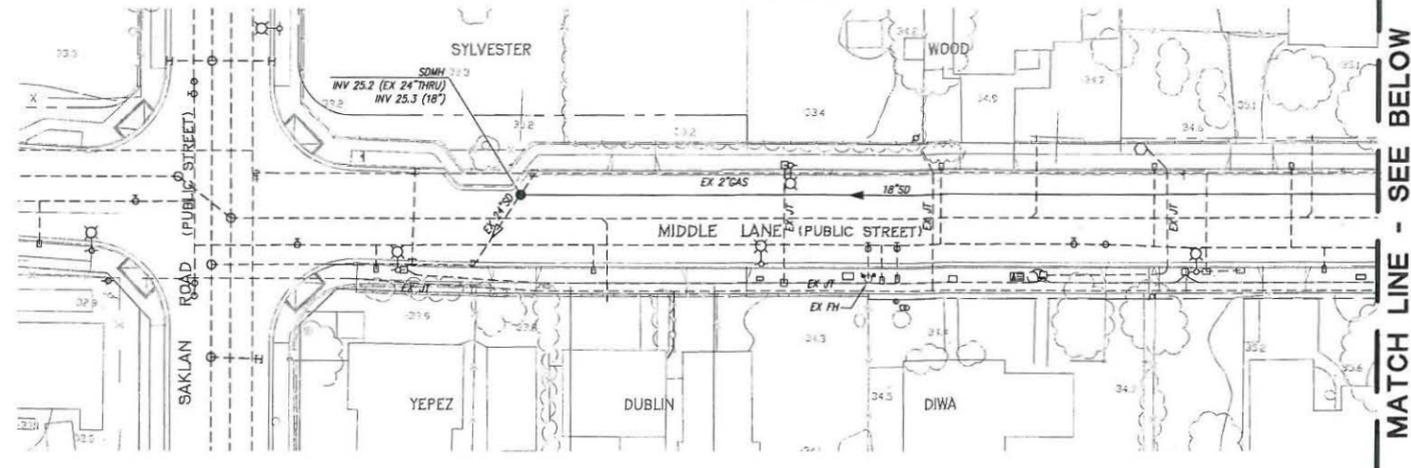
VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
PRELIMINARY UTILITY PLAN
 CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
 4690 CHABOT DRIVE, SUITE 100, PLEASANTON, CA 94588
 PHONE: (925) 227-9100 FAX: (925) 227-9306

REVISED: SEPTEMBER 12, 2011
 DATE: JULY 22, 2011 JOB NO. 111017 SHEET **C-3.3**

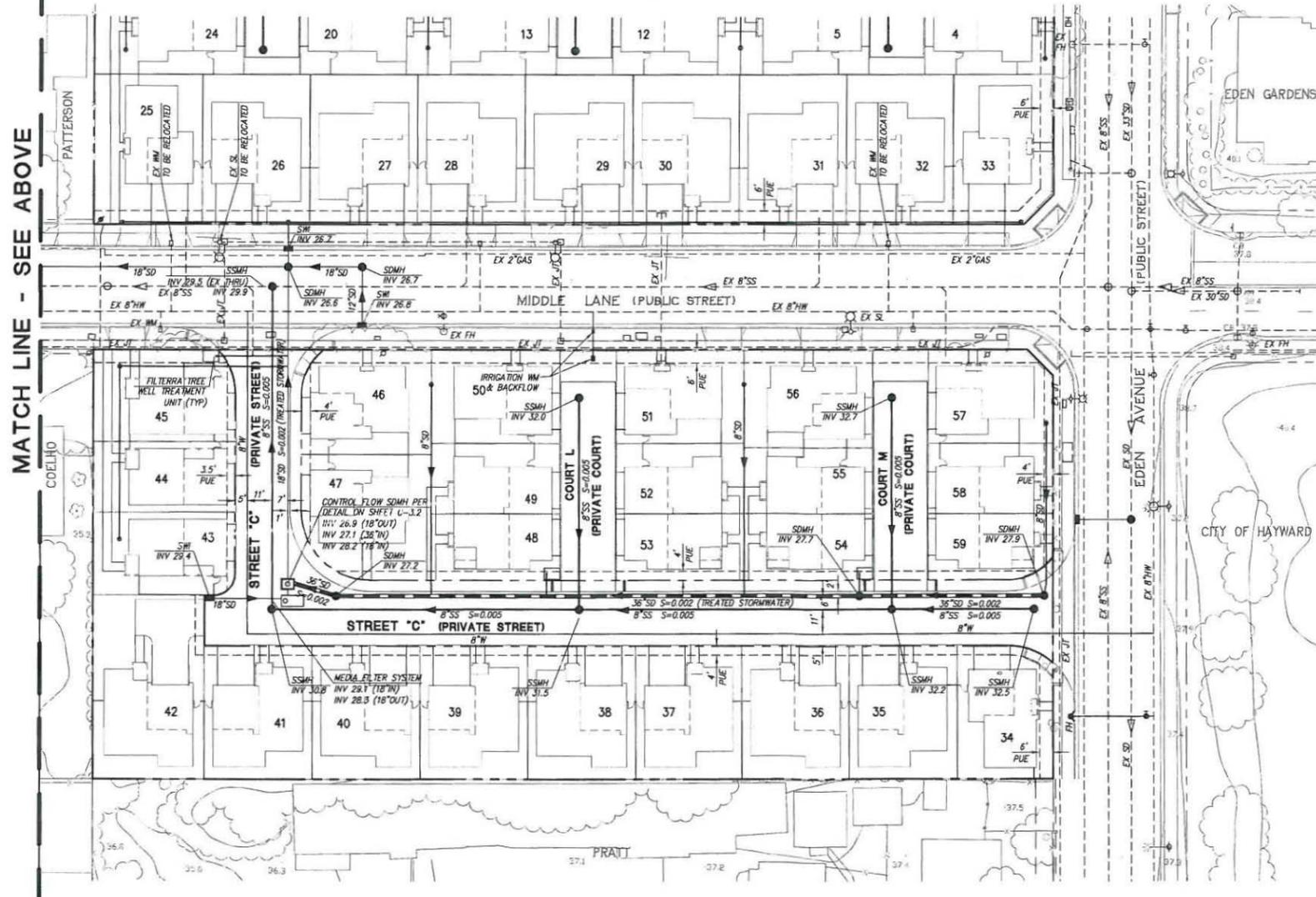
G:\Projects\111017\111017-01\111017-01-01\111017-01-01.dwg 9/12/2011 5:56:59 PM JCH KNEZOVICH

SEE SHEET C-3.2



MATCH LINE - SEE BELOW

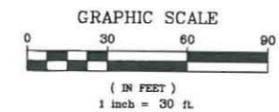
SEE SHEET C-3.3



MATCH LINE - SEE ABOVE

NOTES:

1. SEWER MAINS IN PRIVATE COURTS SHALL BE LOCATED AT COURT CENTER LINE.
2. SEE SHEET 3.1 FOR TYPICAL COURT UTILITY DETAIL.



**VESTING TENTATIVE MAP
TRACT 8086 - EDEN COMMONS
PRELIMINARY UTILITY PLAN**

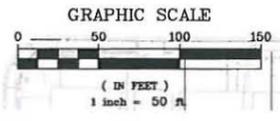
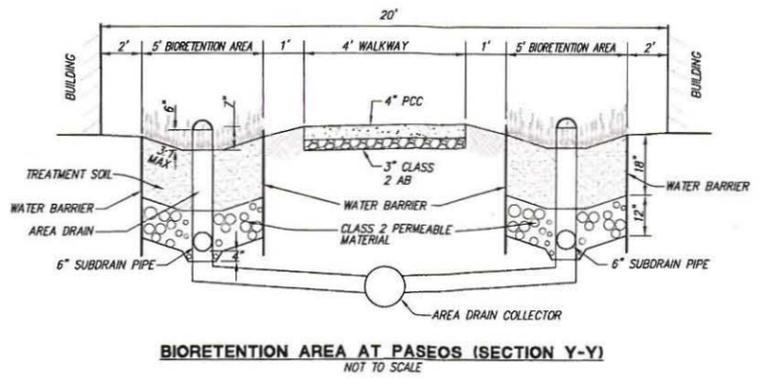
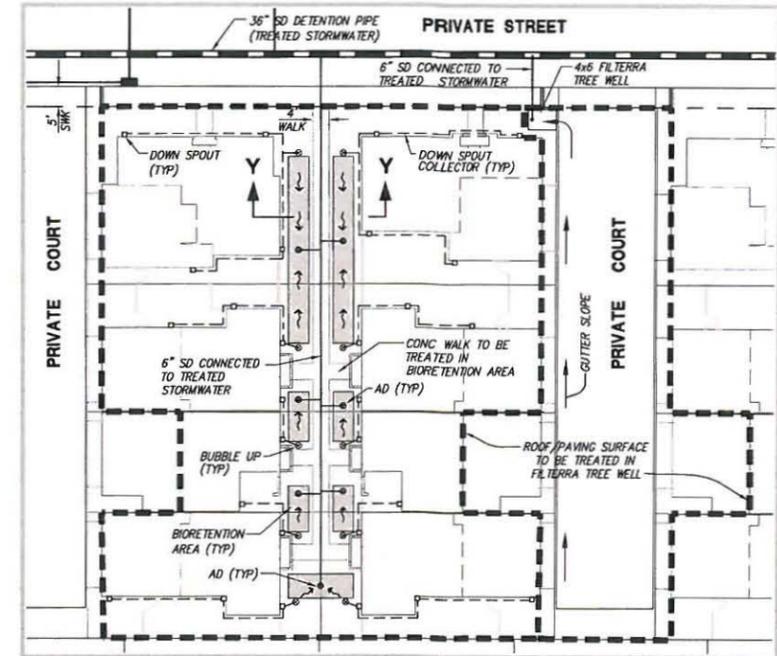
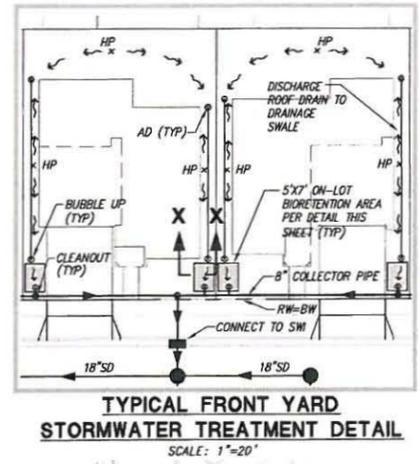
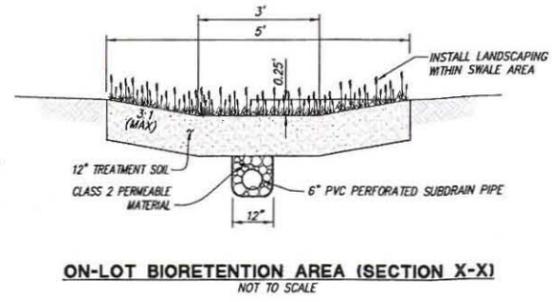
CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
4630 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9306

REVISED: SEPTEMBER 12, 2011
REVISED: AUGUST 16, 2011
DATE: JULY 22, 2011

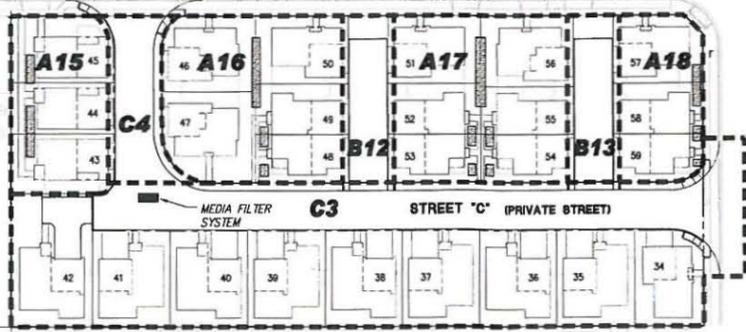
JOB NO. 111017 SHEET C-3.4



PRELIMINARY STORMWATER TREATMENT CALCULATIONS

AREA ID	SURFACE	IMPERVIOUS AREA (SF)	BMP EFFECTIVE TREATMENT AREA		
			BMP USED	REQUIRED (SF)	PROVIDED (SF)
A1 THRU A18	ROOF	128,700	BIORETENTION AT PASEOS	5,148	7,900
A19	ROOF	15,300	ON-LOT BIORETENTION	612	630
B1 THRU B13	ROOF/PAVING	62,000	4x6 FILTER TREE WELL	2,480	3,850
C1 THRU C3	ROOF/DWY/PAVING	155,000	MEDIA FILTER SYSTEM	-	-
C4	PAVING	4,000	4x6 FILTER TREE WELL	160	296
	TOTAL	365,000			

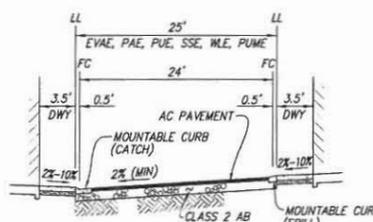
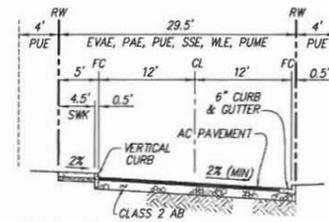
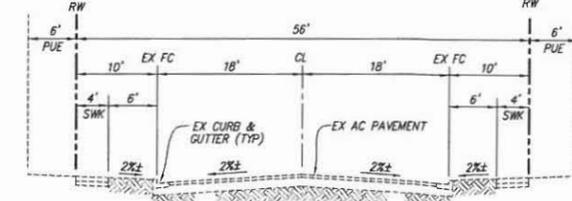
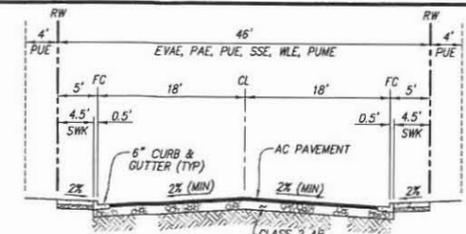
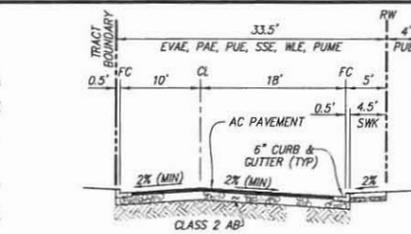
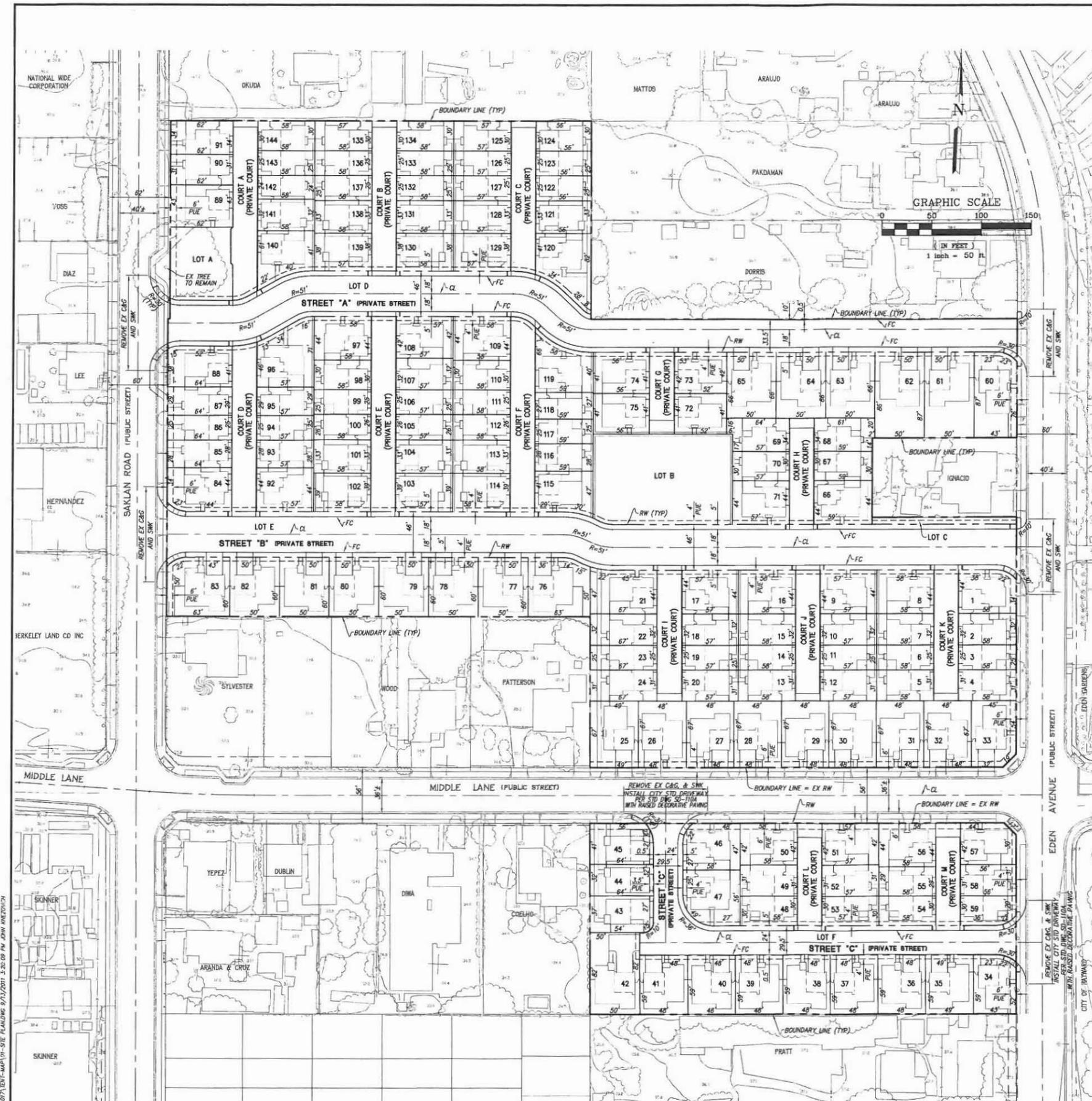
- NOTES:
- THE CALCULATIONS ARE BASED ON THE ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM, C3 STORMWATER TECHNICAL GUIDANCE, DATED OCTOBER 2010, AND THE FOLLOWING CRITERIA:
 - a. 0.2 INCHES/HOUR RAINFALL INTENSITY ON 100% IMPERVIOUS AREA.
 - b. SOIL FOR TREATMENT MEDIUM WITH A 5 INCHES/HOUR INFILTRATION RATE.
 - c. A TREATMENT MEDIUM OF 0.04 SIZING FACTOR FOR BIORETENTION AREAS.
 - SIZING FACTOR OF 0.04 NOTED ABOVE IS CALCULATED BASED ON THE FOLLOWING CRITERIA:
 - a. SIZING FACTOR = $(0.2 \text{ IN/HR}) / (5 \text{ IN/HR}) = 0.04$
 - TOTAL IMPERVIOUS SURFACE = 365,000 SF
 IMPERVIOUS SURFACE TREATED BY BIORETENTION AREA & FILTER TREE WELL (LANDSCAPE BASED TREATMENT) = 210,000 SF
 PERCENT OF ON-SITE IMPERVIOUS SURFACE TREATED BY LANDSCAPE BASED TREATMENT = 57%
 PERCENT OF ON-SITE IMPERVIOUS SURFACE TREATED BY MEDIA FILTER SYSTEMS = 43%



