CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 04/23/02
AGENDA ITEM 6
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Zone Change No. PL-2001-0223 and Tentative Tract Map No. 7341 – Brian Purcell for PF Trust (Applicant), Brian and Kimberly Purcell (Owners) - Request to Raze a Single-Family Dwelling, Vacate Excess Right-of-Way, to Rezone Property from Commercial Office (CO) District to Planned Development (PD) District; and a Tentative Tract Map to Construct Eight Townhouses - The Project Is Located at 338 Winton Avenue at the Northwest Corner of Alice Street

RECOMMENDATION:

The Planning Commission (6:1) and staff recommend that the City Council:

1. Adopt the attached resolution certifying the Negative Declaration, approving the Tentative Tract Map, and approving the Preliminary Development Plan;
2. Introduce the ordinance approving the Zone Change; and
3. Authorize staff to initiate proceedings to vacate the excess right-of-way at the corner of Alice Street and Winton Avenue

DISCUSSION:

The City Council is being asked to consider a housing option that has not been constructed in Hayward to date. The compact housing design can best be described as a variation between a conventional single-family development and a multi-family project. The applicant indicates that his proposal for a detached housing product using multi-family standards meets both the intent of the General Plan in terms of density and the market's preference for detached dwellings at an attainable price. The project includes land that is City property (excess right-of-way), and the City Council is being asked to approve a vacation of this land along with the development proposal. For comparison purposes, if conventional residential development were to occur on this site under RSB4 zoning (Single-Family Residential – 4,000 square-foot minimum lot size), a maximum of six dwelling units would be permitted. For attached dwelling units under Commercial Office zoning, up to twelve dwelling units would be allowed.

Applicable City Policies

- General Plan - The General Plan Map designation for the site at Alice and Winton is "Medium Density Residential," which calls for a housing density appropriate to its location near a major employment center and public transportation and its setting among a mixture of single- and multi-family dwellings. A designation of "Medium Density Residential" would allow up to twelve dwelling units on this parcel, although the design would be significantly different and units would be smaller.

- Zoning - The property is in the Commercial Office (CO) District, which permits multi-family dwellings as a primary use. The minimum lot size allowed in the Commercial Office District is 5,000 square feet for interior lots and 5,760 square feet for corner lots. The requested zone change to Planned Development would allow for the proposed individual lot sizes of 2,150-2,650 square feet. It also allows a common rear driveway, which provides for a streetscape free of numerous driveways and visible garages.

  The findings necessary for a Planned Development zoning states that "*any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.*" The applicant maintains that he is not asking for any exceptions since the deviation for lot size relates to the function of the ownership type (townhouse type vs. condominium) rather than any development standards. In other words, if he were requesting a condominium project where lot size is not an issue (as was done for the Olson project on O'Neil Avenue), he would not need to apply for a Planned Development district. If the dwelling units in this project were attached, all design standards for multi-family development would be met. If viewed as a detached single-family residential project, the project would lack adequate private open space (back yards), but group open space is proposed instead, albeit a lesser area than would be found in typical back yards; however, each unit is provided greater private open space than that provided in a typical multi-family project. The benefits of this project to the neighborhood include the provision of new housing at a higher quality to promote increased home ownership, and an increase in density to meet General Policy Plan goals in an area in proximity to public services. The design of the project eliminates the impacts of the automobile by restricting access to a single driveway and placing the garages to the rear of the units out of view from the adjacent streets. Privacy for the residents to the rear is enhanced, as second-story windows are located 31 feet from the property line rather than the allowable 20 feet.

- Neighborhood Plan - The Burbank Neighborhood Plan promotes new residential environments of higher quality so that Burbank families would have an opportunity to move up in the housing market without having to move out of the area. The immediate neighborhood is characterized by one-story structures without any particular, significant architectural style. This project would introduce a 2-story design common in some historic neighborhoods in Hayward. Maintenance of the buildings and landscape would be controlled by a homeowners association through enforcement of CC&Rs.

On February 28, 2002, the Planning Commission (6-1) recommended approval of the project, which consists of 8 detached 2-story townhouse units, separated by approximately 5-7 feet at their closest points. Three floor plans are proposed. Dwellings are 15 feet from the front (Alice Street) property line, with covered front porches 10 feet from the front property line, which is consistent with the required setbacks of the Commercial Office zoning district and "smart growth" principles calling for houses closer to the street with front porches. Each house has a private courtyard accessed from the side of the unit, a small front yard, and no rear yard. A driveway along the rear of the property provides access to the attached two-car garages. A group open space area is centrally located adjacent to the entry driveway off Alice Street.

At the Planning Commission hearing, the applicant objected to the condition of approval requiring a masonry wall along the western property line separating the common driveway from the adjacent properties containing duplexes (see condition 45). The applicant contended that a specially designed board fence could attenuate sound as well as a masonry wall. The motion approved by the Planning Commission included a condition that stipulated that the developer could use a wood

fence if it could be proven that it would provide as much sound proofing as a masonry wall. Staff agrees that wood fences, when airtight (lacking knot holes and pre-shrunk and overlapping) and of adequate density can adequately attenuate noise. However, the limitations of wood fences are that they have shorter life spans, require more maintenance than a masonry wall, and often shrink over time so that noise attenuation properties are compromised. For these reasons, staff recommends installation of an attractive masonry wall.

The Planning Commissioner voting against the project expressed concern that there could be problems relating to the private open spaces that straddle property lines and the potential liability and maintenance issues associated with this arrangement. Staff explained that there would be easements and Conditions, Covenants and Restrictions (CC&Rs) that would address the rights and limitations associated with the use of the private courtyards.

The Planning Commission also recommended that the City Council certify the Negative Declaration. The Negative Declaration indicates that a vacant house and garage will be removed to accommodate the project. Applicant will be required to obtain a demolition permit to raze the structure. According to County Assessor records, the dwelling was built in 1939 but has no redeeming architectural features or other characteristics that would cause it to be significant in terms of its historic merit.

While compact infill development is an alternative to conventional development, its limitations are that extra attention must be paid to site and building design and issues associated with maintenance of privacy, and to compatibility with established neighborhoods. For this project, no one appeared at the public hearing to object to the project. The project is arranged so that there is only one driveway on Alice and garages are not visible from the street, which provides for a more attractive streetscape than one dominated by garages and driveways. The units are designed to ensure privacy for residents using the private courtyards. Further, the dwellings are situated 31 feet from the rear property line so that the privacy of the residents in the duplexes to the west would be maintained. Each unit has a single bedroom window facing the westerly property line.

With regard to architecture, conditions of approval (#26 through 34) are meant to ensure that the designs of the dwellings are attractive. Specifically, the conditions require that varied finishes be used on each dwelling, such as a mixture of horizontal and vertical siding or wide board and narrow board siding. The conditions also require utilizing design elements such as decorative trusses in the gables, exposed rafter ends supporting the eaves, and diagonal porch-support braces. The building elevations incorporate many of these conditions in addition to such design details as neo-classical columns and arched porch entries. In staff's opinion, additional attention still must be paid to the Winton Avenue elevation, and conditions of approval provide for this. The applicant likens the architecture to an early "farmhouse" design, which is somewhat boxy by nature, with as much devoted to the second floor as the first. In order to soften the boxy lines, some of the roofs will be "hipped" rather than gabled and large, raised front porches with shed roofs are proposed, and the side building walls are offset. The corner unit at Alice and Winton Avenue has been designed to face Winton Avenue, a primary street in Hayward.

According to the Hayward Unified School District, the proposed subdivision has the potential to generate two school children, which can be accommodated in Burbank Elementary School, Winton Middle School and Hayward High School.

As part of the D Street extension, a street width transition was designed between D Street and Alice Street creating some excess property at the northwest corner of Alice Street and Winton Avenue. Due to its location, its value may be limited to increasing the size of the applicant's property. The applicant is requesting that this excess property be added to his parcel. Without the additional City property, there would be one less dwelling unit under the current design proposal and the City would retain the responsibility for maintaining the property. As presented, the proposed development includes this excess City-owned property. The vacation would occur at a later date only if the tentative map is approved but prior to the approval of the final map.