VESTING TENTATIVE MAP
 TRACT 8086 - EDEN COMMONS
 PRELIMINARY STORMWATER TREATMENT PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
 ENGINEERS • PLANNERS • SURVEYORS
 4810 CHABOT DRIVE, SUITE 200 FLEASANTON, CA 94588
 PHONE: (925) 227-9100 FAX: (925) 227-9300
 REVISED: SEPTEMBER 12, 2011
 REVISED: AUGUST 16, 2011
 DATE: JULY 22, 2011



- ABBREVIATIONS**
- AB AGGREGATE BASE
 - AC ASPHALT CONCRETE
 - BW BOTTOM OF WALL
 - EA/EV EMERGENCY VEHICLE ACCESS EASEMENT
 - EX EXISTING
 - FC FACE OF CURB
 - FG FINISHED GRADE
 - FI FIELD INLET
 - FL FLOW LINE
 - GB GRADE BREAK
 - GR GRATE
 - HP HIGH POINT
 - INV INVERT ELEVATION
 - LL LOT LINE
 - MH MANHOLE
 - PAE PRIVATE ACCESS EASEMENT
 - PL PROPERTY LINE
 - PSDE PRIVATE STORM DRAIN EASEMENT
 - PSE PUBLIC SERVICE EASEMENT
 - PUE PUBLIC UTILITY EASEMENT
 - PUME PRIVATE UTILITY AND MAINTENANCE EASEMENT
 - RCP REINFORCED CONCRETE PIPE
 - RET CURB RETURN
 - RW RIGHT OF WAY
 - SDE STORM DRAIN EASEMENT
 - SSE SANITARY SEWER EASEMENT
 - SWI STORM WATER INLET
 - SWE SIDEWALK EASEMENT
 - SWK SIDEWALK
 - TC TOP OF CURB
 - TW TOP OF WALL
 - WLE WATER LINE EASEMENT

LOT SUMMARY TABLE

LOT #	LOT AREA (SF)	LOT #	LOT AREA (SF)	LOT #	LOT AREA (SF)	LOT #	LOT AREA (SF)
1	2,497	42	4,113	83	3,699	124	1,698
2	1,838	43	2,330	84	2,778	125	1,739
3	1,446	44	2,014	85	1,806	126	1,432
4	1,814	45	2,574	86	1,607	127	1,456
5	1,798	46	2,663	87	1,849	128	1,902
6	1,433	47	3,049	88	2,655	129	2,179
7	1,821	48	1,711	89	2,669	130	2,180
8	2,533	49	1,805	90	1,927	131	1,903
9	2,532	50	2,412	91	2,128	132	1,457
10	1,820	51	2,413	92	2,529	133	1,433
11	1,432	52	1,805	93	1,610	134	1,738
12	1,797	53	1,709	94	1,432	135	1,736
13	1,798	54	1,708	95	1,648	136	1,432
14	1,433	55	1,690	96	3,448	137	1,456
15	1,821	56	2,529	97	2,531	138	1,902
16	2,532	57	2,281	98	1,716	139	2,179
17	2,506	58	1,757	99	1,433	140	2,730
18	1,803	59	1,602	100	1,486	141	1,826
19	1,419	60	3,662	101	1,922	142	1,382
20	1,780	61	4,324	102	2,239	143	1,433
21	2,976	62	4,325	103	2,238	144	1,736
22	2,123	63	3,325	104	1,921	COURT A	4,448
23	1,671	64	3,324	105	1,485	COURT B	3,786
24	2,096	65	3,323	106	1,432	COURT C	3,813
25	3,263	66	2,605	107	1,830	COURT D	4,207
26	3,220	67	1,749	108	2,414	COURT E	4,923
27	3,220	68	2,032	109	2,531	COURT F	4,847
28	3,219	69	2,023	110	1,716	COURT G	2,063
29	3,218	70	1,693	111	1,433	COURT H	2,678
30	3,218	71	2,523	112	1,486	COURT I	3,296
31	3,217	72	2,152	113	1,922	COURT J	3,297
32	3,217	73	2,180	114	2,239	COURT K	3,297
33	2,926	74	2,343	115	2,463	COURT L	2,577
34	2,508	75	2,315	116	1,632	COURT M	2,577
35	2,890	76	3,626	117	1,461	STREET A	34,776
36	2,855	77	2,975	118	1,573	STREET B	39,616
37	2,855	78	2,960	119	2,805	STREET C	14,592
38	2,855	79	2,981	120	3,345	LOT A	4,608
39	2,855	80	2,981	121	1,856	LOT B	12,719
40	2,856	81	2,982	122	1,421	LOT C	1,032
41	2,856	82	2,983	123	1,398		

- NOTE:**
- FIRE APPARATUS ROADS 20 TO 26 FEET WIDE SHALL BE POSTED ON BOTH SIDES AS A FIRE LANE, 26 FEET TO 32 FEET SHALL BE POSTED ON ONE SIDE OF THE ROAD AS A FIRE LANE. "NO PARKING" SIGN SHALL MEET THE CITY OF HAYWARD FIRE DEPARTMENT FIRE LANE REQUIREMENTS.
 - PER CITY OF HAYWARD, THE TRAFFIC INDEX (TI) FOR ALL PRIVATE STREETS SHALL BE TI=6.0, AND FOR PRIVATE COURTS TI = 5.0.
 - ALL PRIVATE STREET ENTRANCES FROM PUBLIC RIGHT OF WAY SHALL HAVE CITY STANDARD DRIVEWAYS PER CITY STANDARD DRAWING SD-110A WITH RAISED DECORATIVE PAVING.

PRELIMINARY SITE PLAN
TRACT 8086 - EDEN COMMONS

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



RUGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
4690 CHABOT DRIVE, SUITE 200, PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

REVISED: SEPTEMBER 12, 2011
REVISED: AUGUST 16, 2011
DATE: JULY 22, 2011 JOB NO. 111017 SHEET 1 OF 1



2-1A

1A

2-1A

4B

5A

6B

7A

29'-11" Max.

PROJECT TEAM

APPLICANT:
 DUTRA ENTERPRISES, INC.
 43430 MISSION BLVD. STE. 210
 FREMONT, CA 94539
 CONTACT: JOHN DUTRA

CIVIL ENGINEER:
 RUGGERI-JENSEN-AZAR
 4690 CHABOT DRIVE, SUITE 200
 PLEASANTON, CA 04588
 CONTACT: JOSEPH AZAR

ARCHITECT:
 KTGy GROUP, INC.
 580 SECOND STREET, SUITE 200
 OAKLAND, CA 94607
 CONTACT: JILL WILLIAMS

LANDSCAPE ARCHITECT:
 RIPLEY DESIGN GROUP
 1615 BONANZA STREET, SUITE 314
 WALNUT CREEK, CA 94596
 CONTACT: ANNIKA CARPENTER

PROJECT INFO

SINGLE FAMILY RESIDENTIAL: 144 NEW UNITS
 TOTAL PROJECT SIZE: 476,263 SF
 TOTAL IRRIGATED LANDSCAPING: 102,058 SF
 WATER SUPPLY TYPE: POTABLE
 MAXIMUM APPLIED WATER ALLOWANCE (MAWA): 1,957,758 GAL/YR
 ESTIMATED TOTAL WATER USAGE: 1,722,334 GAL/YR

NOTES:

- BUILDING CONSTRUCTION SHALL MEET THE REQUIREMENTS OF THE 2010 CALIFORNIA RESIDENTIAL CODE.
- ALL BUILDINGS SHALL BE INSTALLED WITH AUTOMATIC FIRE SPRINKLER SYSTEMS ACCORDING TO 2010 NFPA 13D.

SHEET INDEX

CIVIL

- C-1.0 PRELIMINARY SITE PLAN
- C-1.1 GENERAL NOTES & TYPICAL STREET SECTIONS
- C-1.2 EXISTING SITE CONDITIONS PLAN
- C-2.1 PRELIMINARY GRADING PLAN
- C-2.2 PRELIMINARY GRADING PLAN
- C-2.3 PRELIMINARY GRADING PLAN
- C-3.1 PRELIMINARY UTILITY PLAN
- C-3.2 PRELIMINARY UTILITY PLAN
- C-3.3 PRELIMINARY UTILITY PLAN
- C-4.1 PRELIMINARY STORM WATER TREATMENT PLAN

ARCHITECTURE

- A-0.0 SITE PLAN - AERIAL VIEW
- A-0.1 SITE PLAN - PROJECT & PARKING SUMMARY
- A-0.2 SITE PLAN - OPEN SPACE
- A-0.3 SITE PLAN - PEDESTRIAN CONNECTIVITY
- A-1.1 TRIPLEX 1 FIRST FLOOR PLANS
- A-1.2 TRIPLEX 1 SECOND FLOOR PLANS
- A-1.3 TRIPLEX 1A EXTERIOR ELEVATIONS
- A-1.4 TRIPLEX 1B EXTERIOR ELEVATIONS
- A-2.1 TRIPLEX 2 FIRST FLOOR PLANS
- A-2.2 TRIPLEX 2 SECOND FLOOR PLANS
- A-2.3 TRIPLEX 2A EXTERIOR ELEVATIONS
- A-2.4 TRIPLEX 2B EXTERIOR ELEVATIONS
- A-3.1 DUPLEX FIRST FLOOR PLANS
- A-3.2 DUPLEX A EXTERIOR ELEVATIONS
- A-3.3 DUPLEX B EXTERIOR ELEVATIONS
- A-4.1 PLAN 3 FLOOR PLANS
- A-4.2 PLAN 3 EXTERIOR ELEVATIONS
- A-5.1 PLAN 4 FLOOR PLANS
- A-5.2 PLAN 4 EXTERIOR ELEVATIONS
- A-6.1 PLAN 5 FLOOR PLANS
- A-6.2 PLAN 5 EXTERIOR ELEVATIONS
- A-7.1 PLAN 6 FLOOR PLANS
- A-7.2 PLAN 6 EXTERIOR ELEVATIONS
- A-8.1 PLAN 7 FLOOR PLANS
- A-8.2 PLAN 7 EXTERIOR ELEVATIONS

LANDSCAPE

- L1 CONCEPTUAL LANDSCAPE SITE PLAN
- L2 CONCEPTUAL LANDSCAPE ENLARGEMENT PLAN
- L3 CONCEPTUAL LANDSCAPE DETAILS
- L4 CONCEPTUAL IRRIGATION PLAN

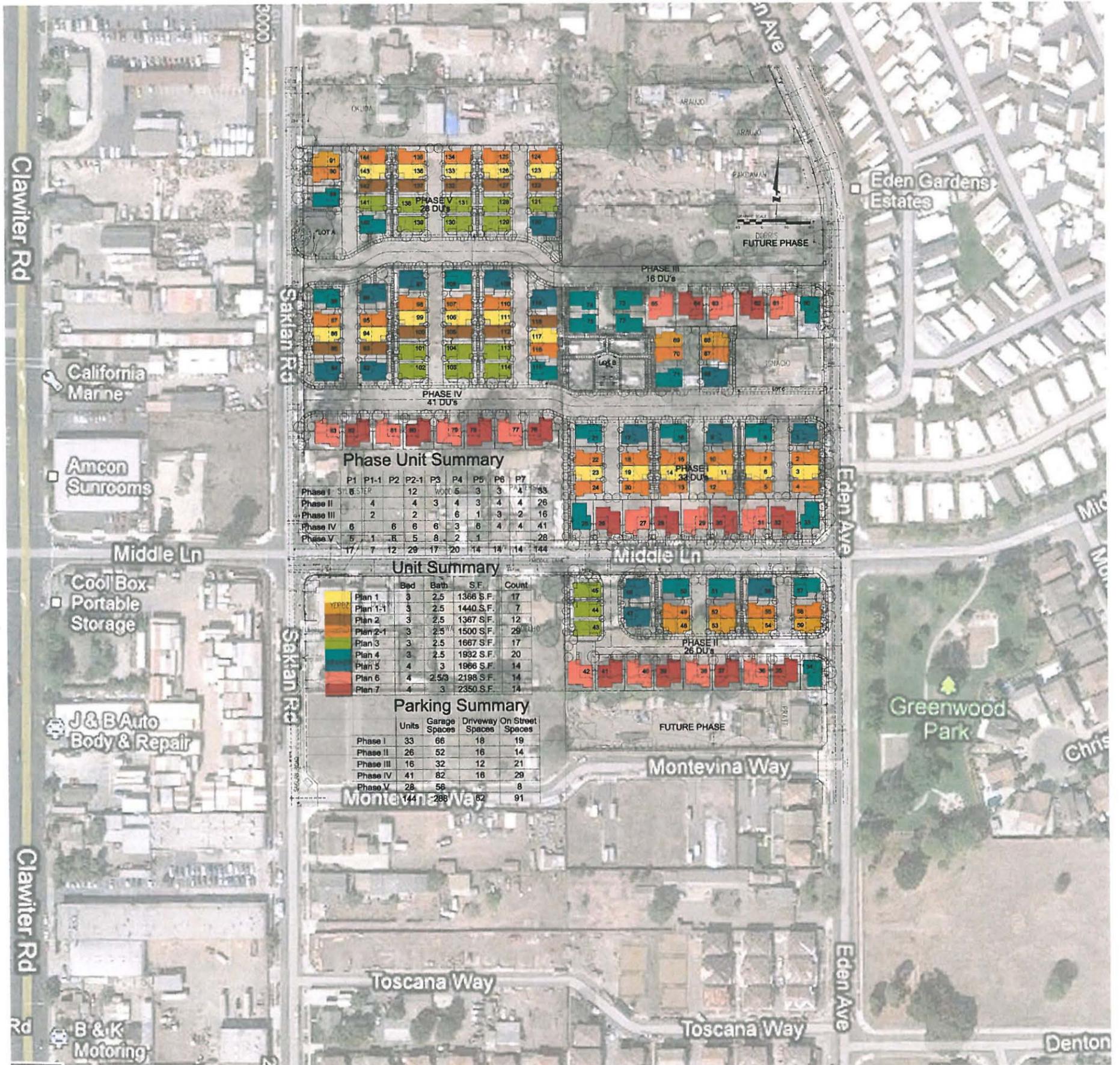
Dutra Enterprises, Inc.

Eden Commons
 Hayward, California

KTGY Job# 2011-0055
 July 22, 2011

Architecture + Planning
 580 Second Street, Suite 200
 Oakland, California 94607
 ktgy.com
 510 272 2910





Aerial View

A-0.0

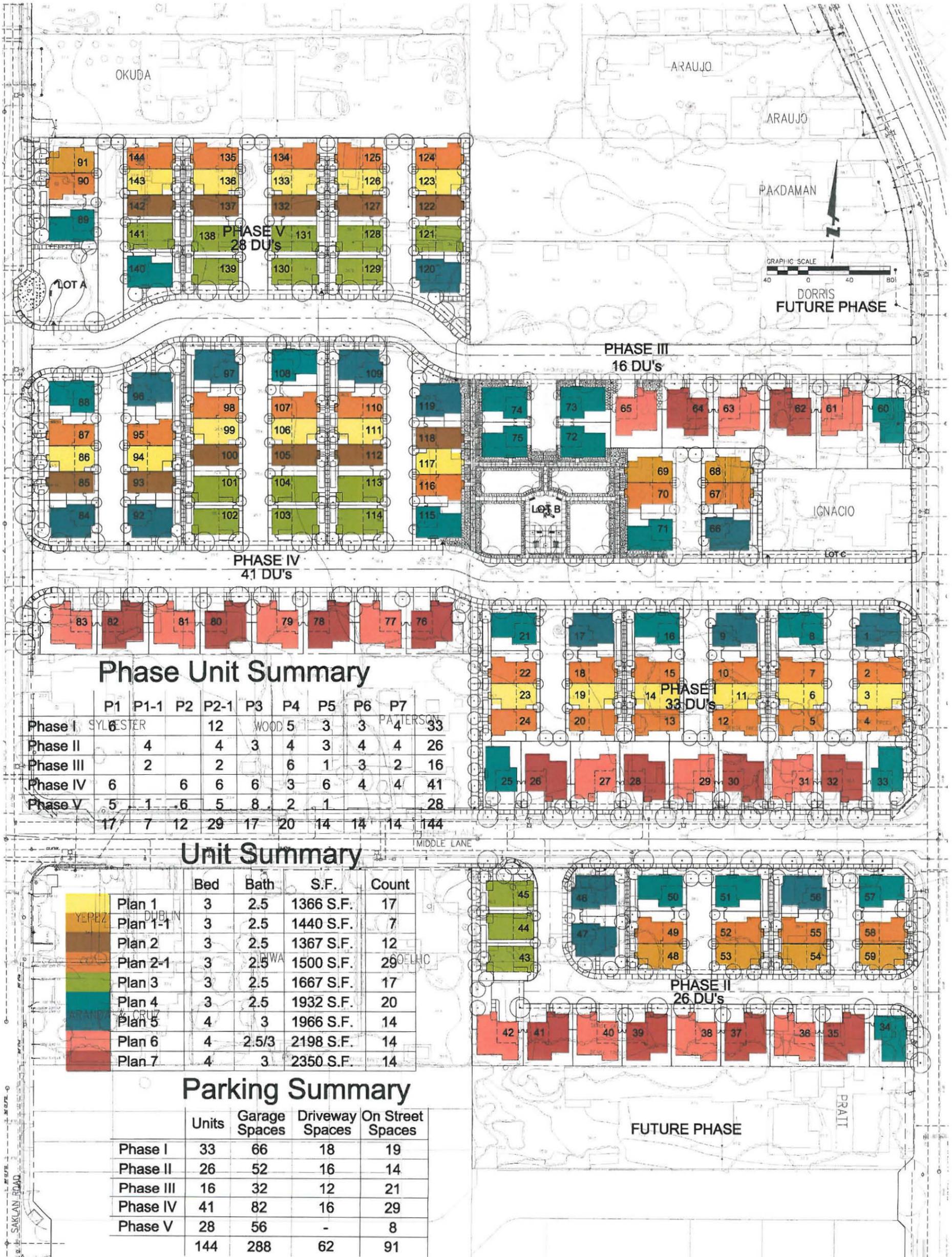
Dutra Enterprises, Inc.

Eden Commons
Hayward, California

Architecture + Planning
580 Second Street, Suite 200
Oakland, California 94607
ktgy.com
510 272 2910



KTGY Job# 2011-0055
July 22, 2011



Phase Unit Summary

	P1	P1-1	P2	P2-1	P3	P4	P5	P6	P7	Total
Phase I	6		12		5	3	3	4		33
Phase II		4	4	3	4	3	4	4		26
Phase III		2	2		6	1	3	2		16
Phase IV	6		6	6	6	3	6	4	4	41
Phase V	5	1	6	5	8	2	1			28
Total	17	7	12	29	17	20	14	14	14	144

Unit Summary

	Bed	Bath	S.F.	Count
Plan 1	3	2.5	1366 S.F.	17
Plan 1-1	3	2.5	1440 S.F.	7
Plan 2	3	2.5	1367 S.F.	12
Plan 2-1	3	2.5	1500 S.F.	29
Plan 3	3	2.5	1667 S.F.	17
Plan 4	3	2.5	1932 S.F.	20
Plan 5	4	3	1966 S.F.	14
Plan 6	4	2.5/3	2198 S.F.	14
Plan 7	4	3	2350 S.F.	14

Parking Summary

	Units	Garage Spaces	Driveway Spaces	On Street Spaces
Phase I	33	66	18	19
Phase II	26	52	16	14
Phase III	16	32	12	21
Phase IV	41	82	16	29
Phase V	28	56	-	8
Total	144	288	62	91

Project & Parking Summary

A-0.1

Open Space Summary

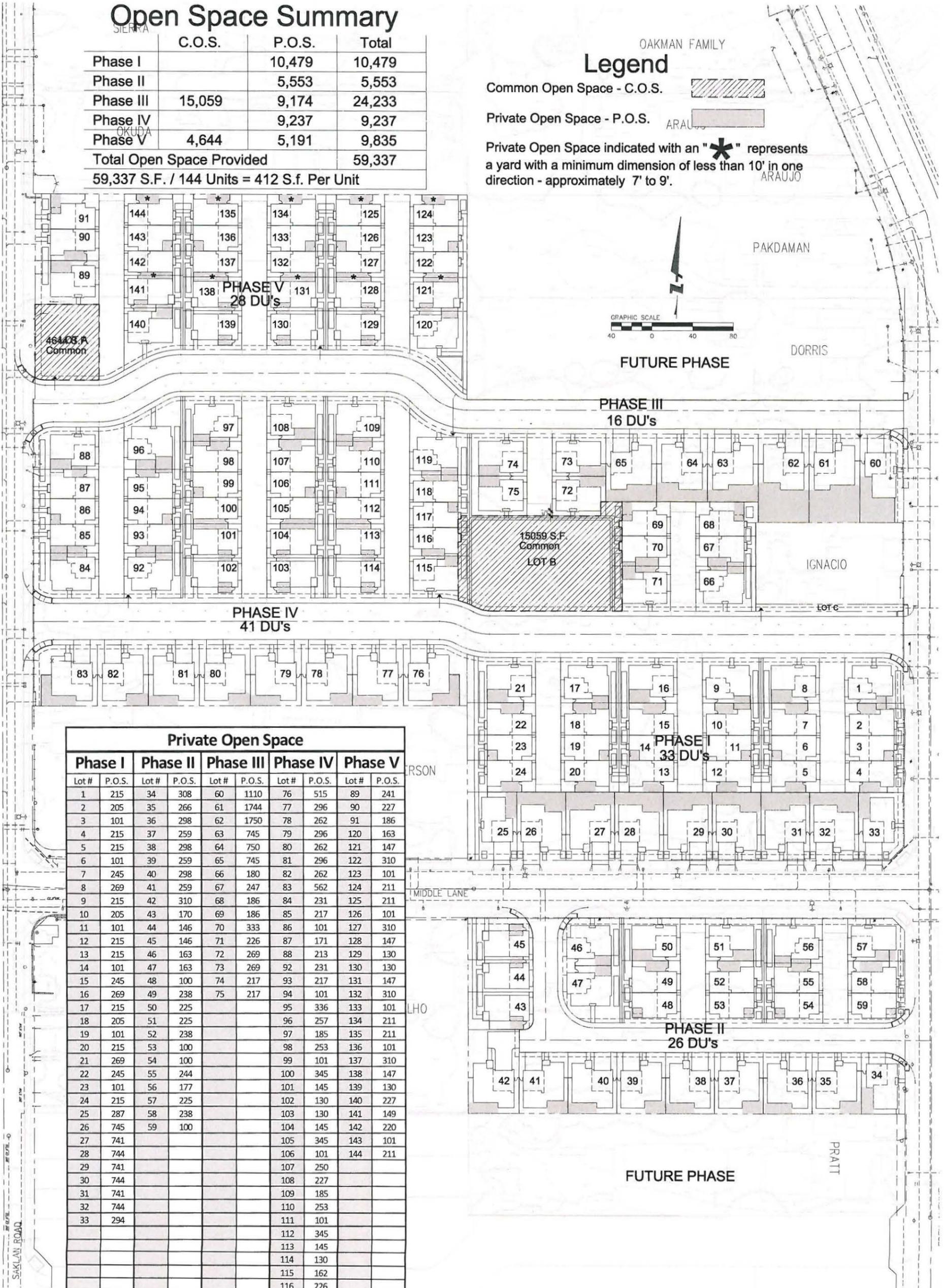
	C.O.S.	P.O.S.	Total
Phase I		10,479	10,479
Phase II		5,553	5,553
Phase III	15,059	9,174	24,233
Phase IV		9,237	9,237
Phase V	4,644	5,191	9,835
Total Open Space Provided			59,337
59,337 S.F. / 144 Units = 412 S.f. Per Unit			

Legend

Common Open Space - C.O.S. 

Private Open Space - P.O.S. 

Private Open Space indicated with an "*" represents a yard with a minimum dimension of less than 10' in one direction - approximately 7' to 9'.

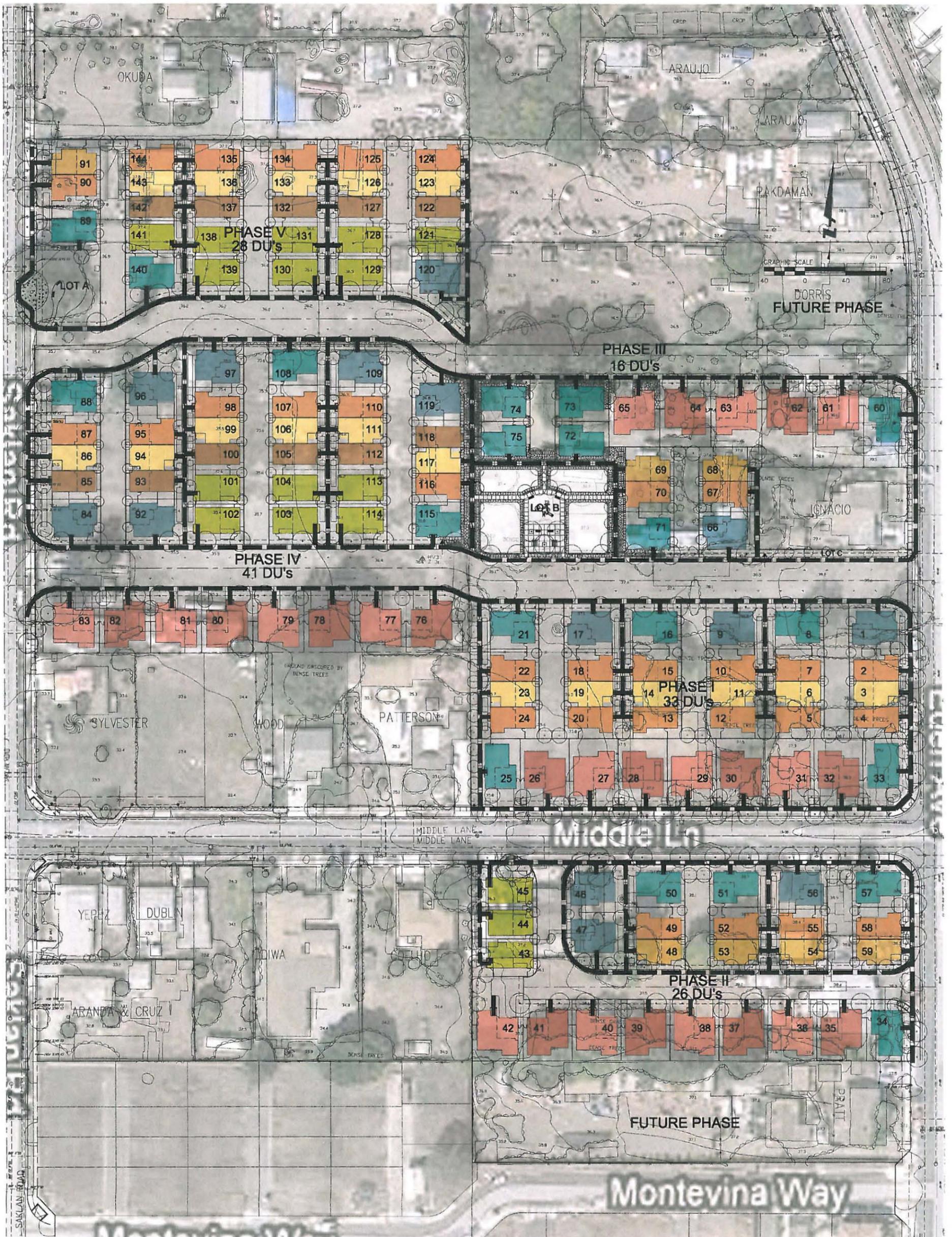


Private Open Space

Phase I	Phase II	Phase III	Phase IV	Phase V					
Lot #	P.O.S.	Lot #	P.O.S.	Lot #	P.O.S.	Lot #	P.O.S.	Lot #	P.O.S.
1	215	34	308	60	1110	76	515	89	241
2	205	35	266	61	1744	77	296	90	227
3	101	36	298	62	1750	78	262	91	186
4	215	37	259	63	745	79	296	120	163
5	215	38	298	64	750	80	262	121	147
6	101	39	259	65	745	81	296	122	310
7	245	40	298	66	180	82	262	123	101
8	269	41	259	67	247	83	562	124	211
9	215	42	310	68	186	84	231	125	211
10	205	43	170	69	186	85	217	126	101
11	101	44	146	70	333	86	101	127	310
12	215	45	146	71	226	87	171	128	147
13	215	46	163	72	269	88	213	129	130
14	101	47	163	73	269	92	231	130	130
15	245	48	100	74	217	93	217	131	147
16	269	49	238	75	217	94	101	132	310
17	215	50	225			95	336	133	101
18	205	51	225			96	257	134	211
19	101	52	238			97	185	135	211
20	215	53	100			98	253	136	101
21	269	54	100			99	101	137	310
22	245	55	244			100	345	138	147
23	101	56	177			101	145	139	130
24	215	57	225			102	130	140	227
25	287	58	238			103	130	141	149
26	745	59	100			104	145	142	220
27	741					105	345	143	101
28	744					106	101	144	211
29	741					107	250		
30	744					108	227		
31	741					109	185		
32	744					110	253		
33	294					111	101		
						112	345		
						113	145		
						114	130		
						115	162		
						116	226		
						117	101		
						118	194		
						119	212		

Open Space

A-0.2



Pedestrian Connectivity

A-0.3

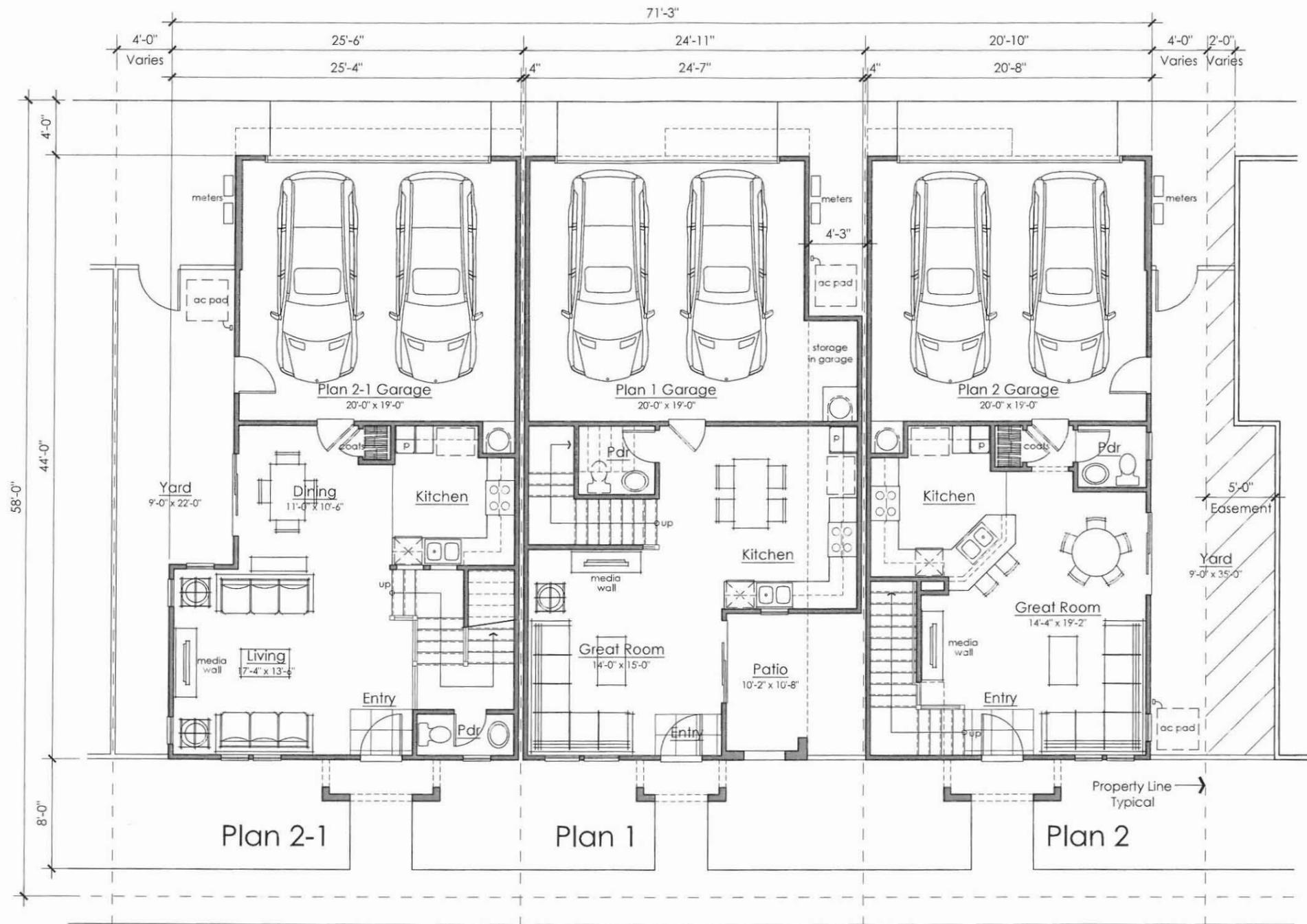
Dutra Enterprises, Inc.

Eden Commons
Hayward, California

Architecture + Planning
580 Second Street, Suite 200
Oakland, California 94607
ktgy.com
510 272 2910



KTGY Job# 2011-0055
July 22, 2011



First Floor

Triplex 1



Plan 2-1	Plan 1	Plan 2
3 Bedrooms	3 Bedrooms	3 Bedrooms
2.5 Baths	2.5 Baths	2.5 Baths
1500 s.f.	1366 s.f.	1367 s.f.

A-1.1

Dutra Enterprises, Inc.

Eden Commons

Hayward, California

KTGY Job# 2011-0055
July 22, 2011

Architecture + Planning
580 Second Street, Suite 200
Oakland, California 94607
ktgy.com
510 272 2910





Plan 2-1

Plan 1

Plan 2

Second Floor

Triplex 1
 0 2 4 8 16

Plan 2-1	Plan 1	Plan 2
3 Bedrooms	3 Bedrooms	3 Bedrooms
2.5 Baths	2.5 Baths	2.5 Baths
1500 s.f.	1366 s.f.	1367 s.f.