Prepared by:

Tim R. Koonze
Assistant Planner

Recommended by:

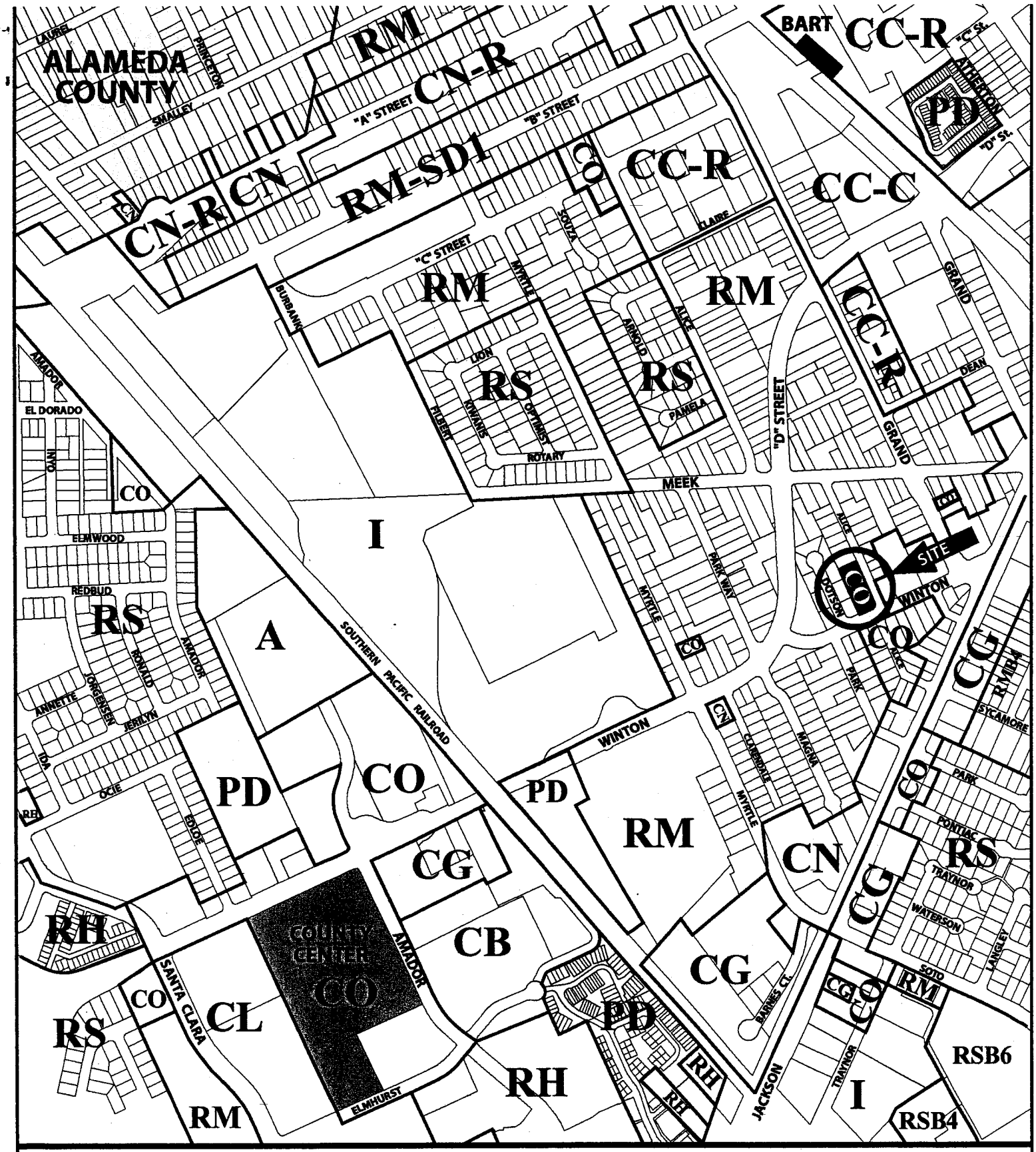
Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

Jesus Armas, City Manager

Attachments: Exhibit A. Area Map
Exhibit B. Planning Commission Minutes and Staff Report, dated February 28, 2002
Exhibit C. Negative Declaration
Draft Resolution(s)
Tentative Map Tract 7341
Site Plans

4/16/02



Area & Zoning Map
SPR 01-130-12
Address: 338 Winton Avenue
Applicant: Brian Purrell for PF Trust

A-Agricultural
CB-Central Business
CC-R-Central City-Residential
CG-General Commercial
CL-Limited Access Commercial
CN-Neighborhood Commercial
CN-R-Neighborhood Commercial/ Residential
CO-Commercial Office
I-Industrial
PD-Planned Development
RH-High Density Residential
RM-Medium Density Residential,RMB3.5,RMB4.
RM-SD1-Medium Density Residential-Special Design
RS-Single-Family Residential,RSB4,RSB6

EXHIBIT A

EXHIBIT B

PUBLIC HEARINGS

1. **Zone Change No. PL-2001-0223 and Tentative Tract Map No. 7341 – Brian Purcell for PF Tract (Applicant), Brian and Kimberly Purcell (Owners):** Request to Raze an Existing Single-Family Dwelling, Vacate Excess Right-of-Way at the Corner of Alice Street and Winton Avenue and to Rezone Property from Commercial Office (CO) District to Planned Development (PD) District and Approve a Tentative Tract Map for the Purpose of Constructing Eight Townhouses. The Project is Located at 338 Winton Avenue at the Northwest Corner of Alice Street

Assistant Planner Koonze presented the staff report and described the project. He noted that the property is located on the northwest corner of Winton Avenue and Alice Street and contains a single-family home, which will be razed to make room for the project. He noted that the applicant is planning to build 8 two-story townhouses on the property. The owners are asking the City to vacate a part of the street right-of-way at the corner of Winton and Alice. The design incorporates three unit designs with varied elevations. Staff felt the design is well done, but is asking for more varied siding material and roof variations. Each unit has its own courtyard.

Commissioner Caveglia asked about the lot size and location of the present house on the lot.

The public hearing opened at 7:42 p.m.

Brian Purcell said he is in the business of developing in the Bay Area. He said the goal is to develop with sensitivity. This is an example for other developers. The response of neighbors is supportive. He asked for clarification on two items. He commented that they would like further discussion of the unit staff is asking to be moved, and for an exception to Condition 45, replacing a masonry wall with a solid wood wall. His architect gave an example of what they meant. He noted it would look like a redwood fence.

Commissioner Bogue asked about the drawings showing redwood fencing.

Assistant Planner Koonze noted that the City's policy is to have a masonry wall near a driveway, because of noise and sounds. He also commented on the longevity period for a masonry wall, versus a wooden wall. He commented that there is a 5-foot landscaping section.

Commissioner Williams asked about the applicant's first concern regarding a change in the unit. He was told that staff has no problem working with the applicant on this.

Commissioner Williams noted that the wooden wall would be more attractive and that the homeowners would find it to their advantage to keep the property up. A masonry wall takes the project out of the residential character.

Commissioner Bogue expressed concern about the courtyard open space. He noted that it is partly on their property and partly on the neighbor's property. He said he had not seen something like this before. With this design, a homeowner cannot secure all of his own property.

The architect explained that the homeowners grant an easement to their neighbor's. He commented that this is a standard zero lot line development.

Principal Planner Patenaude added that this allows a window on each side of the unit for light and air.

Commissioner Bogue then asked how the owner of the property is protected. He was told that liability and homeowners insurance cover these things.

The public hearing closed at 8:06 p.m.

Commissioner Williams **moved**, seconded by Commissioner Zermeño, to recommend to the City Council to adopt the Negative Declaration, approve the razing of the building, vacate the excess right of way, approve zone changes and approve the Tentative Tract Map. Zermeno seconded.

Principal Planner Patenaude suggested that they needed to take action that the vacation is consist with the General Plan.

Commissioner Sacks thanked the developer for his phone call. She had a question regarding the fence. She said she was still failing to understand whether a masonry wall or a better-looking wooden fence was necessary for a neighborhood fence that accomplishes the same thing.

Principal Planner Patenaude said the Ordinance would not require a masonry wall, however, the rear of the property has a driveway with access to all of the properties. The wall would block the sound better. To amend that condition, developer would prove that it is equally effective.

Commissioner Sacks said she would support the option of the redwood or wooden fence.

Commissioner Williams said he was confident that a wooden fence is an option. He noted that he preferred that the developer work with staff the change in either Plan A or B for the corner property.

Commissioner Thnay said he thought this project is a good addition to the neighborhood. Most homes do not have a driveway in the back of the homes. He commented that, unless it's proven that a wooden wall is better to attenuate the sound, he would not agree to a wooden fence. Otherwise the three homes adjacent to the driveway would have a problem. He noted that, if a wooden wall were as good, most of the freeway sound walls would be wooden since they are cheaper.

Commissioner Williams said he felt a wooden fence would serve just as well as the other. He commented that at his home, in his own back yard, he does not hear the noise. His wooden fence and trees help deaden the sound. He said he prefers the wooden wall.

Commissioner Zermeño commented that the other homeowners say it will improve the value of their homes.

Commissioner Thnay commented on condition #38, and requested that a locked mailbox be

included as well.

Principal Planner Patenaude asked Commissioner Williams to recommend amending condition #45 to allow either a wooden wall or the masonry wall.

Commissioner Caveglia commented on the conditions from 38 through 40 while the project is under construction. He noted that it can be horrendous to the neighbors' He wondered how to enforce them.

Assistant Planner Koonze commented that the rules are there for City staff to go out and enforce them. He said complaints are responded to as well.

Commissioner Caveglia suggested sending the list of rules to the neighbors just as the hearing notice is sent.

Principal Planner Patenaude said he would look into doing so.