A-1.2

Dutra Enterprises, Inc.

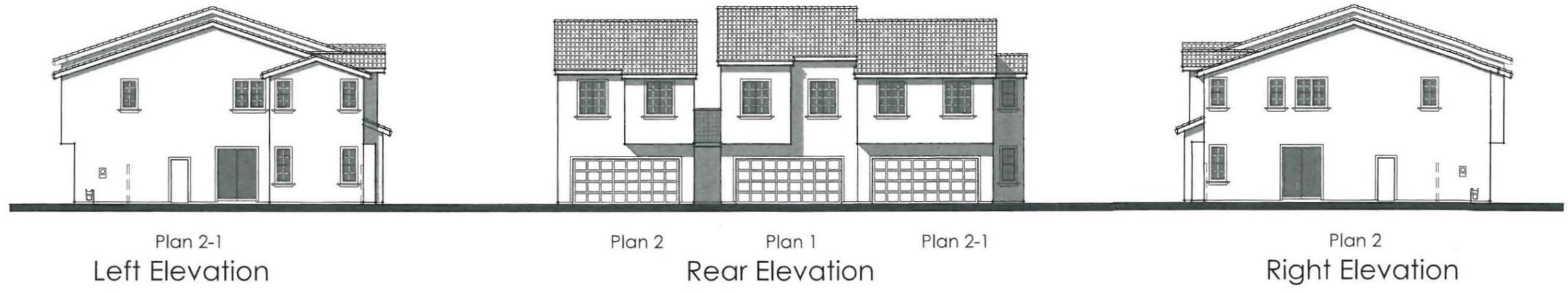
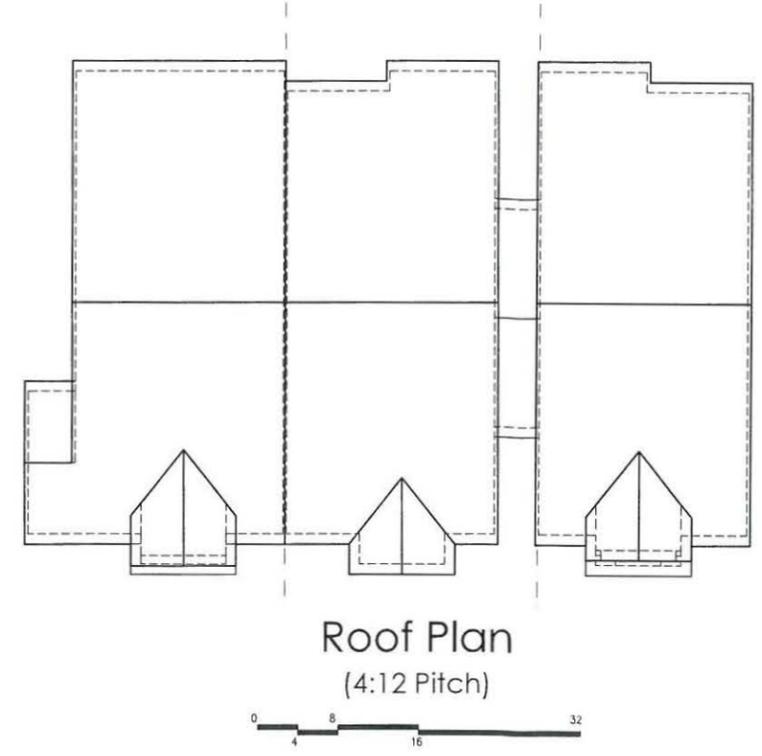
Eden Commons

Hayward, California

Architecture + Planning
 580 Second Street, Suite 200
 Oakland, California 94607
 ktgy.com
 510 272 2910



KTGY Job# 2011-0055
 July 22, 2011



Triplex 1A Exterior Elevations

A-1.3



Triplex 1B Exterior Elevations



A-1.4

Dutra Enterprises, Inc.

KTGY Job# 2011-0055
July 22, 2011

Eden Commons
Hayward, California

159

Architecture + Planning
580 Second Street, Suite 200
Oakland, California 94607
ktgy.com
510 272 2910





First Floor

Triplex 2



Plan 1
3 Bedrooms
2.5 Baths
1366 s.f.

Plan 2-1
3 Bedrooms
2.5 Baths
1500 s.f.

A-2.1

Dutra Enterprises, Inc.

Eden Commons

Hayward, California

Architecture + Planning
580 Second Street, Suite 200
Oakland, California 94607
ktgy.com
510 272 2910



KTGY Job# 2011-0055
July 22, 2011



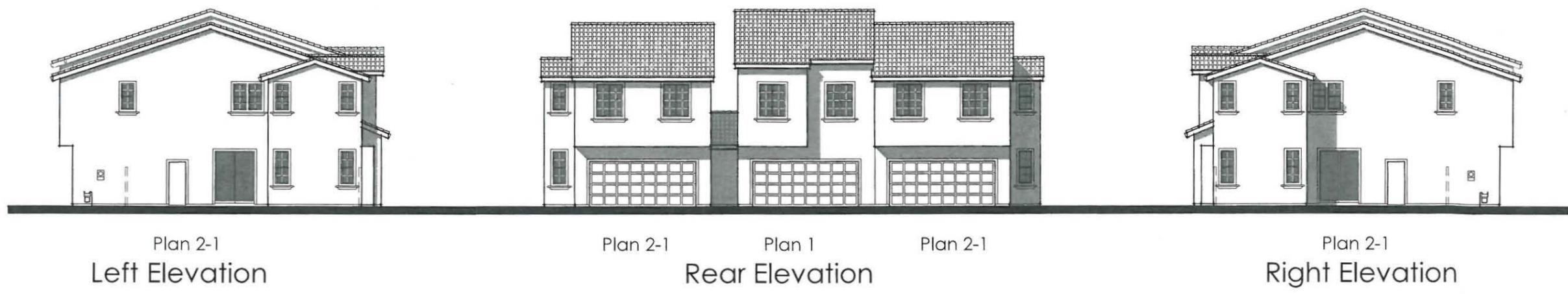
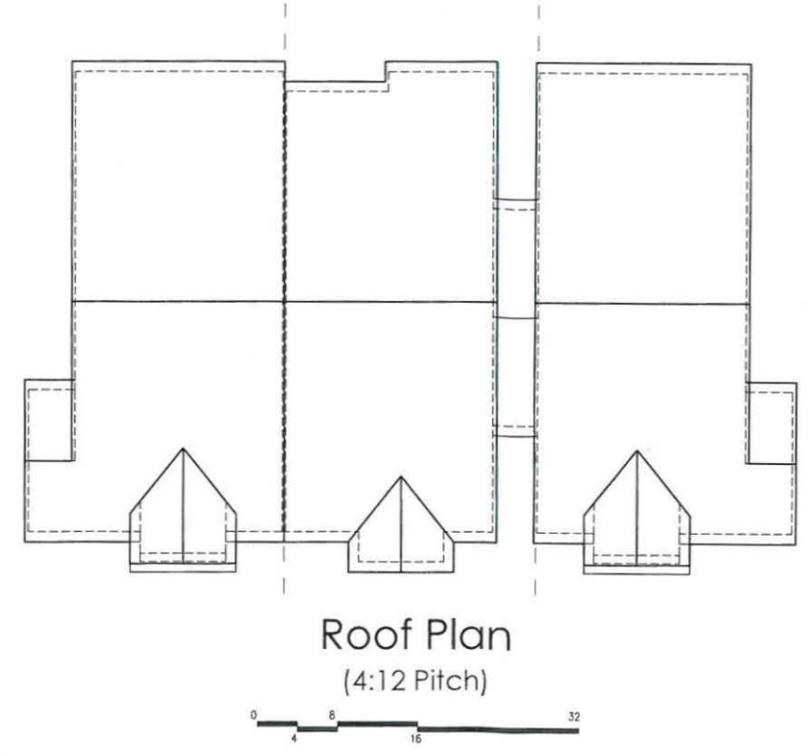
Second Floor

Triplex 2

Plan 1
3 Bedrooms
2.5 Baths
1366 s.f.

Plan 2-1
3 Bedrooms
2.5 Baths
1500 s.f.

A-2.2



Triplex 2A Exterior Elevations

A-2.3



Triplex 2B Exterior Elevations



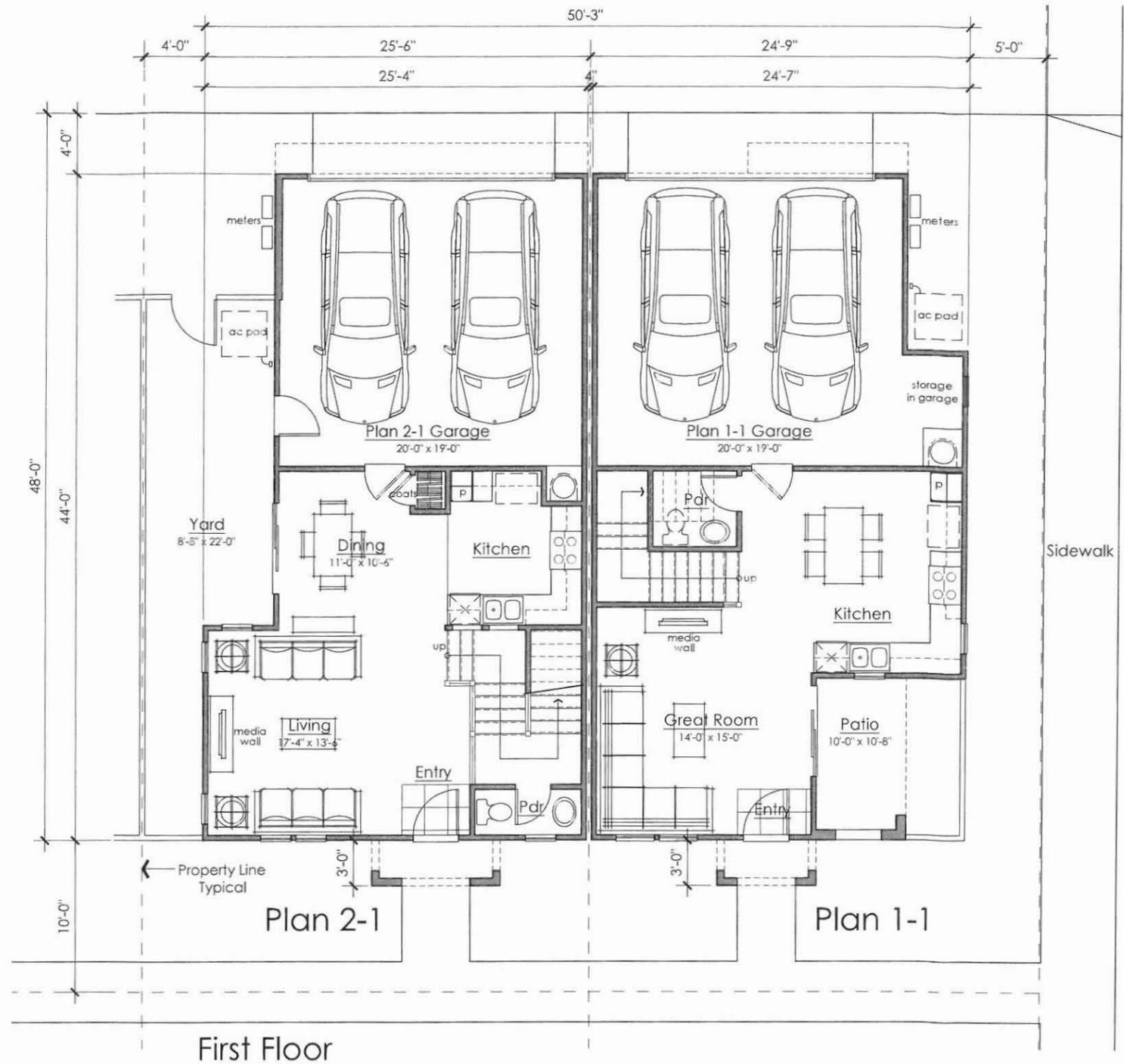
A-2.4



Plan 2-1

Plan 1-1

Second Floor



First Floor

Plan 2-1

Plan 1-1

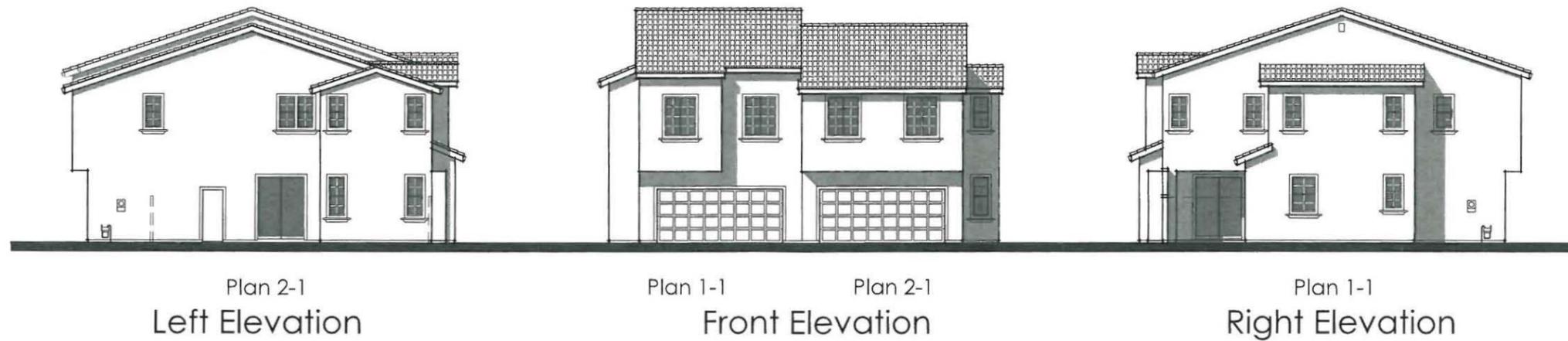
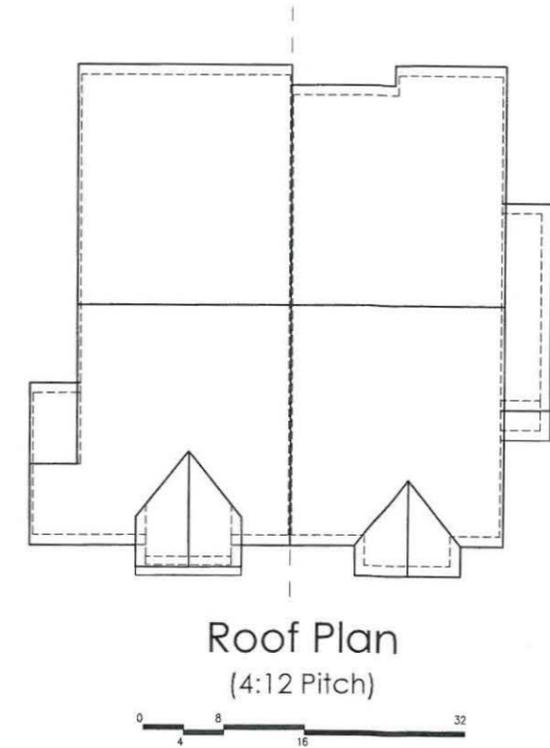
Duplex



Plan 2-1
3 Bedrooms
2.5 Baths
1500 s.f.

Plan 1-1
3 Bedrooms
2.5 Baths
1440 s.f.

A-3.1



Duplex A Exterior Elevations



A-3.2



Duplex B Exterior Elevations



A-3.3

Dutra Enterprises, Inc.

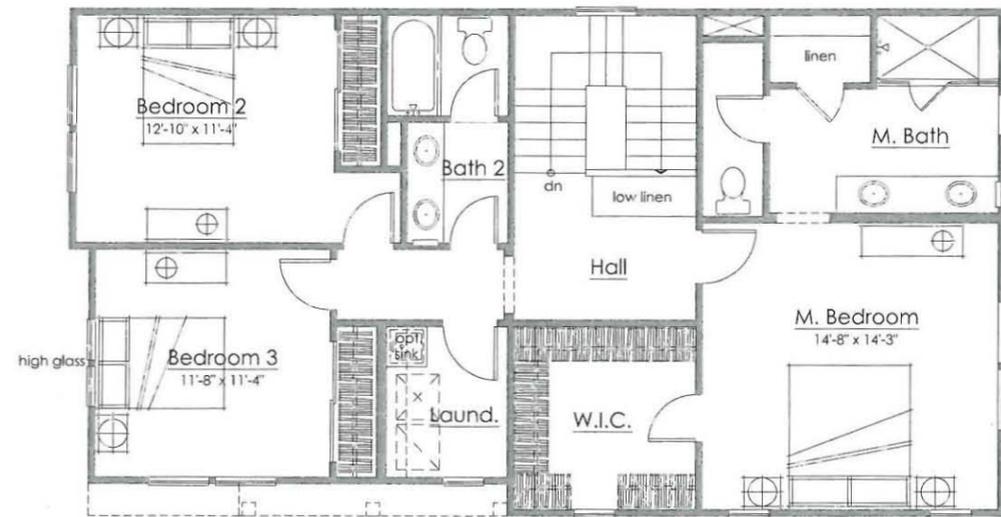
KTGY Job# 2011-0055
July 22, 2011

Eden Commons
Hayward, California

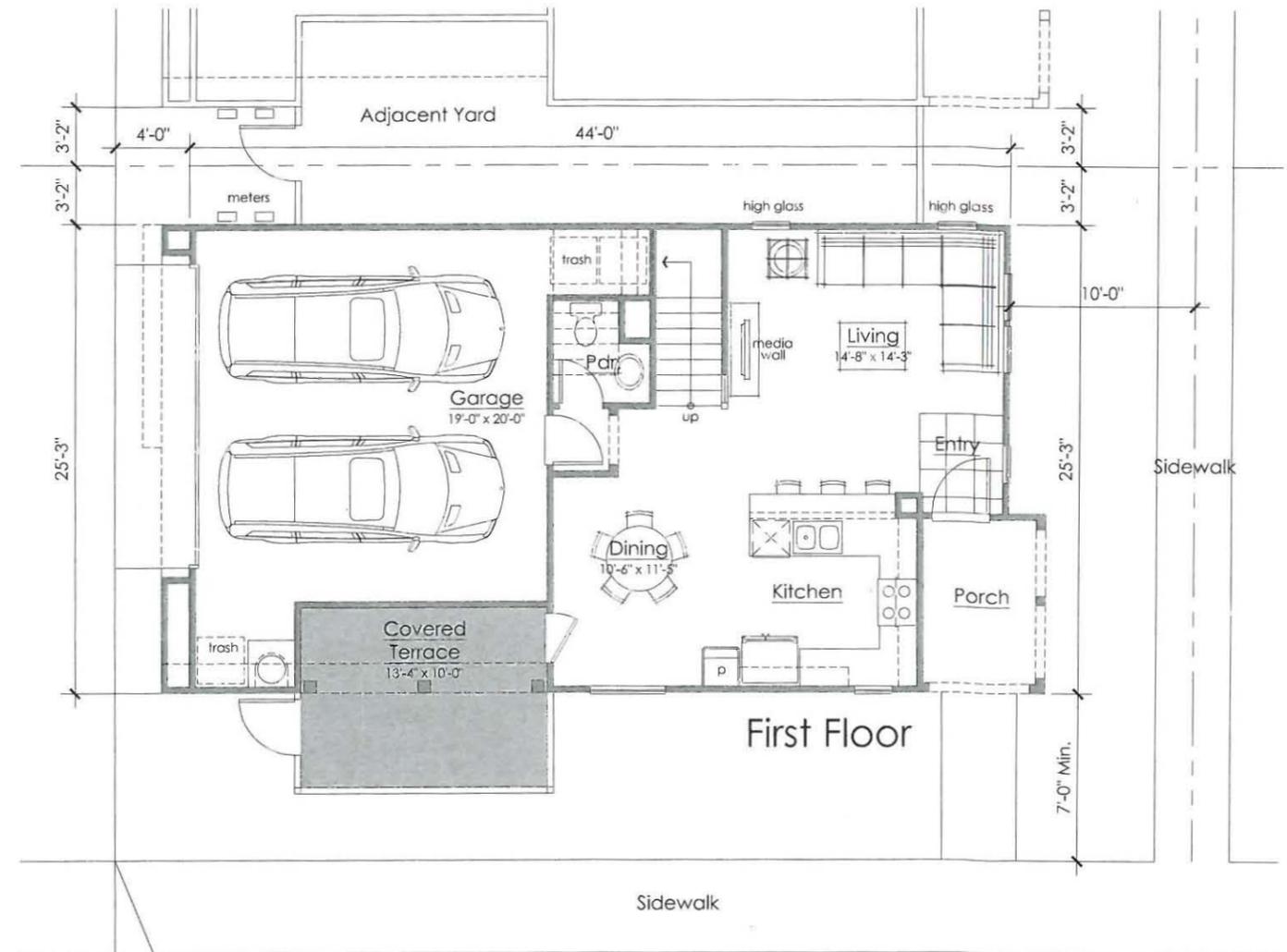
166

Architecture + Planning
580 Second Street, Suite 200
Oakland, California 94607
ktgy.com
510 272 2910





Second Floor



First Floor

Plan 3 Floor Plan



Floor Plan
 3 Bedrooms
 2.5 Baths
 1635 s.f.

A-4.1

Plan 3A Material List:

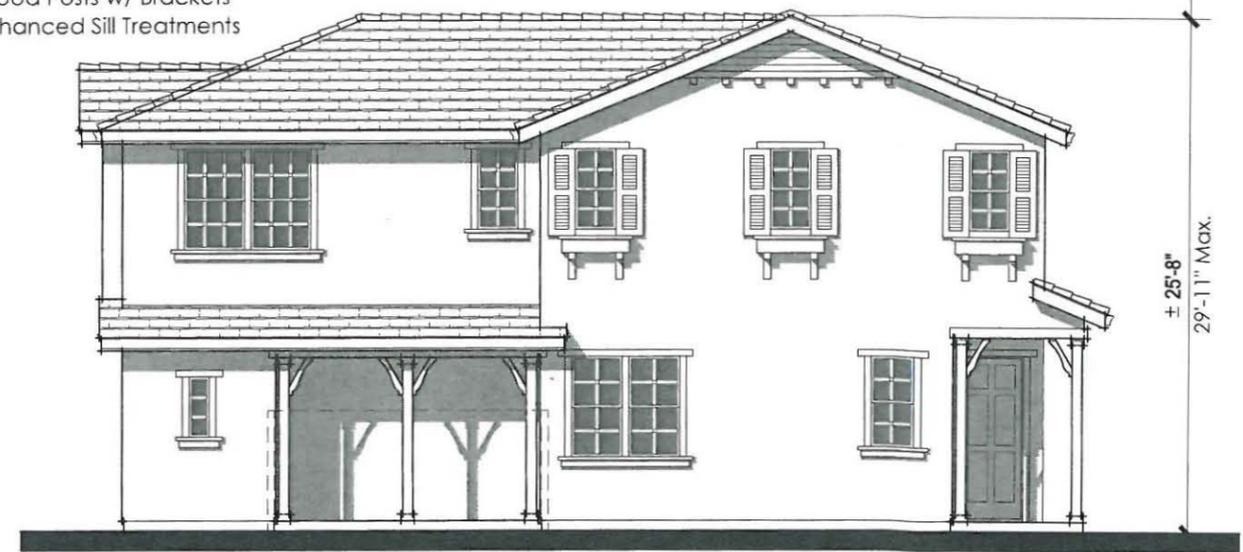
Roof: Concrete "S" Tile
 5:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Decorative Gable Treatment
 Enhanced Entry Treatment
 Enhanced Sill Treatments

Plan 3B Material List:

Roof: Flat Concrete Tile
 5:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Cementitious Lap Siding &
 Gable Treatment
 Decorative Shutters
 Wood Posts w/ Brackets
 Enhanced Sill Treatments



3A Front Elevation
 (Street View)



3B Front Elevation
 (Street View)



3A Left Elevation
 (Alley View)



3A Rear Elevation
 (Private Yard View)

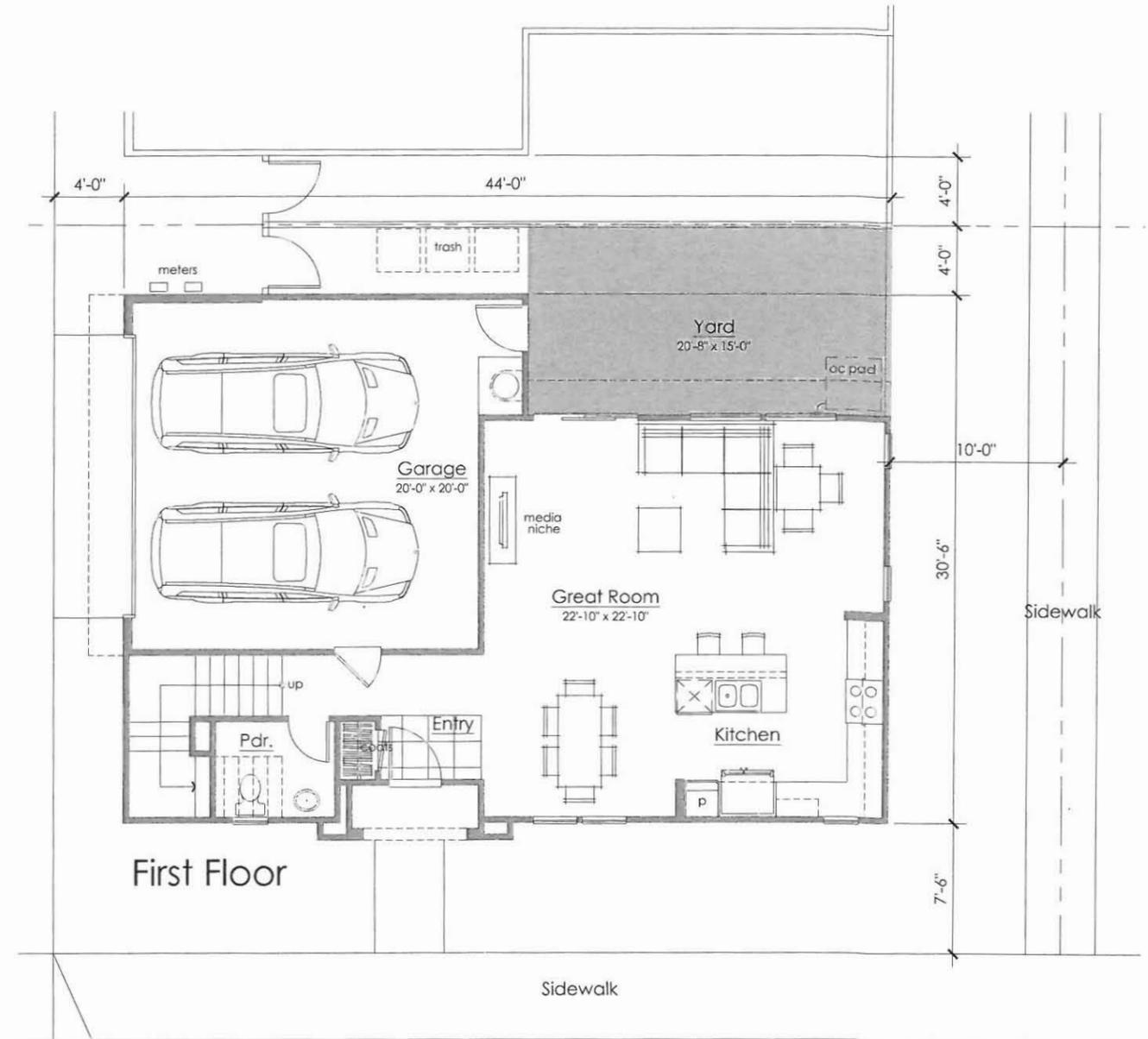


3A Right Elevation
 (Green Court View)

Plan 3 Exterior Elevations



A-4.2



Plan 4 Floor Plan



Floor Plan
 3 Bedrooms
 2.5 Baths
 1932 s.f.

A-5.1

Plan 4A Material List:

Roof: Concrete "S" Tile
 5:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Decorative Gable Treatment
 Enhanced Entry Treatment
 Enhanced Sill Treatments

Plan 4B Material List:

Roof: Flat Concrete Tile
 5:12 / 6:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Cementitious Lap Siding &
 Gable Treatment
 Decorative Shutters
 Wood Trellis w/ Brackets
 Enhanced Sill Treatments
 Stone Veneer



4A Front Elevation
 (Street View)



4B Front Elevation
 (Street View)



4A Left Elevation
 (Alley View)



4A Rear Elevation
 (Private Yard View)

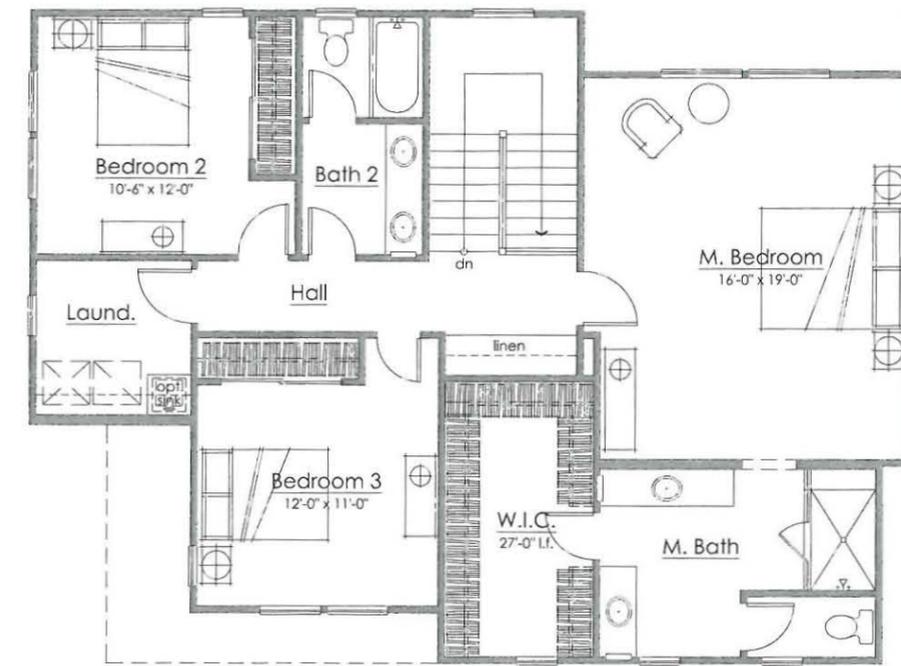


4A Right Elevation
 (Green Court View)

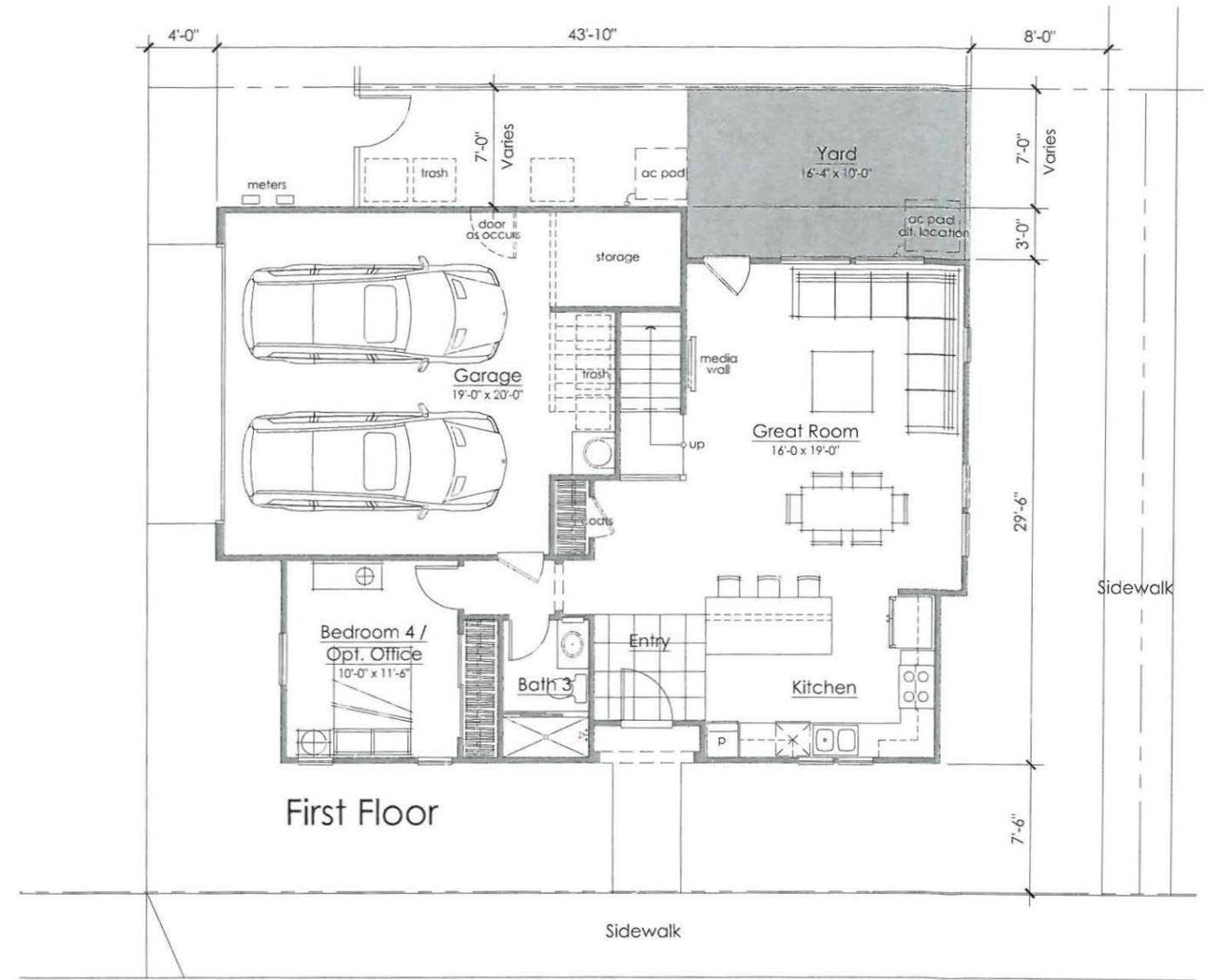
Plan 4 Exterior Elevations



A-5.2



Second Floor



First Floor

Plan 5 Floor Plan



Floor Plan
 4 Bedrooms
 Opt. Office
 3 Baths
 1966 s.f.