Chairperson Halliday commented that she liked the project. She said it is a good project for this site. She said in-fill is usually higher density. She said the problems could be worked out. She said it was a good use of the lot. She added that she really liked the front porch. She noted that if it can be shown through a study that the wooden wall can attenuate sound as well, she would be open to accepting it.

Assistant Planner Koonze commented that the developer could commission a sound study that a wooden wall can match or accede a masonry wall.

Commissioner Bogue expressed concern for the life of the wooden wall. It needs to be maintained as well.

Assistant Planner Koonze said he would assume that the Homeowners Association would take care of the site and will take care of the condition of the fence.

The **motion passed 6:1, with Commissioner Bogue voting "No."**

2. **Zone Change Application No. 2001-0206 and Site Plan Review Application No. 2001-0207 – Tiburcio Vasquez Health Center, Inc. (Applicant)/St. Vincent DePaul Society of Alameda County (Owners):** Request to Rezone Property from PD (Planned Development) to CC-C (Central City – Commercial) and CC-C (Central City-Commercial) Sub-District/SD-3 (Cottage Special Design Overlay) District and to Convert Existing Thrift Store to a Medical Clinic and Offices Providing Medical, Dental and Optical Care. The Project is Located at 22331 Mission Blvd

Consulting Project Planner Weisbrod described the site with the various frontages on different streets in the neighborhood. He noted that the property has a thrift store, 3 cottages, and one other cottage adjacent to the building. He described the previous approval that was given to 10 cottages that were never developed. The three present cottages would be removed. This project would replace Tiburcio Vasquez present clinic on Calaroga. The organization has estimated that 50% of their clients will walk to the new Center, 40% will use public transportation and 10% will drive. The cottage location will be landscaped and in the future a small office will be built. This will

CITY OF HAYWARD
AGENDA REPORT

Meeting Date 02/28/02
Agenda Item 1

TO: Planning Commission

FROM: Tim Koonze
Assistant Planner

SUBJECT: **Zone Change No. PL-2001-0223 and Tentative Tract Map No. 7341 – Brian Purcell for PF Trust (Applicant), Brian and Kimberly Purcell (Owners)**: Request to Raze an Existing Single-Family Dwelling, Vacate Excess Right-of-way at the Corner of Alice Street and Winton Avenue and to Rezone Property from Commercial Office (CO) District to Planned Development (PD) District and Approve a Tentative Tract Map for the Purpose of Constructing Eight Townhouses

The Project Is Located at 338 Winton Avenue at the Northwest Corner of Alice Street

RECOMMENDATION

It is recommended that the Planning Commission recommend to the City Council to:

1. Adopt the Negative Declaration;
2. Approve the razing of the single-family dwelling;
3. Vacate excess right-of-way at the corner of Alice Street and Winton Avenue;
4. Approve the zone change application, the preliminary development plan, and site plan review application subject to the attached findings and conditions of approval; and
5. Approve Tentative Map Tract 7341 subject to the attached findings and conditions of approval.

DISCUSSION

Setting

The 30,821-square-foot (0.71-acre) parcel is located on the northwest corner of Winton Avenue and Alice Street and contains a single-family home with an attached garage, intended for demolition in order to make room for the project. A mixture of single- and multi-family dwellings and a commercial office surround the project site. The General Plan Map land use designation is Medium Density Residential (MDR). The property is in the Commercial Office District, which permits multi-family dwellings as a primary use. Single-family dwellings are allowed with approval of an administrative use permit.

The project is located approximately a half mile from the Hayward BART Station. The site is also located within walking distance of three AC Transit bus lines: Line 86 on D Street and Winton Avenue serving BART and the Industrial Corridor; Line 77 connecting to both BART stations and the southerly part of the Industrial Corridor: and Line 386 with weekend service to Southland Mall. A neighborhood-serving shopping center is located less than 200 feet from project site at Grand Avenue and Jackson Street. The project is approximately ½ mile from Centennial Park, Cannery Park and public amenities such as Hayward City Hall, the C Street Post Office and the main library.

Project Description

The project consists of 8 detached 2-story townhouse units, seven of which face Alice Street and one that faces Winton Avenue. The garages are located at the rear of the units and are served by a driveway that runs along the rear of the property. This driveway is accessed from Alice Street but there is also an emergency vehicle access to Winton Avenue. The single access into the site reduces conflict points on Alice Street and allows for more on-street parking along the Alice Street frontage.

The existing single-family dwelling, built c. 1939, must be razed to accommodate the proposed development. An initial study performed by staff concludes that the existing dwelling is not historically or architecturally significant. All existing trees on the site are to be removed with the exception of a tulip tree that will be required to be relocated along the Alice Street frontage to a location approved by the City's Landscape Architect.

Architecture

The proposal incorporates three unit designs with varied elevations. Plan A is 1,626 square feet in area and Plan B is 1,786 square feet in area, both have three bedrooms; Plan B also contains a den on the second floor. Plan C has a floor area of 1,252 square feet consisting of two bedrooms, one on each floor with a living room on the second floor. Units A and B have two-car garages. The developer is proposing Unit C to have a single-car garage and a one-car carport. Staff is recommending a redesign of Unit C to a more typical townhouse floor plan, living area below with bedrooms above, and to incorporate a two-car garage similar to the other units within the project.

All units are equipped with laundry areas within the unit and trash/recycle enclosures accessible from the courtyard entrance. Non-operable windows located in the walls that face the courtyard are situated well above eye level of the occupants of the units so as to allow "borrowed light" into the dining room and a hallway, while maintaining privacy for those using the courtyards.

The two-story simplified stick Victorian design has earth tone colored horizontal hardboard siding. Staff is recommending that varied finishes be used such as a brick veneer along the bottom or vertical siding on the upper floors. Additional design elements characteristic of stick Victorian homes should be added such as decorative trusses in gables, exposed rafter ends supporting the eaves, and diagonal porch-support braces. A more varied color pallet would support the architectural individuality of the three designs.

There are three different roofline designs: a multi-leveled shed roof with a gabled transom; a gable with a smaller gable projection; and a split leveled gable roof with shed roof projection. Staff is of the opinion that although the variety will provide an interesting streetscape, hip roof elements should be used on gables facing adjacent units to create a larger sense of spacing between units and to open up the roofline.

By accessing the garages from a common drive located to the rear of the units, the garage door element is removed from the elevations fronting Alice Street and Winton Avenue creating a more quaint appearance. The large covered front porches on the Alice Street frontage are an attractive feature that supports a sense of community by providing a usable space to interact with neighbors and use for surveillance of the neighborhood.

Open Space

All units are provided with a 300 square-foot private open courtyard located between each townhouse except the two end units. Unit 1 has a 400 square-foot deck area above the garage and Unit 8 has a 600 square-foot private open courtyard along the project's north property line. To satisfy the open space requirements of 350 square-feet per unit an 800 square-foot group open space is located in the middle of the project equipped with a barbecue and picnic bench. Staff is recommending that Unit 1, which is located along the Winton Avenue frontage and is using a deck for private open space, be relocated adjacent to the proposed group open space to allow easier access to the ground group open space and its amenities. Each unit has a usable, covered front porch facing the street that serves as additional open space and ties this project to the neighborhood by providing an interfacing, usable space.

Landscaping

The applicant is required to provide a landscape plan prepared by a licensed landscape architect that incorporates the landscaping of all common areas. The design will include a mound within a landscaped parkway along the Winton Avenue frontage. The common area will include all areas outside of the buildings and the private courtyards. A homeowners association will be established to maintain all common area landscaping, irrigation and group open space amenities.

Tentative Tract Map

The tentative tract map subdivides the 30,821-square-foot site into 8 townhouse parcels and 1 common parcel for a total of 9 parcels.

A townhouse subdivision differs from a condominium subdivision. Within a condominium subdivision an individual owns the air space within a unit but the building(s) and all the land within the subdivision are under common ownership. A townhouse subdivision allows an owner to own the building, a small plot of land under the building, and usually an adjoining patio area; the remaining land within the subdivision is under the common ownership of all owners within the subdivision. Both require the formation of a homeowners association and the creation of Conditions, Covenants and Restrictions (CC&R's) to maintain the common areas.

There are utilities available in both West Winton and Alice Street to adequately serve this project. Both streets are at their ultimate street width and are fully improved. Some of the existing street improvements need to be repaired and a condition of approval has been added to ensure these repairs are performed prior to the City accepting the required public improvements as being complete.

Vacation of Excess Right-of-Way

There is some excess right-of-way at the northwest corner of Alice Street and Winton Avenue that the City is vacating at the request of the developer. The vacation will occur after the tentative map has been approved but prior to the approval of the final map.

Planned Development District

The zone change from *Commercial Office* (CO) *District* to *Planned Development* (PD) *District* is a procedural means to allow townhouse development where the property under the units is owned by the owner of the unit. Development of residential units in the CO District requires conformance to the standards of the General Policies Plan map designation. In this instance, the General Plan designation is *Medium Density Residential* (MDR), requiring the development to meet the zoning standards of the *Medium Density Residential* (RM) District. The selected style of townhouse is a "hybrid" which falls between connected multifamily units and detached single-family homes. The townhouses are designed like multifamily units with living area on the first floor and bedrooms on the second floor. Unlike multifamily units, the proposed townhouses are detached, separated by private courtyards, and are located on individual properties that include not only the unit but also the private courtyards.