A-6.1



Plan 5A Material List:

Roof: Concrete "S" Tile
 5:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Decorative Gable Treatment
 Enhanced Entry Treatment
 Enhanced Sill Treatments
 W.I. Accent Details

Plan 5B Material List:

Roof: Flat Concrete Tile
 6:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Cementitious Lap Siding &
 Gable Treatment
 Decorative Shutters
 Stone Veneer
 Enhanced Sill Treatments



5A Front Elevation
 (Street View)



5B Front Elevation
 (Street View)



5A Left Elevation
 (Alley View)



5A Rear Elevation
 (Private Yard View)

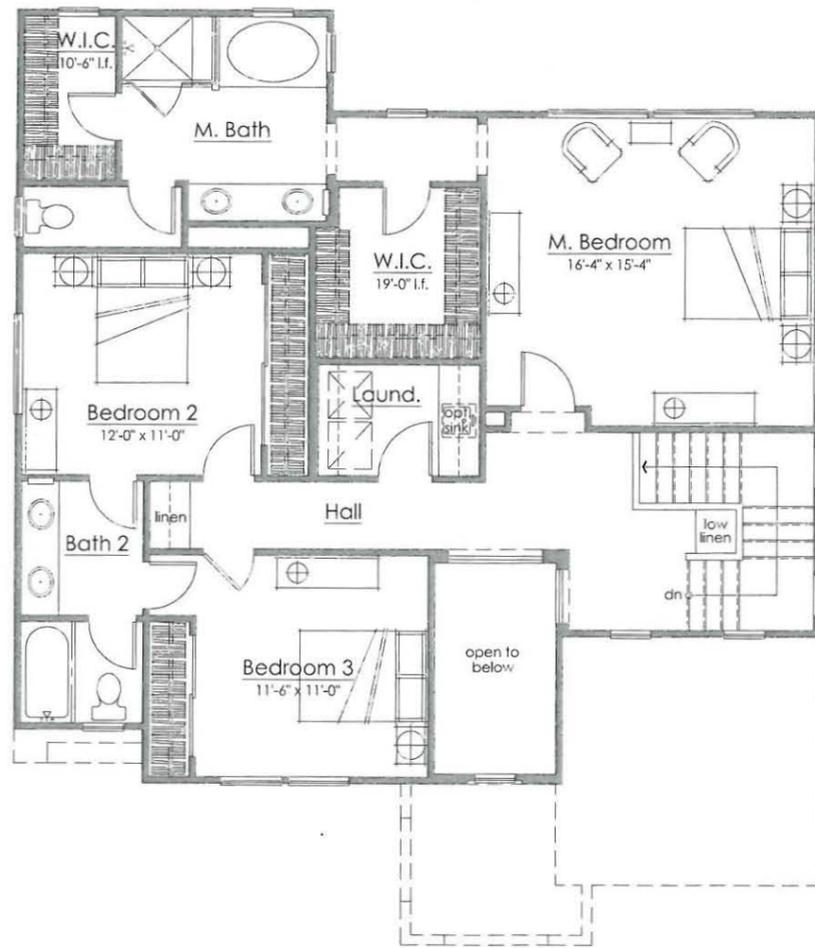


5A Right Elevation
 (Green Court View)

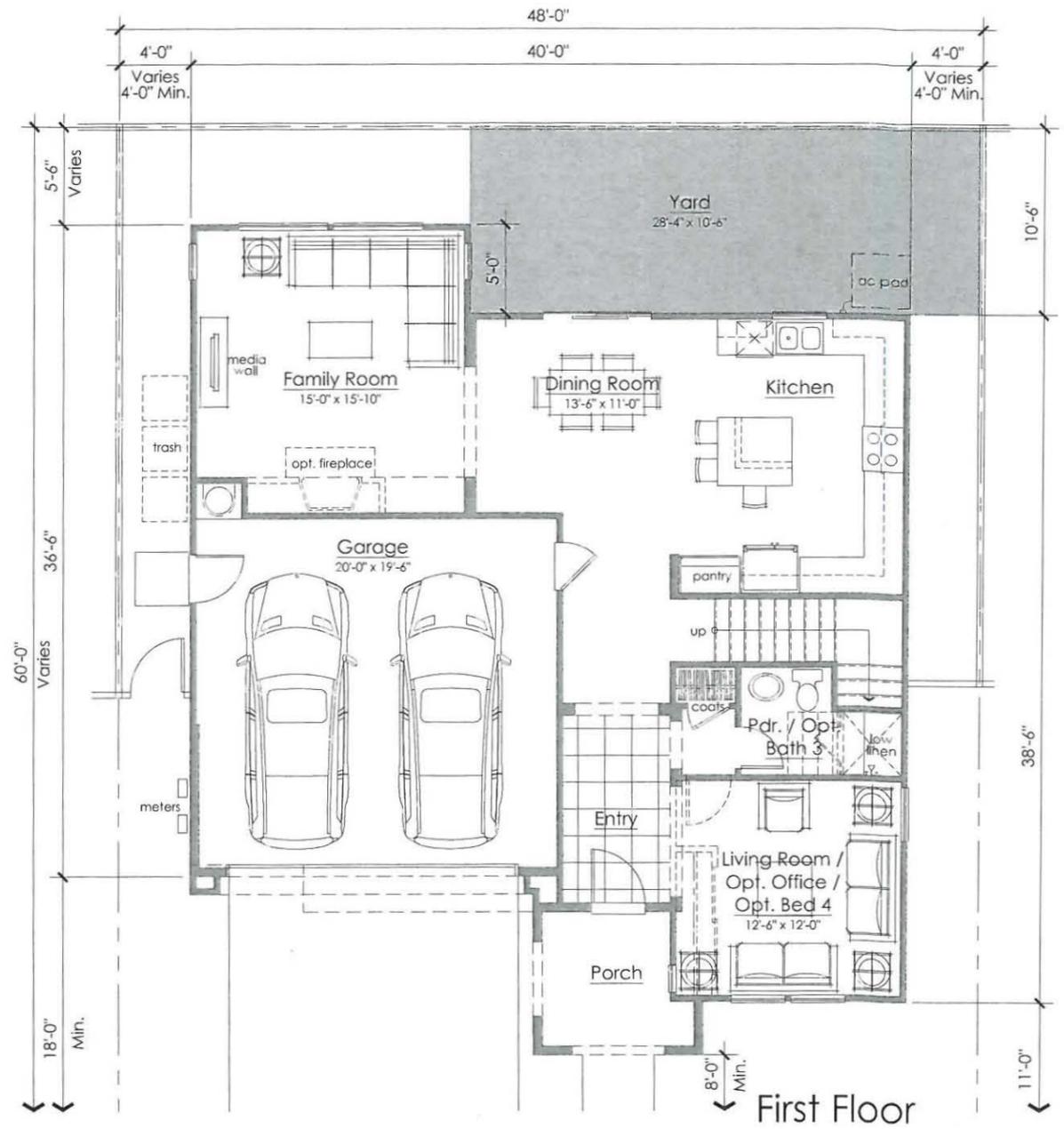
Plan 5 Exterior Elevations



A-6.2



Second Floor



First Floor

Plan 6 Floor Plan

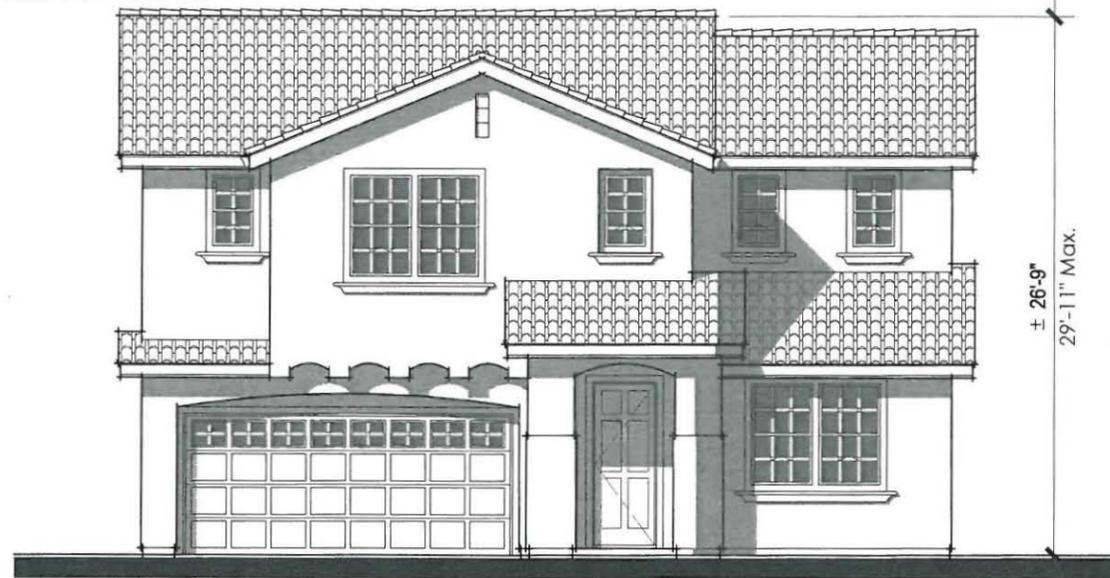


Floor Plan
 3 Bedrooms
 Opt. Office / Bed 4
 2.5 Baths / Opt. Bath 3
 2198 s.f.

A-7.1

Plan 6A Material List:

Roof: Concrete "S" Tile
 5:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Decorative Gable Treatment
 Enhanced Entry Treatment
 Enhanced Sill Treatments



6A Front Elevation

Plan 6B Material List:

Roof: Flat Concrete Tile
 6:12 Pitch
 Walls: Stucco
 Trims: 1X4 Stucco Finish
 Accents: Cementitious Lap Siding &
 Gable Treatment
 Decorative Shutters
 Wood Posts w/ Brackets
 Wood Trellis
 Stone Veneer



6B Front Elevation



6A Left Elevation



6A Rear Elevation

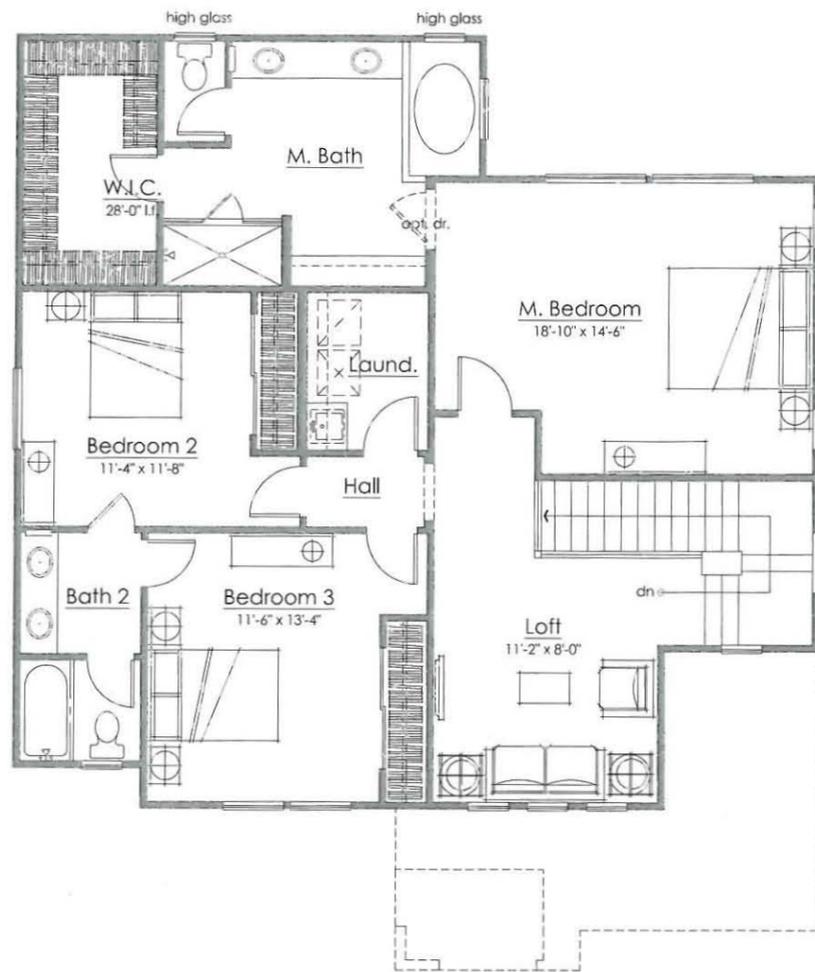


6A Right Elevation

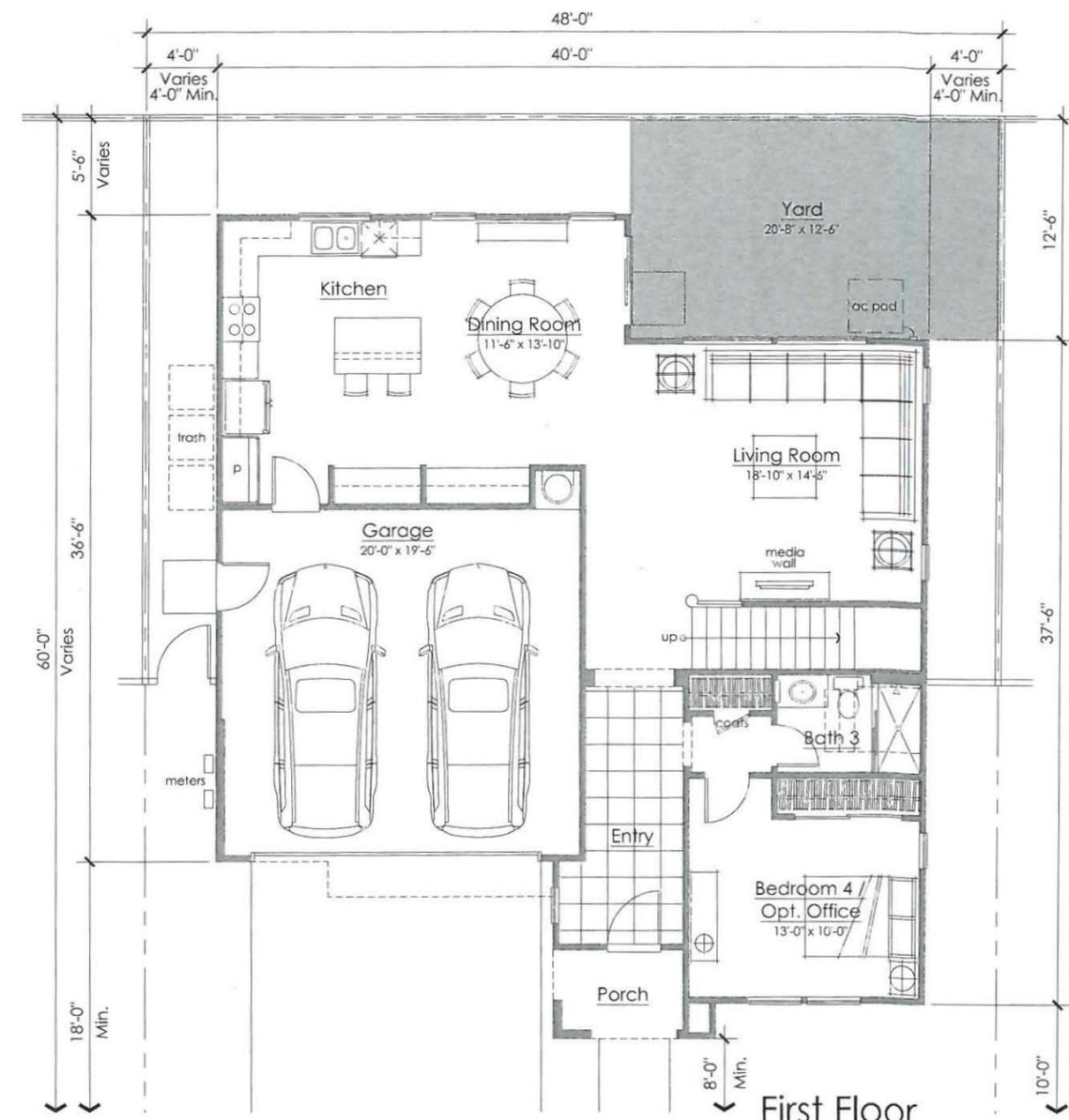
Plan 6 Exterior Elevations



A-7.2



Second Floor



First Floor

Plan 7 Floor Plan



Floor Plan
 4 Bedrooms
 Opt. Office
 3 Baths
 2327 s.f.

A-8.1

Plan 7A Material List:

- Roof: Concrete "S" Tile
5:12 Pitch
- Walls: Stucco
- Trims: 1X4 Stucco Finish
- Accents: Decorative Gable Treatment
Enhanced Entry Treatment
Enhanced Sill Treatments

Plan 7B Material List:

- Roof: Flat Concrete Tile
6:12 Pitch
- Walls: Stucco
- Trims: 1X4 Stucco Finish
- Accents: Cementitious Lap Siding &
Gable Treatment
Decorative Shutters
Stone Veneer



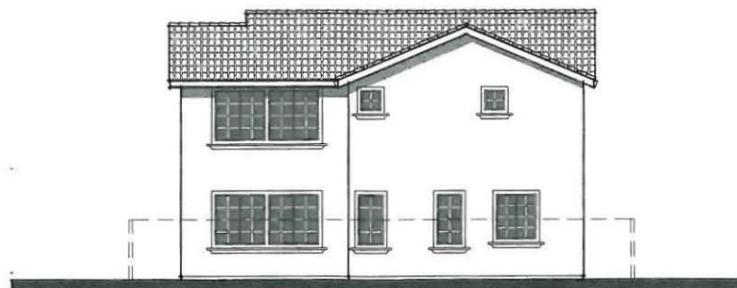
7A Front Elevation



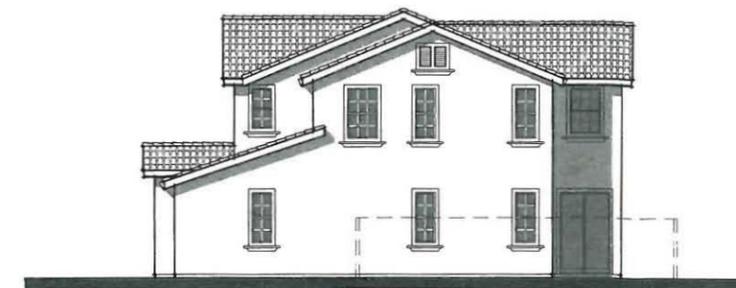
7B Front Elevation



7A Left Elevation



7A Rear Elevation



7A Right Elevation

Plan 7 Exterior Elevations



A-8.2

DATE: November 15, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Countywide Transportation Plan/Transportation Expenditure Plan: City Recommendation to Steering Committee

RECOMMENDATION

That Council provides recommendations to the City’s representative on the Countywide Transportation Plan/Transportation Expenditure Plan Steering Committee. The recommendations should cover the following:

- Recommendations on the capital projects to be included in the plans; and
- Recommendations on the policies to be used for allocating the programmatic pass-through funding to local jurisdictions.

SUMMARY

The Alameda County Transportation Commission (Alameda CTC) is in the process of developing a Transportation Expenditure Plan (TEP) for an augmentation and extension of the existing 2000 Measure B half cent transportation sales tax. Because there are a number of critical upcoming meetings leading to the adoption of the TEP in addition to a new Countywide Transportation Plan (CWTP), it is recommended that Council provide the City’s representative with input on the City projects and programs that should be included in these Plans.

This report discusses the reasons why the 2000 Measure B sales tax is being considered for augmentation and extension, how the efforts relate to other countywide and region wide planning efforts, and the effect of these documents on City projects and programs. Finally, this report lists in priority order, the projects that staff recommends should be included in both the TEP and the CWTP.

BACKGROUND

In 2000, Alameda County voters passed the Measure B sales tax, which extended the County’s half cent transportation sales tax until 2022. Nearly all of the capital projects identified in the Measure B 2000 Transportation Expenditure Plan (TEP) have either been completed or have been fully funded

However, there continues to be a shortfall on the programmatic funding side. Due to the slowdown in the economy that has lasted for the past four years, the projected sales tax revenues for on-going programs such as local streets and roads, bicycle and pedestrian, and transit have fallen below forecasts. Consequently, many local jurisdictions have not been able to complete projects they had originally envisioned to be funded from the programmatic funding and have had to delay or defer some of these efforts, or substitute other funding sources.

In response, the Alameda CTC has decided to pursue a ballot measure for the November 2012 election that would augment the existing 2000 Measure B sales tax until it expires in 2022 and add a new one cent sales tax that would take effect in 2023. Over the last year, a major expenditure plan development and outreach effort has been underway, charged with crafting an expenditure plan that could be part of the intended ballot measure in November 2012. While the new sales tax would be in effect for perpetuity, the priorities, in the form of an updated expenditure plan, would go back to the voters in 2042 and every 20 years thereafter.

Concurrent with these efforts, a number of other regional transportation planning efforts have been underway. A Countywide Transportation Plan (CWTP) is currently being developed by the Alameda CTC, as is a Regional Transportation Plan by the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), in conjunction with a Sustainable Communities Strategy. This is also being done in response to SB 375 and AB 32, which require the region to reduce transportation-related greenhouse gas emissions by 15% per capita by 2040 related to cars and light trucks. The major challenge is to accommodate population growth while keeping the region affordable for residents to live here, preserving open spaces, protecting the environment, and getting residents where they need to go, as well as creating job centers in the region, which would reduce the need for workers to commute from outside the region.

DISCUSSION

The 2000 Measure B sales tax, which was a reauthorization of the 1986 half cent transportation sales tax, was approved by 81% of Alameda County voters. That measure included significant funding for several programmatic areas such as local streets and roads, pedestrian and bicycle projects, and mass and specialized transit for the elderly and disabled. In addition, funding became available for major capital projects such as the City's I-880/SR 92 Reliever Route Phase 1 Project, which is currently in the design phase.

Nearly all of the capital projects in the 2000 Measure B Transportation Expenditure Plan have been constructed or are fully obligated. However, funding for the programs supported by the 2000 Expenditure Plan have fallen below expectations, largely as a result of the recession during the last four years, resulting in decreased sales tax revenues to local jurisdictions. The original 2000 Measure B projections called for revenues of \$2.9 billion between 2002 and 2022. Current revenue forecasts project only \$2.1 billion, leaving a shortfall of \$800 million. The reduction in sales tax funding, coupled with a reduction in gas tax funding, have inhibited local governments' abilities to meet the transportation needs of residents. Therefore, as a means of addressing the shortfall, the Alameda CTC decided to develop a new expenditure plan (TEP) and pursue a November 2012 ballot measure that would augment and extend the current sales tax in perpetuity. At the same time,

it was decided that development of the TEP should occur concurrently with the update of the CWTP and to use the projects proposed for the CWTP as a starting point for development of the TEP.

In addition to these efforts at the Countywide level, there is also a major regional effort underway being coordinated by the MTC and ABAG. This effort is referred to as the Sustainable Communities Strategy (SCS) and is designed to develop a Regional Transportation Plan (RTP) that provides for housing of the area's population and provides a transportation system that will get people from home to jobs in a manner that will reduce greenhouse gases (GHG) and result in fewer vehicle miles travelled.

The first draft of the SCS, called the Initial Vision Scenario, was presented to Council on April 19, 2011. The next step in the preparation of the SCS was release of the Alternative Land Use Scenarios on August 30, 2011.

While the Initial Vision Scenario projected 14,982 new housing units and 18,595 new jobs for Hayward by 2035, the Alternative Land Use Scenarios project 15,480 new housing units and between 16,050 and 17,440 new jobs for Hayward by 2040. Staff anticipates presenting the Alternative Land Use Scenarios to Council during a work session in January 2012. Council's comments on the Alternative Land Use Scenarios will be presented to ABAG and MTC to help guide the development of the Preferred Scenario, which is scheduled to be released in March 2012.

The CWTP and TEP vision, as approved by the Alameda CTC Steering Committee, which is composed of elected officials from throughout Alameda County (including Councilmember Henson representing Hayward), states that Alameda County will be served by a premier transportation system that supports a vibrant and livable Alameda County through a connected and integrated multimodal transportation system promoting sustainability, access, transit operations, public health, and economic opportunities.

In order to address this vision in the development of the TEP, the Steering Committee adopted several parameters. The Committee approved as an assumption that there would be a half cent augmentation of the current tax through 2022, which would then become a one-cent tax in perpetuity. As noted above, a new Expenditure Plan would go to the voters in 2042 and then every 20 years thereafter. The Committee also approved a 60%-40% split between programs and projects, the same as the existing 2000 Measure B allocations, in order to move the plan forward for analysis. The proposed 60% is broken down into the following programs, with the existing Measure B breakdown shown for comparison purposes.

<u>Program</u>	<u>Existing Measure B (%)</u>	<u>Proposed Measure B (%)</u>
Local Streets and Roads	22	20
Pedestrian and Bike	5	5
Mass Transportation	22	20
Senior/Disabled Transit	10.5	10
Sustainable Transportation Land Use	0.2	3
Technology, Innovation and Development	-	1
Freight and Economic Development	-	1

For Hayward, this distribution would have the following revenues for these programs in FY 2013-2014:

<u>Local Streets and Roads</u>	<u>Total FY 2013/2014</u> <u>(\$ million)</u>
Current half cent	1.88
New Half Cent	1.64
TOTAL	3.52
<u>Bicycle and Pedestrian</u>	<u>Total FY 2013/2014</u>
Current half cent	0.384
New Half Cent	0.31
TOTAL	0.69

The City’s Measure B funds for local streets and roads are used to keep current on paving needs. Given the shortfall in gas tax and Federal funding, Measure B funds are critical in ensuring that the streets do not fall into a greater state of disrepair. Additionally, the bike and ped funds have been used to address critical maintenance needs in the bike facility system and to continue to expand the City’s sidewalk program.

There will also be additional allocations to the City for the paratransit program, with such allocations to be determined by the Alameda CTC Paratransit Committee. The City currently receives about \$600,000 annually for this program.

Although the process is still in the developmental stage, staff expects the local streets and roads, and the bicycle and pedestrian revenues will be allocated to the jurisdictions on a pass-through basis by formula. For the local streets and roads, funds will be allocated through the traditional formula of 50% population and 50% maintained road miles. The bicycle and pedestrian funds will be allocated by population. However, it should be noted that suggestions have been made to alter the formula to consider other factors such as employment. Such changes to the formula would not benefit Hayward.

The Alameda CTC is working with local agencies on agreements to cover the pass-through funds. The Commission staff wants to cover the Measure B funds and the previously approved Vehicle Registration Fee funds in a single agreement. The Vehicle Registration Fee funds are another source of pass-through funding for local streets and roads rehabilitation. Most of the local agency staff feel that these funds must be provided with a minimum of requirements in order for the projects to be completed in a timely manner and on a cost-effective basis. The agreements for the transfer of these funds to the local agencies will be presented for Council approval early in 2012.

On the Project side, the City submitted a number of high priority capital projects for the TEP and the CWTP, based on previous identification of significant unmet transportation needs (see Attachment I). Projects not selected for the TEP are candidates for the CWTP. Staff recommends that the Council support the following priority order for these projects:

1. Industrial Parkway/I-880 Northbound Off-ramp [although this project is included as a “committed” (i.e. LATIP) project in the existing RTP, it is an important enough project that it should be considered for Expenditure Plan funding]. It should be noted that a

“committed” project refers to a project that is fully funded and is assumed to be completed and included in the future baseline transportation network. (\$14 million) *

2. Phase 2 I880/92 Reliever Route – Clawiter/Whitesell interchange (\$52 million)
3. A Street/I-880 Interchange Improvements (\$43 million)
4. Winton Avenue/I-880 Interchange Improvements (\$25 million)
5. Whipple Road/I-880 Interchange Improvements (\$60 million) *
6. Industrial/SR 92 Interchange Improvements ((\$ 6 million)
7. Tennyson Road Bike-Pedestrian Bridge to South Hayward BART (\$2 million)
8. Tennyson Road Grade Separation (\$25 million) *

*- included in Preliminary Draft TEP released November 8, 2011

The prioritization of these projects is based, in part, on previous planning efforts. Council may also add other projects it feels may be needed, such as shuttles. There is the potential for augmenting the City’s existing AC Transit services with shuttles. However, given that there is no formally defined need and no specifically defined shuttle project within our community, our chances for competing for these funds would be a long shot at best. Other funding sources, such as Transportation for Clean Air funds, may be more appropriate and available sources of funding for a future shuttle. Clearly, there is a growing interest within and among our residents, businesses, and educational institutions to have a Hayward-centric shuttle service. This is discussed further below.

The first six projects were developed from the Local Alternative Transportation Improvement Program (LATIP) process and are in priority order, with the exception of the Industrial/880 off ramp. This project has been moved up because it would address the upgrade of a substandard interchange that would also provide a benefit to goods movement. Additionally, it is likely to obtain support from Planning Area 3 (Union City/Fremont/Newark) which would enhance its chances of being included in the Expenditure Plan. The Tennyson Road Bike-Pedestrian Bridge is a recommended project in the City’s Bicycle Master Plan and in the South Hayward BART Concept Design Plan and would tie into redevelopment of the South Hayward BART station. The Tennyson Road grade separation is a longer term project that would provide significant safety benefits but does not as yet have a detailed design.

In addition, City staff has identified the following as “Programmatic Projects” that could be considered for funding from the bicycle and pedestrian portion of the funding. The City is not limited to these projects; they are suggested as high priority bicycle and pedestrian projects as they meet a specific need that has been identified through study and/or other planning processes. Staff recommends that Council endorse these projects for inclusion as Bicycle-Pedestrian programmatic projects, which would enhance their viability for future transportation funding from not only Measure B but from other funding sources. Please note that none of these projects were included in the Preliminary Draft TEP released November 8, 2011.

- Cannery Area Bike-Pedestrian Bridge over the Union Pacific Railroad tracks (\$2 million)
- Bicycle-Pedestrian programmatic projects including:
 - C Street Streetscape Project between Grand and Filbert (\$2 million)
 - C Street Narrowing between Watkins and Mission in conjunction with new library (\$1.3 million)

- Narrow Main Street between D Street and McKeever to provide bike lanes (\$2.2 million)
- Dixon Street Streetscape Project between Valle Vista and Industrial (to complement the Transportation for Livable Communities (TLC) grant project between Tennyson and Valle Vista) (\$4.0 million)

While not under the control of the City, the proposed TEP does show a significant increase in funding for AC Transit; although at this point there is not a clear indication of how this will be allocated. For example, similar to the increases projected for the City's Local Streets and Roads funds in 2013/2014, it is projected AC Transit will receive an additional \$16 million in that year. It is important that Hayward receive an equitable share of what service improvements are made. As noted above, the City would benefit from some form of shuttle service especially between our universities and downtown. One segment of the programmatic Mass Transit Operations Maintenance and Safety category is identified for Innovative Project Grants including potential youth transit passes. Although staff is not aware of any Measure B funded shuttle programs nor any specific projects submitted, staff recommends the City advocate that a Hayward shuttle pilot program be eligible for these funds.

SCHEDULE

There are a number of scheduled meetings related to the adoption of the Countywide Transportation Plan and Transportation Expenditure Plan:

November 17, 2011 – Steering Committee considers approval of CWTP/TEP

December 1, 2011 – Steering Committee adopts CWTP/TEP

December 16, 2011 – Alameda CTC Board adopts draft CWTP/TEP

The TEP would be submitted to the Clerk of the Alameda County Board of Supervisors in July for addition to the November 2012 ballot.

ECONOMIC IMPACT

If Measure B funding is not reauthorized, the current measure will end in 2022. However, even with the existing measure, the lower sales tax revenues will result in decreased funds for local street and road maintenance, decreased mobility for seniors and persons with disabilities, decreased transit funds, cuts in fixed route transit services, the inability to restore transit services to previous levels, and inability to fund new key capital projects that will address congestion, and bicycle and pedestrian needs in the City and throughout Alameda County. Demand for these services and projects will continue and it is possible that the City will need to take responsibility for the funding. Consequently, other needed projects will be deferred or cancelled.

PUBLIC CONTACT

Numerous public meetings are being held by the Alameda CTC. In addition, several workshops were held throughout the County; a central county workshop was held October 19 in San Leandro. Presentations have been made to a number of communities and interest groups, several telephone surveys have been conducted, and other outreach efforts have been undertaken.

There are also monthly meetings of the Technical Advisory Working Group, the Citizens Advisory Working Group and the Steering Committee. Public input is provided at these meetings, as well as at the Alameda CTC Board meetings.

Staff attended the October 19 workshop held in San Leandro. Approximately thirty-five members of the public were in attendance. The group showed much more of a preference for the bicycle and pedestrian, transit, and local streets and roads programs, rather than for specific projects. Of the capital projects, the Tennyson Road Bike Bridge and the improvements to the West A Street/I-880 Interchange seemed to have broad support.

Prepared by: Morad Fakhrai, Deputy Director of Public Works

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



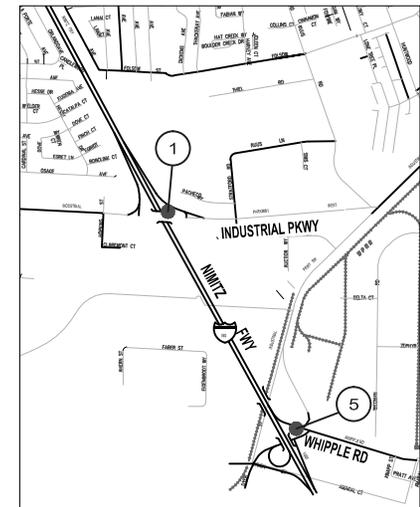
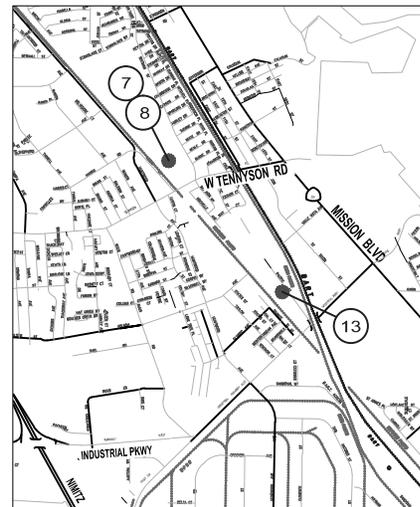
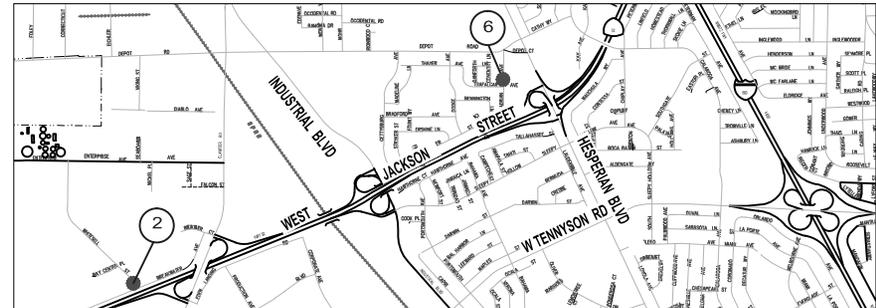
Fran David, City Manager

Attachments:

Attachment I: Recommended Project Location Map

LEGEND

- ① INDUSTRIAL PKWY/I-880 NB OFF-RAMP
- ② CLAWITER RD/WHITESSELL ST INTERCHANGE IMPROVEMENTS
- ③ A ST/I-880 INTERCHANGE IMPROVEMENTS
- ④ WINTON AVE/I-880 INTERCHANGE IMPROVEMENTS
- ⑤ WHIPPLE RD/I-880 INTERCHANGE IMPROVEMENTS
- ⑥ INDUSTRIAL BLVD/SR 92 INTERCHANGE IMPROVEMENTS
- ⑦ TENNYSON RD BIKE - PEDESTRIAN BRIDGE TO SOUTH HAYWARD BART
- ⑧ TENNYSON ROAD GRADE SEPARATION
- ⑨ CANNERY AREA BIKE-PEDESTRIAN BRIDGE OVER THE UNION PACIFIC RAIL ROAD TRACKS
- ⑩ C STREET STREETScape PROJECT BETWEEN GRAND AVE AND FILBERT ST
- ⑪ STREET NARROWING BETWEEN WATKINS ST AND MISSION BLVD IN CONJUNCTION WITH NEW LIBRARY
- ⑫ NARROW MAIN ST BETWEEN D ST AND MC KEEVER AVE TO PROVIDE BIKE LANES
- ⑬ DIXON STREET STREETScape PROJECT BETWEEN VALLEVISTA AVE AND INDUSTRIAL BLVD



PROJECTS RECOMMENDED FOR INCLUSION IN THE COUNTY WIDE TRANSPORTATION PLAN/TRANSPORTATION EXPENDITURE PLAN

DATE: November 15, 2011

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Introduction of an Amendment to the Inclusionary Housing Interim Relief Ordinance Clarifying Certain Provisions and Authorizing the City Manager to Amend Certain Inclusionary Housing Agreements to Apply the Provisions of the Interim Relief Ordinance

RECOMMENDATION

That the City Council:

- 1) Adopts the attached resolution (Attachment I) finding that enactment of the Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions is exempt from CEQA because the Relief Ordinance does not have the potential for causing a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)); and
- 2) Introduces the attached ordinance (Attachment II) amending certain sections of the Inclusionary Housing Interim Relief Ordinance to make certain clarifying provisions and to authorize the City Manager to amend certain Inclusionary Housing Agreements where units have not yet been constructed to apply the provisions of the Interim Relief Ordinance.