The parcels are small by necessity and therefore do not meet the minimum lot size of 5,000 square feet required by the RM District necessitating approval of a Planned Development District. The small lot characteristics associated with townhouse subdivisions require reductions in lot size and building setbacks, however, these same characteristics allow for ownership of a detached home with a private courtyard. This development's unique design allows the City to not only continue its policy of providing home ownership but takes it a step further than a multifamily condominium development by allowing ownership of detached units.

ENVIRONMENTAL REVIEW:

In accordance with California Environmental Quality Act (CEQA) Guidelines, it was determined that this project could not have a significant impact on the environment and a negative declaration has been prepared.

PUBLIC NOTICE:

On February 15, 2002, a Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Burbank Neighborhood Taskforce. The notice was also published in the Daily Review.

An Alice Street resident who lives across the street from the project is concerned with the amount of traffic that will be generated, since the driveway of the project is in front of his property. In addition he was concerned that street parking in front of his house would not be available for his use. Staff explained that the project would generate a relatively small amount of traffic (47 trips a day, 3-4 during peak hours). Any office use would generate twice that amount and a retail use would even more traffic. It is staff's opinion that there is adequate parking provided for the project as each unit will have a two-car garage, there are two on-site parking stalls and 10 on-street parking spaces along the Alice Street frontage. The resident was also concerned that the headlights of vehicles exiting the project will shine into his front living room. The plan has been revised and the driveway no longer conflicts with his living room window.

A resident that lives near the intersection of Meek Avenue and Alice Street stated that he and his wife support the project and believe that it will raise neighborhood property values. He also was pleased that the project would replace a house and a property that have not been well maintained in the past.

CONCLUSION

The detached townhouse development projects the goals of the City by creating ownership housing. The project is well designed in that each unit has a private courtyard area with the exception of unit 1C which utilizes a deck. The architect has created a stick Victorian design that fits well into the established neighborhood. The single access driveway serving the units from the rear allow the garages to face the rear creating a pleasant streetscape while providing the maximum number of on-street parking stalls. It is staff's opinion that this development is beneficial to the neighborhood and the Citizens of Hayward.

Prepared by:

Tim R. Koonze

Tim R. Koonze
Assistant Planner

Reviewed By:

for Dyana Anderly, AICP
Planning Manager

Attachments:

A. Area Map
B. Findings for Approval of Zone Change
C. Findings for Approval of Preliminary Plan
D. Conditions of Approval of Zone Change and Preliminary Plan
E. Findings for Tentative Tract Map No.7341
F. Conditions of Approval for Tract Map. No. 7341
G. Negative Declaration and Initial Study
Plans and Tentative Tract Map No. 7341

Zone Change
Brian Purcell for PF Trust (Applicant)
Brian and Kimberly Purcell (Owners)
Findings for Approval

A. The proposed project will not have a significant effect on the environment. A Negative Declaration has been prepared pursuant to the California Environmental Quality Act.

B. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward in that the 8 townhouses will be available for homeownership;

C. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans in that the zone change meets the policies of the General Plan Medium-Density Residential designation;

D. Existing streets and public facilities are adequate to serve the 8-unit townhouse development in that the exiting capacities of the street system, the sewer and storm drain system and water system are able to accommodate this development.

E. The residential uses permitted when the property is reclassified will be compatible with present and potential future uses allowed in the surrounding Medium-Density Residential District, and, further, a beneficial effect will be achieved, which is not obtainable under existing regulations, in that the 8-townhouse project can be built on a property that is not currently developed to its potential as prescribed by the General Policies Plan and the Burbank Neighborhood Plan.

ATTACHMENT B

Preliminary Development Plan
Brian Purcell for PF Trust (Applicant)
Brian and Kimberly Purcell (Owners)
Findings for Approval

A. Approval of the preliminary development plan, as conditioned, could not have a significant impact on the environment, cumulative or otherwise, and a Negative Declaration has been prepared.

B. The 8 townhouse development is in substantial harmony with the surrounding single- and multiple-family structures and the General Plan designation of Medium-Density Residential and the Burbank Neighborhood Plan in that this site is recognized to be developed with high density multi-family housing.

C. Existing and proposed streets and utilities are adequate to serve the development. The street is of an adequate size to accommodate the additional traffic trips that will be generated by this project.

D. The development creates a residential environment of sustained desirability and stability in that adequate open space has been provided, there is pedestrian access to parks and residential amenities. In addition, the 8 townhouses will have no substantial adverse effect upon surrounding development in that it is compatible with the residential neighborhood and consistent with the housing density permitted on this site by the General Plan and the Zoning Ordinance.

E. The exception to the minimum lot size of 5,000 square feet and the 5 foot side yard setback as required by the Commercial Office District development standards is minor in nature in that 8 units will be available for home ownership which is one of the goals of the City and the project otherwise meets the development standards, including density, set forth in the General Policies Plan and the Zoning Ordinance.

ATTACHMENT C

Zone Change and Preliminary Plan
Brian Purcell for PF Trust (Applicant)
Brian and Kimberly Purcell (Owners)
Conditions of Approval

1. The proposed improvements shall be constructed and installed according to the preliminary plans labeled Exhibit "A", except as required to be modified by these conditions of approval. This approval is void one year after the effective date of approval unless prior to that time a building permit has been accepted by the City of Hayward Building Official to construct the project. Any modifications to the approved plans or conditions shall require prior review and approval from the Planning Director.

2. 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.

3. Prior to issuance of a building permit, the Precise Plan shall be submitted for approval of the Planning Director and shall include detailed landscaping and irrigation plans for all common areas, detailed plans for all site amenities within the common recreation areas, details for decorative paving within the private streets, details for fencing of private yards and decks, exposed retaining walls, safety railings and barricades, architectural plans with enhanced side elevations where no windows will be utilized, sign details, samples of colors and materials for all exterior building finishes, and screening of all above-ground utilities, transformers and utility.

4. Prior to final inspection of the townhouses or occupancy (whichever occurs first), all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.

5. The final map shall be approved by the City and filed in the County Recorders Office prior to the issuance of a building permit of any home within the subdivision with the exception of those homes used as models.

6. Prior to the sale of any individual unit, or prior to the acceptance of tract improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping, open space amenities and perimeter masonry walls. 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.

ATTACHMENT D

7. The applicant shall maintain in good repair all fencing, parking and street surfaces, common landscaping, lighting, trash enclosures, drainage facilities, project signs, etc. 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. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.

8. The garage of each unit shall be maintained for off-street parking and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors. This requirement shall be incorporated into the CC&Rs.

9. The homeowners association shall be responsible for implementing all storm water measures and shall maintain in good repair all streets, parking surfaces, common area and front yard landscaping and irrigation, street lighting, drainage improvements and the masonry walls along the north and west property lines. Any graffiti painted on the masonry wall shall be painted out or removed within seven days of occurrence.

10. Prior to the sale of any townhouse, Covenants, Conditions and Restrictions (CC&R's) shall be created and recorded in the Alameda County Recorder's Office. The CC&R's shall be subject to the review and approval of the City Attorney prior to recordation. The CC&R's shall stipulate that the garage of each unit shall be maintained for off-street parking and shall not be converted to living area or storage.

11. Residents within the project shall not use open parking spaces. Spaces shall be marked as "visitor only". The project homeowners association shall remove vehicles parked contrary to this provision. This requirement shall be reflected in the CC&Rs.

12. The pavement at the 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.

13. Any appropriate historical artifacts unearthed on the site in connection with the construction of the proposed project shall be offered to the Hayward Area Historical Society at no charge.

14. If any human remains are found during grading or construction, all work will be stopped and police called to investigate.

15. Utility meters shall be located at the sides of the residences and shall be screened by plant material or other approved material and shall provide sufficient distance for reader access.

16. Mechanical equipment, such as air conditioners, shall be prohibited on the roof of any building.

17. The Planning Director shall approve the colors and materials of the structures prior to the issuance of the building permit.

18. Building permit applications for the townhouses shall include drainage plans. The plan shall also include water meter locations and the location of water services and sewer laterals.

Fire Department

14. The building occupancy classification shall be "R-3" for the townhouses and "U-1" for the garages.

15. All curbing except for those along designated parking spaces within the proposed development shall be painted red. "No Parking-Fire Lane" signage shall be posted at every 100' linear feet throughout the development's private driveway.

16. All buildings shall have individual address numbers posted so as to be visible from the street. Address numbers shall be a minimum of 6-inches, or 4-inches if internally illuminated.

17. Smoke detectors are required per the Uniform Building Code.

18. Any gates across the emergency vehicle access to Winton Avenue shall be equipped with a lock box or similar device approved by the Fire Marshall.

Utilities

19. Prior to granting occupancy, water services shall be installed by City crews at developer's expense. The application for water services shall be presented to the City inspector.

20. It is recommended that a separate irrigation meter be installed for common landscape areas. Install Reduced Pressure Backflow Prevention Assembly on the irrigation water meter as per city of Hayward Standard Detail 202.

21. Only water Distribution Personnel shall perform operation of values on the Hayward Water System. Please note this requirement on the plans submitted for a building permit.

22. Water and sewer service available subject to standard conditions and fees in effect at time of application.

23. Development to be served by radio read meters.

Miscellaneous

24. Each unit shall be equipped with security lighting over the garage.

25. The front door of each unit shall be equipped with a 180-degree security viewfinder.

Architecture & Site Planning

26. Decorative paving shall be installed in the proposed private courtyards.

27. Redesign Unit C to a more typical townhouse floor plan, living area below with bedrooms above, and to incorporate a two-car garage similar to the other units within the project.

28. Relocate Unit C so that it is located adjacent to the group open space. The relocation details shall be approved by the Planning Director.

29. Utilize varied finishes on the townhouses such as a brick veneer along the bottom or vertical siding on the upper floors. Additional design elements characteristic of stick Victorian homes should be added such as decorative trusses in gables, exposed rafter ends supporting the eaves, and diagonal porch-support braces. A more varied color pallet would support the architectural individuality of the three designs. Modifications shall be approved by the Planning Director prior to the issuance of a building permit.

30. Utilize hip roof elements on the gables facing adjacent units to create a larger sense of spacing between units and to open up the roofline.

31. A picnic table, bench, and barbeque shall be installed in the group open space area.

32. All the windows shall have decorative windowsills.

33. Each dwelling unit shall have and maintain a minimum of 90 cubic feet of dedicated storage area, above standard closets and bedroom wardrobes, accessible from the exterior of the unit. Any area of a garage, in excess of the 20' X 20' parking area required for each unit, can be counted toward the minimum requirement.

34. Roof-mounted mechanical equipment is prohibited.

Landscaping

35. Prior to issuance of a building permit, detailed landscape and irrigation plans shall be approved by the City Landscape Architect prior to issuance of building permits to any of the units. The plans shall include the following:

    a. The irrigation system shall include an automatic controller;

    b. Front and side street yards shall be limited to a maximum of 50 percent fescue turf;

c. A hose bib shall be provided in the front and rear yard of each unit.

d. A street tree plan with a minimum of one 15-gallon street tree shall be provided for every 50 linear feet of street frontage or fraction thereof. Street trees shall be located a minimum of 5 feet from utility lines and paving. Trees may be grouped to create a more natural effect. Trees shall be double staked per City standard SD-122.

e. Retain tulip tree (liriodendron tulipifera) that is between lots 3 and 4. Specify tulip tree as the required street tree along the Alice Street frontage.

f. Provide a 15-gallon tree spaced at 20 feet on center along the exterior property line. Trees shall be planted according to the City Standard Detail SD-122.

g. Provide vines on fence/wall along the exterior property line. Space vines a maximum of 10 feet on center.

h. Landscaping and street trees shall be installed in common areas as indicated on the preliminary landscape plan.

i. Landscaped areas adjoining drives and/or parking areas shall be separated by a 6-inch high class "B" Portland Cement concrete curb.

36. Submit a Landscape Water Use Statement.

37. Construction Administration services shall be provided by the project Landscape Architect. Services to include:
    a. Observation of irrigation system before burying pipes.
    b. Observation of plant material upon delivery to site.
    c. Observation of layout and placement of plant material at time of planting and completion of placement of soil mix.
    d. Observation for Maintenance Period Commencement.
    e. Observation for Final Acceptance

38. The mailboxes for all units shall be located in a central location. A decorative shelter shall be provided to the satisfaction of the Post Master. The Planning Director shall approve the design.

39. Landscaping and trees shall be installed prior to occupancy of the townhouses, unless otherwise approved by the City's Landscape Architect.

40. Prior to certificates of occupancy, the required park dedication in-lieu fee shall be paid to the City. Park dedication fees will be due for **8** new multi-family dwelling units, with credit for **1** existing dwellings to be removed, to be paid prior to approval of occupancy. Per the City's Parkland Dedication Ordinance, the amount of the fee shall be in accordance with the fee schedule in effect at the time of issuance of the building permits.

41. For the installation of common area landscaping, the developer shall maintain the landscaping for a minimum of one year following acceptance of tract improvements. The City may require a security deposit, bond, or surety to guarantee the maintenance of the landscaping.

42. The planting and maintenance of shrubs must not impair visibility at street and driveway/street intersections. The height of plant materials in areas where sight distance is critical is limited to three feet. Trees in these areas must be pruned such that the canopy provides adequate visibility.

43. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.

44. Landscaping shall be maintained in a healthy, weed-free, condition at all times, with replacement plants provided where necessary. Required street and on-site trees that are severely topped or pruned shall be immediately replaced, as determined by the City Landscape Architect.

Fences

45. A 6-foot high masonry wall shall be erected along the north and west property lines. The wall shall be treated with a graffiti sealant.

46. A six-foot high redwood fence shall enclose the proposed private courtyards The design of the fence shall be approved by the Planning Director.

Solid Waste

47. Adequate storage space for garbage/recycling contains shall be provided with in the courtyards for each unit and shall be accessible for collection. Size and location shall be designed to the satisfaction of the City of Hayward Solid Waste Manager.

Construction Activities

48. All construction and demolition debris waste shall be recycled. Applicant is required to submit a Construction and Demolition Debris Recycling Statement and Summary Report.

49. The applicant shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building permits. The general contractor and all subcontractors and suppliers of material and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and ensure that measures are implemented. Failure to comply with the approved construction BMP's will result in the issuance of correction notices, citations or a project stop work order.

50. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer. The project plans shall identify BMP's appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff facilities. The project plan shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion & Sediment Control Handbook.

51. Construction activities shall be limited to the hours of 7:30 AM to 6:00 PM on weekdays only; there shall be no construction activities on the weekend or National holidays.

52. Construction equipment shall be properly muffled, and unnecessary idling shall be prohibited.

53. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units.

54. The developer shall provide the Planning Director with the name and telephone number of the developer or the developer's representative who may be contacted during the construction phase regarding neighborhood complaints or concerns.

General

55. Prior to final inspection, City of Hayward Interim Supplemental Building Construction & Improvement Fee, City of Hayward Construction & Improvement Fee, and Hayward Unified School District Fees shall be paid.

56. The Planning Director may approve any minor alterations to the proposed design, which does not require a variance to any zoning code.

57. Violation of conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.

FINDINGS FOR APPROVAL
TENTATIVE TRACT MAP 7341

1. An initial study and negative declaration have been prepared and have determined that the approval of Tentative Map Tract 7341, as conditioned, will have no significant impact on the environment, cumulative or otherwise.

2. The tentative parcel map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Policies Plan, and the City of Hayward Zoning Ordinance.

3. The site relatively site with adequate and safe access and is therefore 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 as the site is currently developed with a single-family home within an urban area that is not near fish or wildlife or their habitat.

5. The design of the subdivision and the proposed improvements are **not** likely to cause serious health problems as there are no hazardous materials on the site and the proposed project is residential and will not generate any harmful substances.

6. Existing streets and utilities are adequate to serve the project.

7. None of the findings set forth in Section 64474 of the Subdivision Map Act[1] have been made.

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[1] [1] The findings of Section 66474 set forth the grounds for denial of a tentative map which are as follows:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property with the proposed subdivision.

ATTACHMENT E

CONDITIONS OF APPROVAL
TENTATIVE TRACT MAP 7341

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.

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.

The applicant/developer's engineer shall perform all design work unless otherwise indicated.

A. PRIOR TO THE RECORDATION OF THE FINAL MAP

IMPROVEMENTS

Improvement plans shall be submitted to the City Engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

Interior Private Driveway

1. The entrance to the private driveway shall be designed per City Standard Detail SD 109 utilizing a 20-foot-wide width.

2. The onsite streetlights and pedestrian lighting shall be of a decorative design approved by the Planning Director. The street light locations shall be approved by the City Engineer.

3. The interior private driveway curb returns shall have a minimum 10-foot radii.

4. The emergency vehicle access onto Winton Avenue shall include an electronically controlled gate with a lock box or other access control device approved by the Fire Chief and the Planning Director.

Alice Street and Winton Avenue

5. Street lights, that conform to City Standard Detail SD-120, shall be installed across the Alice Street and Winton Avenue property frontages if determined necessary by the City Engineer. The locations of these lights shall be approved by the City Engineer.

6. Any driveways to be abandoned shall be removed and replaced with standard curb gutter and sidewalk to match the existing improvements.

ATTACHMENT F

CONDITIONS OF APPROVAL
TENTATIVE TRACT MAP 7341

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Alice Street and Winton Avenue

5. Street lights, that conform to City Standard Detail SD-120, shall be installed across the Alice Street and Winton Avenue property frontages if determined necessary by the City Engineer. The locations of these lights shall be approved by the City Engineer.

6. Any driveways to be abandoned shall be removed and replaced with standard curb gutter and sidewalk to match the existing improvements.

7. The applicant must obtain a street vacation on Winton Avenue between the sidewalk and the subject property then incorporate that vacated property to the tract property before the City Engineer approves the final map.

Storm Drainage

8. The proposed subdivision storm drain system shall be a private system owned and maintained by the homeowners association.

9. The Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition 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 approved by the City Engineer.

10. The project plans shall include storm water measures for the operation and maintenance of the project to be approved by the City Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted onsite to effectively prevent the entry of pollutants into storm water runoff.

11. 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.

12. 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.

13. The project shall not block runoff from adjacent properties. If needed, a drainage system shall be installed along the outside perimeter of the north property line. The necessity of an off-site system, it's design and location shall be approved by the City Engineer.

14. The project shall not augment runoff to adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all the areas tributary to the project area. The developer is required to mitigate blocked run-offs or augmented runoffs with off-site and/or on-site improvements.

15. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.

Sanitary Sewer System

16. The developer is responsible for installing a new 8-inch building court sewer main extending perpendicular from the 8-inch main in Winton Avenue. A Sanitary Sewer Manhole per SD-304 shall be installed at the junction. Sewage flows from this project shall be directed to the new line.

17. The on-site sanitary sewer system shall be a private system designed in accordance with the City of Hayward standard details. A standard sanitary sewer manhole shall be constructed at the end of the sewer mains.

18. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application.

19. Each unit shall have a separate sanitary sewer lateral.

20. The minimum separation between sanitary sewer laterals and water services shall be 6-feet.

Water System

21. Water service is available subject to standard conditions and fees in effect at the time of application.

22. Each unit shall be individually metered. The developer shall install individual radio read water meters behind the face of curb. The water service may require a multiple meter manifold designed per City of Hayward Standard Detail SD-219. The necessity of the manifold and its location shall be approved by the City Engineer. The location of the meters shall be approved by the City Engineer.

23. Operation of valves on the Hayward Water System shall only be performed by City of Hayward Water Distribution personnel.

Utilities

24. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, Pacific Bell Company and AT&T Broadband Company regulations, including transformers.

25. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located within the public utility easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.

26. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

Landscaping and Irrigation

27. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for the common areas and front yards shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation shall comply with the City's *Water Efficient Landscape Ordinance.*

28. Minimum 24" box trees shall be planted along the property frontage. The type, number, and location of these trees shall be approved by the City's Landscape Architect.

29. Construct Class B Portland Cement concrete curbs to a height of 6-inches above the finished pavement anywhere landscaped areas adjoin driveway and parking areas.

30. Landscape plans shall specify site amenities such as benches, tables, fencing, play equipment and barbecues for the common open space areas.

31. Within all required landscape areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed. A hose bib shall be provided within each private courtyard.

Walls and Trellises and Entry Features

32. A 6-foot high wall shall be erected along the north and west property lines. The wall shall be treated with a graffiti sealant.

33. All proposed retaining walls shall be constructed with decorative reinforced concrete.

Dedications, Easements and Encroachment Permits

34. The final map shall reflect:
    a. Dedication of the Public Utility Easement within the boundaries of the proposed private streets.
    b. Dedication of an emergency vehicle access easement at Winton Avenue as identified on the approved tentative map.
    c. The acquisition of the excess right-of -way obtained from the City at the corner of Alice Street and Winton Avenue.
    d. Dedication of a "landscape easement" for those landscape areas located outside of the buildings and private courtyards along the Alice Street and Winton Avenue frontages.

Conditions, Covenants, and Restrictions

35. Prior to the sale of any individual unit, or prior to the acceptance of site improvements, whichever first occurs, a homeowners' association shall be created to maintain the common

area landscaping, open space amenities and the wall along the north and west property lines.

36. Conditions, Covenants and Restrictions (CC&R's) shall be prepared for the project and be reviewed and approved by the Planning Director that shall include the following conditions:
    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 replacement and repair;
    c. The association shall be managed and maintained by a professional property management company;
    d. Provisions for towing unauthorized vehicles from the site;
    e. A requirement that a Homeowners' Association Architectural Review Committee be established to review and approve all exterior improvements; including fences, walls or changes to individual homes to ensure consistency with the CC&Rs;
    f. The site shall be maintained in good repair, and free of debris at all times;
    g. A requirement that the building exteriors and walls shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City's Community Preservation Officer;
    h. The homeowners' association shall maintain the irrigation system and maintain the landscaping within the common area in a healthy, weed-free condition at all times. The homeowner'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 10 days;
    i. Landscaping and irrigation shall be maintained in all common areas or the City shall have the right to enter upon the "Private Landscape Easements" to maintain the exterior portions of the common area at the expense of the homeowners association per Section 10-3.385 of the Subdivision Ordinance;
    j. A tree removal permit is required prior to the removal of any tree with a diameter of 10-inches or larger;
    k. Trees shall not be severely pruned, topped, or pollarded and any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the Landscape Architect, within the timeframe established by the City and pursuant to the Municipal code; and
    l. Each resident shall participate in the City's recycling program.

Subdivision Agreement

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

DURING CONSTRUCTION

38. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Director of Community and Economic Development/Planning Director or City Engineer:
    a. Grading and construction activities shall be limited to the hours 7:30 AM to 6:00 PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays;
    b. Grading and construction equipment shall be properly muffled;
    c. Unnecessary idling of grading and construction equipment is prohibited;
    d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
    e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise;
    f. The developer shall participate in the city's recycling program during construction.
    g. Daily clean up of trash and debris shall occur along the Alice Street and Winton Avenue frontages;
    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. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
    k. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
    l. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
    m. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
    n. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
    o. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
    p. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
    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. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system.

Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;

s. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
t. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See *"Building Maintenance/Remodeling"* flyer for more information;
u. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
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.

39. A representative of the 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 grading operations with recommended corrective measures given to the contractor and the City Engineer.

40. 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.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

41. The applicant/developer shall pay the following fees, the amount of the fee shall be in accordance with the fee schedule in effect at the time of vesting tentative map approval;
    a. Supplemental Building Construction and Improvement Tax;
    b. School Tax; and
    c. Park Dedication in-lieu fees for each unit.
    d. Water Facilities Fee and Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued.

42. Any damaged curb, gutter and/or sidewalk along the Alice Street and Winton Avenue property frontages shall be repaired or replaced to the satisfaction of the City Engineer.

43. A reduced pressure backflow preventer shall be installed behind the water meter per City of Hayward Standard Detail 202.

44. Prior to granting occupancy, water services shall be installed by City crews at the developer's expense. The application for water services shall be presented to the City Inspector.

45. 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.

46. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.

47. The street light electroliers along both the private and public streets shall be in operating condition as approved by the City Engineer.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

48. 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.

49. All common area landscaping, irrigation and other required improvements shall be installed and attested to by the City Landscape Architect prior to acceptance of tract improvements, or occupancy of 80 percent of the dwelling units, whichever first occurs.

50. An AC overlay along the Alice Street frontage may be required by the City Engineer, if it is determined that it is necessary due to deterioration resulting from heavy traffic during the construction.

51. The improvements associated with the Pacific Gas and Electric Company, Pacific Bell Company and AT&T Broadband shall be installed to the satisfaction of the respective companies.

52. The subdivider shall submit an "as built" plan indicating the following:
    a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, Pacific Bell facilities, AT&T Broadband, etc; and
    b. All the site improvements, except landscaping species, buildings and appurtenant structures.

EXHIBIT C

CITY OF HAYWARD
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:

Zone Change No. PL-2001-0223 and Tentative Tract Map No. 7341- Request to raze an existing single-family dwelling, vacate excess right-of-way at the corner of Alice Street and Winton Avenue and to rezone the property from CO (Commercial Office) to PD (Planned Development) District and approve a tentative tract map for the purpose of constructing eight townhouses. The project is located at 338 Winton Avenue, at the Corner of Winton Avenue and Alice Street.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project could 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 could not result in significant effects on the environment.

2. The project will not adversely affect any scenic resources.

3. The project will not have an adverse effect on agricultural land since it will be developed on property that was once part of a parcel developed with a single-family home within an urban setting.

4. The project will not result in significant impacts related to changes into air quality since any impacts would be temporary occurring during the construction phase. The measures taken to mitigate impacts are required to meet the State air quality standards specified in the Clean Air Plan adopted by the Bay Area Quality Management District. In addition the City requires the developer to submit a construction Best Management Practice (BMP) program prior to the issuance of any building permit.

5. The project will not result in significant impacts to biological resources such as wildlife and wetlands since it will be developed on a lot that was developed with a single-family home within an urban setting.

6. The project will not result in a significant impacts to cultural resources including historical resources, archaeological resources, paleonotological resources, unique topography or disturb human remains because the project will be developed on a lot that was developed with a single-family home within an urban setting.

7. The project site is not located within a "State of California Earthquake Fault Zone." Construction related to this project will be required to comply with the Uniform 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. The lot is developed with a single-family home located in a residential neighborhood within an urban setting.

9. The project will meet all water quality standards. Drainage improvements will be made to accommodate runoff.

10. The project is consistent with the policies of the City General Policies Plan, the General Plan Map designation of Medium Density Residential, the Zoning Ordinance and the Burbank Neighborhood Plan.

11. The project could not result in a significant impact to mineral resources since the site is developed with a single family home and mineral resources do not exist on the project site.

12. The project will not have a noise impact and all interior noise standards as specified in the Noise Element of the General Polices Plan will be met.

13. The project will introduce 8 townhouses into an area where growth is desirable and anticipated by the General Policies Plan. The zoning designation is Commercial Office and the General Plan Map land use designation for the site is Medium Density Residential. Both permit the site to be developed with 8 townhouse units replacing a single family home. The former owner of the single-family home will move and therefore, displacement will not occur.

14. The project will not result in a significant impact to public services. School fees will be paid prior to the issuance of a building permit.

15. The project has adequate open space; the payment of Park Dedication fees is required prior to the issuance of a building permit.

16. The project will not result in significant impacts to traffic or result in changes to traffic patterns or emergency vehicle access. The project would generate 3-4 vehicle trips during peak hours and 47 trips a day.

17. The project will not require additional service systems. There are sanitary sewer, water, and storm drain mains available of adequate size to serve this project.

I. ***PERSON WHO PREPARED INITIAL STUDY:***

Tim Koonze

Tim Koonze Assistant Planner
Dated: September 20, 2001

II. ***COPY OF INITIAL STUDY IS ATTACHED***

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4206 or (510) 583-4207, or e-mail timk@ci.hayward.ca.us.

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

Environmental Checklist Form

1. Project title: Zone Change No. PL 2001-0233 and Tentative Tract Map No. 7341
2. Lead agency name and address: City of Hayward, 777 B Street, Hayward, CA 94541
3. Contact person and phone number: Tim Koonze Assistant Planner (510) 583-4207
4. Project location: 338 Winton Avenue, at the Corner of Winton Avenue and Alice Street.
5. Project sponsor's name and address: Brian Purcell for PF Trust (Applicant), Brian and Kimberly Purcell (Owners), 2063 Mountain Boulevard, #6, Oakland, CA 94611
6. General plan designations: Medium Density Residential
7. Zoning: CO (Commercial Office) District
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or offsite features necessary for its implementation. Attach additional sheets if necessary.)– Request to construct eight townhouses on a 30,821-square-foot lot ,adopt a Tract Map and change the zoning from Commercial Office District to Planned Development District..
9. Surrounding land uses and setting: Briefly describe the project's surroundings:The site is within a neighborhood developed with single- and multi-family residential homes, adjacent to a single-family home used as a commercial office and a neighborhood serving shopping center.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) N/A.

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.

☐ Aesthetics	☐ Agriculture Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality	☐ Land Use / Planning
☐ Mineral Resources	☐ Noise	☐ Population / Housing
☐ Public Services	☐ Recreation	☐ Transportation/Traffic
☐ Utilities / Service Systems	☐ 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.

Signature	September 20, 2001 Date
Arlynne J. Camire, AICP Associate Planner Printed Name	City of Hayward

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
I. **AESTHETICS** -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? *The project (8 townhouses) will not adversely affect scenic vistas.*	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? *The project will not damage scenic resources. The house on the property is not an historic building.*	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings? *A single-family home will be replaced with 8t-townhouses that are in conformance with City of Hayward Zoning Ordinance development standards and Hayward Design Guidelines.*	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? *The project will not be a source of substantial light or glare.*	☐	☐	☐	☒
II. **AGRICULTURE 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. Would the project:				
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. *The project site is not within a farmland area.*	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? *The project is not located in an agricultural district or an area used for agricultural purposes.*	☐	☐	☐	☒
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? *See II b.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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? *The project will not affect air quality. Properties within the City of Hayward are required to meet State air quality standards specified in the Clean Air Plan adopted by the Bay Area Quality Management District.*	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? *See III a.*	☐	☐	☐	☒
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)? *Any impacts to air quality will be temporary lasting during the construction phase. See III a.*	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations? *See III a.*	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people? *See III a.*	☐	☐	☐	☒
IV. **BIOLOGICAL RESOURCES** -- Would the project:				
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? *The project site at one time was developed with a single-family home. Since the property is urban in nature, biological resources will not be adversely affected.*	☐	☐	☐	☒
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? *See IV a.*	☐	☐	☐	☒
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? *See IV a.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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? *See IV a.*	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? *The project is in conformance with the General Polices Plan and the Burbank Neighborhood Plan.*	☐	☐	☐	☒
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? *The project is in an urban area and is developed with a single-family home.*	☐	☐	☐	☒
V. **CULTURAL RESOURCES** -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? *No known historical resources exist on-site.*	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? *No known archaeological resources exist in on-site.*	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? *No known paleontological resources exist on-site.*	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries? *No known human remains are located on-site.*	☐	☐	☐	☒
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: *The project is outside the Hayward Special Studies Fault Zone.*	☐	☐	☐	☒
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. *The project is outside the Hayward Special Studies Fault Zone.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
ii) Strong seismic ground shaking? *The project is not located within a "State of California Earthquake Fault Zone and will be required to comply with the Uniform Building Code Standards to minimize seismic risk due to ground shaking.*	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction? *Liquefaction and differential compaction is not considered to be a serious problem on this site.*	☐	☐	☐	☒
iv) Landslides? *The project is not located within an area subject to landslides.*	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil? *The project is within an urban setting that does not include agricultural land.*	☐	☐	☐	☒
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? *Prior to issuance of any building permit, engineering and building staff will review a geologic and soils investigation report to design adequately the building foundations for the soil type for new projects. Judging from past geologic activities in the area of the project, the soil types have not exhibited any of the characteristics that would indicate that any of these conditions exist or are possible.*	☐	☐	☐	☒
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? *Prior to issuance of a building permit, engineering and building staff will review a geologic and soils investigation report to adequately design the building foundations for the soil type on-site.*	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? *The project will be connected to the City of Hayward sewer system.*	☐	☐	☐	☒
VII. **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? *The site is located within a residential neighborhood and is developed with a single-family home. There is no evidence of hazardous materials.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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? *See VII a.*	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? *See VII a.*	☐	☐	☐	☒
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? *See VII a.*	☐	☐	☐	☒
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? *The project is not located within an airport zone.*	☐	☐	☐	☒
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? *See VIII e.*	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? *The project will not interfere with any known emergency response plan or emergency evacuation plan. The Hayward Fire Department serves the neighborhood where the townhouses are to be constructed. Emergency response times will be maintained.*	☐	☐	☐	☒
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? *The project is not located in an area of wildlands and is not adjacent to wildlands.*	☐	☐	☐	☒
VIII. **HYDROLOGY AND WATER QUALITY** -- Would the project:				
a) Violate any water quality standards or waste discharge requirements? *The project will meet all water quality standards. Drainage improvements will be made to accommodate runoff.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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)?	☐	☐	☐	☒
The site will be served by East Bay Municipal Utilities District (EBMUD). Therefore, water quality standards will not be violated and groundwater supplies will not be depleted. Furthermore, recharge of the groundwater table will not be affected.				
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?	☐	☐	☐	☒
The project is not located near a stream or a river. The construction of the 8 townhouses will not result in substantial erosion or siltation on-or off-site.				
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?	☐	☐	☐	☒
The project is within an urban area and has been developed as such. Drainage patterns on the site will not cause flooding.				
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?	☐	☐	☐	☒
The amount of run-off from the project is not anticipated to increase and will not exceed the capacity of the stormwater drainage system. See VIII a.				
f) Otherwise substantially degrade water quality? *See VIII a.*	☐	☐	☐	☒
f) 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?	☐	☐	☐	☒
According to FEMA Flood Insurance Rate Maps, the 100-year flood hazard area is not contained this site.				
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? *See VIII g.*	☐	☐	☐	☒
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? *See VIII g.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
j) Inundation by seiche, tsunami, or mudflow? *The project is not in a location that would allow these phenomena to affect the site.*	☐	☐	☐	☒
IX. **LAND USE AND PLANNING** - Would the project:				
a) Physically divide an established community? *The project will not physically divide the existing community.*	☐	☐	☐	☒
c) 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? *The project is consistent with the policies of the City General Policies Plan, the Zoning Ordinance and the Burbank Neighborhood Plan.*	☐	☐	☐	☒
d) Conflict with any applicable habitat conservation plan or natural community conservation plan? *See IV f.*	☐	☐	☐	☒
X. **MINERAL RESOURCES** – Would the project:				
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? *The project will not result in a significant impact to mineral resources since the project study area is a developed urbanized area that does not contain mineral resources.*	☐	☐	☐	☒
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? *See X a.*	☐	☐	☐	☒
XI. **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? *Exposure of persons to or generation of any new noise or noise levels in excess of standards established in the Noise Element of the Hayward General Plan or the Municipal Code, or applicable standards of other agencies will not from the 8-unit townhouse project. All City noise standards are required to be met and maintained.*	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? *See XI a.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? *See XI a*	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? *See XI a*	☐	☐	☐	☒
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? *See VII e.*	☐	☐	☐	☒
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? *See VII e.*	☐	☐	☐	☒
XII. **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)? *The project is within the anticipated density for the site. See IX b.*	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? *Eight townhouses will replace one single-family home. See IX b.*	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? *See IX b and XII a & b.*	☐	☐	☐	☒
XIII. **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? *The project would not result in the provision of new or physically altered governmental facilities, the 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. Response times will not be altered. There will not be an increase in governmental costs to provide services to this site. .*	☐	☐	☐	☒
Police protection? *See XIII a.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
Schools? *The Hayward Unified School District has planned for student enrolment based on anticipated densities specified in the City of Hayward General Policies Plan. This project will not generate a number of students that cannot be served by existing facilities. In addition, school fees will be collected prior to the issuance of a building permit.*	☐	☐	☐	☒
Parks? *The project will be is served by the Hayward Area Recreation and Park District. A park dedication fee is required to be paid prior to the issuance of a building permit.*	☐	☐	☐	☒
Other public facilities? *No other public facilities will be significantly impacted.*	☐	☐	☐	☒
XIV. **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? *The Hayward Area Recreation and Park District are currently serving the entire neighborhood. See XIII a (parks).*	☐	☐	☐	☒
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? *See XIV a.*	☐	☐	☐	☒
XV. **TRANSPORTATION/TRAFFIC** -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? *Townhouses traditionally produce fewer trips than single-family homes. The anticipated traffic impact is the addition of 8 trips during peak hours and 80 trips a day. This increase is not significant and will not have an impact.*	☐	☐	☐	☒
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? *See XV a.*	☐	☐	☐	☒
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? *The project will not affect air traffic patterns.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? *Traffic hazardous do to design features or incompatible uses will not result from the construction of the8 townhouses.*	☐	☐	☐	☒
e) Result in inadequate emergency access? *The Hayward Fire Department has reviewed the project and finds the project acceptable to Hayward Fire Department requirements and standards. Current Fire Codes will be met.*	☐	☐	☐	☒
f) Result in inadequate parking capacity? *Adequate on-site parking will be provided.*	☐	☐	☐	☒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? *The project does not conflict with adopted policies supporting alternative transportation. It is located walking distance from the Hayward BART station and Alameda County Transit buses.*	☐	☐	☐	☒
XVI. **UTILITIES AND SERVICE SYSTEMS** - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? *Wastewater treatment requirements are met by the City of Hayward therefore, all treatment requirements will continue to be met.*	☐	☐	☐	☒
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? *The City of Hayward wastewater facility has the capacity to serve the addition of 8 townhouses.*	☐	☐	☐	☒
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? *The existing storm drain system has the capacity to serve the8 townhouses.*	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? *The East Bay Municipal Utilities District supplies water and the service to the8 townhouses.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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? *The City of Hayward operates its own wastewater facility. This facility has the capacity to accommodate the amount of wastewater that will be generated by the project.*	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? *Waste Management of Alameda County will dispose the solid waste. The residents will participate in a citywide recycling program. The Altamont landfill is available to the City of Hayward until 2009 and has sufficient capacity to handle the amount of solid waste generated by the project. The landfill recently received an approval that increases the capacity and adds 25 years to the life of the landfill to the year2034.*	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste? *The project will participate in the Waste Management of Alameda County recycling program under contract with the Oro Loma Sanitary District. Service will remain the same for this site as the entire neighborhood.*	☐	☐	☐	☒

XVII. 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?	☐	☐	☐	☒
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)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN TERRITORY LOCATED AT 338 WINTON AVENUE PURSUANT TO ZONE CHANGE APPLICATION NO. 2001-0223

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

Section 1. The Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code is hereby amended by rezoning the property located at 338 Winton Avenue from a CO (Commercial Office) District to a Planned Development (PD) District.

Section 2. In accordance with the provisions of section 620 of the City Charter, this ordinance shall become effective 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_____ , 2002, by Council Member_____ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the____ day of_____ , 2002, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES:

ABSTAIN:

ABSENT:

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

DRAFT

HAYWARD CITY COUNCIL

mal 4/12/02

RESOLUTION NO._____

Introduced by Council Member_____

RESOLUTION APPROVING TENTATIVE TRACT MAP NO. 7341 AND ZONE CHANGE APPLICATION NO. 2001-0223, CONDITIONALLY APPROVING THE PRELIMINARY DEVELOPMENT PLAN AND CERTIFYING THAT THE INITIAL STUDY AND NEGATIVE DECLARATION HAVE BEEN COMPLETED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, Zone Change Application No. 2001-0223 and Tentative Map Tract 7341 concerns a request by Brian Purcell for PF Trust (Applicant), Brian and Kimberly Purcell (Owners) to raze a single-family dwelling, vacate excess right-of-way and rezone property from Commercial Office (CO) District to Planned Development (PD) District to construct eight townhouses; and

WHEREAS, the Planning Commission considered the matter and its action thereon is on file in the office of the City Clerk and is hereby referred to for further particulars; and

WHEREAS, an initial study and negative declaration has been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission held a public hearing on February 28, 2002, regarding Zone Change Application No. 2001-0223, in accordance with the procedures contained in the Hayward Zoning Ordinance, codified as Article 1, Chapter 10 of the Hayward Municipal Code, and recommended approval of the initial study, negative declaration, zone change, preliminary plan and tentative tract map; and

WHEREAS, the City Council of the City of Hayward has independently reviewed and considered the information contained in the initial study upon which the negative declaration is based, certifies that the negative declaration has been completed in compliance with the requirements of the California Environmental Quality Act, and finds that the negative declaration reflects the independent judgment of the City of Hayward.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD as follows:

ZONE CHANGE

1. The proposed 8 unit townhouse project, as conditioned, will not have a significant effect on the environment and an Initial Study and Negative Declaration has been prepared pursuant to the California Environmental Quality Act;

2. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward in that the 8 townhouses will be available for home ownership;

3. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans in that the zone change meets the policies of the General Plan Medium-Density Residential designation;

4. Existing streets and public facilities are adequate to serve the 8-unit townhouse development in tat the exiting capabilities of the street system, the sewer and storm drain system and water system are able to accommodate this development;

5. The residential uses permitted when the property is reclassified will be compatible with present and potential future uses allowed in the surroundings Medium-Density Residential District, and, further, a beneficial effect will be achieved, which is not obtainable under existing regulations, in that the 8-townhouse project can be built on a property that is not currently developed to its potential as prescribed by the General Policies Plan and the Burbank Neighborhood Plan.

PRELIMINARY DEVELOPMENT PLAN

6. The 8 townhouse development is in substantial harmony with the surrounding single- and multi-family structures and the General Plan designation of Medium-Density Residential and the Burbank Neighborhood Plan in that this site is recognized to be developed with high density multi-family housing;

7. Existing and proposed streets and utilities are adequate to serve the development. The street is of an adequate size to accommodate the additional traffic trips that will be generated by this project.

8. The development creates a residential environment of sustained desirability and stability in that adequate open space has been provided, there is pedestrian access to parks and residential amenities. In addition, the 8 townhouses will

have no substantial adverse effect upon surrounding development in that it sis compatible with residential neighborhood and consistent with the housing density permitted on this site by the General Plan and the Zoning Ordinance;

9. The exception to the minimum lot size of 5,000 square feet and the 5 foot side yard setback as required by the Commercial office District development standards is minor in nature in that 8 units will be available for home ownership which is one of the goals of the City and the project otherwise meets the development standards, including density, set forth in the General Policies Plan and the Zoning Ordinance.

TENTATIVE TRACT MAP 7341

10. The tentative parcel map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Policies Plan, and the City of Hayward Zoning Ordinance;

11. The site is relatively flat with adequate and safe access and is therefore physically suitable for the proposed type of development;

12. 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 as the site is currently developed with a singe-family home within an urban area that is not near fish or wildlife or their habitat;

13. The design or the subdivision and the proposed improvements are not likely to cause serious health problems as there are no hazardous materials on the site and the proposed project is residential and will not generate any harmful substances;

14. Existing streets and utilities are adequate to serve the project;

15. None of the findings set forth in Section 64474 of the Subdivision Map Act have been made.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that, based on the findings noted above, that the zone change request, preliminary development plan and Tentative Map Tract No. 7341 are hereby conditionally approved, subject to the conditions of approval contained in Exhibit A attached hereto and incorporated as a part of this resolution, and the adoption of the companion ordinance reclassifying the Property from a CO (Commercial Office) District to a PD (Planned Development) District and staff is authorized to initiate proceedings to vacate the excess right-of-way.

IN COUNCIL, HAYWARD, CALIFORNIA_____ , 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBER:
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