BACKGROUND

On December 14, 2010, the City Council introduced an ordinance that provided interim relief from certain inclusionary housing provisions and subsequently adopted the ordinance on January 18, 2011¹. The original interim relief ordinance enacted the following temporary measures to the City's existing Inclusionary Housing Ordinance (IHO) effective until December 31, 2012:

- Reduces the inclusionary housing percentage from 15% to 10% for single family housing and to 7.5% for condominiums, townhomes, and other attached housing;
- Allows a developer to pay an inclusionary housing in-lieu fee "by right" without City Council approval rather than providing units on site, at the developer's option;
- Allows a developer to defer payment of inclusionary in-lieu fees until close of escrow or up to one year after issuance of a certificate of occupancy; and

¹ The December 14, 2010 staff report can be found on the City's website: <http://www.hayward-ca.gov/citygov/meetings/cca/2010/cca121410full.pdf#page=229>

- In compliance with recent case law, does not impose any inclusionary requirements on a rental housing development that is approved without a subdivision or condominium map unless it receives some type of City assistance.

The intent behind the Council's action to adopt the interim relief measures was to mitigate the effects of the recessionary housing market and to stimulate new residential construction and new jobs. The most immediate beneficiaries would be projects that have received discretionary approvals and are poised to move ahead. The interim relief ordinance was intended to encourage these projects to move forward to construction.

DISCUSSION

Following adoption of the ordinance in January, staff began implementing the new provisions. As staff gained experience with these provisions, several issues with the interim relief ordinance became apparent that needed clarification. In addition, staff has been approached by several developers with existing Inclusionary Housing Agreements asking for the provisions of the interim relief ordinance to apply to their projects. Attachment III provides a redline version of the Interim Relief Ordinance that shows the proposed changes to the ordinance.

The first issue that required clarification in the ordinance is the timing of receipt of discretionary approvals and receipt of building permits. Section 2 of the Ordinance identified a timeline for receipt of discretionary approvals (December 31, 2012) that was potentially in conflict with the provisions under the Time of Payment of In-Lieu Fees section. Subsection (b) identified that units had to receive a certificate of occupancy or final inspection by December 31, 2012, which caused a potential timing conflict with the discretionary approvals deadline of December 31, 2012. To clarify this, staff has proposed modifications to the ordinance to indicate that discretionary approvals must be received by December 31, 2012 and that building permits must be received by December 31, 2014, allowing for a more realistic time window for payment of the in-lieu fees. This was a clarification recommended by both staff and members of the development community who had raised this concern.

Subsection (b) also allowed projects to defer payment of the in-lieu fees beyond the issuance of a certificate of occupancy or final inspection date. Staff has found this provision to be administratively untenable. The City must proactively issue a certificate of occupancy or final inspection, which can be flagged to prevent issuance without payment of any remaining required fees. The City does not normally receive any notification of close of escrow for units or once the one year period following final inspection has occurred. To ensure collection, the ordinance provided that the in-lieu fees would be recorded as a lien against the property. Although this would protect the City, it would require significant administrative work to record deeds of trust and track the one-year expiration date if units did not sell in one year. In addition, no developer has requested this option. Developers are now building units only as they are sold or when they are very confident that units will sell, so that little time elapses between final inspection and sale of the units. Since the program is complex while having minimal value to developers, staff proposes to delete this deferral provision and simply require payment of in-lieu fees at the issuance of the certificate of occupancy or time of final inspection.

The second issue identified was a clarification of the language under the Provisions Applicable to Residential Ownership Projects section. This is a basic rewording of this section to ensure it is clear that detached single family home projects are subject to a 10% affordability requirement and single family attached projects are subject to a 7.5% affordability requirement under the interim relief provisions.

Several developers raised the final issue with the interim relief ordinance provisions. There are several projects in the City where the developers have signed Inclusionary Housing Agreements (IHAs) or other regulatory agreements under the original ordinance provisions but have not yet built their projects. These projects would not currently be eligible for the interim relief provisions adopted by Council last January as these provisions only address projects that have received entitlements and not those that have signed IHAs. As the intent of the Interim Relief Ordinance was to encourage developers to move forward and build projects, staff is supportive of the request to allow revisions to IHAs so that the interim relief provisions would apply. This would only be applicable for projects where the units have not yet been built, primarily the remaining tracts to be constructed in the Burbank-Cannery area. Based on this, staff has added the section Amendments to Existing Inclusionary Housing Agreements, which would allow the City Manager to execute amendments to IHAs to allow the provisions of the Interim Relief Ordinance to apply. If the Council adopts the amended ordinance, staff will work to amend IHAs with those developers that have submitted requests for relief. Currently, staff has received such requests from Citation Homes and Taylor Morrison for their respective developments in the Burbank-Cannery area.

There are also some other minor language clarifications incorporated into the amended Ordinance, which are highlighted in Attachment II and which do not materially change the intent of the interim relief provisions.

CEQA Review: The Relief Ordinance is exempt from CEQA because it can be seen with certainty that the enactment of the Relief Ordinance will not have any significant effect on the environment. It affects only the affordability of residences constructed in the City, the timing of payment, and the ability to pay in-lieu fees and contains no provisions affecting the physical design or development of residences. (CEQA Guidelines Section 15061(b)(3)).

ECONOMIC IMPACT

The Relief Ordinance is designed to mitigate the effects of a recessionary housing market and stimulate new residential construction and new jobs. By clarifying the relief measures proposed in the Ordinance, the City hopes to improve the viability of marginally feasible residential projects. Staff anticipates that the most immediate beneficial effects will be to projects that have discretionary approvals and are poised to move ahead. Condominium, apartment, and other similar developments are not likely to be rendered immediately feasible as a result of this or other City relief measures, but these measures may assist in stimulating such development within the interim relief period, as the economy continues to improve.

FISCAL IMPACT

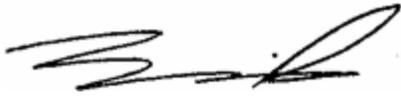
Fiscal impacts to the City of Hayward could be moderately positive, to the extent that residential developments are encouraged to proceed. In addition, the City would gain additional building permit fee revenue, transfer taxes, and property taxes from new housing development of all types.

PUBLIC CONTACT

Staff has shared copies of the redline Interim Relief Ordinance with interested developers and with representatives of the BIA consistent with outreach done for the original Interim Relief Ordinance.

Prepared and Recommended by: Omar Cortez, Housing Development Specialist
David Rizk, Director of Development Services
Kelly McAdoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Resolution No. 11-___, Resolution Finding that the Enactment of an Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions Is Exempt from the California Environmental Quality Act (CEQA)
- Attachment I Ordinance No. 11 - ___, An Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions
- Attachment III Redline of Interim Relief Ordinance

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-__

RESOLUTION FINDING THAT THE ENACTMENT OF AN ORDINANCE PROVIDING INTERIM RELIEF FROM CERTAIN INCLUSIONARY HOUSING PROVISIONS IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, the City Council of the City of Hayward has reviewed the provisions of Hayward Municipal Code Chapter 10, Article 17, the Inclusionary Housing Ordinance, in order to consider economic relief measures and to stimulate appropriate housing development in the City of Hayward; and

WHEREAS, the City Council has reviewed the information contained in the proposed "Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions" (the "Relief Ordinance") and the accompanying staff report and attachments thereto at a duly noticed meeting on November 15, 2011.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF HAYWARD hereby finds that the proposed Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions is exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of the proposed Relief Ordinance may have a significant effect on the environment, in that the Relief Ordinance affects only the affordability of residences constructed in the City of Hayward and contains no provisions modifying the physical design, development, or construction of residences (CEQA Guidelines Section 15061(b)(3)).

IN COUNCIL, HAYWARD, CALIFORNIA November 15, 2011.

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

ORDINANCE NO. 11-

AN ORDINANCE PROVIDING INTERIM RELIEF FROM CERTAIN INCLUSIONARY HOUSING PROVISIONS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to provide incentives for the construction of residential dwelling units in the City of Hayward during a period in which residential construction has declined in the State of California and in the United States as a whole.

Section 2. Interim Relief Provisions. Notwithstanding the provisions of Chapter 10, Article 17, “Inclusionary Housing Ordinance,” of the Hayward Municipal Code, the provisions of this Ordinance shall be applicable to Dwelling Units in Residential Development Projects which have: (a) received all discretionary planning approvals by December 31, 2012; and (b) obtained building permits by December 31, 2014. However, the provisions of this Ordinance do not apply to any Residential Development Projects or Dwelling Units that provided Affordable Units or paid In-Lieu Fees prior to the effective date of this Ordinance.

DEFINITIONS

The capitalized terms set forth in this Ordinance shall have the same meaning as in Chapter 10, Article 17, “Inclusionary Housing Ordinance,” of the Hayward Municipal Code, except that the following terms are additionally defined for the purposes of this Ordinance:

(a) “Residential Ownership Project” is defined as a Residential Development Project that includes the creation of twenty (20) or more Dwelling Units that may be sold individually, including but not limited to condominiums, townhomes, stock cooperatives, community apartments, and attached or detached single-family homes. A Residential Ownership Project also includes a condominium conversion.

(b) “Residential Rental Project” is defined as a Residential Development Project that includes the creation of twenty (20) or more Dwelling Units that cannot be sold individually.

PROVISIONS APPLICABLE TO RESIDENTIAL OWNERSHIP PROJECTS

(a) Percentage of Affordable Units. In a Residential Ownership Project, ten percent (10%) of all Dwelling Units consisting of detached single-family homes, and seven and one-half percent (7.5%) of those Dwelling Units that consist of attached homes, including but not limited to townhomes and condominiums, shall be Affordable Units that are sold to moderate income households at Affordable Ownership Housing Cost as specified in Section 10-17.210 of the Hayward Municipal Code for “Owner-Occupied Residential Development Projects.”

(b) Payment of In-Lieu Fees. As an alternative to the provision of Affordable Units as required by subsection (a), an applicant for a Residential Ownership Project may choose to pay In-Lieu Fees as established by resolution of the City Council from time to time at its sole discretion.

(c) Selection of Alternative. An application for the first approval of a Residential Ownership Project subject to subsection (a) shall describe whether the applicant elects to comply with subsection (a) or (b), or a combination of those subsections. If an applicant elects to comply with subsection (a), then all other requirements of Chapter 10, Article 17 apply, including but not limited to the provision of an Inclusionary Housing Plan and Inclusionary Housing Agreement.

PROVISIONS APPLICABLE TO RESIDENTIAL RENTAL PROJECTS

(a) No Requirement for Affordable Units. No Affordable Units are required to be included in a Residential Rental Project which does not receive City assistance as described in subsection (b).

(b) Provision of City Assistance. For Residential Rental Projects for which the applicant requests and receives a direct City financial contribution or any form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code, Affordable Units may be required by the City pursuant to the terms of that assistance. As a condition of City assistance, the City shall require that the applicant agree by contract with the City to the limitation on rents in consideration for the city's assistance, to ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code).

TIME OF PAYMENT OF IN-LIEU FEES

For a Dwelling Unit that obtained a building permit by December 31, 2014, any required In-Lieu Fees for that Dwelling Unit shall be due and payable at the time a certificate of occupancy is issued for that Dwelling Unit or at the time of final inspection should no occupancy permit be required for the Dwelling Unit.

AMENDMENTS TO EXISTING INCLUSIONARY HOUSING AGREEMENTS

The City Manager is authorized to execute amendments to existing agreements implementing the City's Inclusionary Housing Ordinance consistent with the provisions of this Ordinance.

INCLUSIONARY HOUSING ORDINANCE

All provisions of Chapter 10, Article 17, "Inclusionary Housing Ordinance," Hayward Municipal Code, which do not conflict with this Ordinance shall remain in full force and effect.

Section 3. Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the

authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2011, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO. ~~10~~ _____ ~~11~~**AN ORDINANCE PROVIDING INTERIM RELIEF FROM CERTAIN INCLUSIONARY HOUSING PROVISIONS**

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to provide incentives for the construction of residential dwelling units in the City of Hayward during a period in which residential construction has declined in the State of California and in the United States as a whole.

Section 2. Interim Relief Provisions. Notwithstanding the provisions of Chapter 10, Article 17, "Inclusionary Housing Ordinance," of the Hayward Municipal Code, the following provisions of this Ordinance shall be applicable to Dwelling Units in Residential Development Projects which have: (a) received all discretionary planning approvals prior to December 31, 2012; by December 31, 2012; and (b) obtained building permits by December 31, 2014. However, the provisions of this Ordinance do not apply to any Residential Development Projects or Dwelling Units that provided Affordable Units or paid In-Lieu Fees prior to the effective date of this Ordinance.

DEFINITIONS

The capitalized terms set forth in this Ordinance shall have the same meaning as in Chapter 10, Article 17, "Inclusionary Housing Ordinance," of the Hayward Municipal Code, except that the following terms are additionally defined for the purposes of this Ordinance:

(a) "Residential Ownership Project" is defined as a Residential Development Project that includes the creation of twenty (20) or more Dwelling Units that may be sold individually, including but not limited to condominiums, townhomes, stock cooperatives, community apartments, and attached or detached single-family homes. A Residential Ownership Project also includes a condominium conversion.

(b) "Residential Rental Project" is defined as a Residential Development Project that includes the creation of twenty (20) or more Dwelling Units that cannot be sold individually.

PROVISIONS APPLICABLE TO RESIDENTIAL OWNERSHIP PROJECTS

(a) Percentage of Affordable Units. In a Residential Ownership Project, ten percent (10%) of all Dwelling Units consisting of detached single-family homes, and seven and one-half percent (7.5%) of those Dwelling Units that consist of attached homes, including but not limited to townhomes and condominiums, shall be Affordable Units that are sold to Moderate Income Households at Affordable Ownership Housing Cost as specified in Section 10-17.210 of the Hayward Municipal Code for "Owner-Occupied Residential Development Projects." ~~In a~~

~~Residential Ownership Project, seven and one-half percent (7.5%) of those Dwelling Units that consist of attached homes, including but not limited to townhomes and condominiums, are required to be Affordable Units.~~

(b) Payment of In-Lieu Fees. As an alternative to the provision of Affordable Units as required by subsection (a), an applicant for a Residential Ownership Project may choose to pay In-Lieu Fees as established by resolution of the City Council from time to time at its sole discretion.

(c) Selection of Alternative. An application for the first approval of a Residential Ownership Project subject to subsection (a) shall describe whether the applicant elects to comply with subsection (a) or (b), or a combination of those subsections. If an applicant elects to comply with subsection (a), then all other requirements of Chapter 10, Article 17 apply, including but not limited to the provision of an Inclusionary Housing Plan and Inclusionary Housing Agreement.

PROVISIONS APPLICABLE TO RESIDENTIAL RENTAL PROJECTS

(a) No Requirement for Affordable Units. No Affordable Units are required to be included in a Residential Rental Project which does not receive City assistance as described in subsection (b).

(b) Provision of City Assistance. For Residential Rental Projects for which the applicant requests and receives a direct City financial contribution or any form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code, Affordable Units may be required by the City pursuant to the terms of that assistance. As a condition of City assistance, the City shall require that the applicant agree by contract with the City to the limitation on rents in consideration for the city's assistance, to ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code).

TIME OF PAYMENT OF IN-LIEU FEES

~~(a) Any~~ For a Dwelling Unit that obtained a building permit by December 31, 2014, any required In-Lieu Fees for that Dwelling Unit shall be due and payable at the time a certificate of occupancy is issued for that Dwelling Unit or at the time of final inspection should no occupancy permit be required for the Dwelling Unit.

~~(b) Notwithstanding subsection (a), for any Dwelling Unit receiving a certificate of occupancy or final inspection by December 31, 2012, the applicant may elect to defer the payment of the In-Lieu Fees until the earliest of the following to occur:~~

- ~~1. Close of any escrow for the sale of the Dwelling Unit subject to the In-Lieu Fee, or~~
- ~~2. One year after issuance of the certificate of occupancy for the Dwelling Unit (or one year after final inspection should no occupancy permit be required);~~

~~Provided that the property owner enters into a contract with the City to pay the In-Lieu Fee at the time specified plus all associated administrative and other costs, which contract shall be secured by a recorded lien against the Dwelling Unit.~~

AMENDMENTS TO EXISTING INCLUSIONARY HOUSING AGREEMENTS

The City Manager is authorized to execute amendments to existing agreements implementing the City's Inclusionary Housing Ordinance consistent with the provisions of this Ordinance.

INCLUSIONARY HOUSING ORDINANCE

All provisions of Chapter 10, Article 17, "Inclusionary Housing Ordinance," Hayward Municipal Code, which do not conflict with this Ordinance shall remain in full force and effect.

Section ~~2.3~~ Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section ~~3.4~~ Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, ~~2010, 2011~~, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, ~~2010, 2011~~, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward