CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 02/21/06
AGENDA ITEM 2
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Zone Change Application No. PL-2005-0322 PD – Request to Amend the Prezoning District Designation from Medium Density Residential (RMB4) and Agriculture (AB10A) to Planned Development (PD), to Allow for Construction of 126 Single-Family Homes, and to Approve the Associated Preliminary Development Plan

Vesting Tentative Map Tract Application No. PL-2005-0323 TTM 7354 - Request To Subdivide an Approximately 50-Acre Site to Create 126 Single-Family Lots and Related Streets, a Private Park and Open Space

Development Agreement Application No. PL-2005-0358 DA – Request for Approval of a Development Agreement in Association With the Proposed Development

Garin Vista, LLC, Jack Smith, President (Applicant), Howard M. Settle, Maxine F. Theobald, Andrew E. Garin, Richard S. & Annette P. Warren, John M. and Lia F. McKenzie (Owners)

The Project Site is Located Northeast of the Intersection of Woodland Avenue and Bodega Street, West of Garin Regional Park

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and the Vesting Tentative Tract Map and introduce the attached ordinances approving the Zone Change/Preliminary Development Plan and the Development Agreement, subject to the attached findings and conditions of approval.

DISCUSSION:

The 50.4-acre site, which is the site of a former quarry that ceased operation several decades ago, is proposed for development of 126 single-family residential lots and related streets, along with a new 1.9-acre private park and associated open space. A new public road and related extension of Alquire Parkway is proposed, which will serve the development. Two emergency access points are proposed along the southern boundary of the tract: one along the upper portion of the development and the other at the lower portion. Such points would provide access to/from Clearbrook Circle and Garin Avenue in the event of an emergency.

The site is in unincorporated Alameda County and is proposed to be annexed into Hayward. In July of 2003, the City Council approved the Mission-Garin Annexation Study and related amendments to the General Plan and Zoning Ordinance. Also, the City Council established a new special design district in the area, the Mission-Garin Area Special Design District (SD-5), which included design guidelines and maximum thresholds for development, including 169 units for the Garin Vista site. In anticipation of annexation into the City of Hayward, the properties in the study area were prezoned and an annexation application was filed with the Local Agency Formation Commission of Alameda County (LAFCO) in the fall of 2003. LAFCO will hold a hearing regarding the annexation on March 9, 2006.

If the proposed project is approved, a condition of approval would require that the site be annexed into Hayward prior to recordation of the final map and subsequent construction. Staff is also recommending that the approvals would only become effective upon the effective date of the annexation.

If the project is approved and annexation occurs, it is envisioned to be constructed at the general time the La Vista development to the north is built. The La Vista development was approved in July of last year, subject to its annexation into Hayward. Excess fill material of approximately 750,000 cubic yards is proposed to be exported from this property to the La Vista tract. Both projects are closely linked and, as discussed later in this report, have common interests in terms of development.

The proposed development is consistent with the General Plan designation of Limited Medium Density Residential (8.7 to 12.0 units per net acre). Since approximately 25% (31) of the lots proposed would not meet the minimum typical standard of 4,000 square feet for single-family lots in the RMB4 zoning district and because most of the lots would have only a 15-foot rear and front yard setback, where 20 feet is typically required, the applicant is proposing a Planned Development (PD) District.

The proposal would entail construction of 126 single-family homes on lots ranging in size from approximately 3,000 square feet to 7,745 square feet, with the lots to be located between the Hayward earthquake fault to the west and Garin Regional Park to the east. Staff is recommending that a condition of approval require that a separate lot be created between "B" Street and the Dareing property, to be similar in use to Parcel C, since such narrow area would be adjacent to development and would not be of the same character as the rest of Parcel D, which extends to the Garin Regional Park boundary.

The developer of this project will need to extend all utility services to the site. A new water reservoir and mains to supply sufficient water flows and pressure for domestic services and fire sprinkler systems are to be installed as part of the La Vista Quarry project. If the La Vista Quarry project is not constructed then the necessary water improvements would be constructed as part of this subdivision.

Sanitary sewer and water mains and stub-outs will be provided for the properties along Bodega Street. The owners of Bodega Street have indicated a desire to have their properties rezoned to medium density residential (see Exhibit D).

Both public and private storm drain systems will be constructed to facilitate the drainage from the hillside and proposed improvements. A detention pond will be constructed to meet Clean Water Program requirements and to regulate the flow of water off the site to not overwhelm existing downstream storm drainage facilities.

The development would be accessed from the northwest via an eastward extension of Alquire Parkway and a new public road. The public entry road would require crossing two private properties (Browne and Dareing). A condition of approval requires that such land be acquired and dedicated to the City to allow for the construction of the roadway. Currently, agreement has not been reached regarding acquisition of the western portion of Ms. Dareing's property, which would allow for development of the public road. Discussions between the parties are on-going and, although a resolution may be possible, it would entail creation of lots for future development in the east (rear) portion of the Dareing property that would necessitate general plan and zoning amendments. However, in that a public hearing concerning the City's annexation is anticipated before LAFCo in the near future, it is not possible at this time to process such a proposal.

Substantial grading is proposed on the site, including export of 750,000 cubic yards of material to the La Vista development site. A haul road to the east of the Bodega Street properties along an existing dirt road is proposed to be utilized for exporting fill material to the La Vista site, thereby eliminating the potential for damage to public roads. Such route will be used as a water main maintenance road in the future, where a water main is proposed.

A geologic hazard abatement district (GHAD) will be required to be formed to ensure the undeveloped lands around the tract (excluding the proposed park and open space parcel (Parcel C)), as well as the drainage system associated with the development, including the proposed detention basin to the northwest of the tract, are regularly inspected, maintained and, if necessary, repaired. A GHAD is an assessment district where assessments are collected and used for required maintenance and/or repairs. A project "plan of control" prepared by a qualified professional is required to be developed, which stipulates the frequency and parameters of the GHAD maintenance schedule.

A small, 1.9-acre, private park is proposed along the southern edge of the tract, by the Oak Hills Apartment complex. Also, a recommended condition of approval would require creation of a public pedestrian trail from the development along one of the water main maintenance roads to the east of the Bodega Street properties, which is envisioned to provide a connection to the La Vista tract to the north and the related 30-acre park that will be constructed as part of that development. In addition to paying full park dedication in-lieu fees of over $1.5 million, the applicant has also agreed to contribute $1 million toward construction of a new community center in the area.

The living areas of the single-family homes would range in size from 1,953 to 2,665 square feet. All units would have two-car garages, 20-foot deep driveways and decks/porches, with 14 of the units containing tandem garages. The homes are designed to follow the terrain, with 74 of the units proposed to be "downhill" units, generally along the west side of streets, with the other 52 units designed as "uphill" units.

All units are proposed in a contemporary style of architecture, with stucco exteriors and composition shingle roofs. The units would have a simulated brick or stone base on the exterior and on chimneys and front entry features, along with a painted fiber cement board siding detail in certain locations. Painted wood trellises and metal rails for balconies are proposed. Staff recommends all railings be wood, if in compliance with the project's fuel management plan.

The City's Inclusionary Housing Ordinance requires that 19 units be created with this project that would be affordable to moderate-income households (110% of the area median). However, the Ordinance also provides flexibility by allowing for the construction of off-site units, subject to

certain determinations by the City Council. When the La Vista project was approved in July of 2005, a condition was adopted related to inclusionary housing that states in part:

> "In accordance with the applicant's Inclusionary Housing Plan, applicant will assure that 27 rental units, affordable to low and very low income households, are constructed as part of a 72-82 unit rental housing development to be built by Eden Housing, Inc. on that property [northeast corner of Saklan Road and North Lane]. The balance of the units may be reserved for possible future affordable housing obligations for other properties in which the applicant would have an equitable interest, to be used within five years from the effective date of the associated development agreement."

The City is currently processing a development application from Eden Housing for the construction of 78 affordable apartments for very low and low income households at the Saklan Road/North Lane site. Also, the La Vista applicant has an equitable interest in the proposed project and, in fact, has indicated it plans to purchase the Garin Vista site in the near future. The property owners' representatives have acknowledged such plans (see Exhibit C, Attachment F). The development agreement, as indicated later in this report, contemplates such acquisition. This project proposes construction of 19 affordable apartments at the Eden Housing project site. Should such units not be constructed, 19 units available to moderate income households would be required to be made available within the Garin Vista development. As indicated in the attached resolution, findings can be made to support the proposed off-site affordable units.

A development agreement, included as Attachment B to Exhibit C, is being proposed by the applicant. The purpose and intent of the City's development agreement ordinance is to, "strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the costs of development by providing an option to both the city and developers to enter into development agreements. The proposed agreement identifies responsibilities on the part of the owner related to public facilities, payment of a contribution to a new community center, etc., as well as and obligations on the part of the City,

Per the proposed development agreement, the owner may sell, assign, or transfer to La Vista LP without City approval all or a portion of owner's interests, rights and obligations under the agreement. As indicated previously, La Vista is planning to purchase the site in the near future.

Certain findings are required to be made in order to approve a development agreement, which are noted in the attached resolution.

Environmental Review (CEQA)

Staff has prepared a Mitigated Negative Declaration and Initial Study Checklist (see Exhibit C, Attachment G), which identify mitigation measures that would reduce potentially significant environmental impacts to levels of insignificance, related to aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality and noise. Those measures and the timing and implementing/monitoring responsibility for them are indicated in the attached Mitigation Monitoring and Reporting Program (see Exhibit C, Attachment G). Below is a summary of the major environmental impacts identified in the Mitigated Negative Declaration.

Asbestos is classified as a known human carcinogen by state, federal and international agencies and was identified as a toxic air contaminant by the California Air Resources Board (CARB) in 1986. The most common type of asbestos is chrysotile, but other types are also found in California.

Serpentine rock often contains chrysotile asbestos. According to the project consultants, there is serpentinite material present on the site, including within material to be exported from the site. Attachment H in Exhibit C, from the project environmental consultant, summarizes measures to be implemented while such material is being hauled from the site, including treating the haul route and implementing measures (usually wetting down haul loads) to ensure dust will not cross the project boundary. Such measures will be required to be approved by the Bay Area Air Quality Management District as part of an overall dust mitigation plan. Also, mitigation measures require that any material containing toxic levels of naturally-occurring asbestos be buried at least four feet below final grade, as recommended by the project geotechnical consultant, and that samples be taken in accordance with standard protocol to ensure the top four feet of material is "clean."

Several fault investigations have been conducted on the site to locate earthquake fault traces. The proposed homes would be located at least 50 feet from such traces, in accordance with standard practice. Also, the project geotechnical engineer has identified several landslides on the site, primarily associated with past quarrying activity that resulted in unfinished, over-steepened slopes. The project would result in removal of such slides within the development area and replacement as engineered fill, to be overseen by the project geotechnical engineer in the field. Those outside the development area will be addressed through creation of the Geologic Hazard Abatement District (GHAD).

A fuel management plan will be required to be incorporated into project design, consistent with the City's Urban/Wildland Interface Guidelines. Adequate water supply and pressure will be provided as well, through the construction of new water system components.

One issue that has arisen regarding Mitigate Measure IV(a), associated with potential impacts to California red-legged frog and Alameda whipsnake. The measure, which is taken from the 2003 Mission-Garin Annexation EIR and was repeated in the Mitigated Negative Declaration for the La Vista project, requires that the US Fish and Wildlife Service (USFWS) "confirm" habitat assessments for those two species that were conducted by the project biological consultant. Such assessments concluded that there is not appropriate habitat to support such species. The USFWS has not responded to requests for review of such assessments for the La Vista project and apparently typically will not unless a permit is required. Per CEQA Guidelines, if a mitigation measure is determined to be infeasible or otherwise undesirable, a lead agency may substitute another measure it determines is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment. Given the USFWS's typical position, language has been incorporated in the conditions of approval, which would allow the City as an alternative to hire and developer pay for a qualified independent biological consultant to confirm that the assessments were conducted properly and in accordance with resource agency protocol.

Planning Commission Hearing

On February 9, 2006, the Planning Commission unanimously recommended approval of the project as proposed and conditioned. As reflected in the draft meeting minutes (see Exhibit B), comments from Commissioners and the public were generally positive and supportive of the project.

Changes to condition #112 have been made, to provide flexibility regarding future negotiations regarding the Dareing property, and a new condition (#160) has been created, to address concerns with the portions of Bodega Street that will no longer be used once the project is built.

Prepared by:

David Rizk, AICP
Senior Planner

Recommended by:

Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

Jesus Armas, City Manager

Attachments:

Exhibit A:	Conditions of Approval (revised)
Exhibit B:	Draft Planning Commission Meeting Minutes dated February 9, 2006
Exhibit C:	Planning Commission Staff Report with attachments dated February 9, 2006
Exhibit D:	Letter from Bodega Street owners dated February 7, 2006
	Draft Resolution and Ordinances
	Project Plans

2/17/06

CONDITIONS OF APPROVAL

GARIN VISTA DEVELOPMENT
NORTHEAST OF INTERSECTION OF WOODLAND AVENUE AND BODEGA STREET
Zone Change Application No. PL-2005-0322 PD
Vesting Tentative Tract Map Application No. PL-2005-0323 TTM 7354;
Development Agreement Amendment Application No. PL-2005-0358 DA

Jack Smith, Garin Vista, LLC (Applicant)

1. The effective date of these approvals shall be the same as the effective date of the recordation and execution of documents associated with annexation of the property into Hayward.

2. Planned Development District (Application No. PL-2005-0322 PD) and Vesting Tentative Tract Map 7354 (Application No. PL-2005-0323 TTM) to accommodate construction of 126 single-family homes shall be developed according to these conditions of approval and in substantial conformance with the preliminary development plan and vesting tentative tract map labeled in the City files as "Exhibit A." Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director and Public Works Director.

3. The Zone Change for the Planned Development District becomes void two years following the effective date of approval of the Preliminary Development Plan by the City Council, unless before that time, a Precise Development Plan is submitted. A one-year extension for the Preliminary Development Plan, approval of which is not guaranteed, may be granted by the City Council, provided the request for such extension is submitted at least 30 days prior to the expiration of the original approval. A request for a second one-year extension, approval of which is not guaranteed, may also be granted by the City Council, provided the request for such second extension is submitted at least 30 days prior to the expiration of the first extension.

4. This approval is tied to Development Agreement between John M McKenzie, Lia Ma F. McKenzie, and Garin Vista, LLC, a California Limited Liability Company (John K. Smith, President) (OWNERS), and the City of Hayward (Application No. 2005-0358 DA) and all conditions of approval of that agreement shall also apply to this approval.

5. 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.

6. Any proposals for minor alterations to the proposed site plan and/or design that do not require a variance to the Zoning Ordinance standards must be approved by the Planning Director prior to implementation.

7. 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.

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

9. 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.

10. In addition to the City of Hayward Standard Specifications and Details, the following requirements and conditions apply, and shall be incorporated in the project plans and specifications as applicable:

PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN

11. Prior to submittal of improvement plans and final map(s) for the development, a Precise Development Plan consistent with the approved Preliminary Development Plan shall be submitted for approval by the Planning Director and shall include detailed landscaping and irrigation plans, detailed plans for all site amenities, including decorative paving, decorative electroliers, fencing, sign and entry features, detailed architectural and lighting plans, samples of exterior colors and building materials, and screening of all above-ground utilities, transformers and utility meters. The precise plan shall also reflect the ultimate configuration of the streets and other public improvements, including those associated with the entry road and detention basin, and Bodega Street improvements. The Precise Development Plan shall include/address the following:
    a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
    b. A color and materials board, consistent with that proposed with the preliminary development plan, shall be submitted to the Planning Director for review and approval, to "feature darker earth-tone colors" as is encouraged in the Mission-Garin Area Special Design (SD-5) District. No changes to colors shall be made after construction unless previously approved by the Planning Director. Planning staff shall notify Planning Commissioners of availability of color boards when they are submitted.
    c. Mitigation Measure I-c: In accordance with Mitigation Measure 4.1-1 of the Mission-Garin Annexation Study Project Program Environmental Impact Report (MG EIR; SCH No.2002072047) that was certified by Hayward in July of 2003, the project would be required to incorporate several design measures to help reduce visual impacts and enhance compatibility of the project with the existing surrounding environment, including:

- Use of non-reflective glazing and prohibition on reflective metal roofing, garage doors and trim material;
- Use of earth tone field and trim colors for residential dwellings;
- Use of roof forms that minimize exposure of buildings;
- Design of roadways that minimize views of pavement beyond the project site; and
- Use of techniques to minimize aesthetic impacts of individual residences, including, but not limited to, building design and use of landscape screening.

Also, any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect.

d. Adjustments for the following lots shall be made in order to provide an approximately 15-foot deep, relatively flat rear yard area: lots 4, 5, 27-30, 33, 34, 49-53, 58, 59, 63, 72-80, 81-85, 87-91 and 99-108. Such changes shall be made through adjustments to lot lines/layouts and/or relocation and/or increase in heights to six feet maximum of retaining walls. Low seat walls are encouraged at the base of slopes for certain lots which can accommodate such feature.

e. The size of lot 112 shall be increased to be a minimum of 3,000 square feet.

f. No solid wood fencing is allowed along the slopes between homes, nor is solid wood fencing allowed along the rear perimeter of any lots that abut the eastern slopes (lots 93 through 97, and lots 109 through 126).

g. Details and heights of all proposed retaining walls shall be included. All retaining walls shall be constructed of reinforced concrete with a decorative facing, or be keystone walls, approved by the Planning Director and the City Engineer. No retaining wall shall exceed six feet in height, as measured from finished grade.

h. Show details for all fencing and walls proposed throughout the development, including retaining walls proposed along the rear of the eastern-most lots, along with security fencing atop such wall that is compatible with the existing natural environment. Masonry walls along perimeter property lines or open space shall be screened with vines and shrubs.

i. If allowed by the fuel management plan, all railings on units shall be wood.

j. Mitigation Measure I-d: In accordance with Mitigation Measure 4.1-3 of the Mission-Garin Annexation Study Project Program Environmental Impact Report, a detailed lighting plan shall be provided, to be submitted as part of a precise development plan, to incorporate fixtures that shall ensure that lighting off of the project site will be minimized, to prohibit landscape uplighting, with fixtures and plan to be approved by the Planning Director.

   Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of homes within the project.

k. As determined as being required by the Planning Director in order to minimize erosion and address visual impacts, a street tree plan and landscape and, if deemed necessary, irrigation plans for front yards plus any side or rear yard slopes more than 20% shall be submitted for review and approval by the City, prior to approval of improvement plans. Where lots have slopes within the property that are 3:1 or greater, all such slopes should be landscaped and, if deemed necessary, irrigated by the developer. Front yards shall be limited to a maximum 50% Fescue turf.
l. Landscape plans shall specify site amenities such as, benches, tables, fencing, play equipment and barbecues, for the common open space areas, including the park.
m. Standard driveway flares per City Standard Detail SD-109 shall be provided at each unit to prevent vehicles from driving over required landscaping and irrigation.
n. All exposed drainage systems shall be constructed of materials (e.g., grassy swales or river rock), or treated in some other fashion that will allow such systems to visually blend with the natural environment.
o. Show an exterior hose bibs for each private yard, patio or porch area on the ground floor.
p. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
q. If grouped mailboxes are proposed, they shall be comprised of high quality locking mailboxes within covered decorative shelters. The locations, design, material and color of these structures are to be consistent with the overall project design theme and to be approved by the Planning Director.
r. All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located within an area that can be screened, and located so as to minimize noise impacts on adjacent properties. Infrastructure for air conditioning systems is required to be installed as a standard feature.
s. Garbage and recycling receptacle areas shall be adequately screened from public view with landscaping and/or solid screens, to be approved by the Planning Director, or be provided within garages, in which case shall be clear of the required parking area for two cars.
t. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened from the streets with minimum five-gallon shrubs and/or an architectural screen, to be approved by the Planning Director.
u. No mechanical equipment shall be placed on the roof unless it is completely screened from view by the proposed roof structure. Roof apparatus, such as vents, shall be painted to match the roof color. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by Building Code.
v. Regarding the architectural details/plans for submittal with the Precise Development Plan:

i. The large roof section at the rear of Unit "C" shall be broken up, to reduce the visual mass of such feature.
ii. As is provided for Unit "D", the front entry for Unit "E" shall be enhanced architecturally to be more visually prominent.

w. All plant material shall be deer and fire resistant.
x. The 2:1 slopes proposed above the highest rows of homes needs to be re-contoured to blend more closely with the natural slopes behind this project as required in City's Hillside Design Guidelines. Sections of curved rock-faced retaining walls or faux-rock shotcrete walls with planter pockets planted with oaks and other native plant material and formed to mimic natural rock outcropping may be considered to soften the slope contours in some of the large cut areas.
y. Create fire brakes between grouping of trees and shrubs, which will avoid creating a 'fire ladder' situation.
z. Provide stronger and more attractive pedestrian visual and physical connections to the neighborhood park. The location of the neighborhood park is at the lowest point in the development and is hidden.
aa. If utilized, the five-foot width of the planting area at the median on Street 'A' is insufficient to accommodate conifer trees (Sequoia sempervirens), as indicated on Sheet LDP-5, and should be widened to accommodate such trees, or a different tree type selected, to be approved by the City's landscape architect.
bb. Provide a comprehensive arborists report on all existing trees on the site including health, species, caliper, approximate height, canopy diameter, and value. A bond will be required for all trees that are to remain or be relocated. Any trees that are removed or damaged during construction shall be replaced with trees of equal size and equal value. Provide a chart based on the arborists report totaling the value of all of the trees to be removed and all of the existing trees to remain on the site. All trees proposed for removal shall be mitigated per the City's Tree Preservation Ordinance. Mitigation trees are in addition to trees that would be required by Code (e.g., street trees). A bond equal to the value of the trees to remain in place will be required prior to the issuance of the grading plan. The ISA standard valuation work sheet shall be provided.
cc. Provide one 24-inch box street tree for each lot which is 50 feet wide or less. Lots greater than 50 feet but less than 100 feet wide shall have two street trees. Wider lots will require additional trees. On a corner lot, there should also be one 24-inch box tree per 40 feet or fraction thereof along the side yard setback. The trees should be 20 feet from the corner, 10 feet from a light pole and 5 feet from any utility. Such trees shall not be on property lines but shall be located on the lot for which they are required. There should never be a case where a lot does not have at least one front yard tree. Trees shall be planted according to the City Standard Detail SD-122. Provide a street tree plan which shows the location of the street trees on each lot.
dd. Shrubs shall be planted along disturbed slopes to provide for re-vegetation and naturalization of these areas, to be approved by the City's landscape architect.

ee. A Fuel Management Plan and Homeowners' Educational Addendum is required for the development.

ff. In accordance with Fire Code requirements for Planned Unit Developments and with the Mission-Garin Area Special Design District standards, an exception to the 12% maximum road grade standard shall be secured from the Hayward Fire Department and the City Engineer, and a determination made by the Planning Director that steeper grades would minimize significant grading.

gg. The developer shall submit conceptual undergrounding plans with the Precise Plan and improvement plan submittal.

hh. A phasing plan shall be submitted with the Precise Plan and final map for approval by the Planning Director, which shall include the possible phasing of common area improvements.

ii. Submit evidence that the proposed Best Management Practices (BMPs) are designed to comply with the hydraulic sizing criteria listed in Provision C.3.d of the Alameda County's Clean Water Program NPDES permit (page 22). Reference is made to the California Stormwater Quality Association's Stormwater Best Management Practice Handbook, "New Development and Redevelopment," Subsection 5.5 on pages 5 – 12, which is titled "BMP Design Criteria for Flow and Volume." This should be available on their website at www.cabmphandbooks.com.

jj. The proposed detention basin shall be designed to drain empty within 48 hours and to be enclosed with a chain link fence and/or approve equal by the Planning Department for aesthetics.

PRIOR TO APPROVAL OF, OR RECORDATION OF, THE FINAL MAP(S)

12. The unincorporated territory involved within the boundaries of the vesting tentative map (Tract 7354) shall be annexed into the City of Hayward.

13. Developer is responsible to pay calculated per-unit fees under Benefit District 409-96, which is to reimburse parties originally assessed under Local Improvement District (LID) 16 for the Garin Water System.

Inclusionary Housing Plan

14. Prior to recordation of the final map or first final map, the applicant will assure that at least 19 rental units, affordable to low and very low income households, are constructed as part of the 78 unit rental housing development to be built by Eden Housing, Inc. at the northeast corner of North Lane and Eden Road in the western portion of the City. Also, no more than 50 building permits shall be issued for the Garin Vista development prior to the commencement of site work for the Eden Housing site. Furthermore, building permits for an additional 50 more housing units for the Garin Vista Development may be issued if it is determined by the City that substantial progress has been made in development of the Eden Housing site. In the event the Eden Housing project does not reach Certificate of Occupancy for the minimum 19 rental units associated with the Garin Vista project that are affordable to low and very low income households, applicant shall make 19 units of

ownership housing in the Garin Vista development available for purchase by households of moderate income at a price set forth for such units in accordance with the City's Inclusionary Housing Ordinance.

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:

Streets

15. The site plan shall be reviewed with the Fire Department and Engineering and Transportation Division to ensure that the street and driveway layout is adequate to provide access for emergency, service and utility vehicles, and other commercial trucks. Changes may be necessary including increasing corner radii, driveway widths or intersection alignments.

16. Bodega Street improvements shall be designed, generally reflective of the alignment shown on the submitted tentative map set, and as approved by the City Engineer.

Alquire Parkway/Entry Road (see tract map for location)

17. Alquire Parkway shall be extended with City standard curb, gutter, sidewalk and conform paving from its existing termination to its connection with the project Entry Road to provide access to the subdivision. Any curb, gutter or sidewalk damaged along the existing frontage shall be removed and replaced, at the expense of the developer.

18. The eastern-most portions of the existing Alquire Parkway right-of-way shall be abandoned and necessary easements recorded to provide continued access for affected residents and for existing and future underground utilities. Such areas shall be revegetated and landscaped, to the satisfaction of the City Landscape Architect.

19. The connection of the driveway serving the affected residents impacted by the right-of-way abandonment shall be designed as a driveway intersection. The driveway and intersections must be reviewed and approved by the Fire Department and the City Engineer.

20. The side slopes shall be graded in a naturalistic manner using landform grading techniques.

21. The connection of the new road connecting Alquire Parkway extension to Bodega Street shall be designed as a street intersection. The connector road and intersection must be reviewed and approved by the Fire Department and City Engineer.

22. New standard street lights shall be installed along the street frontage. The design and location shall be approved by the City Engineer.

23. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.

Interior Streets

24. All street rights-of-way shall be a minimum of 40 feet in width, or such streets shall be private.

25. The western dual road design (Street A) within the tract shall be reconfigured to be a single two-lane, two-way road with parking on both sides of the street, in accordance with the City's Standard Detail SD-102, which requires a minimum 46-foot right-of-way and 36-foot curb-to-curb distance.

26. A perpendicular intersection and stop sign(s) shall be required at the southern connection of Street A with Street B, with such design to be in accordance with City standards.

27. Redesign Streets B, C, D and the Private Street connecting the northern portions of Street E to each other to conform to City Standard Detail SD-102. For public streets with parking on one side, City standards require a minimum 40-foot right-of-way and 30 foot curb-to-curb distance and, for private streets with parking on one side, require a minimum 31-foot right-of-way and 30 foot curb-to-curb distance. The street crown line shall be located at 18 feet and 12 feet respectively from the curb face. The sidewalk and the designated parking area shall be on the same side and no parking signs shall be posted on the opposite side.

28. Handicap ramps shall be installed to facilitate access and circulation throughout the development. Roadway slopes currently exceed the allowable 12% grade. Unless redesigned, these slopes must be approved by the City Engineer, Planning Director and Fire Department and may require additional special conditions relative to fire protection and building construction.

29. Street intersections shall be designed and constructed per City Standard Detail SD-110A.

30. Streetlights shall be installed along all street and cul-de-sac frontages. Pedestrian lighting shall be provided throughout the private park and paths. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.

Parking and Driveways

31. The applicant/developer shall provide sufficient parking spaces for the development to meet the requirements of the City of Hayward Municipal Code. Parking stall dimensions and driveways shall meet City requirements as approved by the Planning Director and City Engineer.

32. Driveways shall be constructed per Standard Detail SD-109 and shall be the same width as the garage door. Standard driveway flares shall be provided at each unit to prevent vehicles from driving over required landscaping and irrigation.

33. Where applicable, handicap compliant parking stalls and loading areas shall be located adjacent to each open space within the development. Handicap ramps and accessible pathways shall be provided throughout the project, per federal and state standards and exceptions.

34. If group mailboxes are used throughout the development, parking spaces shall be provided adjacent to the group mailboxes and shall be designated as 10 minute parking only.

Landscaping

35. Prior to the approval of improvement plans, detailed landscaping and irrigation plans for all common areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City.

36. 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 yard.

Storm Drainage

37. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable. It is highly recommended that grassy swales be installed to intercept the surface runoff.

38. The on-site storm drain system within private streets or private property, including off-site storm drain system connecting to and including the proposed off-site detention basin, shall be maintained by the homeowners association or property owners.

39. Mitigation Measure VIII-a: Per State regulations, a Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Quality Protection Plan shall be prepared and submitted to the State for review and approval. These documents shall also be submitted along with the grading permit application for

review and approval by the City of Hayward. Grading and construction plans shall incorporate erosion and sedimentation control measures to be implemented during all phases of construction activities. The improvement plans for the project shall incorporate Best Management Practices (BMP's) designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, including the hydraulic sizing criteria, which will ensure that storm water runoff is treated prior to discharge from the site and that runoff rates are such that downstream impacts are reduced to the maximum extent practical.

40. Mitigation Measure VIII-c: In accordance with regulations of the Alameda County NPDES Permit requirements, the development's improvement plans will be required to incorporate Best Management Practices (BMP's), including erosion and sedimentation control measures, which will treat all water prior to discharge and will ensure that the discharge rate from the site is consistent with existing rates.

41. The proposed off-site detention basin must incorporate an access road around it, to facilitate maintenance and allow access to inlet and outlet facilities. The detention basin shall be fenced and landscaped along its perimeter, as approved by the City Engineer and Planning Director.

42. The owner/developer shall prepare a Storm Treatment Measures Maintenance Agreement (available in the Hayward Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

43. Mitigation Measure VIII-e: Proposed detention basin and project drainage system shall be designed in accordance with Alameda County Flood Control and Water Conservation District's (ACFCD) standards, with such design to be supported via hydraulic calculations from the project engineer, to be reviewed and approved by the ACFCD and the City of Hayward Public Works Department. Any increased flow resulting from the proposed development would be required to be mitigated on-site.

44. 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 reviewed and approved by the Alameda County Flood Control and Water Conservation District and the City Engineer. Development of this site is not to augment runoff to the District flood control facility downstream, Line D. The hydrology study shall substantiate that there will be no net increase in the quantity of runoff from the site versus the flow rate derived from the original design of Line D and any augmented runoff will need to be mitigated on-site.

45. The project streets, driveways and parking areas shall be designed to facilitate street sweeping.

46. 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.

47. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.

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

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

50. Storm water inlets within the streets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.

51. A catch basin shall be installed at the end of the retaining wall on the south side of Lot 109. The design shall be approved by the City Engineer.

Sanitary Sewer System

52. The sanitary sewer main at the intersection of "A" and "B" Streets shall be redesigned to cross perpendicular to the fault trace, if feasible, with a recommendation to relocate such main within Parcel C within an easement that would prohibit trees or structures. A manhole shall be installed before and after crossing the fault trace, and installation shall be in accordance with recommendations of the project geotechnical consultant, as approved by the City's Public Works Department staff.

53. Sewer service will be available from the City and is subject to standard conditions and fees in effect at time of application. Sewer System Connection Fees currently start at $5,236 per residential unit.

54. Several of the sewer mains downstream of the development have been identified as currently operating at or near capacity and may have inadequate capacity in the near future. In order to quantify and mitigate the impact the development will have on downstream sewer mains, the developer shall perform a hydraulic analysis to assess the impact of the development on the downstream sewer mains in Mission Blvd. (Alquire Pkwy. to Valle Vista Ave.), Valle Vista Ave. (Mission Blvd. to Dixon St.), Dixon St. (Valle Vista Ave. to Industrial Pkwy.) and Industrial Pkwy. (Dixon St. to

the ACFC Channel). Owner shall be responsible for the development's share of upsizing the sewer mains that the study identifies as having inadequate capacity as a result of the development's impact, and such share shall be determined by the City. The exact amount must be determined and paid prior to recordation of the first final map for the tract.

55. The developer must extend a sewer main along the new, reconfigured Bodega Street and install sewer laterals to properties to serve the existing residences along Bodega Street, as approved by the City Engineer.

56. The on-site sanitary sewer system shall have 8-inch public mains, designed with a manhole at all angle points and ending with a manhole. Each parcel shall have a separate sanitary sewer lateral stubbed to the edge of the street right-of-way. The main design and location shall meet the approval of the City Engineer.

Water System

57. Realign the water main in Street "A" to avoid crossing the fault trace, with a recommendation to cross through Parcel C via an easement in a ductile iron pipe, where trees and structures would be prohibited within such easement.

58. The existing water system in the area is insufficient to provide adequate water service to this development. The developer must construct the necessary improvements, including a water reservoir, water main extensions, and pump station upgrades for the Garin Reservoir water system, to provide adequate service. The developer must obtain all necessary easements and right of ways, at no expense to the City, and dedicate these to the City prior to recordation of the first final map for the tract. The City must have access to water main extensions so access roads will need to be constructed as directed by the City Engineer.

59. All water mains crossing the Hayward fault shall be designed per City Standard Detail SD-227 and in accordance with the project geotechnical consultant's recommendations, as approved by the City's Public Works Department staff.

60. The proposed water mains connecting Tracts 7620 and 7354 shall be ductile iron pipe and shall be installed under access/maintenance roads.

61. The water system shall comply with all the requirements as stated in the Garin Hills Water Service Study dated March 3, 2005, prepared by Carollo Engineers.

62. Water service will be available from the City and is subject to standard conditions and fees in effect at time of application. Water Facility Fees currently start at $4,610 per residential unit.

63. Install Reduced Pressure Backflow Prevention Assembly as Per City of Hayward Standard Detail 202 on irrigation water meters.

64. Development to be served by radio read meters.

65. Only water distribution personnel shall perform operation of valves on the Hayward Water System.

66. Show on plans the gallons per minute water demand so that the proper size meter can be determined.

67. Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate as per Hayward Municipal Code 11-2.02.1.

68. Water mains to be located 5 feet from face of curb.

69. Ductile Iron Pipe is required for water mains in all easements. Control valves are required in streets before entering easements.

70. Fire flow requirements for this development shall be 3,000 gallons per minute at 20 psi. A reduction down to 2,000 gallons per minute may be granted for fire sprinklers systems installed within each building. Provide calculations to show proposed water mains are adequate to supply required fire flows.

Utilities

71. All utility services shall be "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, SBC, Comcast and SBC Broadband Company regulations. Transformers, and switch gear cabinets, shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.

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

73. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the subdivision.

74. The developer shall submit conceptual undergrounding plans with the Precise Plan submittal.

75. Mitigation Measure VII-g: Recommendations of the project geotechnical engineer, Berlogar Geotechnical Consultants, located on page 32 to 35 of his May 14, 2003 report, related to street and utility lines shall be incorporated into the project design, subject to final approval by the Hayward Public Works Department. Such recommendations, to address impacts associated with fault creep, call for placing utility lines within an oversized outer conduit or sleeve within the fault zone, utilizing flexible pipes that include risers with shut-off valves on each side of the fault trace, etc.

76. Show the location of the fault trace(s) on the plans, as related to utility line locations.

Fire

Fire Protection

77. Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Department Ordinances (Ordinance #02-13) and amendments in use by the Hayward Fire Department.

78. Each (single-family residence) building will be required to have an automatic fire sprinkler system installed per NFPA 13-D (Modified) Standards. This requirement includes the installation of fire sprinklers within all living space areas, garages, under attached decking and balconies built with combustible construction materials, within crawl space areas, foyers and porches, and any other area of the structure deemed hazardous by the Hayward Fire Marshal.

79. Water meters serving each (single-family residence) building shall be sized large enough to serve the domestic water and fire sprinkler system. Generally, a minimum 1-inch water meter and a 1 ½" service are adequate in meeting this requirement.

80. Exterior (local) alarm bell(s) shall be installed on each fire sprinkler system riser of each (single-family residence) building.

81. Interior audible device(s) shall be installed within each (single-family residence) building and shall be capable of activating upon any fire sprinkler system waterflow activity.

82. Interior (single-station) residential smoke detectors shall be installed within each (single-family residence) building. Smoke detectors shall be installed per the California Building Code (CBC) and shall be hard-wired electric with battery back-up.

83. Approved spark arrestors shall be installed on each fireplace chimney cap, if constructed.

84. Building addressing shall be established prior to issuance of building permits. Addressing shall be approved by the Hayward Fire Department.

85. Mitigation Measure VII-h: Measures called out in the July 25, 2005 Fuel Management Plan by Wildland Resource Management, Inc., shall be implemented, subject to approval by the Hayward Fire Department. Examples of measures recommend in the plan include those associated with a fuel management program based on zones and reducing fire loads to a greater extent in close proximity to

structures (annual mowing program), those associated with structure hardening and materials and design (sprinklers and fire-resistant roofing material) and those associated with emergency preparedness education (annual report submitted by a wildland fire management expert hired and paid for by the development's homeowner's association). Additionally, as recommended by the Plan, an adequate water supply system approved by the Hayward Fire Department shall be installed and functional prior to framing of structures.

Fire Access

86. Access requirements for this development shall be in compliance with the California Fire Code and Hayward Fire Department Standards.

87. All public and private streets, alleys and driveway access lanes that are designed within the development with a width of less than 20 feet shall be dedicated as fire lanes.

88. The emergency access easement/road proposed to connect Clearbrook Circle to the development shall be dedicated as the required second public access (shared emergency access road) for the development, and shall be installed in the location as reflected on the approved Tentative Map. If security gates are installed to secure the access, gate opening controls shall be distributed to all residents to access and exit their community. Otherwise, if this is not an option, the Hayward Fire Department will require the gate to be electrically controlled by the Hayward Fire Dispatch Center.

89. The Emergency Vehicle Access (EVA) road connecting the parking lot of Oak Hills Apartments to the development shall be installed in the location as reflected on the approved Tentative Map. EVA design and engineering shall be approved to meet Hayward Fire Department Standards.

90. The EVA road gates connecting the development to the East Bay Regional Park District (EBRPD) shall be equipped with proper mechanisms to operate and open the gate, as approved by the City Engineer and EBRPD.

91. Parking of private vehicles shall only be allowed on both public and private streets which have been designed with a 30 foot width or greater. Vehicle parking shall only be allowed in the parking areas that have been identified on the approved Preliminary Development Plan, or as modified by the City Engineer.

92. Streets that have been designed with fire apparatus turnaround areas(s) within the development (specifically the cul-de-sac at lots #109 and #110) shall be properly maintained as fire lanes. No vehicle parking shall be allowed within the turnaround area(s).

93. Red-painted curbing and fire lane signage shall be installed on all private streets, alleys and driveway access lanes (including the turnaround area(s) and dedicated EVA's) throughout the development.

94. All streets within the development shall be constructed with all-weather surface materials and designed and engineered to withstand 50,000 lbs. GVW.

95. The approved EVA's shall be secured as required by the Hayward Fire Department.

96. Road grades shall not be in excess of 15%.

Water Supply

97. The fire hydrant system for this development shall be a looped system designed and engineered per City of Hayward Public Works Standards.

98. Fire hydrant locations shall be reviewed and approved by the City of Hayward Fire Department.

99. Fire hydrants shall be modified steamer type hydrants (with a minimum of 1- 4 ½" outlet and 1-2 ½" outlet).

100. Blue reflective hydrant markers shall be installed on the street pavement adjacent to each fire hydrant location.

101. Crash posts may be required around the fire hydrants if the fire hydrants are installed in a location that may be susceptible to potential vehicular impact.

Building Construction

102. All construction shall meet the California Building Code (CBC) and all applicable City of Hayward Building Department Ordinances (Ordinance #02-13) and amendments, including the Hillside Design Guidelines for Wildland/Urban Interface Construction.

103. All structures shall have non-combustible exterior siding materials, with a minimum 1-hour fire resistive rating (stucco and/or Hardi-Board).

104. Class A roofing materials are required on each roof.

105. An approved address plan shall be reviewed and approved by the Hayward Building and Fire Department.

106. Address numbers are required on each (single-family residence) building within the development. Address numbers shall be self-illuminated and shall be a minimum of 4-inches in height.

107. Plan review of each building is required, at which time additional requirements will be imposed (pending further review).

Grading and Retaining Walls

108. A Geologic Hazard Abatement District (GHAD) shall be formed prior to issuance of the first 50 building permits for residential units. The developer shall either prepare all necessary reports, maps, and supporting documents, which will be reviewed be the City's consultants, or the City will have the necessary reports, maps and supporting documents prepared to form the district. In either case, the developer shall post a deposit with the City prior to the recordation of the first final map to cover the City's costs for formation of the district. The exact extent of the responsibilities of the district shall be determined during the preparation of the Precise Development Plan for the development; however, the GHAD shall maintain lands and drainage facilities within Parcels A, D and E as shown on the Vesting Tentative Map Tract 7354, as well as Parcels A, B, C and D as shown on sheet 7 of 8 of the Vesting Tentative Map Tract 7354 plan set, and, if necessary, repair such lands as well as any adjacent lands impacted by failure of the slopes or drainage facilities within such parcels.

109. Prior to issuance of the first 50 building permits for residential units, the developer shall form a Landscape and Lighting District to fund operation and maintenance of Parcels B and C as identified on the Vesting Tentative Map Tract 7354. Prior to approval of the first final map, the developer shall provide a $10,000 deposit to the City to cover the costs associated with formation of the District. The exact limits of responsibility for the District will be determined during processing of the Precise Plan for the development.

110. Retaining walls shall be setback a minimum of five feet from the back of sidewalk to allow for required landscaping. If trees are to be planted between the walls and the sidewalk, the setback shall be increased to provide sufficient room for the trees.

111. Footings for any retaining walls along the streets shall be within the parcels owned by the homeowners association. Drainage shall discharge to the streets and not onto the private lots.

Dedications, Easements and Deed Restrictions

112. The lands in the eastern portion of the tract located between the development and Garin Regional Park, indicated as Parcels A and D as shown on Vesting Tentative Map Tract 7354, shall not be developed and shall remain as open space in perpetuity. Such development restrictions shall not apply to those improvements approved with this Planned Development, including drainage improvements. Such area may be reduced slightly via lot line adjustments created before recordation of the final map that would extend the Browne and Dareing property lines eastward, though no further east than the service or haul road depicted on the Conceptual Offhaul Plan shown in the submitted plan set.

113. A new parcel shall be created between Street "B" and the Dareing property, with the eastern boundary of such parcel to generally be in line with the western boundary of Street "D", to extend across Parcels D and A to the northern boundary of the Browne property.

114. A new public pedestrian trail over the proposed western water main easement/maintenance road to the east of the Bodega Street properties shall be dedicated to the City, to allow for pedestrian access to the development to the north (Tract 7620), as a connection to the proposed public park adjacent and to the west of that development. Also, developer shall make a good-faith effort in having such trail/easement created over the lands of Tract 7620, to allow connection to that development.

115. Land shall be dedicated to allow for construction of the entry road.

116. The final map shall reflect:
    a. Six-foot-wide public utility easements (PUE) along the edge of the streets where necessary as determined by the City Engineer.
    b. Dedication of all rights-of-way and 15-foot wide easements for the new water mains, including access roads. The water main proposed through the Browne property shall be located within a 15-foot wide easement along the northern property line and be accessible to City staff, including possibly through gates along the rear property line.
    c. Dedication of right-of-way and easements for the entry road from the Alquire Parkway extension to the tract boundary.
    d. Dedication of rights-of-way for the proposed streets and emergency access roads outside the project site.

117. An easement or agreement shall be obtained that encompasses the temporary connection road from this subdivision to Tract 7620, identified as "Haul Road" on Conceptual Offhaul Plan associated with Tract 7354. The easement shall include the roadway and any grading areas necessary to create the roadway.

Subdivision Agreement

118. Execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Hayward Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

PRIOR TO ISSUANCE OF GRADING PERMITS

119. Prior to the issuance of a grading permit and/or the beginning of any on-site construction activity, the Developer's Engineer shall complete the Development Building Application Form Information: 1) Impervious Material Form,, and 2) Operation and Maintenance Information Form.

120. Mitigation Measure XI-a: In accordance with Mission-Garin Annexation Project Program Environmental Impact Report (MG EIR) Mitigation Measure 4.9-1, a Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the Hayward City Engineer prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications.

121. Mitigation Measure III-b: Prior to the start of any construction or grading activity, including hauling of material from the project site, an asbestos dust mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. In accordance with the State's "Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations" (CCR Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq), the dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing each of the following topics:
    a. Track-out prevention and control measures.
    b. Keeping active storage piles adequately wetted or covered with tarps.
    c. Control for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days.
    d. Control for traffic traveling on project site unpaved roads, parking lots, and staging areas.
    e. Control for earth moving activities.
    f. Control for off-site transport.
    g. Post construction stabilization of disturbed areas.
    h. Air-monitoring for asbestos (if required by the BAAQMD's Air Pollution Control Officer).
    i) Frequency of reporting.

    Northgate Environmental Management, Inc. includes as Appendix A to their September 30, 2005 report a Construction Management Plan that incorporates such measures. Such plan shall be implemented, subject to review and approval by the Bay Area Air Quality Management District (BAAQMD). Also, measures called out in Northgate's December 20, 2005 report related to hauling material from the site that may contain naturally occurring asbestos, shall be implemented, subject to review and approval by the BAAQMD.

122. Mitigation Measure IV-a: In accordance with Mitigation Measures 4.3-5 through 4.3-6 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, the U.S. Fish and Wildlife Service (USFWS) shall confirm all habitat assessments conducted by Wetland Research Associates for California red-legged frog and Alameda whipsnake. Alternatively, if the USFWS is not responsive in

confirming such assessments and to ensure such assessments are adequate and followed standard resource agency protocols, the City shall hire and the applicant shall pay for a qualified biological consultant to review such assessments. If California red-legged frogs or Alameda whipsnakes and/or their occupied habitats are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific California red-legged frog and/or Alameda whipsnake mitigation plan should be developed, approved by the USFWS and CDFG prior to development, and implemented. In accordance with Mitigation Measures 4.3-7 through 4.3-8 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, surveys utilizing protocols acceptable to the resource agencies, including burrowing owl survey protocol and protocol for Golden Eagle surveys established by the California Department of Fish and Game (CDFG), shall be conducted. If such surveys reveal the presence of nesting Golden Eagles within 0.25 mile and in direct line-of-sight distance from project activity, presence of Western burrowing owls within 250 feet, presence of loggerhead shrikes within 200 feet or presence of any other special-status raptors within 300 feet of project activity, construction activity within the above-specified buffer zones shall be completed before the nesting season or be postponed until after the nesting season (March through the end of August) and until all young have fledged from such nests. The limit related to presence of Golden Eagles shall be applicable during the entire tenure eagles are actively nesting within the buffer zone, not just during the breeding season. Also, given Coopers Hawk and Loggerhead Shrike were observed on the site, further raptor and shrike and Golden Eagle surveys following survey protocols established by resource agencies shall be conducted during the nesting season immediately preceding start of grading or construction, to confirm no active raptor nests exist that could be impacted by construction activities.

123. Mitigation Measure VI-a(ii): Recommendations of the project geotechnical consultant, Berlogar Geotechnical Consultants, as outlined in a report dated May 14, 2003, shall be implemented. Such report, which has been peer-reviewed and accepted by the City's geotechnical consultant, contains recommendations to reduce ground shaking impacts, including:
    - removal of five of six landslides on the site and replaced with keyways and engineered fill, along with subdrain systems (the sixth landslide is along the northern drainage channel and is not within proposed limits of grading),
    - removal of non-engineered fill down to competent bedrock and replacement with engineered fill,
    - recommendations for cut slopes to not exceed 2:1 slope and where cut slopes would be over 30 feet in height, intermediate benches with concrete-lined V-ditches for drainage,
    - recommendations associated with anticipated settlement related to utility lines, and
    - recommendations for buttress fills in areas where geologically weak bedrock is encountered in cut slopes.

    As recommended by the City's geotechnical peer-reviewer, prior to issuance of construction permits, the project geotechnical consultant shall review the final

construction plans to ensure that site grading, fault and slope setbacks, foundation designs, subdrainage, etc. are in accordance with the project consultant's recommendations, and provide a plan review letter to the City. Also, the project certified engineering geologist and geotechnical engineer shall be on s ite during grading, excavations, keyways, cuts, etc. to verify that actual geologic conditions, fault locations and special foundation zones are as anticipated and that appropriate supplemental recommendation be provided, as necessary. The results of such inspections, testing, and/or modifications shall be documented in an "as-built" letter/report prepared by the project engineering geologist/geotechnical engineer and submitted to the City before final approval of permits is granted.

124. Mitigation Measure VII-b(2): In accordance with Mitigation Measure 4.6-1(a) of the Mission-Garin Annexation EIR, prior to start of project grading, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, State Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permit and facility closure with regard to demolition and removal of hazardous material form the site, to include:
    a) Based on the proposed intensification of the subject property to residential uses, a health based and if necessary, a water quality clearance shall be obtained from either the California Department of Toxic Substances Control (DTSC) or the California Regional Water Quality Control Board (CRWQCB) and submitted to the Hayward Fire Department prior to grading of the site. (Note: If acceptable to either DTSC or CRWQCB, grading may be allowed prior to final clearance; however, final clearances must be obtained prior to construction activities.)
    b) The area where an underground gasoline/diesel storage tank system may have been installed shall be properly investigated and if still present, shall be removed under permit with the City of Hayward Fire Department. Additionally the underground storage tank found above ground in the southwest portion of the site shall be properly removed under permit with the City of Hayward Fire Department if the tank is deemed by the Department staff to contain hazardous materials.
    c) Hazardous materials and hazardous materials containers on the property shall be properly identified and disposed per the hazardous materials and hazardous waste regulation of the State of California.
    d) Identified groundwater wells, including those adjacent to the existing ranch buildings in the western portion of the site, shall be properly destroyed under permit per the requirements of the Alameda County Public Works Department, Groundwater Protection Section, and the City of Hayward Public Works Department.
    e) Existing septic tanks associated with the ranch development in the western portion of the site shall be properly removed per requirements of the project soils engineer and the City of Hayward Public Works Department.

125. Mitigation Measure VII-b(3): All remediation work shall be performed by licensed contractors in accordance with state and federal OSHA standards. Worker safety plans shall be included for all demolition plans.

126. Prior to the issuance of a grading or building permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved on the site that are within 50 feet of any grading or construction. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition. The developer shall provide an arborist's report evaluating the condition of the trees.

127. Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Any trees within the construction area or directly adjacent shall be fenced at the drip line throughout the construction period and shall be maintained in a healthy condition throughout the construction period

128. Trees shall be preserved in accordance with the *Tree Preservation Ordinance*. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes. A tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.

129. Where the site conditions indicate the need, slopes having a vertical height of 30 feet shall have benches to provide breaks in high slopes in order to intercept surface water and to aid in performing maintenance on the slopes. Slope benches shall be at intervals not exceeding 30 feet in vertical height. Benches shall be at least 6-feet-wide and constructed to intercept surface water from the slopes and to carry it in a paved drainage way at suitable gradient to outfalls connected to a storm drain system.

130. Generally provide a 15-foot setback from the building wall to the toe or top of a slope exceeding 15 feet in vertical height. At the toe of a slope where a vertical height exceeds 15 feet, the required setback shall be increased by one foot for each additional 5 feet of bank height. Upon certification by the project soils engineer, encroachment into this area may be allowed by the City Engineer.

PRIOR TO ISSUANCE OF BUILDING PERMITS

131. No habitable structures shall be built closer than 50 feet of the active Hayward fault trace, as indicated on the submitted plans.

132. The applicant shall contribute $1,055,866 toward construction of a new community center to be located in the general vicinity. Such contribution shall be in addition to any other obligations.

133. Because of hillside issues and screening requirements, landscape and irrigation plans will be required. Landscaping and irrigation plans shall comply with the City's *Water Efficient Landscape Ordinance.*

PRIOR TO CONSTRUCTION

134. The final map shall be approved by the City and filed in the County Recorders Office prior to the issuance of a Certificate of Occupancy of any unit.

135. Prior to start of construction involving combustible materials, or as required by the Hayward Fire Department, an additional water tank equal in size to the existing water tank, shall be constructed at the Garin Reservoir Site to the south of the project, and improved with a water system acceptable to the Hayward Fire and Public Works Departments that would bring adequate water supply and pressure to the project site. The construction of the required new water tank may be delayed until completion of tract improvements, if it can be demonstrated to the satisfaction of the City Fire Chief and Public Works Director that connection to the existing water tank at the Garin Reservoir site would be adequate to provide for sufficient fire-fighting capabilities.

136. A minimum 24-foot-wide all-weather access road, engineered for 50,000 pounds gross vehicle weight, shall be maintained for emergency vehicle access.

DURING CONSTRUCTION

137. Mitigation Measure III-c: In accordance with Mitigation Measure 4.2-1 of the Mission-Garin Annexation E IR, grading activities shall incorporate sta ndard dust control measures, to include, but not be limited to frequent watering of the site, use of soil stabilizers, hydroseeding of graded areas and other measures that comply with Bay Area Air Quality Management District recommendations for dust control. Project construction grading plans shall state such measures on the plans, to be approved by the Hayward Public Works Department staff.

138. Mitigation Measure I-c: Any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect.

139. Mitigation Measure IV-e: In accordance with Hayward's Tree Preservation Ordinance, any "protected" trees as defined by the City's Tree Preservation Ordinance that are to be removed as a result of the project shall be replaced with likesize, like-kind trees or trees equal in value to them, as determined by the City's Landscape Architect.

140. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
    a. Grading and construction activities shall be limited to the hours 7:00 AM to 6:00 PM on weekdays and Saturdays; there shall be no grading or construction activities on Sundays or 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. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information, including the residents/owners at properties along the eastern portions of Overhill Drive.
f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
g. The developer shall participate in the City's recycling program during construction;
h. Daily clean-up of trash and debris shall occur on Alquire Parkway and its extension and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
i. 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;
j. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
k. Pave, or apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
l. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
m. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
n. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
o. 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;
p. 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;
q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.

s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See *"Building Maintenance/Remodeling"* flyer for more information;
v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
w. The 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.

141. 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.

142. 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.

143. The developer shall be responsible to adhere to all aspects of the Storm Water Pollution Prevention Plan (SWPPP) as approved per conditions of approval above.

144. Mitigation Measure VI-b: All exposed areas within the proposed project limits of grading are to be planted with vegetation, to the satisfaction of the City's Landscape Architect or, if temporary stockpiles of material are created on-site, covered with material to prevent material from being washed away.

145. 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 soil preparation and soil amendments;
   c. Observation of plant material upon delivery to the site;
   d. Observation of layout and placement of plant materials upon delivery to the site;
   e. Observation for maintenance period commencement; and
   f. Observation for final acceptance.

146. Mitigation Measure VII-b(1): Reflective of recommendations of the project environmental geologic consultant (Northgate Environmental Management, Inc.), no asbestos-containing material shall be placed within 4 feet of the finished grade surface within the proposed development, including all residential lots, streets and roads, landscaped and active open space and park areas and trails. Additionally, material to be used for the upper area "cap" shall be tested in accordance with a State-approved testing method, such as the Air Resources Board's Test Method 435, to confirm such material does not contain more than 0.25 percent asbestos material.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

147. The developer shall pay all required fees, including those indicated below, with the amount of such fees to be in accordance with the fee schedule in effect at the time of issuance of the building permits;
    a. Supplemental Building Construction and Improvement Tax;
    a. Building Construction and Improvement Tax;
    b. School Impact Fee (payable upon issuance of building permits); and
    c. Water facilities Fee (payable upon issuance of building permits).
    d. Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued.
    e. Park dedication in-lieu fees for each dwelling unit shall be calculated at the rate in effect when the building permit for unit is issued, to be applied to improvements associated with the development of the community park.
    f. Annexation fee for unincorporated areas (prior to recordation of first final map).

148. Any curb, gutter and/or sidewalk along the Alquire Parkway property frontages that is damaged as a result of construction of the proposed project shall be repaired or replaced to the satisfaction of the City Engineer.

149. All common area landscaping, irrigation and other required improvements in the current phase shall be installed according to the approved plans.

150. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.

151. Front yards and slopes 3:1 or greater throughout the site including those in the side and rear yards shall be landscaped by the developer prior to the occupancy of each unit.

152. Park dedication in-lieu fees are required for all new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

153. 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.

154. The developer shall submit a final statement of water main extension costs and notarized bill of sale to the Utilities Administration prior to application for water service.

155. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat stormwater runoff. Landscaping shall also comply with the City's "water efficient landscape ordinance" or equivalent.

156. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs. All individual lot landscaping shall be installed prior to occupancy of each unit and prior to the final acceptance of tract improvements.

157. An AC overlay along Alquire Parkway 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 of the Garin Vista development. The major haul route for exportation of material from the site shall be the route indicated on Page 8 of the Vesting Tentative Map Tract 7354, and shall not be a public or private street.

158. Landscape improvements and street trees shall be installed according to the approved plans. A Certificate of Substantial Completion and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy for each unit.

159. 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 Company, EBMUD, SBC and Comcast, etc; and
    b. All the site improvements, except landscaping species, buildings and appurtenant structures.

160. Any public utilities that will no longer be used by Bodega Street residents and that are located within the portion of Bodega Street that will no longer be needed for access between the new entry road and Woodland Avenue, shall be properly abandoned and the roadway portion adequately secured to prevent unauthorized access, to the satisfaction of the City Engineer and Planning Director. Alternate public utilities connection points shall be provided for the Bodega Street residents.

Homeowners Association

161. Prior to the sale of any individual unit/lot, or prior to the acceptance of tract improvements, whichever occurs first, a homeowners' association shall be created to maintain all private streets, private utilities, and other privately owned common areas and facilities on the site including landscaping. These maintenance responsibilities shall include implementing and maintaining stormwater BMPs associated with improvements and landscaping.

162. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Conditions, Covenants and Restrictions (CC&R's) creating the association shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
    a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
    b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
    c. The association shall be managed and maintained by a professional property management company.
    d. The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed–free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
    e. A covenant or deed restriction shall be recorded with each lot requiring the property owner to properly maintain the front yard landscaping, slope landscaping, and street trees, and to replace any dead or dying plant material (over 30% of the plant dead) within 15 days of first notification. Provisions shall also be made in the deed restrictions to protect views towards the bays by restricting the height of plant materials in the side and rear yards, with the exception of the required street trees, to no more than 5 feet above the highest grade. Solid hedges or fences that do not allow neighboring views through to the Bay shall not be allowed within the side or rear yards.
    f. Individual property owners are responsible for properly maintaining the front yard landscaping, slope landscaping, and street trees associated with his/her property in a healthy, weed-free condition at all times, with irrigation systems to also be adequately maintained, and to replace any dead or dying plant material (over 30% of the plant dead) within 15 days of first notification.

g. A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
h. A requirement that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 72 hours of inspection or within 72 hours of notification by the City.
i. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
j. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.
k. No hot tubs, spas or swimming pools area allowed, unless adequately screened and located in rear yards at least five feet from any building and at least three feet (five feet for pools) from any property line or easements established for the benefit of adjacent properties.
l. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, the formation of a design review committee and its power to review changes proposed on a building exterior and its color scheme, and the right of the homeowners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
m. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
n. Any transformer shall be located underground and shall be located within the right-of-way or public utility easement.
o. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
p. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
q. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.

MINUTES OF THE REGULAR MEETING OF THE CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 9, 2006, 7:30 p.m.
777 B Street, Hayward, CA 94541

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chair Thnay followed by the Pledge of Allegiance.

ROLL CALL

Present:	COMMISSIONERS:	Lavelle, Sacks, McKillop, Bogue, Peixoto, Zermeño
	CHAIRPERSON:	Thnay
Absent:	COMMISSIONER:	None

Staff Members Present: Bauman, Conneely, Patenaude, Rizk, Lens

General Public Present: Approximately 30

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. **Garin Vista Development**
   I. **Zone Change Application No. PL-2005-0322 PD** – Request to Amend the Prezoning District Designation from Medium Density Residential (RMB4) and Agriculture (AB10A) to Planned Development (PD), to Allow for Construction of 126 Single-Family Homes; Request to Approve the Associated Preliminary Development Plan;

   II. **Vesting Tentative Map Tract Application No. PL-2005-0323 TTM 7354** - Request to Subdivide an Approximately 50-Acre Site to Create 126 Single-Family Lots and Related Streets, a Private Park and Open Space;

   III. **Development Agreement Application No. PL-2005-0358 DA** – Request for Approval of a Development Agreement in Association With the Proposed Development.

   Howard M. Settle, Maxine F. Theobald, Andrew E. Garin, Richard S. & Annette P. Warren, John M. and Lia F. McKenzie (Owner) / Garin Vista, LLC, Jack Smith, President (Applicant)

   The Project Site is Located Northeast of the Intersection of Woodland Avenue and Bodega Street, West of Garin Regional Park.

   Staff report submitted by Senior Planner Rizk, dated February 9, 2006, was filed.

EXHIBIT B

Acting Planning Manager Patenaude announced that item two of the agenda was continued to February 23, 2006.

Senior Planner Rizk presented the staff report.

In response to Commissioner Lavelle's inquiry, Senior Planner Rizk indicated that the majority of the owners have expressed support for the Mission-Garin area Annexation. In response to implications if an agreement is not reached regarding the property that needs to have an easement for the entry road, Senior Planner Rizk showed optimism about consensus between the developer and the property owner, but also indicated that eminent domain could be an alternative solution.

In response to Commissioner Peixoto regarding the agency responsible for collecting fees for the special assessment associated with the Geologic Hazard Abatement District (GHAD), Director of Public Works Bauman stated that it will be collected with the property taxes and then will be allocated to the GHAD. There was clarification about the Inclusionary Housing Ordinance and the proposed development, the $1 million allocation toward the community center, sufficient parking spaces, and the staff's preference for wood railings.

In response to Commissioner Sacks, there was clarification about the Vesting Tentative Map, Conditions of Approval #1w) regarding plant materials, Condition of Approval # 77 regarding electrically controlled gates, Condition of Approval # 82 regarding red-painted curbing, Condition of Approval # 135 k) regarding hot tubs, spas or swimming pools, and the wording of Mitigation Measure VI-a(ii) of the Mitigation Monitoring and Reporting Program on page 9, regarding recommendations versus action implementations.

Commissioner Zermeño thanked staff for including graffiti language in the report. In reference to open and private spaces, Senior Planner Rizk indicated that the common open space (the park and parcel C) will be maintained by the Homeowners Association and the open space (parcels A and D and other common areas) will be maintained by the GHAD. He added that each individual lot has a private outdoor space that will be maintained by individual homeowners. In reference to Attachment J, Mr. Rizk indicated that staff will ensure that there will be a variety of color schemes for the homes.

Commissioner McKillop inquired about applicant's request of a development agreement and its implication. Mr. Rizk indicated that the purpose of agreements is to provide flexibility and identify responsibilities by the applicant and the City in association with project developments. He added that applicants typically request such agreements.

In response to Commissioner Thnay, Director of Public Works Bauman indicated that the interior streets that will be proposed at 40-foot right-of-way, 30-foot curb-to-curb, five feet on either side of the sidewalk, parking on one side throughout with the exception of Street A, which will be modified to be a 36-foot curb-to-curb and two-way street with parking on both sides. The one-way street portion shown on the plans will also be modified to be a two-way street, he added.

Commissioner Sacks expressed concern for pedestrian safety and arrangements for sidewalks and driveway cuts.

Chair Thnay opened the public hearing at 8:18 p.m.

Mr. Jack Smith mentioned that the proposed project is different than the previous in that the improved revised project is a joint effort by staff and consultants to produce attractive homes with spectacular views that are acceptable to the community. Mr. Smith concurred with the staff report, conditions of approval, and the development agreement. He introduced his partners and team members indicating that they would be able to answer questions if needed.

In response to Commissioner Peixoto's inquiry about drainage and mitigation measures, project engineer Pete Ruggeri indicated the surface water can be drained away from the houses and the runoff from the hillside be intercepted by concrete "V" ditches, which could keep the water from going onto the yards. In reference to ground water, Mr. Ruggeri added that there would be sub-drainage improvements installed where groundwater is found.

Dr. Joseph Connell, President of Moreau Catholic High School and former Chair of the Mission–Garin Neighborhood Planning Task Force, encouraged the Commissioners to accept the staff's recommendation alluding that it is in accordance with what was envisioned by the majority of the members of the task force. He indicated he was convinced that the proposed project will attract teachers and staff members of not only Moreau School, but those from the Hayward Unified School District, Cal State East Bay, and Chabot College as well. He expressed support for the project.

Ms. Lynn Shinn, 731 Alquire Parkway resident/owner, indicated that she was involved with the proposed developments for the area and anticipated in getting the same cooperation with the Garin Vista project as with the La Vista project. She indicated that since her home is surrounded by the new homes, she expressed concerns with the traffic and security, visibility, and noise issues. She was assured that the issues are going to be mitigated with landscaping and new fencing, but emphasized the importance of the driveway for her neighbors and her property.

In response to Commissioner Bogue's concern and the need for the extension of Alquire Parkway, Director of Public Works Bauman mentioned that the access to the three homes is going to be a driveway. He further stated that Ms. Shinn's concern was broadly discussed at a previous meeting regarding the La Vista project. Mr. Rizk indicated that the landscaping, fencing, and Ms. Shinn's concerns will be addressed accordingly and that grading will be required, but that slopes will not be as extreme as the slope at the end of Alquire Parkway.

Mr. Joe Callahan with Garin Vista indicated that the combination of landscaping with the fact that the road goes away to the east will take care of Ms. Shinn's concerns.

Chair Thnay closed the public hearing at 8:41 p.m.

Commissioner Thnay commented that the fruition of La Vista and Garin Vista projects is going to create 305 units which reinforce his conviction that the proposed community center should be located in the La Vista quarry area to serve the homeowners of the area. He requested that the location for the community center be re-visited as part of the South Hayward Bart Plan Study.

Commissioner Sacks thanked Mr. Callahan and Mr. Warren for the four-wheel vehicle tour of the area a couple of years ago and for bringing this area "to life." Ms. Sacks congratulated those that took part in putting together a project in an area that needed attention.

Commissioner Bogue mentioned the four-wheel vehicle tour as an enlightening experience. He added that after additional improvements to the conditions such as the landslides, the proposed project will be far superior to the original design. He expressed that prospective homeowners are going to enjoy the spectacular views. He made a motion to approve the staff report recommendation.

Commissioner Zermeño seconded the motion indicating that he too had the opportunity to visit the hills two years ago and added that this project is an improvement to the area. He echoed Dr. Connell's support for the project.

Commissioner McKillop was satisfied to see a project that has been resurrected and has come to fruition. She indicated she was pleased to see issues related to the site resolved. She showed excitement with the community center and supported the motion commending staff and those involved with the project.

Commissioner Lavelle supported the motion and thanked Mr. Callahan. She mentioned that she did not have the opportunity to be part of the tour but since she lives in the hills, she was glad that the City is able to provide the same opportunity to other home dwellers. Her overriding concern for the project was the look that this proposed project will have in contrast with other hillside developments and other communities. She looked forward to seeing improvements done to this area. In reference to Condition of Approval #1b) regarding color and materials board, she requested that staff give the Commissioners the opportunity to view those before approval by the Planning Director. There was consensus that a sentence be added to Condition of Approval #1 b).

Commissioner Peixoto expressed support for the project alluding that challenges can be mitigated after following the recommended measures proposed by staff. He was pleased that this project provides prospective homeowners with the opportunity of choice via the proposed single family homes. He also stated that projects in the area provide a good mix of high density and single family homes. Furthermore, he indicated that project benefits outweighed any of the unintended consequences, such as the coordination of the La Vista project and the connection with La Vista Quarry via the trail, the community center, the downstream sewer infrastructure upgrade, the water tank, and the respect that developers showed committing to open space.

Chair Thnay thanked staff and the developers for presenting a good project. He showed appreciation for long-standing families that come together to leave a legacy for Hayward. He was pleased by the spectacular views that the project would provide, and the overall quality solution to a difficult site.

Commissioner Bogue moved, seconded by Commissioner Zermeño, and unanimously approved to recommend that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program; approve the Zone Change, Preliminary Development Plan, Vesting Tentative Map and Development Agreement, subject to the attached findings and conditions of approval with an addition to Condition of Approval #1b) that the Planning Commission be informed when the color and material boards are available before approval of the Precise Plan by the Planning Director.

CITY OF HAYWARD
AGENDA REPORT

Meeting Date: 02/09/06

Agenda Item: 1

TO: Planning Commission

FROM: David Rizk, AICP, Senior Planner

SUBJECT:

I. **Zone Change Application No. PL-2005-0322 PD** – Request to Amend the Prezoning District Designation from Medium Density Residential (RMB4) and Agriculture (AB10A) to Planned Development (PD), to Allow for Construction of 126 Single-Family Homes; Request to Approve the Associated Preliminary Development Plan;

II. **Vesting Tentative Map Tract Application No. PL-2005-0323 TTM 7354** - Request To Subdivide an Approximately 50-Acre Site to Create 126 Single-Family Lots and Related Streets, a Private Park and Open Space;

III. **Development Agreement Application No. PL-2005-0358 DA** – Request for Approval of a Development Agreement in Association With the Proposed Development.

Howard M. Settle, Maxine F. Theobald, Andrew E. Garin, Richard S. & Annette P. Warren, John M. and Lia F. McKenzie (Owner) / Garin Vista, LLC, Jack Smith, President (Applicant)

The Project Site is Located Northeast of the Intersection of Woodland Avenue and Bodega Street, West of Garin Regional Park.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program; approve the Zone Change, Preliminary Development Plan, Vesting Tentative Map and Development Agreement, subject to the attached findings and conditions of approval.

BACKGROUND:

The 50.4-acre site, which is the site of a former quarry that ceased operation several decades ago, is proposed for development of 126 single-family residential lots and related streets, along with a new 1.9-acre private park and associated open space. A new public road and related extension of Alquire Parkway is proposed, which will serve the development, along with an emergency access easement to Clearbrook Circle to the south, which will provide additional access in the event of an emergency. An emergency vehicle access easement for use by emergency vehicles is

EXHIBIT C

also proposed along the southern border of the tract, which would lead to the parking lot of the adjacent Oak Hills Apartments Complex. The emergency access road would also be available during emergencies by residents in the existing development to the south, should Garin Avenue be unavailable. The site is in unincorporated Alameda County and is proposed to be annexed into Hayward.

In July of 2003, the City Council approved the Mission-Garin Annexation Study, which demarcated the development potential of that area, including the Garin Vista site. In anticipation of annexation into the City of Hayward, the properties in the study area were prezoned and an annexation application was filed with the Local Agency Formation Commission of Alameda County (LAFCO) in the fall of 2003. It is anticipated that LAFCO will hold a hearing regarding the annexation in the near future.

As a result of the Mission-Garin Annexation Study, the City Council approved a General Plan Land Use designation of Limited Medium Density (8.7 to 12.0 units per net acre) and a prezoning designation of Medium Density Residential (RMB4, 4,000 square foot minimum lot area) and Agriculture (AB10A, 10 acre minimum lot size) for the site. Also, the City Council established a new special design district in the area, the Mission-Garin Area Special Design District (SD-5), which included design guidelines and maximum thresholds for development. Those provisions indicate that the maximum development potential for the site is 169 units.

If the proposed project is approved, a condition of approval would require that the site be annexed into Hayward prior to recordation of the final map and subsequent construction. Staff is also recommending that the approvals would only become effective upon the effective date of annexation.

Project Description

If the project is approved and annexation occurs, it is envisioned to be constructed at the general time the La Vista development to the north is built. The La Vista development was approved in July of last year, subject to its annexation into Hayward. Excess fill material is proposed to be exported from this property to the La Vista tract. Also, the proposed extension of Alquire Parkway, which will connect to the La Vista tract and provide a secondary access to that development, would also be utilized by this project. Both projects are closely linked and, as discussed under the development agreement section, have common interests in terms of development.

Site and Subdivision Layout

The proposal would entail construction of 126 single-family homes on lots ranging in size from approximately 3,000 square feet to 7,745 square feet, which results in an average lot size of 4,425 square feet. A recommended condition requires that the only lot proposed to be less than 3,000 square feet in size (lot 112) be increased to 3,000 square feet minimum. The lots are proposed between the Hayward earthquake fault to the west and Garin Regional Park to the east. The units would be located along 10 rows, with parking proposed on one side of all streets. Although some of the streets within the development are proposed as public, they do not meet the minimum 40-foot right-of-way width. The applicant has indicated a desire and ability to

widen the rights-of-way to 40 feet to meet the minimum public street standards. A recommended condition from staff would require that road rights-of-way be at least 40 feet wide; otherwise, the roads would be required to be private. The western (front) dual road, Street A, is awkward and is conditioned by staff to be redesigned to a standard public street, which the applicant supports.

The development would be accessed from the northwest via an eastward extension of Alquire Parkway and a new public road. The public entry road would require crossing two private properties (Browne and Dareing). A condition of approval requires that such land be acquired and dedicated to the City to allow for the construction of the roadway. Currently, agreement has not been reached regarding acquisition of the western portion of Ms. Daering's property, which would allow for development of the public road. Discussions between the parties are on-going and, although a resolution may be possible, it would entail creation of lots for future development in the east (rear) portion of the Dareing property that would necessitate general plan and zoning amendments. However, in that a public hearing concerning the City's annexation is anticipated before LAFCo in the near future, it is not possible at this time to process such a proposal. Because annexation law precludes a change in zoning designations within two years of annexation that would be inconsistent with designations that existed at the time of annexation, it would appear that a resolution as proposed may not be possible at this time.

Also, as reflected in the development agreement and as shown on sheet 7 of 8 of the vesting map plan set, the project would entail extension of sewer and water mains, as well as installation of laterals, to the Bodega Street properties, to the north of the proposed tract. Bodega Street, which is a private street that provides access to such properties from Woodland Avenue, is proposed to be reconfigured and rebuilt, which would result in improved access for those residents, via the aforementioned Alquire Parkway extension.

The development would be served by the City's public sewer and water systems. As with the La Vista project, prior to project finalization and occupancy, an additional water tank adjacent to the existing tank at the Garin Reservoir site to the south off Garin Avenue would be required to be constructed. Related water system upgrades would be required, including improvements to the pump station and a new backbone piping distribution network. To address water quality issues and to minimize disruption of service due to fault rupture, the water mains that would serve the development and the La Vista tract would be designed in a loop configuration, located east of the Bodega Street lots, outside the earthquake fault zone. An additional water main would be provided that would cross the fault trace and connect to the existing water main in Alquire Parkway. Sewer mains are proposed to cross the fault trace within the proposed entry road and connect to the main in Alquire Parkway. Any required upgrades to downstream sewer mains would be required to be done, with the project developer paying fair share costs for such upgrades.

The proposed storm drain mains within the streets would be public; all other storm drain systems would be private, including a detention basin located northwest of the project within the La Vista tract, adjacent to the proposed Alquire Parkway extension. Slopes above the homes would be recontoured and include engineered benches and concrete drainage ditches, along with storm drain pipes to carry stormwater downhill.

Substantial grading is proposed on the site, including export of 750,000 cubic yards of material to the La Vista development site. A haul road to the east of the Bodega Street properties along an existing dirt road is proposed to be utilized for exporting fill material to the La Vista site, thereby eliminating the potential for damage to public roads. Over 100,000 cubic yards of material is proposed to be cut and used as replaced fill on the site. Such route will be used as a water main maintenance road in the future, where a water main is proposed.

A geologic hazard abatement district (GHAD) will be required to be formed to ensure the undeveloped lands around the tract (excluding the proposed park and open space parcel (Parcel C)), as well as the drainage system associated with the development, including the proposed detention basin to the northwest of the tract, are regularly inspected, maintained and, if necessary, repaired. A GHAD is an assessment district where assessments are collected and used for required maintenance and/or repairs. A project "plan of control" prepared by a qualified professional is required to be developed, which stipulates the frequency and parameters of the GHAD maintenance schedule. The GHAD will be managed by the homeowners association.

A small, 1.9-acre, private park is proposed along the southern edge of the tract, by the Oak Hills Apartment complex. Also, a recommended condition of approval would require creation of a public pedestrian trail from the development along one of the water main maintenance roads to the east of the Bodega Street properties, which is envisioned to provide a connection to the La Vista tract to the north and the related 30-acre park that will be constructed as part of that development. In addition to paying full park dedication in-lieu fees of over $1.5 million, the applicant has also agreed to contribute $1 million toward construction of a new community center in the area.

Residences

The living areas of the single-family homes would range in size from 1,953 to 2,665 square feet. All units would have two-car garages, 20-foot deep driveways and decks/porches, with 14 of the units containing tandem garages. The homes are designed to follow the terrain, with 74 of the units proposed to be "downhill" units, generally along the west side of streets, with the other 52 units designed as "uphill" units.

The homes consist of eight different plans in three different color schemes, as described below.

Downhill Units:

- Plan "A" (7 units) is the largest of the units and has 4 bedrooms and 4 bathrooms within three stories, with the lower story following the terrain and opening onto a rear patio area. The main living area and kitchen would be on this floor, with the garage and master bedroom suite on the middle floor.
- Plans "B" (6 units) and "B1" (13 units) would contain up to 4 bedrooms and 3½ bathrooms on two floors. Plan "B1" has its main living area, including kitchen, laundry room and master bedroom suite on the ground floor with the garage, thereby providing options for elderly and handicapped residents. Additional bedrooms and bathrooms would be located on the lower floor adjacent to a rear patio area.

- Plan "C" (26 units) is the second largest unit and would contain three floors, with the garage and main living area and rear balcony on one level, with additional bedrooms below and the master bedroom suite on the upper floor.

Uphill Units:

- Plans "D" (14 units) and "E" (15 units) are the smallest units proposed and would include 3 bedrooms and 2½ bathrooms on two floors, with the garage on a lower third floor. A rear patio and front balcony over the garage are proposed for each of these units.
- Plans "F" and "Fa" (45 units) include 4 bedrooms and 4 bathrooms within three stories, with the master bedroom suite and additional bedroom and bathroom proposed within the third floor. A rear patio is also proposed off the second floor, along with the main living area. The garage and an additional bedroom/office and bathroom are proposed on the ground floor.

All units are proposed in a contemporary style of architecture, with stucco exteriors and composition shingle roofs. The units would have a simulated brick or stone base on the exterior and on chimneys and front entry features, along with a painted fiber cement board siding detail in certain locations. Painted wood trellises and metal rails for balconies are proposed. Staff recommends all railings be wood, if in compliance with the project's fuel management plan.

A total of 56 trees were identified on the project site, primarily consisting of ornamental and fruit trees located on the residentially-developed McKenzie property in the western portion of the site. Willow and other trees associated with water located along the drainage course in the northern portion of the site that will not be within the limits of grading, as well as a few scattered oak trees at the property periphery. Several bushes exist along the southern boundary, which provide screening towards the adjacent apartment complex. Of the 56 trees identified, 25 are proposed to be removed, which will be primarily the trees on the McKenzie property, many of which are in marginal health. A total of over 458 new trees (minimum 24-inch box size) are proposed along the fronts of lots consisting of a variety of species, as well as an additional 436 in other locations throughout the development, including on the slopes behind the development toward the Garin Regional Park boundary.

DISCUSSION AND ANALYSIS:

Consideration of General Plan policies should be considered when contemplating the project. Staff's discussion and analysis in the context of these policies follows.

Design

The extent and density of development will be guided into a cohesive pattern that will minimize visual impacts and avoids encroachment into natural, undisturbed areas, consistent with the General Plan policy that states developers should, "Design hillside development to be sensitive to the maintenance of a natural environment through retention of natural topographic features such as drainage swales, streams, slopes, rock outcroppings, and natural plant formations" (Land Use Section, *Hillside Development, Policy 9*).

Also, the development will be compatible with surrounding residential land uses, with a high-quality design and use of darker, earth tones for the homes, consistent with City policy that indicates the City should, "Employ sound planning principles to promote a balance of land uses and achieve a vibrant urban development pattern that enhances the character of the city" (Land Use Section, *Balance of Land Uses – Policy 1*).

Housing

The development will further the City's goal to provide ownership housing opportunities, as well as opportunities within the City for very-low and low income households (see later discussion related to the inclusionary housing plan).

Relevant General Plan policies state that the City should, "Encourage the provision of an adequate supply of housing units in a variety of housing types which accommodate the diverse housing needs of those who live or wish to live in the city" (Housing Section, *Expand the Housing Supply, Policy 1*); "Encourage the development of ownership housing and assist tenants to become homeowners in order to reach a 70% owner-occupancy rate, within the parameters of Federal and State housing law" (Housing Section, *Preserve Owner-Occupied Housing, Policy 3*), and should "Ensure that the City's housing stock contains an adequate number of decent and affordable units for households of all income levels" (Housing Section, *Develop Affordable Housing, Policy 4).*

Parks

The parks in closest proximity to the development are Stony Brook Park (4.5 acres), located about ¼ of a mile west at the northeast corner of Vanderbilt Street and Woodland Avenue, and Valle Vista Park (1.00 acre), located to the south across Mission Boulevard at the southeast corner of Dixon Street and Valle Vista Avenue.

The City's park dedication ordinance indicates 5 acres of parkland should be provided for every 1,000 people. Per the City's park dedication ordinance, the development would be required to dedicate 2.16 acres of parkland. The 2000 Census shows that nearly 9,200 citizens resided along the Mission Boulevard corridor between Harder Road and Industrial Parkway. This shows that the area is currently severely underserved by local parklands. The Hayward Area Recreation and Park District is undergoing a comprehensive update of its master plan, which will address such issues on a District-wide basis.

While the project would not result in dedication of any parkland, it would entail payment of over $1.5 million in the required park dedication in-lieu fees, as well as contribution of $1 million toward development of a new community park in the area. Also, the project would result in the permanent preservation as open space of the lands to the north and east of the development within the tract, as well as a link via a trail to the La Vista tract and adjacent park to the north. With the conditions associated with the La Vista development approval, an area of over 1,000 feet between the developments up to the boundary of Garin Regional Park would be preserved as natural open space. Such aspects of the project proposal are consistent with General Plan policies that encourage the City to, "Retain open space where it is important to preserve natural ecology and to establish the physical setting of the city" (Conservation and Environmental Protection Section, *Open Space Preservation, Policy* 1), to "Enhance the aesthetic and

recreational values of open space resources in the hill and shoreline areas" (*Regional Trails and Open Space Linkages, Policy 2*) and to, "Seek to increase the number and availability of multipurpose facilities in order to provide a variety of community services, recreational activities, and cultural amenities that are accessible to and benefit a cross-section of the community" (Community Facilities and Amenities Section, *Multipurpose Facilities and Cultural Opportunities, Policy 9*).

Schools

The project is located within the Treeview Elementary School attendance area. Using historic student yield factors, the development would be expected to generate 51 new elementary school students. However, recent student yield factors, which are based on more recent developments, would indicate a generation of only 21 students for the proposed development. The enrollment at Treeview has been declining during the past few years, dropping by 92 students since 2000, with the 2004-05 enrollment at 483 students. The School District is undertaking a comprehensive study of their school facilities and needs, with the results of such study expected to be released in the next few months. State law prohibits denial of a housing development based on lack of adequate school facilities. Rather, school impact fees (currently at $2.62 per square foot) are intended to satisfy the developer's obligation for schools.

Traffic

Utilizing standard ITE 7th Edition trip generation rates, the development would be expected to produce a maximum of approximately 80 in-bound trips during the PM peak hour. Also, the Mission-Garin Annexation Project program environmental impact report (MG EIR), certified by the City in July of 2003, analyzed impacts on future levels of service at various intersections that would occur from four different land use alternatives for the entire Mission-Garin Annexation area, of which the subject property is only one part. Three of those four alternatives analyzed development on the subject property of 136, 187 and 187 units. The level-of-service (LOS) analysis in the MG EIR indicates that none of the development scenarios for the entire Mission-Garin annexation area in the future conditions would result in a LOS below acceptable City standards (LOS D) at the Industrial Boulevard-Alquire Parkway/Mission Boulevard intersection. Since the proposed development of the subject property is at a level less than was analyzed in the MG EIR, it may be concluded that the project will not have a significant impact at the Mission Boulevard/Alquire Parkway intersection and therefore, the traffic impacts from the project would be considered insignificant.

Zone Changes/Preliminary Development Plan

The proposed development is consistent with the General Plan designation of Limited Medium Density Residential (8.7 to 12.0 units per net acre). Since approximately 25% (31) of the lots proposed would not meet the minimum typical standard of 4,000 square feet for single-family lots in the RMB4 zoning district (9.5% (12) of the lots would be less than 3,500 square feet) and because most of the lots would have only a 15-foot rear and front yard setback, where 20 feet is typically required, the applicant is proposing a Planned Development (PD) District.

Also, certain roadway sections are proposed at 15 percent grade, which exceed the maximum 12 percent standard, as required by the Mission-Garin Area Special District (SD-5) provisions,

except in cases where "necessary to minimize significant grading." Those sections of roadways within the development that exceed 12 percent slope are those limited areas of approximately 100 to 150 feet in length located between streets within the development. It is staff's opinion that the sections of streets that exceed 12 percent slope within the development are minor and have been found acceptable to the Fire Department. Also, decreasing such road slopes would extend the developed area further to the east, towards Garin Regional Park, thereby resulting in more grading for the project.

The SD-5 provisions also require that a minimum 10 percent of detached single-family units in the Special Design District be one story. For this project, such provision would require that 13 units be one story. The project is proposing that 13 such units be provided (Plan "B1"), which have a one-story elevation along the street and have the main living area on one floor with the garage. Additional bedrooms are provided below, to provide additional living area, desirable for households with elderly occupants that may entertain guests or grandchildren, etc.

In order for a Planned Development District to be approved, certain findings must be made. Those findings and related discussion follow.

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

The project is consistent with the General Plan designation of Limited Medium Density Residential (8.7 to 12.0 units per net acre) in that the development is proposed at 9.8 units per net acre, and the project will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in that 19 rental housing units for very low- and low-income households will be provided in the City as a result of the project, or will be provided on-site for moderate income households.

The development would be in substantial harmony with the surrounding area, including the single-family homes to the east and the apartment complex to the south, since the design and layout of the development involves a variety of single-family homes of high quality design that will not result in significant visual impacts as a result of required landscaping, architecture and colors consistent with the City's Hillside Design Guidelines and Mission-Garin Area Special Design District provisions, the project will be constructed on a former quarry site that currently contains unnatural, over-steepened slopes with landslides.

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

The project conditions of approval require that a public road be constructed to City standards that will serve the development, as well as emergency access roads that will not only provide emergency access for the proposed development, but also emergency access northward from existing development; upgrades to the Garin Reservoir System acceptable to the City will be completed prior to completion of development, including construction of a new water tank and upgrades to the associated pump station and the development will be required to

contribute its fair share costs to upgrade any identified undersized sewer mains that would serve the development.

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

The development would create a residential environment of sustained desirability and stability involving high-quality design, including a 1.9-acre private park serving the development and a trail leading to the development to the north and a new 30-acre park; and the project, as conditioned, would result in a $1 million contribution toward development of a new community center in an area of the City that lacks adequate recreational opportunities and would allow for creation an emergency access in the area where the only means of vehicular egress from the area is over the fault trace via Garin Avenue.

d. **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 exceptions requested for reduced minimum lot sizes for approximately 25% of the lots and the generally five feet in front and rear yard setbacks for the majority of the lots is offset with enhanced outdoor space in the hillside setting and contributions to recreational facilities involving payment of a $1 million contribution toward construction of a new community center in the general vicinity, as well as dedication and development of a new trail from the development to the adjacent tract to the north (La Vista), which will connect to a new 30-acre community park required to be constructed adjacent to the La Vista development.

Vesting Tentative Map

The proposed subdivision shows 126 single-family lots and 5 common space lots for a total of 131 parcels. The homeowners' association would own the five common open space lots. Staff is recommending that a condition of approval require that a separate lot be created between "B" Street and the Dareing property, to be similar in use to Parcel C, since such narrow area would be adjacent to development and would not be of the same character as the rest of Parcel D, which extends to the Garin Regional Park boundary.

The developer of this project will need to extend all utility services to the site. A new water reservoir and mains to supply sufficient water flows and pressure for domestic services and fire sprinkler systems are to be installed as part of Tract 7620, the La Vista Quarry project. The developer of the Garin Vista project would be required to pay for his proportionate share of the cost at the time of connection to these utilities. If the La Vista Quarry project is not constructed then the necessary water improvements would be constructed as part of this subdivision.

The developer will also be required to contribute its proportionate share of original costs for the Garin Water System under Benefit District 409-96.

Sanitary sewer and water mains and stub-outs will be provided for the properties along Bodega Street. Both public and private storm drain systems shall be constructed to facilitate the drainage from the hillside and proposed improvements. A detention pond will be constructed to meet Clean Water Program requirements and to regulate the flow of water off the site to not overwhelm existing downstream storm drainage facilities.

The developer will be required to improve the portions of Alquire Parkway and realign a portion of Bodega Street. These improvements will allow the development to gain access to Alquire Parkway and is design to also serve the La Vista Quarry subdivision. Emergency access ways will also be constructed that will allow emergency vehicle to access the project from Clearbrook Circle and provide a emergency connection to East Bay Regional Park.

Inclusionary Housing Plan

The City's Inclusionary Housing Ordinance requires that developments exceeding 20 residential units provide 15% of the units as affordable. For ownership projects, such as the one proposed, affordable units may be those affordable to moderate-income households (110% of the area median). For the proposed development, 19 units are required. However, the Ordinance also provides flexibility by allowing for the construction of off-site units, subject to certain determinations by the City Council.

When the La Vista project was approved in July of 2005, a condition was adopted related to inclusionary housing that states in part:

> "In accordance with the applicant's Inclusionary Housing Plan, applicant will assure that 27 rental units, affordable to low and very low income households, are constructed as part of a 72-82 unit rental housing development to be built by Eden Housing, Inc. on that property [northeast corner of Saklan Road and North Lane]. **The balance of the units may be reserved for possible future affordable housing obligations for other properties in which the applicant would have an equitable interest, to be used within five years from the effective date of the associated development agreement."**

The City is currently processing a development application from Eden Housing for the construction of 78 affordable apartments for very low and low income households at the Saklan Road/North Lane site in the western portion of the City. Also, the La Vista applicant has an equitable interest in the proposed project and, in fact, has indicated they plan to purchase the Garin Vista site in the near future. The property owners' representatives have acknowledged such plans (see Attachment F). The development agreement, as indicated later in this report, contemplates such acquisition and. The proposed inclusionary housing plan (see Attachment F) for this project would entail construction of 19 affordable apartments at the Eden Housing project site. Should such units not be constructed, 19 units available to moderate income households would be required to be made available within the Garin Vista development.

In order to approve off-site affordable units for a project, the following findings must be made:

a. **Off-site construction will further [promote] affordable housing opportunities in the City to a greater extent than construction of the required units as part of the proposed residential project;**

The apartments at the Eden Housing site would be affordable to households of very-low income (50 to 60% of the area's median) and low income (less than 50% of the area's median). The applicant is requesting that 19 of the apartment units be credited to this project. Combined with the 27 units associated with the La Vista project, a balance of 32 of 78 units would be reserved for possible future affordable housing obligations for other properties in which the La Vista applicant would have an equitable interest.

b. **A schedule for completion of the off-site units concurrently with completion of the related market-rate units is provided and agreed upon as a condition of approval for the project;**

The project schedule associated with development of the off-site affordable rental units by Eden Housing, Inc. indicates development of those units will begin in December of 2006. The proposed development agreement, discussed in the next section, indicates the proposed development would result in first building permits being issued in December of 2006. As described below, staff is recommending conditions to ensure the Eden development would be substantially completed prior to completion of the La Vista development.

Staff is recommending that building permits for no more than 50 on-site units be issued for the Garin Vista project, unless site work for the Saklan Road development is commenced, and that 50 more permits be allowed to be issued for housing units for the Garin Vista development if it is determined that substantial progress has been made for the Eden Housing development.

c. **The off-site units are at least equal in size and amenities to Affordable Units which would be allowed in the project, or any comparative deficiency in size or amenities is compensated for by additional units, larger units or affordability to households with lower incomes; and**

The rental units proposed will be affordable to very-low and low-income households, compared to the on-site units that would only need to be affordable to moderate income households.

Development Agreement

A development agreement, included as Attachment B, is being proposed by the applicant. The purpose and intent of the City's development agreement ordinance is to, "strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the costs of development by providing an option to both the city and developers to enter into development agreements. Such agreements shall only be used for large multiphase developments, low and moderate income housing developments meeting state or federal standards, and developments involving the installation or provision of substantial public facilities

or services which may require several years to complete." The proposed agreement identifies responsibilities on the part of the owner related to public facilities, payment of a contribution to a new community center, etc., as well as and obligations on the part of the City,

Per Section 6.1(b) of the proposed development agreement, the owner may sell, assign, or transfer to La Vista LP without City approval all or a portion of owner's interests, rights and obligations under the agreement. As indicated previously, La Vista is planning to purchase the site in the near future.

Per the ordinance, the Planning Commission must make the following findings and determinations before recommending approval of a development agreement to the City Council:

a. **The proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.**

   The proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, Mission-Garin Area Special Design District, and the Hillside Design and Urban Wildland/Interface Guidelines in that section 4 of the development agreement stipulates the development must be consistent with such provisions.

b. **The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.**

   Section 4 of the development agreement indicates the development must be consistent with existing land use regulations. The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the General Plan, as amended, allows for Limited Medium Density Residential development at 8.7 to 12.0 dwelling units per net acre and the development is proposed at 9.8 dwelling units per net acre.

c. **The proposed development agreement is in conformity with public convenience, general welfare and good land use practice.**

   The proposed development agreement is in conformity with public convenience, general welfare and good land use practice in that it will provide new housing opportunities and substantial contribution toward development of a new community center, while minimizing impacts to the area and ensuring a geologic hazard abatement district will be formed.

d. **Existing or proposed public facilities have sufficient capacity to accommodate the proposed development.**

   The agreement provides for the extension of Alquire Parkway and a new public road that would serve the development, as well as a new emergency access easement road and emergency vehicle access easement road along the southern property line, providing for enhanced access during emergencies, and a new 1.2 million gallon water tank and related system improvement to the Garin Reservoir water system.

e. The public health, safety, and general welfare will be promoted and advanced by the proposed development.

The public health, safety, and general welfare will be promoted and advanced by the proposed development in that mitigation measures will be required as part of development approvals to ensure significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, naturally-occurring asbestos and geologic hazards.

f. The orderly development of property or the preservation of property values will be promoted and advanced by the proposed development.

High-quality single-family housing will be constructed in an area that contains a former quarry with associated over-steepened slopes and landslides, resulting in fewer impacts to, and a more compatible development with, surrounding residences. Additionally, sewer and water service would be extended to properties along Bodega Street.

ENVIRONMENTAL REVIEW (CEQA)

This proposal is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. Staff has prepared an Initial Study (see Attachment G), which indicates there could be potentially significant environmental impacts related to aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality and noise. However, as indicated in the Initial Study, staff concludes that those potentially significant environmental impacts will be mitigated to a level of insignificance through the implementation of mitigation measures. Those measures and the timing and implementing/monitoring responsibility for them are indicated in the attached Mitigation Monitoring and Reporting Program (see Attachment G).

Naturally Occurring Asbestos

Asbestos is classified as a known human carcinogen by state, federal and international agencies and was identified as a toxic air contaminant by the California Air Resources Board (CARB) in 1986. All types of asbestos are hazardous and may cause lung disease and cancer. Asbestos is a term used for several types of naturally-occurring fibrous minerals found in many parts of California. The most common type of asbestos is chrysotile, but other types are also found in California. Serpentine rock often contains chrysotile asbestos. Serpentine rock, and its parent material, ultramafic rock, are abundant in the Sierra foothills, the Klamath Mountains, and Coast Ranges. According to the project consultants, there is serpentinite material present on the site, including within material to be exported from the site. Attachment H from the project environmental consultant, summarizes measures to be implemented while such material is being hauled from the site, including treating the haul route and implementing measures (usually wetting down haul loads) to ensure dust will not cross the project boundary. Such measures will be required to be approved by the Bay Area Air Quality Management District as part of an overall dust mitigation plan. Also, mitigation measures require that any material containing toxic levels of naturally-occurring asbestos be buried at least four feet below final grade, as

recommended by the project geotechnical consultant, and that samples be taken in accordance with standard protocol to ensure the top four feet of material is "clean."

Earthquake Fault Traces/Landslides

Several fault investigations have been conducted on the site to locate earthquake fault traces. The proposed homes would be located at least 50 feet from such traces, in accordance with standard practice. Also, although the primary water mains from the Garin Reservoir system to the southeast that would serve the site would not cross the fault trace, an additional water line to connect to the main along Alquire Parkway, storm drain lines and the sewer main to the development would do so. Mitigation measures require such lines to cross the trace perpendicularly when feasible, and additional measures be implemented regarding the types of material used for the lines, shut-off-valves on both sides of the fault, etc., in accordance with City standards and the project geotechnical engineer's recommendations.

The project geotechnical engineer has identified several landslides on the site, primarily associated with past quarrying activity that resulted in unfinished, over-steepened slopes. The project would result in removal of such slides within the development area and replacement as engineered fill, to be overseen by the project geotechnical engineer in the field. Those outside the development area will be addressed through creation of the Geologic Hazard Abatement District (GHAD).

Safety

A fuel management plan will be required to be incorporated into project design, consistent with the City's Urban/Wildland Interface Guidelines. Adequate water supply and pressure will be provided as well, through the construction of new water system components. To ensure impacts related to the upper slopes and surrounding undeveloped slopes and areas are addressed, a geologic hazard abatement district is recommended in the conditions of approval, to provide a funding mechanism and schedule for regular maintenance and, if necessary, repair of the slopes or adjacent lands impacted by failure of such slopes.

Biological Resources

One issue that has arisen regarding Mitigate Measure IV(a), associated with potential impacts to California red-legged frog and Alameda whipsnake. The measure, which is taken from the 2003 Mission-Garin Annexation EIR and was repeated in the Mitigated Negative Declaration for the La Vista project, requires that the US Fish and Wildlife Service (USFWS) "confirm" habitat assessments for those two species that were conducted by the project biological consultant. Such assessments concluded that there is not appropriate habitat to support such species. The USFWS has not responded to requests for review of such assessments for the La Vista project and apparently typically will not unless a permit is required. Per CEQA Guidelines Section 15074.1 (see Attachment I), if a mitigation measure is determined to be infeasible or otherwise undesirable, a lead agency may substitute another measure it determines is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment. Given the USFWS's typical position, staff is recommending that language be added to the measure, which would allow the City as an alternative to hire and developer pay for a qualified independent biological consultant to confirm that the assessments were conducted properly and in accordance with resource agency protocol. Staff feels such measure would be achieve the same objective as having the USFWS do so. Such

language has been added in the attached initial study and mitigation monitoring and reporting program (see Attachment G).

PUBLIC NOTICE

A notice for a July 14, 2005 preliminary meeting for the proposed vesting tentative tract map was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the then-latest assessor's records asking for comments on the project. The Planning Division received comments related to concerns associated with dust from hauling, drainage, naturally-occurring asbestos and the alignment of the new Alquire Parkway extension as it relates to the driveways and properties of adjacent homes.

On January 9, 2006, a Notice of Public Hearing and Availability of a Mitigated Negative Declaration was published in the Daily Review and property owners and occupants within 300 feet of the project boundaries were notified, as were the Fairway Park Neighborhood Association, interested parties and appropriate public agencies. At the time of completion of this report, the Planning Division had not received correspondence related to such notice.

CONCLUSION

The project would provide public benefit by way of a substantial contribution toward construction of a new community center and enhanced emergency access in the area, would result in minimal impacts to surrounding development, given it is a residential project of high quality design that would generate relatively minor visual impacts, and would be constructed in accordance with recommendations and under the supervision of a California-registered geotechnical engineer and per asbestos dust mitigation requirements of the Bay Area Air Quality Management District.

Prepared by:

David Rizk, AICP
Senior Planner

Recommended by:

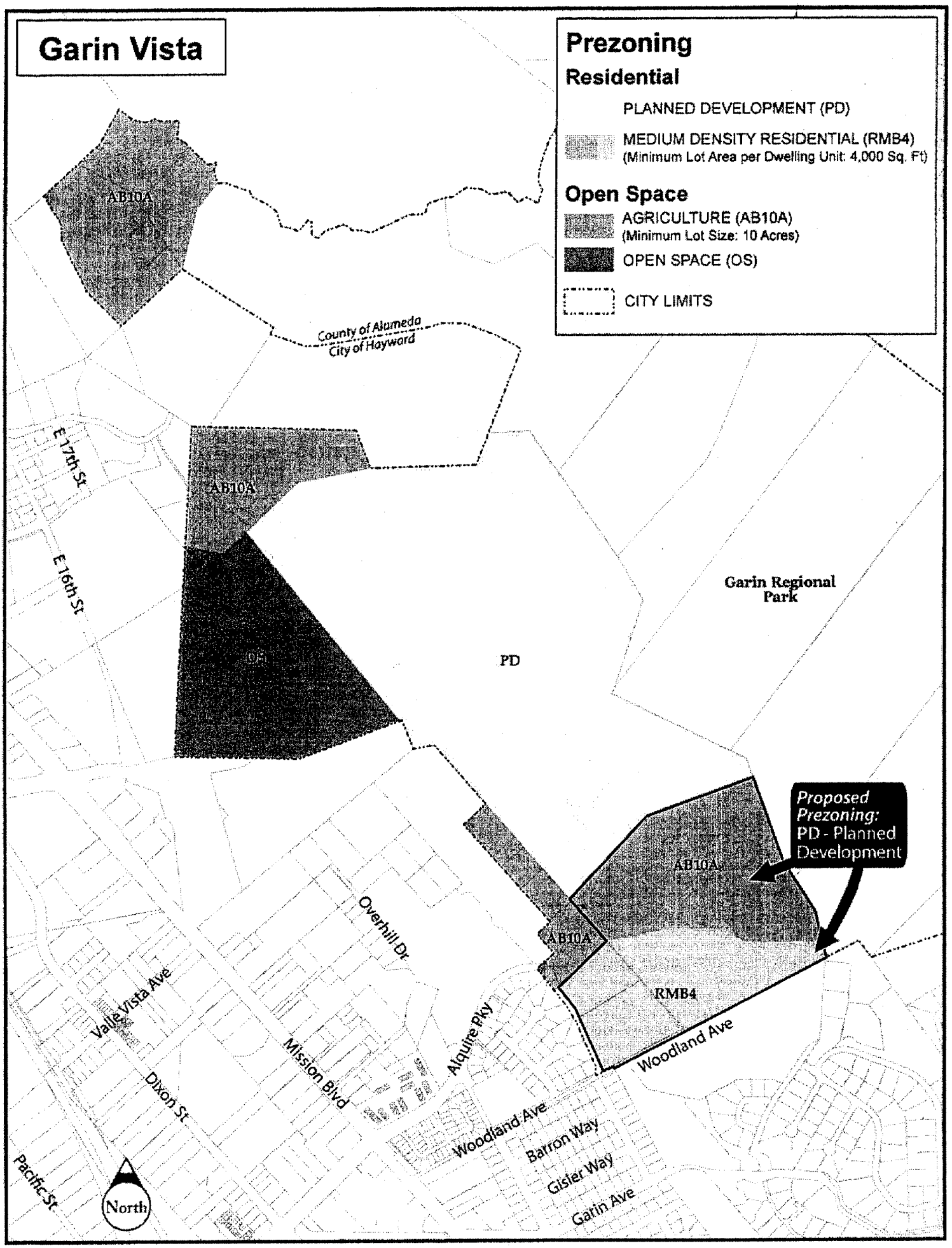
Richard Patenaude, AICP
Acting Planning Manager

Attachments:

A. Zoning Map showing proposed amendments
B. Development Agreement
C. Findings for Approval – Planning applications

D. Findings for Approval – Vesting Tentative Map
E. Conditions of Approval
F. Letters regarding Inclusionary Housing Plan proposal
G. Mitigated Negative Declaration, Initial Study and Mitigation Monitoring and Reporting Program (revised date of 2/9/06)
H. December 20, 2005 report by Northgate Environmental Management, Inc., entitled "Addendum to Geologic Investigation to Evaluate Naturally Occurring Asbestos"
I. CEQA Guidelines Section 15074.1
J. Photo Simulations

Plans and Exhibits



ATTACHMENT A

DEVELOPMENT AGREEMENT

BY AND BETWEEN

JOHN M MCKENZIE, LIA MA F. MCKENZIE, AND GARIN VISTA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (JOHN K. SMITH, PRESIDENT) AND THE CITY OF HAYWARD

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GARIN-VISTA/MCKENZIE PROJECT DEVELOPMENT AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this _____ day of _____, 2006, (the "Agreement Date") by and between John M McKenzie, Lia Ma F. McKenzie, and Garin Vista, LLC, a California Limited Liability Company (John K. Smith, President) ("OWNER"), and the CITY OF HAYWARD, a municipal corporation, organized and existing under the Hayward City Charter and laws of the State of California ("CITY").

RECITALS

This Agreement is entered into based upon the following facts:

A. When used in these Recitals, each of the terms defined in Section 1 of this Agreement shall have the meaning given to it therein.

B. Government Code Sections 65864-65869.5 authorize CITY to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, in order to, among other things: encourage and provide for the development of public facilities in order to support the development of new housing; provide certainty in the approval of development projects in order to avoid the waste of resources and the escalation in the cost of housing and other development to the consumer and encourage investment in and commitment to comprehensive planning which will make maximum efficient utilization of resources at the least economic cost to the public; and, to provide assurance to developers (1) that they may proceed with their projects in accordance with existing policies, rules and regulations, subject to their conditions of approval and (2) in order to strengthen the public planning process.

C. OWNER is the holder of a legal or equitable interest in the Property legally described in Exhibit A, and desires and intends to develop the Property as a limited medium density residential development for the uses and purposes set forth in the Development Plan. The Development of

the Property requires substantial early and major capital expenditures and investments with respect to the construction and installation of major infrastructure and facilities, both on-site and off-site, including, without limitation, contribution to a new community center, payment of park dedication in-lieu fees, sewer, water and road improvements, and a contribution to off-site affordable housing (the "Project"), to serve the residents and others using the Property as anticipated by the General Plan, the Development Approval(s) listed on Exhibit B and this Agreement.

D. CITY has determined that the Development Plan implements the goals and policies of CITY's General Plan (as referenced in Government Code Sections 65450 et seq.) applicable to the Project and provides appropriate land uses and imposes appropriate standards and requirements with respect to land development and usage so as to maintain the overall quality of life and of the environment within CITY.

E. Pursuant to Government Code Section 65865, CITY has adopted the CITY Development Agreement Ordinance, establishing procedures and requirements for the consideration of proposed development agreements.

F. OWNER has applied for, and CITY has adopted certain development approvals listed on Exhibit C, including approval of a Vesting Tentative Tract Map (7354) (hereafter "the Current Development Approvals"). The Project also includes amendments to zoning/prezoning designations to *Planned Development District (PD)* for the property. This Development Agreement will protect the interests of CITY's existing and anticipated citizens and the quality of their community and environment through the planned development process. As part of the process of approving the Development Plan, CITY has analyzed the environmental effects of this Project, adopted a Mitigated Negative Declaration on _____, and made the necessary findings required by the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") pursuant to Resolution No._____, and adopted a mitigation monitoring and reporting program pursuant to Resolution No._____.

G. The CITY's staff has reviewed this Agreement and deemed it to be complete and prepared a report to the Planning Commission pursuant to CITY Municipal Code Section 10-9.05 regarding this Agreement's consistency with the CITY's General Plan. The Planning Commission has made a recommendation containing the necessary findings set forth in the CITY Municipal Code Section 10-9.08 which recommends that the City Council authorize execution of a Development Agreement. The City Council has held a public hearing, and found and determined that this Agreement: (i) is consistent with CITY's General Plan, (ii) is in the best interests of the health, safety and general welfare of CITY, its residents and the public; (iii) is entered into pursuant to and constitutes a present exercise of the police power by CITY; and (iv) is entered into pursuant to and complies with the requirements of Section 65867 of the Development Agreement Legislation and the CITY Development Agreement Ordinance.

H. CITY adopted Ordinance No. _____ on_____, 2006, approving this Agreement and its execution in accordance with the provisions of the Development Agreement Legislation and CITY's Development Agreement Ordinance.

I. Based on the foregoing, OWNER and CITY desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals of fact, the mutual covenants contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

1. SECTIONS; DEFINITIONS AND EXHIBITS.

1.1 Sections and Paragraphs. Any reference in this Agreement to a "Section" is a reference to the indicated numbered section or sub-section of this Agreement and a reference to a "Paragraph" is a reference to the indicated paragraph of a Section.

1.2 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.2.1 "Affordable Housing" means the affordable housing to be provided offsite, which is a part of the Development Approvals. Approval of the Affordable Housing shall be in accordance with the approved Inclusionary Housing Plan, which is more fully described in Exhibit D.

1.2.2 "Bodega Street Owners Agreements" means the agreements between owners of Bodega Street private properties, the OWNER and the CITY, which indicate the owners of Bodega Street properties will not oppose the Mission-Garin Annexation and which specifies certain improvements to Bodega Street properties the OWNER will have installed, including improvements to Bodega Street and installation of sewer and water mains and laterals to such properties. A copy of such agreement is included as Exhibit E.

1.2.3 "Building and Improvement Standards" means Regulations of CITY which are of general application which establish regulations and standards for the building, construction and installation of structures and associated improvements such as and including, without limitation, CITY's building, plumbing, mechanical, grading, swimming pool, sign and fire regulations.

1.2.4 "CITY" means the City of Hayward, a charter city located within the County of Alameda, State of California.

1.2.5 "CITY Development Agreement Ordinance" means Ordinance 84-015 C.S. (CITY Municipal Code Sections 10-9.01 through 10-9.15) which was adopted on July 10, 1984, establishing a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Legislation.

1.2.6 "Current Development Approvals" means those certain Development Approvals in effect on the Effective Date with respect to the Property, specifically Zone Change (Application No. PL-2005-0322), which authorizes classification of the Property to a Planned Development District and related approval of the associated Preliminary Development Plan, Vesting Tentative Tract Map 7354 (Application PL-2005-0323), as listed in Exhibit C.

1.2.7 "Development" means the improvement of the Property for purposes of building the structures, improvements and facilities comprising the Project including, without limitation: grading, the construction of infrastructure and public facilities,in cluding the construction of the Entry Road, realignment of Alquire Parkway and Bodega Street, related to the Project whether located within or outside the Property; the construction of structures and buildings, the dedication of open space; the installation of landscaping; and the payment of certain monies related to the Community Center and the Affordable Housing; but not including the maintenance, repair, reconstruction or redevelopment of any structures, improvements or facilities after the construction and completion thereof; and the payment of monies for the acquisition of right-of-way for the construction of backbone infrastructure.

1.2.8 "Development Agreement Legislation" means Sections 65864 through 65869.5 of the California Government Code as it exists on the Effective Date.

1.2.9 "Development Approval(s)" as listed in Exhibit B, means site specific plans, maps, permits and other entitlements to use of every kind and nature approved or granted by CITY in connection with the Development of the Property, including but not limited to: zone change, preliminary development plan, vesting tentative and final subdivision tract maps, development permits for residences, the Neighborhood Park, the Community Center, the Affordable Housing, road improvements, water tank, recreational amenities, development allotments, conditional use permits, variances, and grading, building and other similar permits.

1.2.10 "Development Plan" means the development authorized by the Current Development Approvals listed in Exhibit C, including, without limitation, Resolution Nos. _____; and Ordinance Nos. _____ and _____, approving the preliminary plan for and authorizing the reclassification of the Property to a Planned Development District ("PD"), as requested by Zone Change Application No. PL-2005-0322 PD.

1.2.11 "Effective Date" means the date which annexation of the Property into the City of Hayward is executed and becomes effective.

1.2.12 "Entry Road" means the public road extending from the proposed Alquire Parkway Extension to the boundary of Tract 7354.

1.2.13 "Existing Land Use Ordinances" means those certain Land Use Ordinances in effect on the Effective Date.

1.2.14 "Existing Land Use Regulations" means those certain Land Use Regulations in effect on the Effective Date, including but not limited to Existing Land Use Ordinances and Current Development Approvals.

1.2.15 "General Plan" means the Hayward General Plan adopted by the CITY.

1.2.16 "Governing Policies" means (i) the policies specified in Section 4.1; and (ii) Existing Land Use Ordinances, but not including Development Approvals.

1.2.17 "Land Use Ordinances" means the ordinances adopted or to be adopted by CITY which govern permitted uses of land, density and intensity of use and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to, Ordinance No._____, adopted on_____, 2006; zoning ordinances and zoning reclassifications, development moratoria, ordinances implementing growth management and phased development programs, ordinances establishing development exactions, subdivision and any other similar or related codes and Building and Improvement Standards.

1.2.18 "Land Use Regulations" means Regulations of CITY governing the permitted uses of land, density and intensity of use, including but not limited to adoption or amendment of CITY's General Plan and Mission-Garin Area Special Design District (SD-5) provisions, and the design, improvement and construction standards and specifications applicable to the Development of the Property. Land Use Regulations include, but are not limited to, Land Use Ordinances and Development Approvals. The term Land Use Regulations does not include, however, regulations relating to the conduct of business, professions and occupations generally; taxes and assessments; regulations for the control and abatement of nuisances; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; and, any exercise of the power of eminent domain.

1.2.19 "OWNER" means John M McKenzie, Lia Ma F. McKenzie, and Garin Vista, LLC a California Limited Liability Company (John K. Smith, President).

1.2.20 "OWNER's Obligations" means the obligations of OWNER to pay the sums, build and construct the improvements, dedicate the lands and improvements and undertake and perform the other actions described in Section 3.

1.2.21 "Project" means all phases of the development project contemplated by the Development Plan with respect to the Property, including but not limited to on-site and off-site improvements, as such development project is further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.2.22 "Property" means those certain lands as to which OWNER has a legal or equitable interest on the Effective Date, as legally described in Exhibit A.

1.2.23 "Public Facilities" means those certain lands and facilities, including the construction of the Entry Road, realignment of Alquire Parkway and Bodega Street, to be improved, constructed and dedicated or conveyed to the public pursuant to Section 3.1, as referenced in the Conditions of Approval, listed on Exhibit F.

1.2.24 "Recreational Facilities" means the recreational facilities associated with the Development Approvals.

1.2.25 "Regulations" means laws, statutes, ordinances, and codes (including the Building and Improvement Standards), resolutions, rules, regulations and orders; approvals, denials and conditional approvals in connection with tentative, vesting tentative and final subdivision maps, parcel maps, conditional use permits, variances and other permits of every kind and character; programs; and official policies and actions of CITY together with amendments to all of the foregoing.

1.2.26 "Reservations of Authority" means that the Agreement shall not prevent the CITY, in subsequent actions applicable to the Project, from applying new rules, regulations, and policies applicable to the Property as set forth herein in Section 4 and allowed by applicable law, nor prevent the CITY from denying or conditionally approving any subsequent application on the basis of Existing Land Use Regulations.

1.2.27 "Schedule for Phasing and Construction" means:

Receive Current Development Approvals..... February 2006

Approval of Rough Grading.....March 2006

Approval of Improvement Plans, Grading Plans and Final Maps..... May 2006

Start Subdivision Improvements ..... June 2006

Start Homes..... December 2006

The Developer has reserved its right to file multiple final maps on the lands shown on the Vesting Tentative Map. It is currently anticipated that there will be a single phase of development and construction. Nothing prohibits earlier or later start times to schedule items as shown above, subject to normally-required approvals being granted.

1.3 Exhibits. The reference to a specified "Exhibit" in this Agreement is a reference to a certain one of the exhibits listed below, as determined by the accompanying letter designation, which exhibits are attached hereto and by this reference made a part hereof.

Exhibit Designation	Description
A	Legal Description of Garin-Vista/McKenzie Project Site
B	List of all Development Approvals
C	List of Current Development Approvals
D	Description of Inclusionary Housing Plan
E	Bodega Street Owners Agreement
F	Conditions of Approval

2. MUTUAL BENEFITS AND ASSURANCES.

2.1 Purposes of Agreement. This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will ensure certain anticipated benefits to both CITY (including, without limitation, the existing and future residents of CITY) and OWNER as described in the RECITALS, and to provide to OWNER assurances regarding the Regulations that will be applicable to the Development of the Property, including but not limited to those relating to timing,

density and intensity of development, that will justify the undertakings and commitments of OWNER described above and the substantial and early investment in major on-site and off-site infrastructure needed for the Project.

2.2 Undertakings and Assurances Contemplated and Promoted by Development Agreement Legislation. The mutual undertakings and assurances described above and provided for in this Agreement are for the benefit of CITY and OWNER and promote the comprehensive planning, private and public cooperation and participation in the provision of public facilities, the effective and efficient development of infrastructure and facilities supporting development and the mitigation of the impacts of development on the community which was contemplated and promoted by the Development Agreement Legislation.

2.3 Bargained For; Reliance by Parties. The assurances provided to OWNER in Section 4 are provided pursuant to and as contemplated by the Development Agreement Legislation and are bargained and in consideration for the undertakings of OWNER set forth in Section 3 of this Agreement.

3. OWNER'S OBLIGATIONS; PROVISION OF PUBLIC BENEFITS.

3.1 In General; Public Benefits.

(a) Public Benefits. It is acknowledged that a primary purpose of this Agreement is to provide for the coordinated completion of the Affordable Housing referenced in Exhibit D, the Recreational Facilities and the Public Facilities referenced in Exhibit F, as well as contributions and dedications which aid in offsetting the impacts of the Project on the community at large, and provide substantial public benefits, which are referenced in Exhibit F. Accordingly, OWNER shall promptly (to the extent that a time for performance is specified herein or in an Implementation Agreement executed pursuant to Section 3.2) and fully perform OWNER's Obligations as set forth in and subject to the terms and conditions of Exhibit F.

(b) Existing Conditions and Undertakings. OWNER shall continue to be obligated to, and shall, perform all of the duties and obligations provided for or required by any provisions of the General Plan, the Development Plan, the Current Development Approvals, and the conditions contained in Exhibit F in connection with the Development of the Property. OWNER shall have no obligation under this Agreement to proceed with development of the Project, if it decides, in its sole discretion, that it is unable or unwilling to construct the Project. If OWNER fails to complete any Project phase or Development Approval requirement, CITY may, after providing OWNER with notice and opportunity to cure, and an opportunity for a public hearing, modify or cancel the Development Approvals. CITY may also terminate this Agreement pursuant to Section 10.1 if OWNER fails to construct the Project in accordance with the Development Approvals.

3.2 Dedication, Construction and Conveyance of Public Facilities. The Public Facilities to be dedicated (in the case of lands) and/or constructed by OWNER and dedicated or conveyed to CITY as referenced in Exhibit F, shall be completed in accordance with the provisions of Exhibit F and designs, specifications and standards promulgated by CITY in accordance with the Existing Land Use Regulations and dedicated and conveyed to CITY in fee, free of all liens and encumbrances of every kind and nature except as expressly set forth in Exhibit F or agreed in writing by CITY. In order to effectuate the purposes of this Agreement, OWNER and CITY may enter into one or more agreements (hereinafter jointly "Implementation Agreement(s)") prior to the filing and recording of each Final Map necessary for the Property. Such Implementation Agreement(s) may take the form of a Subdivision Improvement Agreement. Each Subdivision Improvement Agreement shall provide the specific terms and set forth standards and deadlines for the construction and completion of the Public Facilities and their conveyance to CITY as provided for in this Agreement, and construction of privately owned infrastructure and common facilities necessary for the subdivision or phase described in the Vesting Tentative Map and Precise Development Plan approval.

3.3 Relationship of Parties. In performing OWNER's obligations, OWNER is acting under this Agreement as an independent contractor and is not acting as the agent or employee of CITY nor shall anything in this Agreement be construed as creating between OWNER and CITY a partnership or joint venture for any purpose.

3.4 Public Works. If OWNER is required by this Agreement to finance and either design or construct any public works facilities which will be dedicated or conveyed to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in accordance with CITY specifications.

3.5 Obligations Regarding Public Facilities. In any instance where OWNER is required to construct any Public Facilities on lands within City not owned by OWNER, OWNER agrees to use its best efforts to acquire any rights-of-way, easements, or other property rights or interests which CITY reasonably determines to be necessary for such Public Facilities, including, but not limited to, the construction of the Entry Road, realignment of Alquire Parkway and Bodega Street. In the event that OWNER is unable to acquire any such property right or interest and it becomes necessary for CITY to utilize eminent domain to acquire any real property rights or interests necessary for the construction of such Public Facilities, OWNER shall be obligated to pay for the costs of acquiring such rights or interests, including but not limited to relocation costs, costs of suit and attorney's fees, except as otherwise provided for in Exhibit F.

3.6 Effect on Project Schedule. In any instance where CITY is responsible for constructing any Public Facilities for which OWNER is required to pay for all or a portion of the costs of such construction and any related land acquisition as described in Exhibit F, OWNER shall cooperate with the CITY and CITY shall use its best efforts to construct any such Public Facility to achieve the timing goals of the phasing plan approved by CITY or timing of build out and occupancy of the Project. The CITY's

inability to complete construction of any Public Facility necessary for the Property due to circumstances beyond the CITY's control shall not constitute a default of this Agreement.

3.8 Benefit District/Reimbursement Agreement. Upon OWNER's request and payment of CITY's processing charges, the CITY shall initiate proceedings to establish a benefit district or a reimbursement agreement to the extent that the off site system improvements constructed or financed by OWNER pursuant to Exhibit F benefit other properties which are hereafter developed, and OWNER has not been reimbursed for such costs.

4. REGULATIONS GOVERNING THE DEVELOPMENT OF THE PROPERTY AND OTHER CITY OBLIGATIONS.

4.1 Governing Policies. The following policies set forth in this Section 4.1 are consistent with and are provided for in or contemplated by the Existing Land Use Regulations, including the General Plan and the Development Plan.

(a) Permitted Uses. The uses permitted hereunder in accordance with the Existing Land Use Regulations, including but not limited to the following: residential, open space and other public and private recreation facilities, as more specifically described in and subject to the limitations of the Development Plan.

(b) Number of Dwelling Units, Density and Intensity. The maximum total number, density and intensity of residential units permitted hereunder in accordance with the Existing Land Use Regulations, are as set forth in the Development Plan.

(c) Maximum Height and Size of Buildings. The maximum height and size of the Project buildings within the Property are as permitted in accordance with the Development Plan.

(d) Reservations and Dedications of Lands for Public Purposes and Undertaking to Participate in Completion of Major Public Facilities. As provided in Section 3 and more

specifically detailed in Exhibit F, OWNER has undertaken to dedicate certain lands and construct and convey to the public the Public Facilities; to dedicate land for, to construct site improvements for, and to contribute certain funds for the Recreational Facilities; and to dedicate land for, to construct site improvements for, and to contribute certain funds for the Affordable Housing; and to provide certain public benefits. In addition, the Existing Land Use Regulations and Current Development Approvals require OWNER to provide and undertake certain other public benefits and facilities.

(e) Moratoria, Phasing of Development. The parties acknowledge and agree that the Governing Policies contemplate and provide for the phasing of the Development of the Property and that except as expressly provided in this Section 4, no subsequent CITY imposed moratorium, ordinance, resolution, or other land use regulation or limitation on the conditioning, rate, timing or sequencing of the Development of the Property or any portion thereof shall apply to or govern the Development of the Property during the term hereof whether affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building permits, occupancy permits or other entitlements to use issued or granted by CITY. In the event of any such subsequent action by CITY, OWNER shall continue to be entitled to apply for and receive Development Approvals in accordance with the Existing Land Use Regulations and Ordinances, and to otherwise develop the Property subject only to the exercise of the reservation of Authority set forth in Section 4.3, the limitations described in Section 4.4 and the terms of this Agreement.

4.2 Regulation of Development.

(a) In General. Notwithstanding any future action of CITY, whether by ordinance, resolution, initiative or otherwise, the CITY Land Use Regulations applicable to and governing the Development of the Property during the term hereof shall be the Existing Land Use Regulations except and subject to the Reservations of Authority and the terms of this Agreement.

(b) Vested Rights. In developing the Property, OWNER is provided and assured the vested right to require that the Land Use Regulations of CITY applicable to and governing the Development of the Property during the term hereof shall be as provided in this Section 4.2.

4.3 Limitations. Reservations and Exceptions. Notwithstanding anything to the contrary set forth in Section 4.2 herein above, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by CITY hereafter shall apply to and govern the Development of the Property ("Reservations of Authority"):

(a) Future Regulations. Future CITY Land Use Regulations which are not in conflict with the Governing Policies or which are in conflict with the Governing Policies and the application of which to the Development of the Property has been consented to in writing by OWNER;

(b) State and Federal Laws and Regulations. Existing and future State and federal laws and regulations, together with any CITY regulations, programs and actions, or inaction, which are reasonably (taking into consideration, among other things, the assurances provided to OWNER hereunder) adopted or undertaken by CITY in order to comply with mandatory state and federal laws and regulations; provided, that in the event that State or federal laws and regulations prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such State and federal laws and regulations, in which event this Agreement shall remain in full force and effect to the extent that it is not inconsistent with such laws and regulations and that performance of the remaining provisions would not be inconsistent with the intent and purposes of this Agreement;

(c) Public Health and Safety. Land Use Regulations which are adopted by CITY, which may be in conflict with the Governing Policies which are reasonably required in order to prevent a condition dangerous to the health or safety of the residents of the Project or adjoining properties;

(d) Building and Improvement Standards. Present and future Building and Improvement Standards, except that (taking into consideration the assurances to OWNER in Section 4) any future amendment thereto which reduces the amount off land within the Property which can be utilized for structures and improvements or increases the amount of open space within the Project under the Development Plan shall not be considered a provision of any of the Building and Improvement Standards included within the exception provided by this Paragraph 4.3(d) and shall not apply to and govern the Development of the Project unless it complies with another exception under this Section 4.3 (such as, for example, Paragraph 4.3 (c));

(e) Processing Fees and Charges. Legally allowed processing fees and charges of every kind and nature imposed or required by CITY under current or future Regulations covering the actual costs of CITY in (i) processing applications and requests for permits, approvals and other actions and (ii) monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of OWNER hereunder; and

(f) Taxes, Fees and Assessments. CITY may impose taxes, assessments and fees, as allowed by the Existing Land Use Ordinances and the Existing Land Use Regulations, necessary to implement the Project, as detailed in Exhibit F. The amount of any fees, taxes and assessments applicable to the Project may be reasonably increased over time so long as the increase is applied consistently to all comparable land or projects subject thereto.

4.4 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the Development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies.

4.5 CITY Cooperation. CITY will cooperate with OWNER and take such additional actions as may be reasonably requested by OWNER to implement this Agreement, including but not limited to the formation of a Geologic Hazard Abatement District ("GHAD") necessary to maintain lands within Parcels A, D and E as shown on the Vesting Tentative Tract Map, as well as Parcels A, B, C and D as shown on sheet 7 of 8 of the Vesting Tentative Tract Map plan set, and, if necessary, repair such lands as well as any adjacent lands impacted by geologic failure of the slopes within such parcels, formation of special benefit district(s) for the financing of the construction, improvement, or acquisition of public infrastructure, facilities, lands to benefit the Project, its residents and the CITY in general; provided, however, any such action shall be subject to CITY's Reservations of Authority. In performing any and all of its obligations under this Agreement, CITY shall do so in a timely manner and CITY's failure to carry out any of its obligation under this Agreement in a timely manner shall relieve OWNER from compliance with any reasonably related requirement or obligation under this Agreement.

4.6 Sewer and Water Capacity. OWNER shall design and construct, design and fund, or contribute a proportionate share of the cost of constructing the water system improvements, pursuant to Exhibit F requirements. For those off-site water system improvements which the OWNER is obligated to design and fund, and CITY is obligated to construct, CITY shall use its best efforts to complete such improvements in an expeditious and timely manner to enable timely issuance of Project building permits and certificates of occupancy. Any failure by CITY to construct or complete any such Public Facility necessary for operation of the Project, or any phase thereof that makes it impossible for OWNER to comply with the Development Approvals or with this Agreement, or to construct the Project in accordance with the phasing plan approved by CITY, shall not constitute a breach or default under this Agreement. CITY acknowledges that, with the water and sewer improvements to be implemented by OWNER, there is adequate water and sewer capacity to serve the Project.

4.7 Acceptance of Dedications. In accordance with the requirements of Exhibit F, CITY shall accept in a timely manner all dedications and conveyances of Public Facilities from OWNER.

4.8 Credit and Reimbursement Generally. At the time of each final map approval for any portion of the Project, CITY shall reimburse OWNER, to the extent that CITY has received contributions defraying the cost of such improvements from other benefited property owners, or consider establishment of a benefit district or reimbursement agreement, or grant a credit for, all funds expended, costs incurred or improvements made by OWNER pursuant to OWNER'S obligations as set forth in Exhibit F to the extent that OWNER's contributions or improvements directly benefit other development.

4.9 Credit for Infrastructure. It is anticipated that certain of the Public Facilities to be constructed by Owner would enable other residential projects in the vicinity of the Project. City agrees to condition approval of any project that would rely on Owner-funded Public Facilities improvements upon payment on a per-lot basis of the fair share of the cost of such Public Facilities improvements if the owner funds the establishment of a benefit district or other means to determine such costs. The parcels identified below can be particularly identified as of the date of this Agreement, although the City's obligation under this section would apply equally to any such projects identified in the future. If other development that will rely on infrastructure precedes Project, credits shall be made against the above payments at the time they are paid. If other development to rely on Project infrastructure succeeds Project, Owner shall be reimbursed by the City in an amount equal to the required payments.

4.9.1 DeSilva Parcels. (Assessor's Parcel Numbers 083-0100-002-01, 083-0100-002-02, 083-0075-002-07, 083-0075-002-09, 083-0125-001-14)

4.9.2 Zaballos Parcel (Assessor's Parcel Number 083-0254-002-03)

4.9.3 Bodega Street Parcels. (Assessor's Parcel Numbers 083-0265-002-11 (Moita), 083-0265-002-14 and 083-0265-002-15 (Golden), 083-0265-002-19 (Rose), 083-0265-002-24 (Browne) and 083-0265-002-23 (Dareing)).

5. PERIODIC REVIEWS.

5.1 Annual Review. CITY and OWNER shall review the performance of this Agreement, and the Development of the Project, at least once every twelve (12) month period from the Effective Date. The CITY's reasonable costs of monitoring this Agreement shall be paid by OWNER. As part of such annual monitoring review, within thirty (30) days after each anniversary of this Agreement, OWNER shall deliver to CITY:

(a) a then current build-out phasing plan for the Project; and

(b) all information reasonably requested by CITY (i) regarding OWNER's performance under this Agreement demonstrating that OWNER has compiled in good faith with terms of this Agreement and (ii) as required by the Existing Land Use Regulations.

If as a result of such periodic review, CITY finds and determines, on the basis of substantial evidence, that OWNER has not complied in good faith with any of the terms or conditions of this Agreement, CITY may terminate this Agreement as provided in Section 10.2.

6. TRANSFERS AND ASSIGNMENTS.

6.1 Transfers and Assignments of Rights and Interests.

(a) General. Except as otherwise provided in this Section 6, neither party shall assign or transfer any of its interests, rights or obligations under this Agreement to another without the written consent of the other, which consent shall not be unreasonably withheld. The CITY shall promptly consent to the assignment if the CITY determines that all of the following requirements are met: (1) the OWNER shall not be in default of this Agreement, (2) the purchaser, assignee or transferee shall be willing and capable of complying with the terms and conditions of this Agreement and shall have agreed to comply with this Agreement, and (3) the purchaser, assignee or transferee shall provide City with any and all required information that City deems necessary to evaluate assignee's ability to comply with the terms and conditions of this development agreement and shall execute any document reasonably

requested by the CITY with respect to the assumption of the OWNER's obligations under this Agreement. In the event OWNER assigns, or transfers its interest in the Project, OWNER shall ensure that any such assignment or transfer includes an assignment or transfer of OWNER's obligations under this Agreement. OWNER shall also provide CITY with sufficient documentation of such assignment or transfer of OWNER's duties and obligations. The term "assignment" as used in this Agreement shall include successors-in-interest to the CITY or OWNER that may be created by operation of law. Notwithstanding the foregoing, CITY shall have the right to sell, assign or transfer to another public agency CITY's interest in any property dedicated or transferred to CITY pursuant to the terms of this Agreement.

Any attempt to assign or transfer any right or interest in this Agreement except in strict compliance with this Section 6, shall be null and void and of no force and effect.

(b) Exceptions. Owner may sell, assign, or transfer to La Vista LP, a California Limited Partnership ("La Vista LP"), all or a portion of Owner's interests, rights, and obligations under this Agreement without the prior written consent of City, provided that such sale, assignment, or transfer is in connection with a sale, assignment, or transfer of all or a portion of the Property, and La Vista executes any document reasonably requested by City with respect to the assumption of Owner's Obligations.

(c) Subject to Terms of Agreement. Following any such sale, assignment or transfer of any of the rights and interests of OWNER under this Agreement, the exercise, use and enjoyment shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were OWNER.

(d) Release of OWNER. Notwithstanding the sale, assignment or transfer of portions or all of the Property or rights or interests under this Agreement, OWNER shall continue to be obligated under this Agreement unless released or partially released by CITY with respect to OWNER's

Obligations and the other duties and obligations of OWNER under this Agreement, pursuant to this Section 6.1(d), which release or partial release shall be provided by CITY upon the full satisfaction by OWNER of the following conditions:

(i) OWNER is not then in default under this Agreement;

(ii) OWNER has obtained the consent of CITY to the sale, assignment or transfer as provided in Section 6.1(a) or the assignment is to La Vista LP; and

(iii) Such assignee or transferee has assumed such duties and obligations as to which OWNER is requesting to be released and such assignee or transferee has provided CITY with security and other assurances equivalent to that which were provided by OWNER assuring CITY that OWNER's Obligations and the other duties and obligations of OWNER under this Agreement for which OWNER is being released will be fully and strictly performed as provided in this Agreement.

7. TERM OF AGREEMENT.

7.1 Stated Term. This Agreement shall become effective on the Effective Date and unless earlier terminated pursuant to the provisions of this Agreement shall continue in effect for (10) years after annexation of the Property into the City. Notwithstanding the foregoing, in the event that the parties determine that a longer period is necessary to achieve the foregoing purposes, the term of the Agreement may be extended an additional five (5) years by the further written agreement of the parties in accordance with Section 8.

7.2 Rights and Duties Following Termination or Expiration. Upon the termination or expiration of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligations to have been performed prior to said termination or which survive such termination pursuant to the Existing Development Approvals, Implementation Agreement(s) or with

respect to any default in the performance of the provisions of this Agreement which has occurred prior to said termination.

8. AMENDMENT.

8.1 Amendment. Except as otherwise specifically provided in this Agreement, this Agreement may be amended or canceled only by the mutual agreement of the parties in accordance with Government Code Section 65868 and CITY Development Agreement Ordinance, in a writing executed by the parties and recorded in the official records of the County of Alameda.

8.2 Amendment of Development Plan. Except as otherwise expressly provided, the Project shall proceed in accordance with the Development Plan, conditions of approval (Exhibit F) approved by CITY on _____, which may be amended or modified by the City Council. Additionally, the Development Plan and conditions may be amended or modified in the following manner:

(a) The Planning Director may administratively amend or modify the Development Plan if the Director determines that the requested amendment or modification is substantially consistent with this Agreement.

(b) Except as provided herein, amendment or modification of the Development Plan shall comply with the procedural provisions of the CITY's Land Use Ordinances and Regulations in effect on the date of application for such amendment or modification.

9. PROCESSING OF REQUESTS AND APPLICATION; OTHER GOVERNMENT PERMITS.

9.1 Processing. Upon satisfactory completion by OWNER of all required preliminary actions, meetings, submittal of required information and payment of appropriate processing fees, if any, OWNER and CITY shall promptly commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development by OWNER of the Project in accordance with the Development Approvals, including but not limited to the following: processing and checking of all

applications, maps, site plans, development plans, land use plans, grading plans, building plans and specifications and environmental assessments and reports and holding all required public hearings for permits, entitlements or approvals relating to the development of the Project, including, but not limited to, all site plan approvals, final development plans, parcel maps, subdivision maps, subdivision improvement agreements, grading permits, building permits, lot line adjustments, encroachment permits and related matters as necessary for the completion of the development of all lots and parcels comprising the Project site. In this regard, OWNER, in a timely manner, will provide CITY with all documents, applications, plans and other information necessary for the CITY to carry out its obligations hereunder and will cause OWNER's planners, engineers and all other consultants to submit in a timely manner all required materials and documents therefore. It is the express intent of this Agreement that the parties cooperate and diligently work to implement any zoning or other land use, site plan, subdivision, grading, building or other approvals for development of the Project in accordance with the Development Approvals, and both OWNER and CITY each shall use their best efforts to effectuate the purposes of this Agreement.

9.2 Other Governmental Permits. In addition, OWNER shall apply in a timely manner for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. CITY shall cooperate with OWNER in its endeavors to obtain such permits and approvals.

10. DEFAULT AND REMEDIES.

10.1 Termination of Agreement for Default of Owner. CITY in its reasonable discretion may terminate this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under, or to comply in good faith with the material terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed

to take such actions and cure such default within ninety (90) days after the effective date of such notice or, in the event that such default cannot be cured within such ninety (90) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such ninety (90) day period and to diligently proceed to complete such actions and cure such default.

10.2 Termination of Agreement for Default of CITY. OWNER in its reasonable discretion may terminate this Agreement by written notice to CITY only after the default by CITY in the performance of a material term of this Agreement and written notice by OWNER thereof to CITY and, where the default can be cured, the failure of CITY to cure such default within ninety (90) days after the effective date for such notice or, in the event that such default cannot be cured within such ninety (90) day period, the failure of CITY to commence to cure such default within such ninety (90) day period and diligently proceed to complete such actions and to cure such default.

10.3 Remedies. In any proceeding relating to any issue arising under this Agreement, the parties may mutually agree to mediation of their dispute. Alternatively, either party may, in addition to any other rights or remedies it may have at law or in equity institute an action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforce by specific performance the obligations and rights of the parties hereto, after exhaustion of administrative remedies.

11. THIRD PARTY LITIGATION.

11.1 General Plan Litigation.

(a) Limitation. As set forth above, CITY has determined that this Agreement is consistent with the Land Use Regulations (including the General Plan) and meets all of the legal requirements of State law. The parties acknowledge that:

(i) in the future there may be challenges to legality, validity and adequacy of the Land Use Regulations; and

(ii) if successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of this Section 11, CITY shall have no liability under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the Land Use Regulations, or portions thereof, are invalid or inadequate or not in compliance with law.

(b) Revision of General Plan. If for any reason the Land Use Regulations or any part thereof are hereafter judicially determined as provided above to be not in compliance with the State or federal Constitutions, laws or regulations, this Agreement shall remain in full force and effect and upon the adoption or amendment of any Land Use Regulations which are necessary in order to comply with State or federal Constitutions, laws or regulations to cure such invalidity or inadequacy, together with any amendments of the Development Plan and the Land Use Regulations which are necessary in order to comply with such new or revised Land Use Regulations, the reference in Section 4 to the General Plan shall thereafter mean and refer to such new or amended General Plan, Development Plan and Land Use Regulations.

(c) Suspension of Obligations. In the event that Development of the Property is enjoined or prevented from proceeding by any judicial order or determination in connection with the determinations regarding the Land Use Regulations referred to above and the subsequent proceedings with respect thereto referred to in paragraph (b) of this Section, the time for performance of the obligations of the parties hereunder shall be extended as provided in Section 14.13.

(d) Option to Terminate. In the event that any such amendments of the General Plan or the Development Plan or Land Use Regulations result in a reduction in the number of units or the density or intensity, or timing, sequencing or phasing of Development, OWNER may terminate this Agreement by notice in writing to CITY and recorded in the official records of CITY.

(e) Opportunity to Intervene. In the event of a challenge to CITY's General Plan, CITY shall provide notice of such action to OWNER and OWNER may elect to intervene in any such action as a real party in interest. CITY agrees not to oppose such intervention.

12. EFFECT OF AGREEMENT ON TITLE.

12.1 Covenants Run With The Land. Subject to the provisions of Sections 6 and 14:

(i) All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns;

(ii) All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law; and

(iii) Each covenant to do or refrain from doing some act on the Property hereunder (A) is for the benefit of and is a burden upon every portion of the Property, (B) runs with such lands and (C) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner

through any owner of such lands, or any portion thereof, and shall benefit each party and its lands hereunder, and each other person succeeding to an interest in such lands.

12.2 No Dedication or Lien. Nothing herein shall be construed as constituting a dedication or transfer of any right or interest in, or as creating a lien with respect to, the title to the Property. Any dedication or transfer of any right or interest in the Property shall be made only in accordance with this Agreement.

13. HOLD HARMLESS

13.1 Hold Harmless; OWNER's Activities. OWNER hereby agrees to, and shall defend, indemnify and hold harmless CITY and its elected and appointed boards, commissions, officers, agents, and employees from any and all claims, costs and liability for any damages personal injury or death, which may arise, directly or indirectly, from OWNER's or OWNER's contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by OWNER or by any of OWNER's contractors or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for OWNER or any of OWNER's contractors or subcontractors.

13.2 Hold Harmless: Challenge of Agreement. OWNER further agrees to indemnify, hold harmless, pay all costs, including costs of suit and attorneys' fees, and provide a defense for CITY, upon CITY's tender, in any action challenging the validity of this Agreement or relating to any of the Existing Development Approvals, including. but not limited to compliance with any requirement of law, approval or action which is a condition precedent to Development of any portion of the Property.

14. MISCELLANEOUS PROVISIONS.

14.1 Effect of Agreement. As of the date the City Council adopts an ordinance authorizing this Development Agreement, the provisions of this Agreement shall bind the Property, and any part thereof.

14.2 CITY Acceptance of Mitigation. CITY acknowledges and agrees that compliance with the provisions of Exhibit F with respect to local park requirements through the planned payment of certain funds and fees for the Recreational Facilities and the dedication of land, the construction of site improvements and the payment of certain funds for development of the Affordable Housing constitutes full and complete satisfaction of required mitigation of impacts on affordable housing, parkland and open space and meets all CITY requirements regarding same.

14.3 Recordation of Agreement. The City Clerk of City shall cause this Agreement to be recorded within ten (10) days after the execution of this Agreement by OWNER and by CITY's City Manager pursuant to the ordinance approving this Agreement in the Official Records of the County of Alameda. Any amendment or cancellation of this Agreement shall be immediately recorded in the Official Records of the County of Alameda.

14.4 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

14.5 Severability. If any term, provision, covenant or condition of this Agreement, including but not limited to the Exhibits to this Agreement, shall be determined invalid, void or unenforceable by a final determination by a court of competent jurisdiction, the remainder of, this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Any final determination that any condition in any Exhibit is invalid, void or unenforceable shall not affect any other condition or portion of any Existing Development Approval which is not also specifically determined invalid, void or unenforceable except to the extent such remaining conditions are rendered impracticable to perform.

14.6 Integration and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

14.7 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

14.8 Singular and Plural. As used herein, the singular of any word includes the plural.

14.9 Joint and Several Obligations. If any obligation of OWNER to CITY is the obligation of more than one person, such obligation and any liability with respect thereto shall be joint and several among the obligees.

14.10 Time of Essence. Time is of the essence in:

(a) The performance of the provisions of this Agreement as to which time is an element; and

(b) The resolution of any dispute which may arise concerning the obligations of OWNER and CITY as set forth in this Agreement.

14.11 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

14.12 No Third Party Beneficiaries. The only parties to this Agreement are OWNER and CITY. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed to benefit or be enforceable by any other person whatsoever.

14.13 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations other than CITY's, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years or for a period which would cause this Agreement or provisions hereof to be void as violating the rule against perpetuities.

14.14 Attorneys' Fees. In any action or undertaking between the parties hereto to enforce the provisions of this Agreement, each of the parties hereto shall bear its own attorneys' fees.

14.15 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

14.16 Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent certified mail, postage prepaid and addressed as follows:

If to CITY:	Jesus Armas, City Manager City of Hayward 777 "B" Street Hayward, CA 94541-5007
With a copy to:	Michael O'Toole, City Attorney City of Hayward 777 "B" Street Hayward, CA 94541-5007
If to OWNER:	Jack Smith 22320 Foothill Blvd., Suite 620 Hayward, CA 94541

With a copy to: Martin W. Inderbitzen
7077 Koll Center Parkway, Suite 120
Pleasanton, CA 94566

Any notice given as required herein shall be deemed given seventy-two (72) hours after deposit in the United States mail or upon receipt. A party may change its address for notices by giving notice in writing to the other party as required herein and thereafter notices shall be addressed and transmitted to the new address.

14.17 Successors and Assigns. Subject to the provisions of Section 6, the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

14.18 Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

IN WITNESS WHEREOF, the parties. hereto have executed this Agreement on the day and year first set forth above.

OWNERS:

John M McKenzie _____

Lia Ma F. McKenzie _____

Garin Vista, LLC a California Limited Liability Company

_____

By John K. Smith, President

CITY: City of Hayward

By:_____

Its: City Manager

APPROVED AS TO FORM:

By:_____

Its: City Attorney

Exhibits:	A	Legal Description of Garin-Vista/McKenzie Project Site
	B	List of Development Approvals
	C	List of Existing Development Approvals
	D	Description of Inclusionary Housing Plan
	E	Bodega Street Owners Agreement
	F	Conditions of Approval

FINDINGS FOR APPROVAL

GARIN VISTA DEVELOPMENT
NORTHEAST CORNER OF WOODLAND AVENUE AND BODEGA STREET
(Zone Change Application No. PL-2005-0322 PD;
Vesting Tentative Map Tract 7354 Application No. PL-2005-0323 TTM
Development Application No. PL-2005-0358 DA)
Jack Smith, Garin Vista LLC (Applicant)

Findings for Approval – Zone Change/Preliminary Development Plan:

A. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies in that the project, proposed at 9.8 units per net acres, is consistent with the General Plan designation of Limited Medium Density Residential (8.7 to 12.0 units per net acre). The project will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in that 19 rental housing units for very low- and low-income households will be provided in the City as a result of the project, or will be provided on-site for moderate income households. Also, the development would be in substantial harmony with the surrounding area, including the single-family homes to the east and the apartment complex to the south, since the design and layout of the development involves a variety of single-family homes of high quality design that will not result in significant visual impacts as a result of required landscaping, architecture and colors consistent with the City's Hillside Design Guidelines and Mission-Garin Area Special Design District provisions. The project will be constructed on a former quarry site that currently contains unnatural, over-steepened slopes with landslides.

B. Streets and utilities, existing or proposed, are adequate to serve the development in that The project conditions of approval require that a public road be constructed to City standards that will serve the development, as well as emergency access roads that will not only provide emergency access for the proposed development, but also emergency access northward from existing development; upgrades to the Garin Reservoir System acceptable to the City will be completed prior to completion of development, including construction of a new water tank and upgrades to the associated pump station and the development will be required to contribute its fair share costs to upgrade any identified undersized sewer mains that would serve the development.

C. The development creates a residential environment of sustained desirability and stability, in that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development, in that the development would create a residential environment involving high-quality design, including a 1.9-acre private park serving the development and a trail leading to the development to the north and a new 30-acre park; and the project, as conditioned, would result in a $1 million contribution toward development of a new

community center in an area of the City that lacks adequate recreational opportunities and would allow for creation an emergency access in the area where the only means of vehicular egress from the area is over the fault trace via Garin Avenue.

D. 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, in that the exceptions requested for reduced minimum lot sizes for approximately 25% of the lots and the generally five feet in front and rear yard setbacks for the majority of the lots is offset with enhanced outdoor space in the hillside setting and contributions to recreational facilities involving payment of a $1 million contribution toward construction of a new community center in the general vicinity, as well as dedication and development of a new trail from the development to the adjacent tract to the north (La Vista), which will connect to a new 30-acre community park required to be constructed adjacent to the La Vista development.

Findings for Approval – Inclusionary Housing Plan:

A. The proposed project will result in greater affordable housing opportunities in Hayward than what would normally be required for the project in that apartments affordable to households of very low and low incomes would be developed as a result of the project, which would be more affordable that the units available to moderate income households that would otherwise be required.

B. The project schedule, as conditioned, will result in a project schedule that will ensure progress in development of at least 19 affordable units by Eden Housing, Inc. at the northeast corner of Saklan Road and North Lane at the same time as development of the proposed project. If such units are not constructed, 19 units available to moderate income households that would normally be required shall be provided on the subject property.

Findings for Approval – Development Agreement:

A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, Program Environmental Impact Reports, and Section 15074, Mitigated Negative Declarations, the Mission-Garin Annexation Project Environmental Impact Report (SCH #2002072047) was prepared and adopted in 2003, and a Mitigated Negative Declaration has been prepared in association with approval of the project, including Development Agreement Application No. PL-2005-0358, as conditioned, and it has been determined, based on the whole record (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration is complete and final and reflects the City of Hayward's independent judgment and analysis.

B. The proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, Mission-Garin Area Special Design District, and the Hillside Design and Urban Wildland/Interface Guidelines in that

section 4 of the development agreement stipulates the development must be consistent with such provisions.

C. The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the General Plan allows for Limited Medium Density Residential development at 8.7 to 12.0 dwelling units per net acre and the development is proposed at 9.8 dwelling units per net acre.

D. The proposed development agreement is in conformity with public convenience, general welfare and good land use practice in that it will provide new housing opportunities and substantial contribution toward development of a new community center, while minimizing impacts to the area and ensuring a geologic hazard abatement district will be formed.

E. Existing or proposed public facilities have sufficient capacity to accommodate the proposed development in that Alquire Parkway and a new public road that would serve the development will be built, as well as a new emergency access easement road and emergency vehicle access easement road along the southern property line, providing for enhanced access during emergencies, and a new 1.2 million gallon water tank and related system improvement to the Garin Reservoir water system will also be constructed.

F. The public health, safety, and general welfare will be promoted and advanced by the proposed development in that mitigation measures will be required as part of development approvals to ensure significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, naturally-occurring asbestos and geologic hazards.

G. The orderly development of property or the preservation of property values will be promoted and advanced by the proposed development in that high-quality single-family housing will be constructed in an area that contains a former quarry with associated over-steepened slopes and landslides, resulting in fewer impacts to, and a more compatible development with, surrounding residences. Additionally, sewer and water service would be extended to properties along Bodega Street.

Findings for Approval – Negative Declaration:

A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, Program Environmental Impact Reports, and Section 15074, Mitigated Negative Declarations, the Mission-Garin Annexation Project Environmental Impact Report (SCH #2002072047) was prepared and adopted in 2003, and a Mitigated Negative Declaration has been prepared in association with approval of Zone Change Application No. PL-2005-0322 PD, Tentative Tract Map Application PL-2005-0323 TTM 7354 and Development Agreement Application PL-2005-0358 DA as conditioned, and it has been determined, based on the whole record (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the

environment and that the Mitigated Negative Declaration is complete and final and reflects the City of Hayward's independent judgment and analysis.

B. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.

C. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare do not affect area views. Also, compliance with the City's Hillside Design and Urban/Wildland Interface Guidelines and Mission-Garin Area Special Design District (SD-5) provisions, including those that encourage darker, earth-tone colors and design compatible with the natural surroundings, will ensure visual impacts are minimized. Landscape plans will also be required to ensure that structures are appropriately screened.

D. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland and has been used and continues to be used for an active surface mining operation.

E. The project will not result in significant long term impacts related to changes in air quality, provided an Asbestos Dust Mitigation Plan approved by the Bay Area Air Quality Management District and standard dust control measures are implemented.

F. The project will not result in significant impacts to biological resources, including wildlife and wetlands, in that assessments and surveys approved by resource agencies or independent qualified biological consultants will ensure no such resources exist and if they do, resource agency-approved mitigation plans are implemented.

In accordance with Section 15074.1 of the CEQA Guidelines, changes to Mitigation Measure IV-a in the attached Initial Study that allow for confirmation by a qualified independent biological consultant that habitat assessments conducted for the California red-legged frog and Alameda whipsnake by the project biological consultant followed resource agency protocols and guidelines is determined to be as effective as the US Fish and Wildlife Service doing so. Such confirmation is determined to avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure requiring USFWS confirming such assessments, and will create no more adverse effect of its own than would have the original measure.

G. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleonotological resources, unique topography or disturb human remains.

H. The project site is located within a "State of California Earthquake Fault Zone"; however, fault trenching was conducted to locate fault traces to ensure no habitable structures would

be built closer than 50 feet to a fault trace. Furthermore, recommendations of the project geotechnical consultant will be required to be incorporated into project design and implemented throughout construction, to address such items as landslides and non-engineered on-site cuts and fills associated with a former quarry operation. Construction will also be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground shaking.

I. Any asbestos material will be required to be buried at least four feet below finished grade in the development area, and material within four feet of finished ground surface to be tested to ensure it complies with regulations regarding hazardous materials. Also, any hazardous materials will be required to be removed in accordance with State and local regulations. A site clearance will also be required to be obtained from either the State Department of Toxic Substances Control or the Regional Water Quality Control Board.

J. The project will be required to meet all water quality standards as part of the normal development review and construction process, to be addressed in a Stormwater Pollution Prevention Plan and Erosion Control Plan that utilize best management practices. Drainage improvements will be required to accommodate stormwater runoff and the stormwater drainage system, including the proposed detention basin northwest of the development, will be required to be sufficient, as confirmed by hydrologic and hydraulic calculations, so as not to negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.

K. The project proposes amendments to the Hayward prezoning designations for the site. The project site will be required to be annexed into the City of Hayward prior to issuance of building permits and be consistent with the City of Hayward's Hillside Design and Urban/Wildland Interface Guidelines and Mission-Garin Annexation Area Special Design District (SD-5) provisions.

L. As is typical for larger development projects in Hayward, construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of a Construction Noise Management Plan.

M. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan Environmental Impact Report (SCH #: 2001072069), certified by Hayward in March of 2002, and in the Mission-Garin Annexation Project Program Environmental Impact Report (SCH #: 2002072047), certified by Hayward in July of 2003.

N. The project will not result in a significant impact to public services in that proposed development was analyzed in the Hayward General Plan EIR and Mission-Garin Annexation Project Program EIR.

O. The project will not result in significant impacts to traffic, including levels of service at surrounding intersections, as was shown in the Mission-Garin Annexation Project Program EIR, which analyzed a range of development that exceeds that proposed.

FINDINGS FOR APPROVAL
VESTING TENTATIVE MAP TRACT 7354

1. The approval of Vesting Tentative Map Tract 7354, as conditioned, will have no significant impact on the environment, cumulative or otherwise. A Mitigated Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.

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

3. The site is physically suitable for the proposed type of development.

4. The design of the subdivision and the proposed improvements are **not** likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The design of the subdivision and the proposed improvements are **not** likely to cause serious health problems.

6. Upon completion of the proposed improvements the streets and utilities would be adequate to serve the project.

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

---

[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 are 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.

See Exhibit A, revised set of conditions

Attachment E

MARTIN W. INDERBITZEN

Attorney at Law

February 1, 2006

Mr. David Rizk, AICP
Senior Planner
City of Hayward
777 "B" Street
Hayward, CA 94541

RE: Garin Vista Inclusionary Housing Plan (IHP)

Dear David:

Attached to this letter please find the following:

1. A copy of the Inclusionary Housing Plan approved for the La Vista L.P. project;
2. A project summary prepared by Eden Housing, Inc., for the same project to provide 78 new affordable rental apartments for families; and
3. A copy of correspondence from Jim Somers, President of the DeSilva Group, indicating that an agreement has been reached between the Garin Vista representatives and the DeSilva Group (DSG), whereby DSG would provide 19 of the affordable housing units, in excess of those used for the La Vista project, to satisfy the affordable housing requirements for the Garin Vista proposal.

By way of this correspondence I wish to acknowledge that in fact, DSG and the Garin Vista representatives, through Jack Smith and myself, have completed negotiations whereby DSG has acquired an equitable interest in the Garin Vista project; that the terms of the agreement include DSG making available to Garin Vista approximately 19 affordable housing units in order to satisfy the affordable housing requirements under the city's Inclusionary Housing Ordinance; and that these documents taken together represent and constitute an appropriate Inclusionary Housing Plan under the city's Ordinance, and the Garin Vista obligation to provide affordable housing units under the terms of the city's Inclusionary Housing Ordinance.

If you should require additional information on this topic, please do not hesitate to contact me.

Very truly yours,

MARTIN W. INDERBITZEN

MWI/emc

Enclosure

GarinVista

7077 Koll Center Parkway, Suite 120, Pleasanton, California 94566 Phone 925 485-1060 Fax 925 485-1065

LAW OFFICES OF
HALEY, PURCHIO, SAKAI & SMITH
22320 FOOTHILL BOULEVARD, SUITE 620
HAYWARD, CALIFORNIA 94541
P. O. BOX 450
HAYWARD, CALIFORNIA 94543
TELEPHONES (510) 538-6400
(510) 351-1932
FACSIMILE (510) 538-0150

February 3, 2006

Jesus Armas, City Manager
David Rizk, Senior Planner
City of Hayward
777 "B" Street
Hayward, CA 94541

Re: Garin Vista Inclusionary Housing Plan

Dear Jesus and David,

This letter is to acknowledge that La Vista LPA, Limited Partnership has an equitable interest in Garin Vista and in accordance with Jim Summers letter, dated January 17, 2006 as confirmed by Marty Inderbitzen's letter of February 1, 2006 for the McKenzie's interest. The requirement for 19 affordable housing units for Garin Vista will be made by the DSG agreement to satisfy the request for these units in the project it is doing on Saklan Road.

Garin Vista, LLC

By: _____
John K. "Jack" Smith, President

The DeSilva Group

VIA FACSIMILE AND
FEDERAL EXPRESS

January 17, 2006

Jesus Armas, City Manager
City of Hayward
777 B Street
Hayward, CA 94541

Dear Jesus:

The DeSilva Group LLC ("DSG") has completed its negotiations with Jack Smith and Martin Inderbitzen and has acquired an equitable interest in the Garin Vista Project. The terms of our agreement include DSG making available to Garin Vista approximately 19 affordable housing units in order to satisfy the Affordable Housing Requirements for the Garin Vista Project. Affordable Housing Requirements means all requirements imposed on the Garin Vista Project to provide residential units at prices other than "market" rate, whether pursuant to the City of Hayward Inclusionary Housing Ordinance (commencing at Section 10-17 of the City of Hayward municipal code) or imposed by the City as Condition(s) of Approval for the Garin Vista Project.

In conformance with Condition 3 of DSG's Conditions of Approval for the La Vista Project we are hereby notifying the City that approximately 19 of the Affordable Housing Units in excess of those to be used for the La Vista Project will be used to satisfy the Affordable Housing Requirements on the Garin Vista Project.

Thank you for your courtesy and cooperation.

Sincerely,

James B. Summers
President

JBS:dla

P.O. Box 2922 • Dublin, California 94568 • 925/828-7999 • Fax 925/803-4327

I. Purpose of Inclusionary Housing Plan

The Saklan Family Housing Development is designed to bring high quality affordable multi-family housing to the city of Hayward and will serve to meet the inclusionary housing requirements of the DeSilva Group related to the LaVista Quarry single family development. The DeSilva Group is proposing to meet its inclusionary requirement through the off-site construction of affordable apartments. Saklan Family Housing will be comprised of 72 - 82 affordable family apartment units located at North Lane and Saklan Road in Hayward. The unit mix currently consists of 28 one-bedroom units, 20 two-bedroom units, and 32 three-bedroom units. This unit mix is subject to change. Upon approval by the Planning Director, this Inclusionary Housing Plan fulfills the requirement of Section10-17.310 of the City of Hayward Inclusionary Housing Ordinance.

II. Owner/Developer

A. Role of Eden Housing

Development

Eden Housing Inc. (EHI) will be the project sponsor and developer of the off-site housing. Eden Housing is a California non profit public benefit corporation which revitalizes communities through an array of development activities and social services that meet the needs of lower income people. EHI was founded in 1968 as a nonprofit, community-based development company through the efforts of a concerned group of citizens living in southern Alameda County. Recognizing the serious lack of good housing for low income residents, these community activists and civic leaders began work on their first project, the 150-unit Josephine Lum Lodge for senior citizens in Hayward. Thirty-three years later, Eden Housing has developed close to 4,500 residential units in over 60 developments (20 in the City of Hayward) and more than 40,000 square feet of commercial space in cities throughout Alameda, Santa Clara, Sonoma, Contra Costa, San Mateo and San Joaquin counties. Today, Eden Housing stands out as one of the most productive and successful nonprofit affordable housing developers in Northern California. Eden is recognized in the industry for its creative development approach that includes collaborating with local governments and tailoring projects to suit the locale.

Property Management

Eden Housing's property management firm, Eden Housing Management, Inc. (EHMI), will be the project property manager. Since its establishment in 1984, EHMI has provided professional, quality management for Eden's properties. EHMI is committed to the long-term maintenance of its properties. EHMI currently manages more than 2,400 units of rental housing for Eden Housing and third party owners. Through careful attention to issues as they arise and consistently sound managerial practices, EHMI far exceeds management industry standards for bad debt, lost rent write-offs and vacancy factors. EHMI's work is an integral part of the community development plan of the organization. The attention placed on management represents a long-term investment that goes well beyond bricks and mortar and speaks to Eden's goal of building communities. EHMI's central staff operates closely with a host of on-site personnel who tend to the daily needs of the properties and to the people who live in them.

Social Services

Eden Housing Resident Services, Inc. (EHRSI) will provide resident services. EHRSI was formed in 1995 as the Resident Services Department of EHMI, incorporated as a separate affiliated agency of Eden Housing in 1998, and designated a 501(c)(3) nonprofit organization by the IRS in March, 2000. Here, Eden links well-built and carefully managed housing with resources that support residents in their daily lives. Trained, qualified Resident Services Coordinators are on-site to offer important information and referral services and to implement key programs: child-care, after-school and summer activities, computer learning programs, and support for the frail elderly, to name but a few.

06/24/05 Fri 12:43 FAX 925 803 4327 The DeSilva Group 017

Project Ownership:

Saklan Lane Family Housing Apartments, will be owned and operated by a California limited partnership to be formed by Eden Housing. Eden Housing will be the initial managing general partner of the partnership. Prior to the time the project is put into operation, a 501(c)(3) nonprofit affiliate of Eden Housing will become the managing general partner, holding a .10% interest in the partnership. The tax credit investor will become the limited partner, holding a 99.90% interest in the partnership.

Land Transfer:
The DeSilva Group will acquire the site located at Saklan Road and North Lane and sell the property to Eden Housing, Inc. for $1. The terms of the sale will be detailed in a purchase and sale agreement between DeSilva and Eden and will include the demolition of the current structures and grading of the site.

III. Development Conceptual Design

A. Number/Type of Units & Affordability Mix

Saklan Family Housing is a new affordable rental housing development that will serve very-low-income and low-income households in Hayward. Units will range from 30% to 60% of the County Area Median Income. The mix of units, square footage and rents are subject to change. However, the unit mix will meet the affordability requirement specified in the Inclusionary Housing Ordinance, which is that 50% of the affordable housing units are to be affordable to very-low-income households and 50% of the affordable housing units to be affordable to low-income households. "Very- low-income" is defined as less than or equal to 50% of the County Area Median Income (AMI). "Low-income" is defined as greater than 50% of AMI but less than or equal to 80% of AMI. To ensure these units remain affordable, 55-year affordability covenants will be approved by the City and recorded with the County Clerk prior to the start of construction. A 55-year regulatory agreement will also be recorded by the California Tax Credit Allocation Committee which will include similar affordability restrictions.

Income Level	Square Footage	Projected Rent
Low Income (60% AMI)		
1BR	630	$700
2BR	919	$1,066
3BR	1,073	$1,227
Low Income (50% AMI)		
1BR	630	$700
2BR	919	$880
3BR	1,073	$1,012
Very Low Income (40% AMI)		
1BR	630	$581
2BR	919	$694
3BR	1,073	$797
Very Low Income (30% AMI)		
1BR	630	$426
2BR	919	$508
3BR	1,073	$582
Manager's Unit		
2BR	919	

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B. Type of Construction/Architectural Style/Site Plan Description

Saklan Family Housing will be comprised of 72 - 82 units. The current unit mix consists of 28 one-bedroom units, 20 two-bedroom units, and 32 three bedroom units. This mix is subject to change. The project's site plan has been designed to foster a strong sense of community while also allowing for a sense of privacy for each resident. There will be fourteen two and three-story buildings. The individual apartments are not entered via an internal central corridor. Each apartment will have its own entrance and either a private porch or balcony. A main picnic area will encourage interaction by residents and facilitate the development of neighborhood bonds. In addition, there will be a 2,000 square foot community building that will house a computer learning center, an assembly room and management offices. Laundry facilities will be conveniently located in several locations for the residents. There will also be two fenced tot lots on the site and an outdoor barbecue and recreation area.

The Community Building will house a large central meeting room and office space for the development's resident manager and service coordinator. Management will be provided by Eden Housing Management, Inc. (EMHI), and on-site services will be provided by Eden Housing Resident Services, Inc. (EHRSI). A key feature of the Community Building will be the Computer Learning Center, which will be equipped with computer workstations that will include internet access. EHRSI recently developed a prototypical computer learning curriculum at another of Eden's family rental housing developments and will replicate this program at Saklan Family Housing. The Learning Center's mission is to provide computer resources for the educational, employment and social needs of children and adults. Programming for adults will focus on skills development through classes and individual tutoring to assist residents in obtaining professional level computer skills and enhancing residents' employability.

C. Preliminary Conceptual Site Plan

Subject to additional formal review, attached as Exhibit A, is the proposed site plan for the development. The site plan is not intended to be in its final form and is not included for the purpose of design review approval. We anticipate working closely with the City staff to refine this plan. Additional formal submittals for the project will follow at a later date.

D. Preliminary Marketing Plan

A marketing plan which describes how Eden will inform the public, and those within the appropriate income groups, of the availability of the affordable units is attached as Exhibit B.

IV. Development Affordability

A. Potential Financing Sources

Construction Sources
Expected funding sources for acquisition and construction costs are as follows:

Conventional Construction Loan	$18,187,531
Other contribution	$2,063,857
Total	**$20,251,388**

Permanent Sources
Expected funding sources for permanent costs are as follows:

Other Contribution	2,063,857
Tax credit private investment	$14,925,837
General Partner Contribution	14,926
Conventional Permanent Loan	$4,031,778
Deferred Developer Fee	$250,000
Total	**$21,286,398**

06/24/05 FRI 12:44 FAX 925 803 4327 The Desilva Group 019

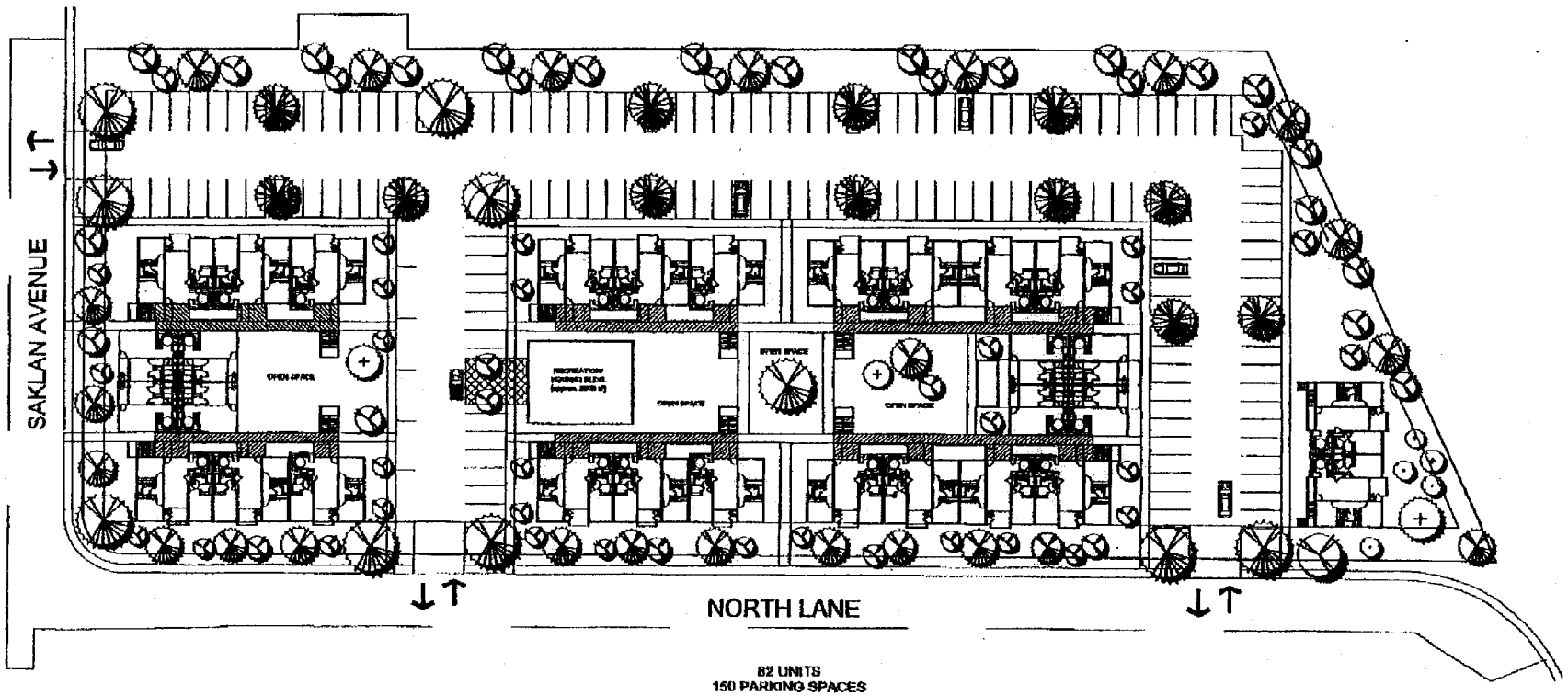
V. Schedule

The estimated development schedule is shown below:

DEVELOPMENT TIMETABLE

Execute Purchase Agreement	June 2005
Planning Commission Approval	November 2005
City Council Approval	January 2006
Tax Credit Funding application	March 2006
Acquire Site	September 2006
Receive Building Permits	September, 2006
Close Construction financing	October 2006
Start Construction	November 2006
Complete Construction	March, 2008
Occupancy	June, 2008

06/24/05 FRI 12:44 FAX 925 803 4327 The DeSilva Group 020



82 UNITS
150 PARKING SPACES
1.83 SPACES/ UNIT
(44) 3-Bedrooms or 54%
(30) 2-Bedrooms or 36%
(8) 1-Bedrooms or 10%

Site Plan
Scheme 1

scale=1:50

SAKLAN AVENUE
Hayward, California

Eden Housing & The DeSilva Group
June 14,2005

KTGY,Group
#20041055

PRELIMINARY MARKETING PLAN

SAKLAN AND NORTH AFFORDABLE HOUSING

General Information
Saklan and North Affordable Housing is a 72-82 unit affordable multifamily rental complex for individuals and families which is located between at Saklan Road and North Lane in Hayward, California. The property should be ready for occupancy in the Spring of 2008. The units will be affordable to persons earning up to 60% or less of the area median income. The development is a collaborative effort between the City of Hayward and Eden Housing Inc. Eden Housing Management, Inc., an affiliate of Eden Housing, Inc., will be the management agent for the property.

There will be ___ one bedroom, ____ two bedroom and ____ three bedroom apartments. One two bedroom apartment at the property will be occupied by the Resident Manager or Maintenance person. There will be ____ units accessible for people with mobility impairments, and ____ units accessible to people with hearing or vision impairments, and all units will be 100% adaptable unit for use by the physically handicapped. Each unit will have a _____ range, a frost free refrigerator, dishwasher and mini blinds.

Advertisements will be run in the local newspaper, minority newspapers and flyers will be faxed/mailed to local businesses and Agencies including city offices and local schools. The application period will extend for two months in late 2007 approximately 4 months prior to construction completion. It is expected that the City of Hayward will require Preference for a certain percentage of the units be given to eligible and income qualifying employees of the city. A lottery will determine an applicants' place on the waitlist.

Outreach
To begin outreach, flyers will be faxed and/or mailed to local businesses including the city offices and local public schools. Information packets and applications will be available at local locations (exact locations will be determine later)

Qualifying for Residency
Residents must qualify based on the maximum allowable income limits adjusted for household size. All applicants will be screened by Eden Housing Management for eligibilty purposes. Applications will be processed by Eden Housing Management Inc. in lottery number order, with applicants having a preference getting priority over applicants without a preference.

Income-qualified applicants (individuals or families) will have a gross income (adjusted by family size) which does not exceed 80% of the median income for the area. Credit and eviction checks will be completed for all household members over the age of 18 years. Third party verifications will be obtained to verify income, assets, landlord and preference as part of meeting the regulatory requirements of the housing program.

Household size must be appropriate for the unit. The size of the unit that an applicant qualifies for is dependent on their household size and any verifiable special needs. In general, maximum occupancy is calculated as two people per bedroom, plus one additional person.

The minimum and maximum standards are as follows:

06/24/05 FRI 12:45 FAX 925 803 4327 The DeSilva Group 022

Occupancy Standards

Unit Size	Minimum Number of Persons in Household	Maximum Number of Persons in Household
1 bedroom	**1**	**3**
2 bedroom	**2**	**5**
3 bedroom	**3**	**7**
4 bedroom	**4**	**9**

Fair Housing
To comply with the Affirmative Fair Housing Marketing Guidelines, prospective renters will be recruited in a strategy designed to ensure equal access for all persons in any category protected by federal, state, or local laws governing discrimination. All advertising will include the Equal Housing Opportunity logo and the ADA logo.

Each household applying must fill out an application for rental; that application will be pre-screened for completeness and will be date and time stamped. Applicants submitting incomplete applications will be sent a denial letter and will be given an opportunity for correction within 14 days of the date of the denial letter. All applications received by the deadline will be entered into a rent-up software program. The software program will assign random lottery numbers to each application. Applications will then be processed in **lottery number** and preference order.

Applicants at the top of the waiting list will be required to bring in a credit check fee of $33.00 per adult household member. Credit Checks will be completed for all adult household members. Applicants with negative credit will be sent a denial letter with an opportunity for correction and or appeal within 14 days of the date of the denial letter.

Qualified applicants will then be scheduled for a personal interview. All adult household members will be required to attend the interview. Management will complete necessary authorization for release of income and asset information and have applicants sign the verifications. Verifications will be mailed to the respective sources along with self addressed stamped envelopes.

As applicants are interviewed, verifications returned by source, income and assett calculations complete, qualified applicants will be offered a unit. All other applicants will remain on the waiting list.

All applicants who are not selected as residents during the rent up period will remain on a waiting list in lottery number order. Additional households will be added to the waiting list on a first come, first served basis. The waiting list will be updated every six months to ensure that those applicants on the waiting list wish to remain on the list. Applicants will be selected from the waiting list as vacancies occur. A postcard will be mailed to each person on the waiting list at the time it is updated. People who wish to remain on the list should return the postcard, or notify the property independently. Each applicant will be instructed to report changes in family size or income as those changes may impact on eligibility.

Unit Selection
After qualifying for occupancy, the selected applicants will be assigned units within the following limits: The applicant may turn down the first unit he/she is offered and retain his/her spot on the waitlist. The second time an applicant declines to move into a unit will result in the person being removed from the waiting list and will have to re-apply when the waiting list is re-opened.

06/24/05 FRI 12:46 FAX 925 803 4327 The DeSilva Group 023

CITY OF HAYWARD
MITIGATED NEGATIVE DECLARATION

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

I. PROJECT DESCRIPTION:

Zone Change Application No. PL-2005-0322 PD; Vesting Tentative Tract Map Application No. PL-2005-0323 TTM 7354; and Development Agreement Application No. PL-2005–0358 DA; Jack Smith, Garin Vista LLC (Applicant) / Howard M. Settle, Maxine F. Theobald, Andrew E. Garin, Richard S. & Annette P. Warren, John M. and Lia F. McKenzie (Property Owners) - Request to subdivide 50.4 acres to develop 126 single-family lots.

The project site is located northeast of the intersection of Woodland Avenue and Bodega Street, west of Garin Regional Park.

The approximately 50-acre site is proposed for subdivision (Tract 7354) for development of 126 single-family residential lots. The lots and related streets would total 17.7 acres and a new park of 1.9 acres, 10.5 acres of landscaped areas, and 20.3 acres to remain as open space would comprise the remaining portions of the tract. The project would also entail construction of a new road to serve the development, to cross private property from a new eastward extension of Alquire Parkway (see attached Exhibit A).

Approval of the project would require 1) a change to the prezoning designation for the site, from *Medium Density Residential* (4,000 square foot minimum lot size, RMB4) and *Agriculture* (10-acre minimum lot size, AB10A), to *Planned Development* (PD) (see attached Exhibit B). The property is proposed to be annexed into the City of Hayward, and an environmental impact report (SCH # 2002072047) was certified by the City of Hayward related to the proposed Mission-Garin Annexation in July of 2003.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

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

FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.

2. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare do not affect area views. Also, compliance with the City's Hillside Design and Urban/Wildland Interface Guidelines and Mission-Garin Area Special Design District (SD-5) provisions, including those that encourage darker, earth-tone colors and design compatible with the natural surroundings, will ensure visual impacts are minimized. Landscape plans will also be required to ensure that structures are appropriately screened.

3. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland and has been used and continues to be used for an active surface mining operation.

4. The project will not result in significant long term impacts related to changes in air quality, provided an Asbestos Dust Mitigation Plan approved by the Bay Area Air Quality Management District and standard dust control measures are implemented.

5. The project will not result in significant impacts to biological resources, including wildlife and wetlands, in that assessments and surveys approved by resource agencies or independent qualified biological consultants will ensure no such resources exist and if they do, resource agency-approved mitigation plans are implemented.

   In accordance with Section 15074.1 of the CEQA Guidelines, changes to Mitigation Measure IV-a in the attached Initial Study that allow for confirmation by a qualified independent biological consultant that habitat assessments conducted for the California red-legged frog and Alameda whipsnake by the project biological consultant followed resource agency protocols and guidelines is determined to be as effective as the US Fish and Wildlife Service doing so. Such confirmation is determined to avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure requiring USFWS confirming such assessments, and will create no more adverse effect of its own than would have the original measure.

6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleonotological resources, unique topography or disturb human remains.

7. The project site is located within a "State of California Earthquake Fault Zone"; however, fault trenching was conducted to locate fault traces to ensure no habitable structures would be built closer than 50 feet to a fault trace. Furthermore, recommendations of the project geotechnical consultant will be required to be incorporated into project design and implemented throughout construction, to address such items as landslides and non-engineered on-site cuts and fills associated with a former quarry operation. Construction will also be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground shaking.

8. Any potentially-containing asbestos material will be required to be buried at least four feet below finished grade in the development area, and material within four feet of finished ground surface to be tested to ensure it complies with regulations regarding hazardous materials. Also, any hazardous materials will be required to be removed in accordance with

State and local regulations. A site clearance will also be required to be obtained from either the State Department of Toxic Substances Control or the Regional Water Quality Control Board.

9. The project will be required to meet all water quality standards as part of the normal development review and construction process, to be addressed in Stormwater Pollution Prevention Plan and Erosion Control Plan that utilize best management practices. Drainage improvements will be required to accommodate stormwater runoff and the stormwater drainage system, including the proposed detention basin northwest of the development, will be required to be sufficient, as confirmed by engineering calculations, so as not to negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.

10. The project proposes amendments to the Hayward prezoning designations for the site. The project site will be required to be annexed into the City of Hayward prior to issuance of building permits and be consistent with the City of Hayward's Hillside Design and Urban/Wildland Interface Guidelines and Mission-Garin Annexation Area Special Design District (SD-5) provisions.

11. As is typical for larger development projects in Hayward, construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of a Construction Noise Management Plan.

12. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan Environmental Impact Report (SCH #: 2001072069), certified by Hayward in March of 2002, and in the Mission-Garin Annexation Project Program Environmental Impact Report (SCH #: 2002072047), certified by Hayward in July of 2003.

13. The project will not result in a significant impact to public services in that proposed development was analyzed in the Hayward General Plan EIR and Mission-Garin Annexation Project Program EIR.

14. The project will not result in significant impacts to traffic, including levels of service at surrounding intersections, as was shown in the Mission-Garin Annexation Project Program EIR, which analyzed a range of development that exceeds that proposed.

III. PERSON WHO PREPARED INITIAL STUDY:

David Rizk, AICP, Senior Planner
Dated: February 9, 2006

IV. 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) 583-4004, or e-mail david.rizk@hayward-ca.gov.

Vesting Tentative Map

Tract 7354 - Garin Vista

City of Hayward, Alameda County, California

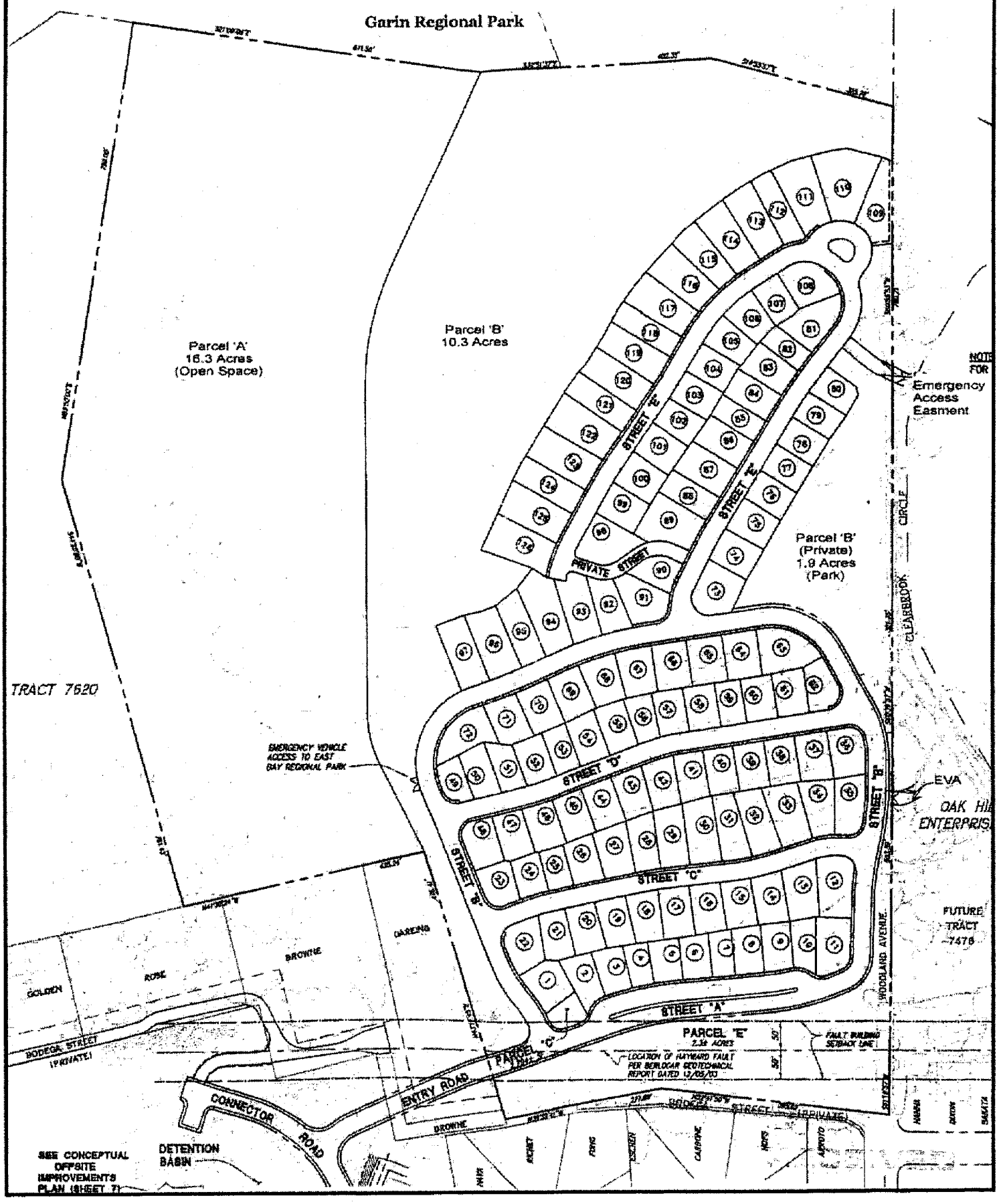


Exhibit A

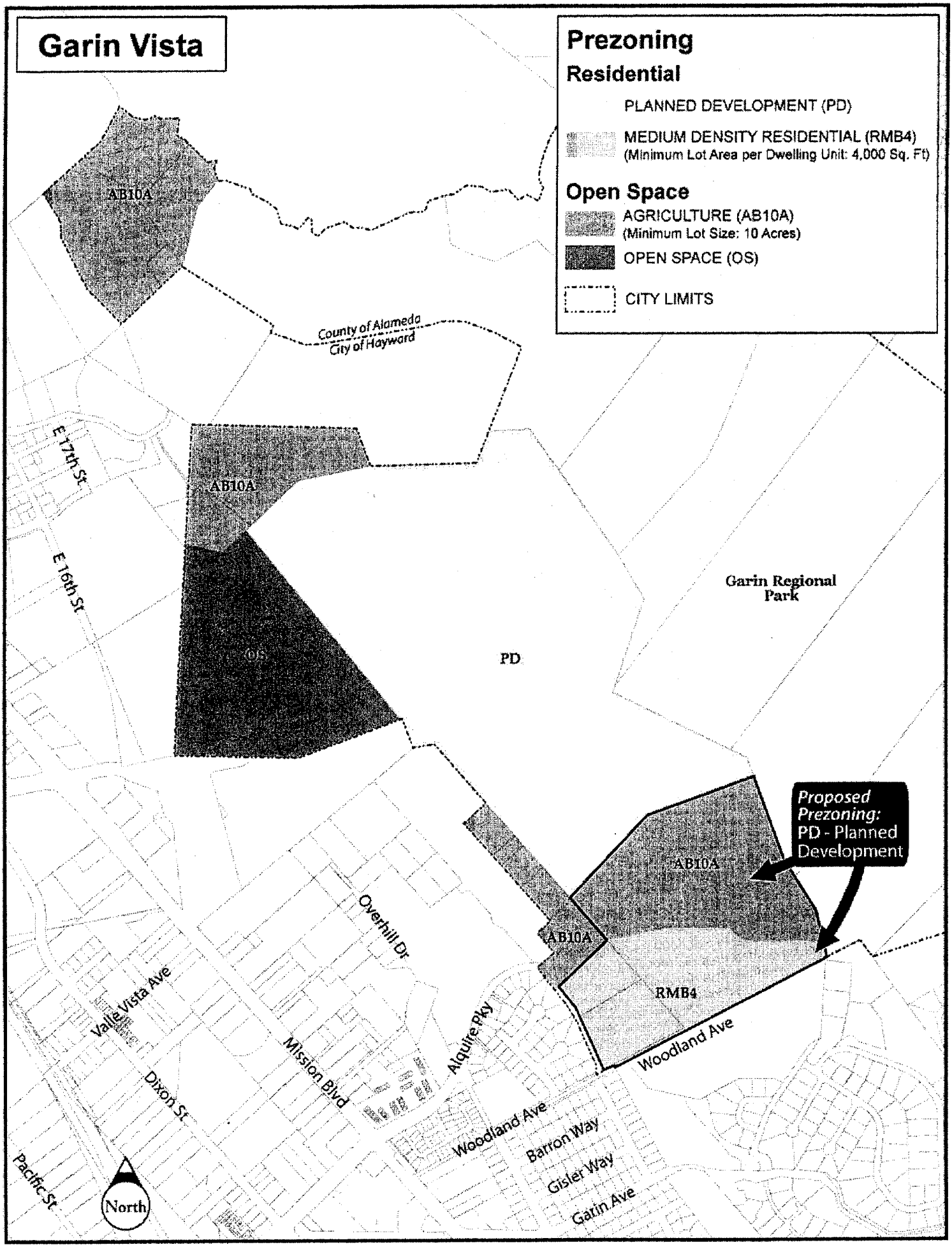

Garin Vista
Prezoning
Residential
PLANNED DEVELOPMENT (PD)
MEDIUM DENSITY RESIDENTIAL (RMB4)
(Minimum Lot Area per Dwelling Unit: 4,000 Sq. Ft)
Open Space
AGRICULTURE (AB10A)
(Minimum Lot Size: 10 Acres)
OPEN SPACE (OS)
CITY LIMITS
AB10A
County of Alameda
City of Hayward
E 17th St
E 16th St
AB10A
OS
PD
Garin Regional Park
Proposed Prezoning:
PD - Planned Development
AB10A
AB10A
RMB4
Overhill Dr
Valle Vista Ave
Mission Blvd
Alquire Pky
Woodland Ave
Dixon St
Woodland Ave
Barron Way
Gisler Way
Gatin Ave
Pacific St
North

Exhibit B

CITY OF
HAYWARD
HEART OF THE BAY

Initial Study Checklist
pursuant to the California Environmental Quality Act

1. **Project title:** Garin Vista

2. **Lead agency / project sponsor's name and address:**
City of Hayward, 777 B Street, Hayward, CA 94541.

3. **Contact person and information:** David Rizk, AICP Senior Planner david.rizk@hayward-ca.gov (510) 583-4004

4. **Project location:** Northeast of the intersection of Bodega Street and Woodland Avenue, west of Garin Regional Park in unincorporated Alameda County - Assessor's Parcel Numbers 083-0125-001-13, 083-0265-003-01, 083-0265-003-02

5. **Existing General Plan Land Use designations:** Limited Open Space and Limited Medium Density Residential (8.7-12.0 dwelling units per net acre)

6. **Existing Prezoning designations:** Medium Density Residential (RMB4, minimum lot area of 4,000 sq. ft.) and Agriculture (AB10A, minimum lot area of 10 acres)

7. **Project description**: The approximately 50.4 acre site is proposed for subdivision (Tract 7354) for development of 126 single-family residential lots. The lots and related streets would total 17.7 acres and a new park of 1.9 acres, 10.5 acres of landscaped areas, and 20.3 acres to remain as open space would comprise the remaining portions of the tract. The project would also entail construction of a new road to serve the development, to cross private property from a new eastward extension of Alquire Parkway.

   Approval of the project would require a change to the prezoning designation for the site, from *Medium Density Residential* (4,000 square foot minimum lot size, RMB4) and *Agriculture* (10-acre minimum lot size, AB10A), to *Planned Development* (PD). The property is proposed to be annexed into the City of Hayward, and an environmental impact report (SCH # 2002072047) was certified by the City of Hayward related to the proposed Mission-Garin Annexation in July of 2003.

8. **Existing land uses and setting**: The western portion of the project site contains a rural residential development comprised of a home and several accessory buildings, with the remainder and majority of the site being undeveloped and used for cattle grazing, being the former site of a quarry, which ceased operations in the 1970s.

9. **Surrounding land uses and setting**: Developed rural and suburban residential sites exist to the northwest and west, open space exists to the north, Garin Regional Park is located to the east and the 148-unit Oak Hills apartment complex is located to the south.

10. **Other public agencies whose approval may be required**: Local Agency Formation Commission of Alameda County, California Regional Water Quality Control Board, Bay Area Air Quality Management District, California Department of Toxic Substances Control, California Occupational Safety and Health Administration (Cal OSHA), California Department of Fish & Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, 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 & Utilities	☐	Transportation	☒	Mandatory Findings of Significance

DETERMINATION:
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 casebecause 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.

Signature — February 9, 2006 Date

David Rizk, AICP, Senior Planner — City of Hayward
Printed Name — For

EVALUATION OF ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS - Would the project:				
a) Have a substantial adverse effect on a scenic vista? *__Comments:__ The project site is located adjacent to residential development, including an apartment complex to the south. Although the project would result in new development that would be visible from the west, and although the foothills in this area provide a recognized backdrop to the built environment in this portion of Hayward, the proposed development would not extend to the top of the foothills of Garin Regional Park to the east and would be consistent with the existing visual setting that contains other foothill developments. Also, the project site has reduced scenic value as a scenic vista because it was used for quarrying activities until approximately thirty years ago that resulted in land that is substantially altered from its natural condition. Therefore, the proposed project would not impact a scenic vista.*	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? *__Comments:__ The project site is not within a State scenic highway view corridor; the closest State scenic highway being Interstate 580 at the San Leandro city limit, approximately four miles to the northwest.*	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings? *__Comments:__ The development would result in new roads and homes in an area that is generally undeveloped. The vast majority of the site is open space grassland, without trees. Trees proposed to be removed are generally ornamental and fruit trees in the western portion of the site, which are typically in marginal health and provide limited screening value. Such removal, given the number of other trees in the area, particularly to the south, and the proposed tree replacement plan as reflected in the project landscape plans, would not be considered as substantially degrading the existing visual character or quality of the site and its surroundings.* *__Impact:__ The introduction of new development in the area could result in significant impacts to the visual character of the site and surrounding*	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
properties. ***Mitigation Measure I-c:*** ***In accordance with Mitigation Measure 4.1-1 of the Mission-Garin Annexation Study Project Program Environmental Impact Report (MG EIR; SCH No. 2002072047) that was certified by Hayward in July of 2003, the project would be required to incorporate several design measures to help reduce visual impacts and enhance compatibility of the project with the existing surrounding environment, including:*** ♦ ***Use of non-reflective glazing and prohibition on reflective metal roofing, garage doors and trim material;*** ♦ ***Use of earth tone field and trim colors for residential dwellings;*** ♦ ***Use of roof forms that minimize exposure of buildings;*** ♦ ***Design of roadways that minimize views of pavement beyond the project site; and*** ♦ ***Use of techniques to minimize aesthetic impacts of individual residences, including, but not limited to, building design and use of landscape screening.*** ***Also, any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect. Implementation of such measure will ensure project-generated impacts to the visual character or quality of the site and its surroundings will be less than significant.***				
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area? ***Comments:*** *The designs of the proposed homes will utilize non-reflective materials for walls and incorporate darker, earth-tone colors.* ***Impact:*** *Proposed street lights and exterior lighting associated with new homes could adversely affect nighttime views of the area from surrounding homes in the area and from views toward the hills from the west.* ***Mitigation Measure I-d:*** ***In accordance with Mitigation Measure 4.1-3 of the Mission-Garin Annexation Study Project Program Environmental Impact Report, a detailed lighting plan shall be provided, to be submitted as part of a precise development plan, to incorporate fixtures that shall ensure that lighting off of the project site will be minimized, to prohibit landscape uplighting, with***	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
fixtures and plan to be approved by the Planning Director. Implementation of such measure will ensure lighting and glare impacts are less than significant.				
II. AGRICULTURE RESOURCES - 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? ***Comment:*** *The site does not involve Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the most recent "Important Farmland in California" map of the Farmland Mapping and Monitoring Program of the California Department of Conservation, Division of Land Resource Protection.*	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? ***Comment:*** *The site does not involve a Williamson Act contract and, given the active quarry use, does not have potential for an agricultural use.*	☐	☐	☐	☒
c) Involve other changes in the existing environment that could result in conversion of Farmland, to non-agricultural use? ***Comment:*** *See comments IIa) and IIb) above.*	☐	☐	☐	☒
III. AIR QUALITY - Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan? ***Comment:*** *The project would not conflict with or obstruct implementation of the Bay Area Air Quality Management District's (BAAQMD's) most recent Air Quality Plan (year 2000) in that the project proposes a number of units that were within a range anticipated in Hayward's General Plan Update EIR (SCH No. 2001072069), certified by the City in 2002. The City's General Plan has been determined to be consistent with the BAAQMD's Air Quality plan, according to the General Plan Update EIR.*	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? ***Comment:*** *Based on an investigation report dated September 30, 2005 by Northgate Environmental*	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Management, Inc., the site contains two mélange zones that contain ultramafic rock, including serpentinite. Of the 47 soil and rock samples taken from the site and tested, 18 indicate the presence of serpentinite (an ultramafic rock), which contained an average asbestos concentration ranging from 0.18 to 0.37 percent. Asbestos is classified as a known human carcinogen and was identified as a toxic air contaminant by the California Air Resources Board in 1986. *An addendum report by Northgate Environmental Management, Inc., dated December 20, 2005, provides measures to be followed if material from the site is hauled north to the La Vista project along a proposed haul route to the east of Bodega Street homes.* ***Impact:*** *Serpentinite containing asbestos exist on the site that could become airborne if disturbed, resulting in potentially significant negative health impacts to nearby residents.* ***Mitigation Measure III-b:*** ***Prior to the start of any construction or grading activity, including hauling of material from the project site, an asbestos dust mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. In accordance with the State's "Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations" (CCR Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq.), the dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing each of the following topics:*** ***a) Track-out prevention and control measures.*** ***b) Keeping active storage piles adequately wetted or covered with tarps.*** ***c) Control for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days.*** ***d) Control for traffic traveling on project site unpaved roads, parking lots, and staging areas.*** ***e) Control for earth moving activities.*** ***f) Control for off-site transport.*** ***g) Post construction stabilization of disturbed areas.***				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Air-monitoring for asbestos (if required by the BAAQMD's Air Pollution Control Officer). ***i) Frequency of reporting.*** ***Northgate Environmental Management, Inc. includes as Appendix A to their September 30, 2005 report a Construction Management Plan that incorporates such measures. Such plan shall be implemented, subject to review and approval by the Bay Area Air Quality Management District (BAAQMD). Also, measures called out in Northgate's December 20, 2005 report related to hauling material from the site that may contain naturally-occurring asbestos, shall be implemented, subject to review and approval by the BAAQMD. Such measures will ensure air quality impacts related to naturally occurring asbestos are less than significant.***				
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? ***Comment:*** *The Bay Area has non-attainment status for federal and California state ambient air quality standards for ozone, as well as for State ambient air quality standards for particulate (PM_{10}) and fine particulate ($PM_{2.5}$) matter.* ***Impact:*** *The project, which is proposed to entail 102,600 cubic yards of balanced on-site cut and fill grading, and also 751,400 cubic yards of material to be exportd, has the potential through the release of dust, to exceed particulate matter standards and negatively affect local residents.* ***Mitigation Measure III-c:*** ***In accordance with Mitigation Measure 4.2-1 of the Mission-Garin Annexation EIR, grading activities shall incorporate standard dust control measures, to include, but not be limited to frequent watering of the site, use of soil stabilizers, hydroseeding of graded areas and other measures that comply with Bay Area Air Quality Management District recommendations for dust control. Project construction grading plans shall state such measures on the plans, to be approved by the Hayward Public Works Department staff. Implementation of such measure will ensure such impacts are less than significant.***	☐	☒	☐	☐
d): Expose sensitive receptors to substantial pollutant concentrations? ***Comment:*** *The proposed limits of grading are shown*	☐	☒	☐	☐

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to extend to the property lines of parcels containing existing residences located to the west along Larrabee Street, to the north along Bodega Street and an apartment complex to the south off Clearbrook Circle. ***Impact:*** *The proximity of proposed grading, including truck traffic associated with hauling of grading material, to adjacent residences has the potential to expose occupants of those homes to elevated levels of fine particulate matter.* ***Mitigation Measure III-d:*** ***Implement Measures III-b and III-c above, which will ensure such air quality impacts are less than significant.***				
e): Create objectionable odors affecting a substantial number of people? ***Comment:*** *The project entails a residential development, which is not expected to create objectionable odors.*	☐	☐	☐	☒
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? ***Comment:*** *The upper, eastern portions of the project site are located adjacent to Garin Regional Park, which provides habitat for a number of special status species. As indicated in Mitigation Measures 4.3-5 through 4.3-9 of the "Mission-Garin Annexation Study Project Program Environmental Impact Report" (MG EIR; SCH No. 2002072047) that was certified by Hayward in July of 2003, project-level habitat assessments and surveys for a variety of species are required. Specifically:* ♦ *MG EIR Mitigation Measure 4.3-5 requires that a California red-legged frog habitat assessment be conducted utilizing guidance established by the U.S. Fish and Wildlife Service (USFWS), with the assessment to be reviewed and confirmed by the USFWS. Wetland Research Associates conducted an assessment in February of 2001, and concluded the site does not contain suitable aquatic habitat to support the red-legged frog. Such assessment has not been reviewed by the USFWS.* ♦ *Mitigation Measure 4.3-6 of the MG EIR requires that a focused Alameda whipsnake habitat assessment be conducted at project-specific levels to determine if*	☐	☒	☐	☐

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suitable habitat and if primary constituent elements for critical habitat for the whipsnake are present, with the assessment to be submitted to the USFWS for review and confirmation. Wetland Research Associates conducted an assessment in May of 2004 and concluded that suitable habitat is not present at the project site, given the lack of shrub and chaparral communities and connectivity to potential habitats. The USFWS has not reviewed and confirmed the assessment. ♦ *Mitigation Measures 4.3-7 and 4.3-8 of the MG EIR require that focused special status raptor/shrike and Golden Eagle habitat surveys be conducted at project-specific levels, following survey protocols established by resource agencies, with Golden Eagle and developed in consultation with the California Department of Fish and Game (CDFG). The mitigation measures indicate if any such special-status species are observed within specified line-of-sight buffers (250 feet for Western burrowing owl, ¼- mile for Golden Eagle, 200 feet for loggerhead shrike and 300 feet for all other special-status raptors), then construction/grading activity not be conducted during the nesting season (typically running from March through the end of August) within such buffer zones or during any active Golden Eagle pair breeding or nesting season.* *Wetland Research Associates (WRA) conducted three habitat assessments in January of 1999, February of 2001 and September of 2003. Based on those surveys and researching the Department of Fish and Game's California Natural Diversity Data Base records, as well as other sources, WRA concluded there is the potential for the occurrence of 46 special status wildlife species on the site, with 4 species not present, 33 species having low potential, 5 species with moderate potential, 2 species with high potential and 2 species that were observed on the site (Cooper's Hawk and Loggerhead Shrike). WRA recommends that pre-construction surveys be conducted and that a 50-foot buffer be established around any active nests of special-status bird species until all young have fledged form the nest.* ♦ *Mitigation Measure 4.3-9of the Mission-Garin Annexation EIR requires that a focused rare plant survey be conducted by a qualified botanist during the appropriate season, in accordance with survey protocols acceptable to the USFWS and CDFG. Most of the project site is dominated by weedy annual species, which reduce suitable habitat for and likely*				

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prohibit occurrence of special status species known to occur in the vicinity.				
Wetland Research Associates (WRA) conducted special status plant surveys of the site in May of 2001 and in September of 2003. WRA researched the Department of Fish and Game's Natural Diversity Database records, as well as the California Native Plant Society's Electronic Inventory of Rare and Endangered Vascular Plants of California. Based on that research, WRA concluded that 22 special status plant species had habitat requirements similar to those found in the project vicinity. However, no special status plant surveys were found during the May, 2001 or September, 2003 surveys. Based on the results of the field visits and assessments and the disturbed nature of the site (former quarry), no special status plant species are expected to occur.				
Impact: *Given the proximity of the project to Garin Regional Park, the project has the potential to significantly impact special-status wildlife species and their habitat.*				
Mitigation Measure IV-a:				
In accordance with Mitigation Measures 4.3-5 through 4.3-6 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, the U.S. Fish and Wildlife Service (USFWS) shall confirm all habitat assessments conducted by Wetland Research Associates for California red-legged frog and Alameda whipsnake. Alternatively, if the USFWS is not responsive in confirming such assessments and to ensure such assessments are adequate and followed standard resource agency protocols, the City shall hire and the applicant shall pay for a qualified biological consultant to review such assessments. If California red-legged frogs or Alameda whipsnakes and/or their occupied habitats are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific California red-legged frog and/or Alameda whipsnake mitigation plan should be developed, approved by the USFWS and CDFG prior to development, and implemented.				
In accordance with Mitigation Measures 4.3-7 through 4.3-8 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, surveys utilizing protocols acceptable to the resource agencies, including burrowing owl survey protocol and protocol for Golden Eagle surveys established by the California Department of Fish and Game (CDFG), shall be conducted. If such surveys reveal				

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the presence of nesting Golden Eagles within 0.25 mile and in direct line-of-sight distance from project activity, presence of Western burrowing owls within 250 feet, presence of loggerhead shrikes within 200 feet or presence of any other special-status raptors within 300 feet of project activity, construction activity within the above-specified buffer zones shall be completed before the nesting season or be postponed until after the nesting season (March through the end of August) and until all young have fledged from such nests. The limit related to presence of Golden Eagles shall be applicable during the entire tenure eagles are actively nesting within the buffer zone, not just during the breeding season.				
Also, given Coopers Hawk and Loggerhead Shrike were observed on the site, further raptor and shrike and Golden Eagle surveys following survey protocols established by resource agencies shall be conducted during the nesting season immediately preceding start of grading or construction, to confirm no active raptor nests exist that could be impacted by construction activities.				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☒
Comment: *No such riparian habitat or other sensitive natural communities were identified within the limits of the proposed project development.*				
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act?	☐	☐	☒	☐
Comment: *Mitigation Measure 4.3-1 of the MG EIR requires that formal jurisdictional wetland delineations be conducted at a project-specific level, utilizing methodology set forth by the US Army Corps of Engineers. The project applicant's biological consulting firm, Wetland Research Associates (WRA) conducted a wetland delineation survey in March of 2002 and September of 2003 and concluded that two hillside seeps along the northern perimeter of the property outside the proposed development area form a 0.25-acre potential jurisdictional wetland complex. Also, WRA concluded that a 1,073-foot long drainage channel that flows westward near the northern property edge to the south of the potential wetlands is potentially a jurisdictional "other waters of the U.S." A proposed haul route that will also serve as a maintenance road for future water lines would cross*				

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near the western portion of the drainage channel. However, because there already exists a dirt road in such location and because the project's limits of grading do not extend to such areas, impacts to such features would be expected to be less than significant.				
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? ***Comment:*** *The project is proposed at a former quarry site in an area to the west of Garin Regional Park and is not expected to interfere substantially with such movements or corridors. Undeveloped lands would exist to the north of the project, maintaining an east-west corridor to Garin Regional Park.*	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? ***Comment:*** *The project would not conflict with any local policies or ordinances established to protect biological resources, except possibly Hayward's Tree Preservation Ordinance, which encourages preservation of trees.* ***Impact:*** *The project would entail removal of 29 ornamental and fruit trees in the western portion of the site, as well as three oak trees along the southern property line. Half of the ornamental trees are in very poor or poor condition, with the remaining in fair to good condition. Ten of the ornamental/fruit trees and all of the oak trees are defined by Hayward's Tree Preservation Ordinance as "protected" and are encouraged to be preserved or, if not feasible to be saved, to be replaced with "like-size, like-kind trees or an equal value tree or trees as determined by the City's Landscape Architect." The preliminary landscape plans indicate over 400 new trees proposed to mitigate for the loss of removed trees.* ***Mitigation Measure IV-e:*** ***In accordance with Hayward's Tree Preservation Ordinance, any "protected" trees as defined by the City's Tree Preservation Ordinance that are to be removed as a result of the project shall be replaced with like-size, like-kind trees or trees equal in value to them, as determined by the City's Landscape Architect. Such measures will ensure impacts due to removal of protected trees are less than significant.***	☐	☒	☐	☐
f) Conflict with the provisions of an adopted Habitat				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? ***Comment:*** *No Habitat Conservation Plan, Natural Community Conservation Plan or any other local, regional or stat habitat conservation plans exist that would involve the project site.*	☐	☐	☐	☒
V. CULTURAL RESOURCES - Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5 of the CEQA Guidelines? ***Comment:*** *Given the site is a former quarry, such resources are not anticipated to occur.*	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5 of the CEQA Guidelines? ***Comment:*** *See comment Va) above.*	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? ***Comment:*** *See comment Va) above.*	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries? ***Comment:*** *Given the highly disturbed nature of the project site due to active mining activity, it is unlikely any human remains will be disturbed as a result of the proposed project. However, in accordance with State law and standard grading procedures, if any human remains are discovered, work in the vicinity of such remains shall cease and the County Coroner contacted for a determination as to whether such remains may be those of Native Americans. Any subsequent activity regarding such remains shall follow procedures as outlined in CEQA Guidelines Section 15064.5(e).*	☐	☐	☒	☐
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:				
i) Rupture of a known earthquake fault? ***Comment:*** *The western portion of the project site is within the State's Earthquake Fault Zone.*	☐	☐	☒	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Significant fault investigation trenching has been conducted on the project site, with the results of such trenching and observations summarized in reports, the most recent by the project geological consulting firm, Berlogar Geotechnical Consultants, dated December 5, 2003. The reports, which have been reviewed and accepted by the City's geotechnical peer-review consultant, indicate that no home would be constructed closer than 50 feet to the Hayward fault trace, in accordance with standard practice.				
ii) Strong seismic ground shaking?	☐	☒	☐	☐
Comment: *The severity of ground shaking at a particular site is controlled by several factors, including the distance from the earthquake source, the earthquake magnitude, and the type, thickness and condition of underlying geologic materials. The project geotechnical consultant, Berlogar Geotechnical Consultants, indicates in a report dated May 14, 2003 that the ground shaking impacts exist at the site.*				
Impact: *The fact that the active Hayward fault runs through the project site increases the chances that severe ground shaking will likely occur during a major seismic event, which could result in loss of life and/or property.*				
Mitigation Measure VI-aii: ***Recommendations of the project geotechnical consultant, Berlogar Geotechnical Consultants, as outlined in a report dated May 14, 2003, shall be implemented. Such report, which has been peer-reviewed and accepted by the City's geotechnical consultant, contains recommendations to reduce ground shaking impacts, including:***				
♦ ***removal of five of six landslides on the site and replaced with keyways and engineered fill, along with subdrain systems (the sixth landslide is along the northern drainage channel and is not within proposed limits of grading),***				
♦ ***removal of non-engineered fill down to competent bedrock and replacement with engineered fill,***				
♦ ***recommendations for cut slopes to not exceed 2:1 slope and where cut slopes would be over 30 feet in height, intermediate benches with concrete-lined V-ditches for drainage,***				
♦ ***recommendations associated with anticipated settlement related to utility lines, and***				

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♦ ***recommendations for buttress fills in areas where geologically weak bedrock is encountered in cut slopes.***				
As recommended by the City's geotechnical peer-reviewer, prior to issuance of construction permits, the project geotechnical consultant shall review the final construction plans to ensure that site grading, fault and slope setbacks, foundation designs, subdrainage, etc. are in accordance with the project consultant's recommendations, and provide a plan review letter to the City. Also, the project certified engineering geologist and geotechnical engineer shall be on site during grading, excavations, keyways, cuts, etc. to verify that actual geologic conditions, fault locations and special foundation zones are as anticipated and that appropriate supplemental recommendation be provided, as necessary. The results of such inspections, testing, and/or modifications shall be documented in an "as-built" letter/report prepared by the project engineering geologist/geotechnical engineer and submitted to the City before final approval of permits is granted. Implementation of such measures, including careful monitoring of grading during construction by the project engineering geologist and geotechnical engineer, will ensure such impacts are less than significant.				
iii) Seismic-related ground failure, including liquefaction? ***Comment:*** *The project site is shown outside a liquefaction zone, according to the State's Seismic Hazard Zones Map. Also, the project geotechnical engineer indicates the potential for liquefaction is considered low for the site, based on the geomorphology. Therefore, hazards related to ground failure and liquefaction are considered low in probability.*	☐	☐	☒	☐
iv) Landslides? ***Comment:*** *See discussion under item VI-aii above.* ***Impact:*** *See discussion under item VI-aii above.* ***Mitigation Measure VI-aiv: Implement Mitigation Measure VI-aii, which will reduce the significance of landslide-related impacts to a level of insignificance.***	☐	☒	☐	☐
b) Result in substantial soil erosion or the loss of topsoil? ***Comment:*** *The proposed project would entail a large amount of grading consisting of several hundred thousand cubic yards, primarily involving excavations*	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
throughout most of the project site. . ***Impact:*** *Unprotected areas after finished grading could result in soil erosion and loss of topsoil, impacting on-site and off-site improvements.* ***Mitigation Measure VII-b:*** ***All exposed areas within the proposed project limits of grading are to be planted with vegetation, to the satisfaction of the City's Landscape Architect or, if temporary stockpiles of material are created on-site, covered with material to prevent material from being washed away.***				
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? ***Comment:*** *See discussion under item VI-aii above.* ***Impact:*** *See discussion under item VI-aii above.* ***Mitigation Measure VI-c:*** ***Implement Mitigation Measure VI-aii, which will reduce the significance of landslide-related impacts to a level of insignificance.***	☐	☒	☐	☐
d) Be located on expansive soil, creating substantial risks to life or property? ***Comment:*** *The project geotechnical engineer on page 20 of his May 14, 2003 report indicates tests on samples indicate the potential for moderately expansive soils, with deeper soils to have low to moderation expansion material. Therefore, significant impacts related to soil expansion are not anticipated.*	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems? ***Comment:*** *The development would be required to connect to the City's public 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? ***Comment:*** *The project would entail construction of 126 single-family homes and related improvements. Therefore, no such hazards related to routine project operations or functions are anticipated.*	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
materials into the environment? ***Comment:*** *Asbestos is classified as a known human carcinogen by state, federal and international agencies and was identified as a toxic air contaminant by the California Air Resources Board (CARB) in 1986. All types of asbestos are hazardous and may cause lung disease and cancer. Asbestos is a term used for several types of naturally-occurring fibrous minerals found in many parts of California. The most common type of naturally-occurring asbestos is chrysotile, but other types are also found in California. Serpentine rock often contains chrysotile asbestos. Serpentine rock, and its parent material, ultramafic rock, are abundant in the Sierra foothills, the Klamath Mountains, and Coast Ranges. According to the project geotechnical engineer, there is serpentinite rock that contains asbestos on the site. The project's environmental geologic consultant, Northgate Environmental Management, Inc., recommends in a September 30, 2005 report a four-foot deep "cap" of material that does not contain asbestos, be provided.* *Also, a Phase I environmental assessment and a Phase II soil quality investigation associated with an underground storage tank (UST) were conducted by Northgate Environmental Management, Inc. The test results of soil and groundwater samples did not reveal significant contaminants and Northgate Environmental Management, Inc. recommends that any USTs be removed under permit in accordance with Hayward Fire Department protocol prior to grading.* ***Impact:*** *Release of asbestos fibers through disturbance of soil containing such material could result in a health hazard to nearby residents and workers.* *Also, the presence of underground storage tanks and other potential contaminants could represent a potential health hazard.* ***Mitigation Measure VII-b(1): Implement Mitigation Measure III-b. Also, reflective of recommendations of the project environmental geologic consultant (Northgate Environmental Management, Inc.), no asbestos-containing material shall be placed within 4 feet of the finished grade surface within the proposed development, including all residential lots, streets and roads, landscaped and active open space and park areas and trails. Additionally, material to be used for the upper area "cap" shall be tested in accordance with a State-approved testing method,***				

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such as the Air Resources Board's Test Method 435, to confirm such material does not contain more than 0.25 percent asbestos material. Such measures will ensure impacts resulting from release of asbestos-containing materials will be less than significant. *<u>Mitigation Measure VII-b(2):</u> In accordance with Mitigation Measure 4.6-1(a) of the Mission-Garin Annexation EIR, prior to start of project grading, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, State Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permit and facility closure with regard to demolition and removal of hazardous material form the site, to include:* *a) Based on the proposed intensification of the subject property to residential uses, a health based and if necessary, a water quality clearance shall be obtained from either the California Department of Toxic Substances Control (DTSC) or the California Regional Water Quality Control Board (CRWQCB) and submitted to the Hayward Fire Department prior to grading of the site. (Note: If acceptable to either DTSC or CRWQCB, grading may be allowed prior to final clearance; however, final clearances must be obtained prior to construction activities.)* *b) The area where an underground gasoline/diesel storage tank system may have been installed shall be properly investigated and if still present, shall be removed under permit with the City of Hayward Fire Department. Additionally the underground storage tank found above ground in the southwest portion of the site shall be properly removed under permit with the City of Hayward Fire Department if the tank is deemed by the Department staff to contain hazardous materials.* *c) Hazardous materials and hazardous materials containers on the property shall be properly identified and disposed per the hazardous materials and hazardous waste regulation of the State of California.* *d) Identified groundwater wells, including those adjacent to the existing ranch buildings in the western portion of the site, shall be properly destroyed under permit per the requirements of the Alameda County Public Works Department, Groundwater Protection Section, and the City of*				

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Hayward Public Works Department. ***e) Existing septic tanks associated with the ranch development in the western portion of the site shall be properly removed per requirements of the project soils engineer and the City of Hayward Public Works Department.*** ***Mitigation Measure VII-b(3):*** ***All remediation work shall be performed by licensed contractors in accordance with state and federal OSHA standards. Worker safety plans shall be included for all demolition plans.*** ***Implementation of all of these measures will reduce such impacts related to hazardous materials to levels of insignificance.***				
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? ***Comment:*** *The project site is not within one-quarter mile of an existing or proposed school.*	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? ***Comment:*** *The site is not included on the California Department of Toxic Substances Control's Cortese list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and therefore, no such impact would occur as a result of the project.*	☐	☐	☐	☒
e) Result in a safety hazard for people residing or working within an area subject to an airport land use plan or within two miles of a public airport or public use airport? ***Comment:*** *The site is not located within two miles of a public airport or public use airport and therefore, no such impacts would occur as a result of the project.*	☐	☐	☐	☒
f) Result in a safety hazard for people residing or working in the vicinity of a private air strip? ***Comment:*** *The site is not located within the vicinity of a private air strip and therefore, no such impacts would occur as a result of the project.*	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? ***Comment:*** *The project would provide additional*	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
means of ingress and egress for residents in the area through the required extension of Alquire Parkway; however, the proximity of the Hayward fault trace to the project site could result in damaged roads and utility lines that could impede emergency response and evacuation activities. Although the major water system to serve the development, including water tanks, would be located to the east of the fault trace, one water line would extend across the fault via Alquire Parkway, down to Mission Boulevard. ***Impact:*** *The planned extension of Alquire Parkway, and the utility lines that are proposed to cross the Hayward earthquake fault trace may be damaged during a seismic event, which could impair evacuation and emergency response activities during an emergency event.* ***Mitigation Measure VII-g:*** ***Recommendations of the project geotechnical engineer, Berlogar Geotechnical Consultants, located on page 32 to 35 of his May 14, 2003 report, related to street and utility lines shall be incorporated into the project design, subject to final approval by the Hayward Public Works Department. Such recommendations, to address impacts associated with fault creep, call for placing utility lines within an oversized outer conduit or sleeve within the fault zone, utilizing flexible pipes that include risers with shut-off valves on each side of the fault trace, etc. Such measures will ensure such impacts will be less than significant.***				

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h) Expose people or structures to a significant risk involving wildland fires?	☐	☒	☐	☐
Comment: *The project site is located in a hillside area that contains limited water supply and restricted emergency vehicle access. Strict adherence to the City's "Urban/Wildland Interface Guidelines", including development and implementation of a fuel management program, will help reduce wildland fire hazards. A fuel management plan, prepared by Wildland Resource Management, Inc., dated July 25, 2005, has been accepted by the Hayward Fire Department staff.* ***Impacts:*** *Due to the proximity of the proposed development to wildland interface areas, there is the potential of significant risks associated with wildland fires.* ***Mitigation Measure VII-h:*** ***Measures called out in the July 25, 2005 Fuel Management Plan by Wildland Resource Management, Inc., shall be implemented, subject to approval by the Hayward Fire Department. Examples of measures recommend in the plan include those associated with a fuel management program based on zones and reducing fire loads to a greater extent in close proximity to structures (annual mowing program), those associated with structure hardening and materials and design (sprinklers and fire-resistant roofing material) and those associated with emergency preparedness education (annual report submitted by a wildland fire management expert hired and paid for by the development's homeowner's association). Additionally, as recommended by the Plan, an adequate water supply system approved by the Hayward Fire Department shall be installed and functional prior to framing of structures. Such measures will ensure hazards related to wildland fires are insignificant.***				

VIII. HYDROLOGY AND WATER QUALITY - Would the project:

a) Violate any water quality standards or waste discharge requirements?	☐	☒	☐	☐
Comment: *The project proposes a drainage system that would result in storm water flowing into an off-site detention basin to the northwest. From the basin, storm water would eventually discharge into drainage improvements maintained by the Alameda County Flood Control and Water Conservation District (Lines D and A), with storm water eventually flowing into San Francisco Bay.* ***Impacts:*** *During construction and after project*				

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completion, there is the potential for erosion of exposed surfaces to enter the stormwater system, which could negatively impact water quality and violate water quality standards. ***Mitigation Measure VIII-a:*** ***Per State regulations, a Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Quality Protection Plan shall be prepared and submitted to the State for review and approval. These documents shall also be submitted along with the grading permit application for review and approval by the City of Hayward. Grading and construction plans shall incorporate erosion and sedimentation control measures to be implemented during all phases of construction activities.*** ***The improvement plans for the project shall incorporate Best Management Practices (BMP's) designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, including the hydraulic sizing criteria, which will ensure that storm water runoff is treated prior to discharge from the site and that runoff rates are such that downstream impacts are reduced to the maximum extent practical. Such measures will ensure that water quality impacts are less than significant.***				
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? ***Comment:*** *The project would be served by the City's public water system and would not rely on groundwater for a source of water. Therefore, impacts on groundwater are anticipated to be minimal.*	☐	☐	☒	☐
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 that would result in substantial erosion or siltation on- or off-site? ***Comment:*** *The project proposes a drainage system that would result in storm water flowing water flowing into an off-site detention basin to the northwest. From the basin, storm water would eventually discharge into drainage improvements maintained by the Alameda County Flood Control and Water Conservation District (Lines D and A), with storm water eventually flowing into San Francisco Bay.* ***Impacts:*** *The proposed stormwater drainage system could result in substantial erosion that could*	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
negatively impact downstream properties. ***Mitigation Measure VIII-c:*** ***In accordance with regulations of the Alameda County NPDES Permit requirements, the development's improvement plans will be required to incorporate Best Management Practices (BMP's), including erosion and sedimentation control measures, which will treat all water prior to discharge and will ensure that the discharge rate from the site is consistent with existing rates.***				
d) Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site? ***Comment:*** *No such impacts are anticipated in that the drainage system will be required to be approved by the City of Hayward and the Alameda County Flood Control and Water Conservation District.*	☐	☐	☐	☒
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? ***Comment:*** *The project, located in Alameda County Flood Control and Water Conservation District's (ACFCD) Zone 3A, would entail construction of a 126-unit residential development, with associated roads and impervious surfaces. Drainage from such development would flow into a proposed detention basin to the northwest of the project site. From the basin, storm water would eventually discharge into drainage improvements maintained by the Alameda County Flood Control and Water Conservation District (Lines D and A), with storm water eventually flowing into San Francisco Bay.* ***Impacts:*** *The project could generate stormwater runoff that could exceed the capacity of downstream facilities.* ***Mitigation Measure VIII-e:*** ***Proposed detention basin and project drainage system shall be designed in accordance with Alameda County Flood Control and Water Conservation District's (ACFCD) standards, with such design to be supported via hydraulic calculations from the project engineer, to be reviewed and approved by the ACFCD and the City of Hayward Public Works Department. Any increased flow resulting from the proposed development would be required to be mitigated on-site. Implementation of such measures will ensure no impacts related to capacity of downstream***	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
facilities would be significant.				
f) Otherwise substantially degrade water quality? ***Comment:*** *No such impacts other than those identified in subsections a) and c) are anticipated.*	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? ***Comment:*** *According to FEMA Flood Insurance Rate Maps, this site is not within a 100-year flood hazard area.*	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows? ***Comment:*** *According to FEMA Flood Insurance Rate Maps, this site is not within a 100-year flood hazard area.*	☐	☐	☐	☒
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? ***Comment:*** *Proposed development would be in the eastern hills to the east of Mission Boulevard, several hundred feet in elevation above Mission Boulevard and sea level. Therefore, no such impacts are anticipated.*	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow? ***Comment:*** *See comment under VIII-i above.*	☐	☐	☐	☒
IX. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community? ***Comment:*** *The development is proposed at the periphery of existing development to the west of Garin Regional Park and would not divide an established community.*	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect? ***Comment:*** *The project is located in unincorporated Alameda County, whose regulations currently govern the property. The project would entail amendments to Hayward's prezoning designation for the property from Medium Density Residential (RMB4, 4,000 square foot minimum lot area) and Agriculture (AB10A, 10 acre minimum lot area) to a Planned Development (PD) district. Any approval of the proposal would include a condition that the site be annexed into the City of Hayward prior to*	☐	☐	☒	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
recordation of the final map. The project will be required to be in compliance with the City's Hillside Design Guidelines and Mission-Garin Area Special Design District (SD-5) provisions, within the context of the Planned Development District provisions, which allows for consideration of deviations from typical development standards, provided offsetting facilities or amenities are provided. Therefore, project impacts related to these types of impacts are anticipated to be less than significant.				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? ***Comment:*** *The project would not conflict with any such plan.*	☐	☐	☐	☒
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? ***Comment:*** *The project site is not identified as a known mineral resource of state, regional or local significance, per the State's Mineral Resource Classification maps, though the site is indicated as not having sufficient data to analyze the significance of such resource (zone 3). Given the site was formerly mined, it is anticipated that the site would not contain substantial remains of such resources. Therefore, no impacts related to this land use issue are anticipated.*	☐	☐	☒	☐
b) Result in the loss of availability of a locally important mineral resource recovery site? ***Comment:*** *See comments under item Xa) above.*	☐	☐	☒	☐
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? ***Comment:*** *The project would involve significant amounts of grading, including large amounts of export, with large grading equipment, as well as construction of homes and roads. Section 4-1.03 of the Hayward Municipal Code governs persistent noise and construction noise. Under this section, repeated or persistent loud noise is considered unlawful. Construction activities generating noise are limited to the hours of 7 a.m. to 7 p.m., Monday through Saturday. Construction hours on Sundays are limited to 10 a.m. to 6 p.m. Also, Section 10-8.20(a)(7) of the City's Grading Ordinance indicates grading*	☐	☒	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
operations shall not be conducted on Saturdays, Sundays, or holidays, or outside the hours of 7:30 a.m. to 6:00 p.m., without the specific authorization of the City Engineer. ***Impact:*** *The project could negatively impact nearby residents due to temporary excessive construction noise.* ***Mitigation Measure XI-a:*** ***In accordance with Mission-Garin EIR Mitigation Measure 4.9-1, a Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the City prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications. Such measures will reduce temporary construction noise impacts to levels of insignificance.***				
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? ***Comment:*** *As stated in the Mission-Garin Annexation Draft EIR on page 145, no significant vibration impacts are anticipated.*	☐	☐	☒	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ***Comment:*** *The project would entail development of single-family homes. A noise analysis by Illingworth & Rodkin, Inc., dated March 30, 2005, indicates permanent noise increases due to the proposed development would be negligible. Therefore, permanent noise impacts are anticipated to be less than significant.*	☐	☐	☒	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? ***Comment and Impact:*** *As indicated under item XI-a above, there will be expected temporary significant construction noise impacts.* ***Mitigation Measure XI-d:*** ***Implement Mitigation Measure XI-a, which would reduce such impacts to a level of insignificance.***	☐	☒	☐	☐
e) Exposure of people residing or working in the project area to excessive noise levels due to location within an	☐	☐	☐	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
airport land use plan or within two miles of a public airport or public use airport? ***Comment:*** *No such airports are within two miles of the project site and the site is outside the Hayward Executive Airport's influence area.*				
f) Exposure of people residing or working in the project area to excessive noise levels due to location within the vicinity of a private airstrip? ***Comment:*** *No such airstrips are within two miles of the project site.*	☐	☐	☐	☒
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)? ***Comment:*** *Utilizing an average household size of 3.08 (Census 2000 median household size for Hayward), the project would introduce an additional 388 persons to the area. However, as indicated in the discussion in Section 4.10 of the Mission-Garin Annexation Project Program EIR (MG EIR), proposed development on the subject site would fall within the range of development anticipated and analyzed in the Hayward General Plan, adopted by the City in March of 2002. The MG EIR evaluated impacts of development on this site that ranged from 16 to 187 dwelling units and concluded no significant impacts related to population and housing above that anticipated in the Hayward General Plan EIR would be expected. Therefore, impacts related to increased population would be less than significant.*	☐	☐	☒	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? ***Comment:*** *No existing housing would be displaced as a result of the project.*	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? ***Comment:*** *No existing housing would be displaced as a result of the project, including the eastward extension of Alquire Parkway across private properties.*	☐	☐	☐	☒
XIII. PUBLIC SERVICES & UTILITIES - Would the project result in:				
a) Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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 the following public services:				
Fire protection? ***Comment:*** *As indicated in section 4.12 of the Mission-Garin Annexation EIR, such impacts are not expected to be significant. Visual impacts related to a new water tank have been addressed in a previous environmental document associated with the La Vista residential development project.*	☐	☐	☒	☐
Police protection? ***Comment:*** *As indicated in section 4.12 of the Mission-Garin Annexaiton EIR, such impacts are not expected to be significant.*	☐	☐	☒	☐
Schools? ***Comment:*** *The project site is within the Treeview Elementary School attendance area of the Hayward Unified School District. The project developer will be required to pay required school impact mitigation fees, which, per State law, is considered full mitigation.*	☐	☐	☒	☐
Parks/Recreation? ***Comment:*** *The development includes a small, approximately two-acre private park, which would serve the development. Also, the project proponent would be required to pay park dedication in-lieu fees, in addition to contributing to construction of a new community park about a half-mile to the north of the project site, within easy walking distance of the development. Such measures would reduce such impacts to levels of insignificance.*	☐	☐	☒	☐
b) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? ***Comment:*** *Impacts associated with the number of units on this site that were analyzed in the Mission-Garin Annexation EIR in Section 4.12 were determined to be insignificant. Since the number of units proposed for this project would be less than the maximum analyzed in the MG EIR, project impacts would be expected to be insignificant.*	☐	☐	☒	☐
c) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could	☐	☐	☒	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
cause significant environmental effects? ***Comment:*** *As indicated in the Mission-Garin Annexation EIR in Section 4.12, adequate capacity exists at the City's wastewater treatment facility to accommodate the proposed development. However, an existing undersized sewer interceptor line along the western portion of Tennyson Road between I-880 and Hesperian Road will need to be upgraded and the project will be required to contribute its fair share of the cost for such improvement. Such upgrade will entail construction of a new line parallel to the existing Tennyson Road line.* *Impacts associated with construction of a required new water tank and system at the Garin Reservoir site have been addressed previously in the adopted La Vista Development Mitigated Negative Declaration. Therefore, such impacts are not expected to be significant.*				
d) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? ***Comment:*** *As indicated in the Hydrology-Water Quality section of this document, the project would entail construction of a new detention basin to the southwest of the project site, which will be required to be constructed in accordance with City and Alameda County standards. Therefore, no significant impacts associated with such construction are anticipated.*	☐	☐	☒	☐
e) Require new or expanded water supplies from existing entitlements and resources? ***Comment:*** *As indicated in Section 4.12 of the Mission-Garin Annexation EIR, Hayward has virtually unlimited water supply from the Hetch-Hetchy system. Therefore, no such impacts would be anticipated.*	☐	☐	☒	☐
f) A determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? ***Comment:*** *As indicated on page 183 of the Mission-Garin Annexation Draft EIR, the City has sufficient capacity to serve the amount of development proposed on the subject site.*	☐	☐	☒	☐
g) Require additional landfill capacity? ***Comment:*** *Sufficient landfill capacity exists and such impacts are not anticipated to be significant.*	☐	☐	☒	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Comply with federal, state, and local statutes and regulations related to solid waste? ***Comment:*** *The project would be required to do so, including complying with the City's demolition and recycling ordinance.*	☐	☐	☒	☐
XIV. TRANSPORTATION - Would the project:				
a) Cause an increase in traffic that 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)? ***Comment:*** *The 2003 Mission Garin Annexation Study Program EIR (MG EIR) analyzed such impacts for a range of alternatives that anticipated a greater number of residential units on the subject site (187) than are proposed (126). The MG EIR, which assumed an eastward extension of Alquire Parkway to serve the development, concluded that impacts associated with such development would be less than significant*	☐	☐	☒	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? ***Comment:*** *The MG EIR analyzed such impacts for a range of alternative, some of which that anticipated a greater number of residential units on the subject site than are proposed. Impacts to levels of service were determined not to exist in association with the level of development analyzed in the MG EIR. The Mission-Garin Annexation EIR received a letter of exemption from the Alameda County Congestion Management Agency's Land Use Analysis program requirements on March 1, 2003. Therefore, no such impacts are anticipated as a result of this project.*	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks? ***Comment:*** *The project will not impact air traffic patterns.*	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? ***Comment:*** *No such undesirable design features are proposed. All roads will be required to meet City standards.*	☐	☐	☐	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Result in inadequate emergency access? ***Comment:*** *The project would provide one public road leading into the development, via extension of Alquire Parkway that would lead to the western portion of the development. Also, two additional access points along the southern boundary are proposed for emergency access and the Hayward Fire Department staff has indicated the two access points are acceptable, subject to certain conditions. No such impacts, therefore, are inticipated.*	☐	☐	☐	☒
f) Result in inadequate parking capacity? ***Comment:*** *The development would provide two-car garages for each unit, as well as two parking spaces along driveway aprons, except for the 14 units proposed with tandem garages, in which case one space would be provided along driveways. Also, parking is proposed along one side of each street. No such impacts are expected.*	☐	☐	☐	☒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? ***Comment:*** *The project would not conflict with such plans.*	☐	☐	☐	☒

XV. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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? ***Comment:*** *As discussed under the Biology Resources section, the project could impact nesting raptors, given there is suitable habitat on the site for certain species and some species were observed on the site. Mitigation Measures have been identified to reduce such impacts to levels of insignificance.*	☐	☒	☐	☐
b) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals? ***Comment:*** *No such impacts have been identified. The project would provide housing opportunities for Hayward area residents, including those associated with affordable housing, due to the City's Inclusionary Housing Ordinance.*	☐	☐	☒	☐
c) 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)? ***Comment:*** *No such impacts have been identified.*	☐	☐	☐	☒
d) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? ***Comment:*** *As indicated in the Air Quality, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality and Noise sections, the project could cause substantial adverse effects on human beings due to the potential presence of naturally-occurring asbestos, particulate matter, earthquake fault traces and other geologic hazards such as landslides, and due to temporary construction noise. Mitigation measures have been identified to reduce such impacts to levels of insignificance.*	☐	☒	☐	☐

Sources:

A Geologic Investigation to Evaluate Naturally Occurring Asbestos, Garin Vista and McKenzie Properties, by Northgate Environmental Management, Inc., dated September 30, 2005.
B Addendum to Geologic Investigation to Evaluate Naturally Occurring Asbestos, Garin Vista and McKenzie Properties, by Northgate Environmental Management, Inc., dated December 20, 2005.
C Special Status Wildlife Species Habitat Assessment Garin Vista Study Area, by Wetlands Research Associates, dated March 2001, updated September 2003.
D Alameda Whipsnake Habitat Assessment Garin Vista, by Wetlands Research Associates, dated May 2004.
E Special Status Plant Survey of Garin Vista Project Site, by Wetlands Research Associates, dated March 2002, revised September 2003.
D Delineation of Potential Jurisdictional Wetlands under Section 404 of the Clean Water Act, by Wetlands Research Associates, dated March 2002, revised September 2003.
E Tree Evaluation and Appraisal Report, Ralph Osterling Consultants, Inc., dated March 3, 2005.
F Geologic and Geotechnical Investigation Garin Vista and McKenzie Residential Development, by Berlogar Geotechnical Consultants, dated May 14, 2003.
G Supplemental Geologic Investigation McKenzie Property, by Berlogar Geotechnical Consultants, dated December 5, 2003.
H Phase I Environmental Assessment Garin Vista and McKenzie Properties, by Northgate Environmental Management, Inc., dated October 5, 2005.
I Phase II Soil Quality Investigation, by Northgate Environmental Management, Inc., dated October 31, 2005.
J Fuel-Management Plan for Garin Vista, by Wildland Resource Management, Inc., dated July 25, 2005.
K Analysis of Residential Noise Impacts on the EBRPD, by Illingworth & Rodkin, Inc., dated March 30, 2005.

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Garin Vista Development
Mitigation Monitoring and Reporting Program

Planned Development Application No. PL-2005-0322;
Vesting Tentative Tract Map 7354/PL-2005-0323;
Development Agreement PL-2005-0358
Jack Smith, Garin Vista, LLC (Applicant)
Howard M. Settle, Maxine F. Theobald, Andrew E. Garin,
Richard S. & Annette P. Warren, John and Lia McKenzie (Owners)

February 9, 2006

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Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact I-c (visual character): *The introduction of new development in the area could result in significant impacts to the visual character of the site and surrounding properties.*	***Mitigation Measure I-c:*** ***In accordance with Mitigation Measure 4.1-1 of the Mission-Garin Annexation Study Project Program Environmental Impact Report (MG EIR; SCH No. 2002072047) that was certified by Hayward in July of 2003, the project would be required to incorporate several design measures to help reduce visual impacts and enhance compatibility of the project with the existing surrounding environment, including:*** ♦ ***Use of non-reflective glazing and prohibition on reflective metal roofing, garage doors and trim material;*** ♦ ***Use of earth tone field and trim colors for residential dwellings;*** ♦ ***Use of roof forms that minimize exposure of buildings;*** ♦ ***Design of roadways that minimize views of pavement beyond the project site; and*** ♦ ***Use of techniques to minimize aesthetic impacts of individual residences, including, but not limited to, building design and use of landscape screening.***	Project developers, including project architect, landscape architect and contractor.	City of Hayward Planning Division, Engineering and Transportation Division and Building Division	During project plan review for design and layout, and prior to project finalization during inspections, for construction.

C-111

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact 1-c (visual character), continued…	***Also, any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect. Implementation of such measure will ensure project-generated impacts to the visual character or quality of the site and its surroundings will be less than significant.***			
Impact I-d (lighting/glare): *Proposed street lights and exterior lighting associated with new homes could adversely affect nighttime views of the area from surrounding homes in the area and from views toward the hills from the west.*	***Mitigation Measure I-d: In accordance with Mitigation Measure 4.1-3 of the Mission-Garin Annexation Study Project Program Environmental Impact Report, a detailed lighting plan shall be provided, to be submitted as part of a precise development plan, to incorporate fixtures that shall ensure that lighting off of the project site will be minimized, to prohibit landscape uplighting, with fixtures and plan to be approved by the Planning Director. Implementation of such measure will ensure lighting and glare impacts are less than significant.***	Project Developers, including project architect, landscape architect and general contractor	City of Hayward Planning Division, Building Division and Engineering and Transportation Division	Approvals to be granted prior to installation and verification of such lights to occur via inspections by City staff prior to project finalization

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact III-b (naturally occurring asbestos): *Serpentinite containing asbestos exists on the site that could become airborne if disturbed, resulting in potentially significant negative health impacts to nearby residents.*	***Mitigation Measure III-b:*** ***Prior to the start of any construction or grading activity, including hauling of material from the project site, an asbestos dust mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. In accordance with the State's "Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations" (CCR Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq), the dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing each of the following topics:*** ***a) Track-out prevention and control measures.*** ***b) Keeping active storage piles adequately wetted or covered with tarps.*** ***c) Control for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days.*** ***d) Control for traffic traveling on project site unpaved roads, parking lots, and staging areas.***	Project Developers, including project grading and construction contractors	Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward's grading inspector consultant	Obtain approval from Bay Area Air Quality Management District prior to start of grading, implement provisions of Asbestos Dust Mitigation Plan throughout project grading and construction

C-113

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact III-b (naturally occurring asbestos), cont…	***e) Control for earth moving activities.*** ***f) Control for off-site transport.*** ***g) Post construction stabilization of disturbed areas.*** ***h) Air-monitoring for asbestos (if required by the BAAQMD's Air Pollution Control Officer).*** ***i) Frequency of reporting.*** ***Northgate Environmental Management, Inc. includes as Appendix A to their September 30, 2005 report a Construction Management Plan that incorporates such measures. Such plan shall be implemented, subject to review and approval by the Bay Area Air Quality Management District (BAAQMD). Also, measures called out in Northgate's December 20, 2005 report related to hauling material from the site that may contain naturally-occurring asbestos, shall be implemented, subject to review and approval by the BAAQMD. Such measures will ensure air quality impacts related to naturally occurring asbestos are less than significant.***			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact III-c (criteria pollutant): *The project, which is proposed to entail 102,600 cubic yards of balanced on-site cut and fill grading, and also 751,400 cubic yards of material to be exported, has the potential through the release of dust, to exceed particulate matter standards and negatively affect local residents.*	***Mitigation Measure III-c:*** ***In accordance with Mitigation Measure 4.2-1 of the Mission-Garin Annexation EIR, grading activities shall incorporate standard dust control measures, to include, but not be limited to frequent watering of the site, use of soil stabilizers, hydroseeding of graded areas and other measures that comply with Bay Area Air Quality Management District recommendations for dust control. Project construction grading plans shall state such measures on the plans, to be approved by the Hayward Public Works Department staff. Implementation of such measure will ensure such impacts are less than significant.***	Project Developers, including project grading and construction contractors	Hayward Public Works Department personnel and Hayward's grading inspector consultant	Obtain approval from Hayward Public Works Department prior to issuance of grading permits; implement dust control measures throughout project grading and construction
Impact III-d (pollutant concentrations): *The proximity of proposed grading, including truck traffic associated with hauling of grading material, to adjacent residences has the potential to expose occupants of those homes to elevated levels of fine particulate matter.*	***Mitigation Measure III-d:*** ***Implement Measures III-b and III-c above, which will ensure such air quality impacts are less than significant.***	Project Developers, including project grading and construction contractors	Hayward Public Works Department personnel and Hayward's grading inspector consultant	Obtain approval from Hayward Public Works Department prior to issuance of grading permits; implement dust control measures throughout project grading and construction

C-115

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact IV-a (special-status species): *Given the proximity of the project to Garin Regional Park, the project has the potential to significantly impact special-status wildlife species and their habitat.*	***Mitigation Measure IV-a:*** ***In accordance with Mitigation Measures 4.3-5 through 4.3-6 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, the U.S. Fish and Wildlife Service (USFWS) shall confirm all habitat assessments conducted by Wetland Research Associates for California red-legged frog and Alameda whipsnake. Alternatively, if the USFWS is not responsive in confirming such assessments and to ensure such assessments are adequate and followed standard resource agency protocols, the City shall hire and the applicant shall pay for a qualified biological consultant to review such assessments. If California red-legged frogs or Alameda whipsnakes and/or their occupied habitats are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific California red-legged frog and/or Alameda whipsnake mitigation plan should be developed, approved by the USFWS and CDFG prior to development, and implemented.***	Project Developers, including biological consultants and contractors	Hayward Planning Division and, if mitigation plans are required, California Department of Fish and Game and US Fish and Wildlife Service	Surveys to be completed prior to start of grading; mitigation plans, if required, to be implemented prior to and throughout construction period

C-116

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact IV-a (special-status species), continued...	***In accordance with Mitigation Measures 4.3-7 through 4.3-8 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, surveys utilizing protocols acceptable to the resource agencies, including burrowing owl survey protocol and protocol for Golden Eagle surveys established by the California Department of Fish and Game (CDFG), shall be conducted. If such surveys reveal the presence of nesting Golden Eagles within 0.25 mile and in direct line-of-sight distance from project activity, presence of Western burrowing owls within 250 feet, presence of loggerhead shrikes within 200 feet or presence of any other special-status raptors within 300 feet of project activity, construction activity within the above-specified buffer zones shall be completed before the nesting season or be postponed until after the nesting season (March through the end of August) and until all young have fledged from such nests. The limit related to presence of Golden Eagles shall be applicable during the entire tenure eagles are actively nesting within the buffer zone, not just during the breeding season. Also, given Coopers Hawk and Loggerhead Shrike were observed on the site, further raptor and shrike and Golden Eagle surveys following survey protocols established by resource agencies shall be conducted during the nesting season immediately preceding start of grading or construction, to confirm no active raptor nests exist that could be impacted by construction activities.***			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact IV-e (trees): *The project would entail removal of 29 ornamental and fruit trees in the western portion of the site, as well as three oak trees along the southern property line. Half of the ornamental trees are in very poor or poor condition, with the remaining in fair to good condition. Ten of the ornamental/fruit trees and all of the oak trees are defined by Hayward's Tree Preservation Ordinance as "protected" and are encouraged to be preserved or, if not feasible to be saved, to be replaced with "like-size, like-kind trees or an equal value tree or trees as determined by the City's Landscape Architect." The preliminary landscape plans indicate over 400 new trees proposed to mitigate for the loss of removed trees.*	***Mitigation Measure IV-e:*** ***In accordance with Hayward's Tree Preservation Ordinance, any "protected" trees as defined by the City's Tree Preservation Ordinance that are to be removed as a result of the project shall be replaced with like-size, like-kind trees or trees equal in value to them, as determined by the City's Landscape Architect. Such measures will ensure impacts due to removal of protected trees are less than significant.***	Project Developers, including project grading and landscape contractors, and landscape engineer	City of Hayward Planning Division (City's Landscape Architect)	Plans to be submitted and approved prior to issuance of grading permits; trees to be planted prior to project finalization

C-118

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VI-a(ii) (seismic ground-shaking): *The fact that the active Hayward fault runs through the project site increases the chances that severe ground shaking will likely occur during a major seismic event, which could result in loss of life and/or property.*	***Mitigation Measure VI-a(ii):*** ***Recommendations of the project geotechnical consultant, Berlogar Geotechnical Consultants, as outlined in a report dated May 14, 2003, shall be implemented. Such report, which has been peer-reviewed and accepted by the City's geotechnical consultant, contains recommendations to reduce ground shaking impacts, including:*** ♦ ***removal of five of six landslides on the site and replaced with keyways and engineered fill, along with subdrain systems (the sixth landslide is along the northern drainage channel and is not within proposed limits of grading),*** ♦ ***removal of non-engineered fill down to competent bedrock and replacement with engineered fill,*** ♦ ***recommendations for cut slopes to not exceed 2:1 slope and where cut slopes would be over 30 feet in height, intermediate benches with concrete-lined V-ditches for drainage,*** ♦ ***recommendations associated with anticipated settlement related to utility lines, and*** ♦ ***recommendations for buttress fills in areas where geologically weak bedrock is encountered in cut slopes.***	Project Developers, including project geotechnical consultant and grading and building contractors	City of Hayward Planning and Building Divisions	Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants were done throughout construction

C-119

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VI-a(ii) (seismic ground-shaking), cont…:	***As recommended by the City's geotechnical peer-reviewer, prior to issuance of construction permits, the project geotechnical consultant shall review the final construction plans to ensure that site grading, fault and slope setbacks, foundation designs, subdrainage, etc. are in accordance with the project consultant's recommendations, and provide a plan review letter to the City. Also, the project certified engineering geologist and geotechnical engineer shall be on site during grading, excavations, keyways, cuts, etc. to verify that actual geologic conditions, fault locations and special foundation zones are as anticipated and that appropriate supplemental recommendation be provided, as necessary. The results of such inspections, testing, and/or modifications shall be documented in an "as-built" letter/report prepared by the project engineering geologist/geotechnical engineer and submitted to the City before final approval of permits is granted. Implementation of such measures, including careful monitoring of grading during construction by the project engineering geologist and geotechnical engineer, will ensure such impacts are less than significant.***			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VI-a(iv) (landslides): *See comment under item VI-aii above.*	***Mitigation Measure VI-a(iv):*** ***Implement Mitigation Measure VI-aii, which will reduce the significance of landslide-related impacts to a level of insignificance.***	Project Developers, including project geotechnical consultant and grading and building contractors	City of Hayward Planning and Building Divisions	Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants was done throughout construction
Impact VI-b (erosion): *Unprotected areas after finished grading could result in soil erosion and loss of topsoil, impacting on-site and off-site improvements.*	***Mitigation Measure VI-b:*** ***All exposed areas within the proposed project limits of grading are to be planted with vegetation, to the satisfaction of the City's Landscape Architect or, if temporary stockpiles of material are created on-site, covered with material to prevent material from being washed away.***	Project Developers and grading and construction contractors	City of Hayward Planning Division and Public Works Department staff and grading inspector consultant	Throughout project construction

C-121

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VI-c (unstable soils): *See comment under item VI-aii.*	***Mitigation Measure VI-c:*** ***Implement Mitigation Measure VI-aii, which will reduce the significance of landslide-related impacts to a level of insignificance.***	Project Developers, including project geotechnical consultant and grading and building contractors	City of Hayward Planning and Building Divisions	Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants was done throughout construction

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VII-b(1) (naturally-occurring asbestos in ground): *Release of asbestos fibers through disturbance of soil containing such material could result in a health hazard to nearby residents and workers.*	***Mitigation Measure VII-b(1): Implement Mitigation Measure III-b. Also, reflective of recommendations of the project environmental geologic consultant (Northgate Environmental Management, Inc.), no asbestos-containing material shall be placed within 4 feet of the finished grade surface within the proposed development, including all residential lots, streets and roads, landscaped and active open space and park areas and trails. Additionally, material to be used for the upper area "cap" shall be tested in accordance with a State-approved testing method, such as the Air Resources Board's Test Method 435, to confirm such material does not contain more than 0.25 percent asbestos material. Such measures will ensure impacts resulting from release of asbestos-containing materials will be less than significant.***	Project Developers, including project grading and construction contractors	Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward's grading inspector consultant	Obtain approval from Bay Area Air Quality Management District prior to start of grading, implement provisions of Asbestos Dust Mitigation Plan throughout project grading and construction; conduct testing of "cap" prior to start of construction of homes

C-123

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VII-b(2) (soil contaminants): *The presence of underground storage tanks and other potential contaminants could represent a potential health hazard.*	***Mitigation Measure VII-b(2):*** ***In accordance with Mitigation Measure 4.6-1(a) of the Mission-Garin Annexation EIR, prior to start of project grading, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, State Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permit and facility closure with regard to demolition and removal of hazardous material form the site, to include:*** ***a) Based on the proposed intensification of the subject property to residential uses, a health based and if necessary, a water quality clearance shall be obtained from either the California Department of Toxic Substances Control (DTSC) or the California Regional Water Quality Control Board (CRWQCB) and submitted to the Hayward Fire Department prior to grading of the site. (Note: If acceptable to either DTSC or CRWQCB, grading may be allowed prior to final clearance; however, final clearances must be obtained prior to construction activities.)***	Project Developers, including project grading and construction contractors	Hayward Fire Department – Hazardous Materials Division and, if applicable, Alameda County Environmental Health Department, Bay Area Air Quality Management District and the State Department of Toxic Substances Control	Required site clearances to be obtained prior to start of grading; implementation of required measures to be done throughout project grading and construction

C-124

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VII-b (2) (soil contaminants), cont…:	***b) The area where an underground gasoline/diesel storage tank system may have been installed shall be properly investigated and if still present, shall be removed under permit with the City of Hayward Fire Department. Additionally the underground storage tank found above ground in the southwest portion of the site shall be properly removed under permit with the City of Hayward Fire Department if the tank is deemed by the Department staff to contain hazardous materials.*** ***c) Hazardous materials and hazardous materials containers on the property shall be properly identified and disposed per the hazardous materials and hazardous waste regulation of the State of California.*** ***d) Identified groundwater wells, including those adjacent to the existing ranch buildings in the western portion of the site, shall be properly destroyed under permit per the requirements of the Alameda County Public Works Department, Groundwater Protection Section, and the City of Hayward Public Works Department.*** ***e) Existing septic tanks associated with the ranch development in the western portion of the site shall be properly removed per requirements of the project soils engineer and the City of Hayward Public Works Department.***			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VII-b(3) (soil contaminants): *The presence of underground storage tanks and other potential contaminants could represent a potential health hazard.*	***Mitigation Measure VII-b(3):*** ***All remediation work shall be performed by licensed contractors in accordance with state and federal OSHA standards. Worker safety plans shall be included for all demolition plans.*** ***Implementation of all of these measures will reduce such impacts related to hazardous materials to levels of insignificance.***			
Impact VII-g (emergency response): *The planned extension of Alquire Parkway, and the utility lines that are proposed to cross the Hayward earthquake fault trace may be damaged during a seismic event, which could impair evacuation and emergency response activities during an emergency event.*	***Mitigation Measure VII-g:*** ***Recommendations of the project geotechnical engineer, Berlogar Geotechnical Consultants, located on page 32 to 35 of his May 14, 2003 report, related to street and utility lines shall be incorporated into the project design, subject to final approval by the Hayward Public Works Department. Such recommendations, to address impacts associated with fault creep, call for placing utility lines within an oversized outer conduit or sleeve within the fault zone, utilizing flexible pipes that include risers with shut-off valves on each side of the fault trace, etc. Such measures will ensure such impacts will be less than significant.***	Project Developers, including project grading and construction contractors and project geotechnical engineer	Hayward Building Division and Public Works Department	Design shall be shown in plans, to be approved prior to issuance of construction permits; design shall be implemented during construction

C-126

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VII-h (wildland fires): *Due to the proximity of the proposed development to wildland interface areas, there is the potential of significant risks associated with wildland fires.*	***Mitigation Measure VII-h:*** ***Measures called out in the July 25, 2005 Fuel Management Plan by Wildland Resource Management, Inc., shall be implemented, subject to approval by the Hayward Fire Department. Examples of measures recommend in the plan include those associated with a fuel management program based on zones and reducing fire loads to a greater extent in close proximity to structures (annual mowing program), those associated with structure hardening and materials and design (sprinklers and fire-resistant roofing material) and those associated with emergency preparedness education (annual report submitted by a wildland fire management expert hired and paid for by the development's homeowner's association). Additionally, as recommended by the Plan, an adequate water supply system approved by the Hayward Fire Department shall be installed and functional prior to framing of structures. Such measures will ensure hazards related to wildland fires are insignificant.***	Project developers, including project designers and engineers	Hayward Building Division, Public Works Department and Fire Department	New water system: Prior to framing construction. Fuel Management Plan: Incorporated into project design prior to issuance of construction permits and implemented throughout and after construction, prior to project finalization and via annual inspections by the Hayward Fire Department

C-127

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VIII-a (water quality): *During construction and after project completion, there is the potential for erosion of exposed surfaces to enter the stormwater system, which could negatively impact water quality and violate water quality standards.*	***Mitigation Measure VIII-a:*** ***Per State regulations, a Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Quality Protection Plan shall be prepared and submitted to the State for review and approval. These documents shall also be submitted along with the grading permit application for review and approval by the City of Hayward. Grading and construction plans shall incorporate erosion and sedimentation control measures to be implemented during all phases of construction activities.*** ***The improvement plans for the project shall incorporate Best Management Practices (BMP's) designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, including the hydraulic sizing criteria, which will ensure that storm water runoff is treated prior to discharge from the site and that runoff rates are such that downstream impacts are reduced to the maximum extent practical. Such measures will ensure that water quality impacts are less than significant.***	Project developers, including project designers and engineers, and grading and construction contractors	San Francisco Bay Regional Water Quality Control Board, Hayward Public Works Department and Hayward grading inspector consultant	Approvals of plans to be obtained prior to issuance of grading permits; requirements of plans to be implemented throughout project construction and confirmed prior to project finalization

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VIII-c (drainage): *The proposed stormwater drainage system could result in substantial erosion that could negatively impact downstream properties.*	***Mitigation Measure VIII-c:*** ***In accordance with regulations of the Alameda County NPDES Permit requirements, the development's improvement plans will be required to incorporate Best Management Practices (BMP's), including erosion and sedimentation control measures, which will treat all water prior to discharge and will ensure that the discharge rate from the site is consistent with existing rates.***	Project developers, including project designers and engineers, and grading and construction contractors	Hayward Public Works Department and Hayward grading inspector consultant	Approvals of plans incorporating Best Management Practices (BMP's), including erosion and sedimentation control measures, to be obtained prior to issuance of grading permits; requirements of plans to be implemented throughout project construction and confirmed prior to project finalization

C-129

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact VIII-e (drainage capacity): *The project could generate stormwater runoff that could exceed the capacity of downstream facilities.*	***Mitigation Measure VIII-e:*** ***Proposed detention basin and project drainage system shall be designed in accordance with Alameda County Flood Control and Water Conservation District's (ACFCD) standards, with such design to be supported via hydraulic calculations from the project engineer, to be reviewed and approved by the ACFCD and the City of Hayward Public Works Department. Any increased flow resulting from the proposed development would be required to be mitigated on-site. Implementation of such measures will ensure no impacts related to capacity of downstream facilities would be significant.***	Project developers, including project designers and engineers, and grading and construction contractors	Hayward Public Works Department and Alameda Flood Control and Water Conservation District staff	Approvals of plans reflecting hydraulic calculations to be obtained prior to issuance of grading permits; design to be implemented during construction and verified prior to project finalization

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
Impact XI-a (temporary construction noise): *The project could negatively impact nearby residents due to temporary excessive construction noise.*	***Mitigation Measure XI-a:*** ***In accordance with Mission-Garin EIR Mitigation Measure 4.9-1, a Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the City prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications. Such measures will reduce temporary construction noise impacts to levels of insignificance.***	Project developers, including project grading and construction contractors	Hayward Public Works Department. Planning and Building Divisions and Hayward Police Department	Construction Noise Management plan to be developed and approved prior to issuance of construction permits; measures to be implemented throughout project construction
Impact XI-d (temporary ambient noise level increases): *As indicated under item XI-a above, there will be expected temporary significant construction noise impacts.*	***Mitigation Measure XI-d:*** ***Implement Mitigation Measure XI-a, which would reduce such impacts to a level of insignificance.***	Project developers, including project grading and construction contractors	Hayward Public Works Department. Planning and Building Divisions and Hayward Police Department	Construction Noise Management plan to be developed and approved prior to issuance of construction permits; measures to be implemented throughout project construction

C-131

northgate
environmental management, inc.

December 20, 2005

Mr. Joe Callahan
Garin Vista LLC
5674 Stoneridge Drive
Pleasanton, California 94588

Subject: Addendum to Geologic Investigation to Evaluate
Naturally Occurring Asbestos,
Garin Vista and McKenzie Properties, Hayward, California
Project 1095.02

Dear Mr. Callahan:

Northgate Environmental Management, Inc. (Northgate) has prepared this addendum to describe the requirements for hauling serpentinite-bearing rock and soil from the Garin Vista and McKenzie properties (Garin/McKenzie) to the La Vista Development project (La Vista), in Hayward, California.

The anticipated haul route to transport serpentinite-bearing material from Garin/McKenzie to La Vista is shown in the attached offhaul plan (Sheet 8 of 8 of the Vesting Tentative Map, Tract 7354—Garin Vista Conceptual Off Haul Plan) prepared by Ruggeri-Jensen-Azar & Associates, (December 15, 2005). This route will extend approximately 750 feet between Garin/McKenzie and La Vista, upslope from Bodega Street, as shown in the Offhaul Plan. We understand that the serpentinite material will be transported primarily by scrapers, although articulated dump trucks and 10-wheel dump trucks may also be used to transport some material.

As discussed in our report entitled "Geologic Investigation to Evaluate Naturally Occurring Asbestos, Garin Vista and McKenzie Properties" (Northgate, September 30, 2005), the proposed earthwork activities at the Site are subject to the Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying and Surface Mining Operations (ATCM). The Bay Area Air Quality Management District (BAAQMD) is responsible for implementing the ATCM. The BAAQMD requires that best management practices be implemented to prevent visible dust emissions beyond the property boundaries during any road construction, grading, hauling, or maintenance activity involving serpentinite-bearing material.

In accordance with the ATCM and BAAQMD requirements, the following measures need

ATTACHMENT H

300 Frank H. Ogawa Plaza, Suite 510, Oakland, California 94612 510.839.0688 fax 510.839.4350
www.ngem.com

to be implemented during any road construction and hauling activities involving the serpentinite-bearing material:

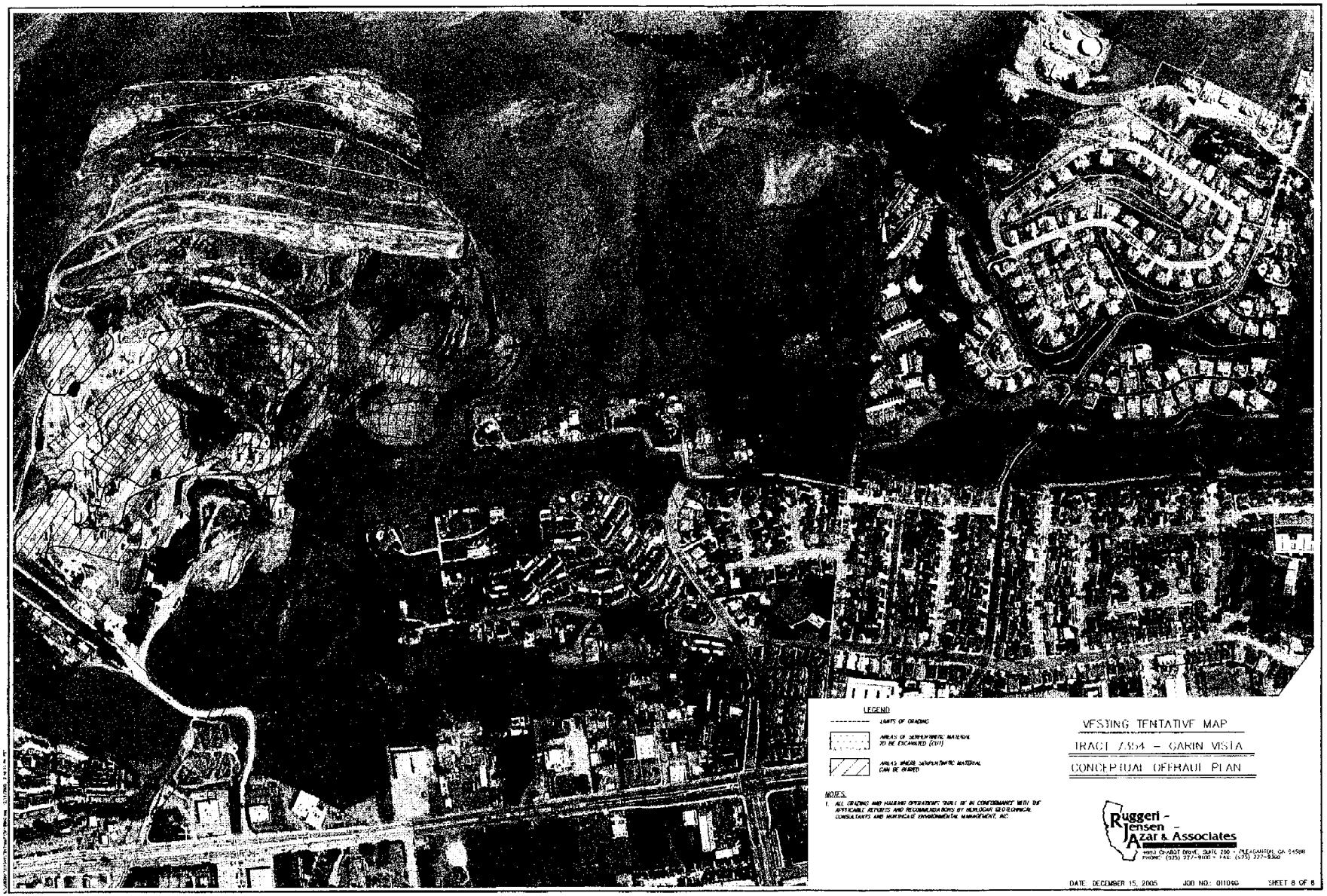
1. The haul route must be stabilized by being kept adequately wetted or, treated with a chemical dust suppressant if necessary, or covered with material that contains less than 0.25 percent naturally occurring asbestos.
2. Gravel pads should be installed at both ends of the haul route. All vehicles entering the haul route should be inspected for clumps of soil and rock. Such debris should be removed prior to traveling between Garin/McKenzie and La Vista.
3. The haul road surface and surrounding area shall be sufficiently stabilized to prevent vehicles and equipment from emitting visible dust crossing the project boundaries.
4. Activities shall be conducted so that dust is not tracked out from Garin/McKenzie or La Vista onto any paved roadway open to the public. Track-out prevention and control measures shall include the removal of any visible track-out from a paved public road at any location where vehicles exit the work site using either wet sweeping or a HEPA filtered vacuum at the end of the work day or at least once a day; and the installation of one or more of the following track-out prevention measures:
   - a gravel pad designed using good engineering practices to clean the tires of exiting vehicles;
   - a tire shaker;
   - a wheel wash system; and
   - pavement extending for not less than fifty (50) consecutive feet from the intersection with the paved public road
5. Equipment and operations must not cause the emission of any dust that is visible crossing the project boundaries. The competent person shall conduct, and document, at least three daily inspections of project boundaries to ensure no visible off site emissions. If such are observed, the competent person shall order work to be suspended until adequate dust controls can be restored.

Please call me if you have any questions on the above procedures.

Sincerely,

Alan Leavitt, P.E.
Principal Engineer

Attachment: Sheet 8 of 8 of the Vesting Tentative Map, Tract 7354—Garin Vista Conceptual Off Haul Plan



LEGEND

LIMITS OF GRADING

AREAS OF SERPENTINITIC MATERIAL TO BE EXCAVATED (CUT)

AREAS WHERE SERPENTINITIC MATERIAL CAN BE BURIED

NOTES:

1. ALL GRADING AND HAULING OPERATIONS SHALL BE IN CONFORMANCE WITH THE APPLICABLE REPORTS AND RECOMMENDATIONS BY NORLOGAN GEOTECHNICAL CONSULTANTS AND NORTHGATE ENVIRONMENTAL MANAGEMENT, INC.

VESTING TENTATIVE MAP

TRACT 7354 – GARIN VISTA

CONCEPTUAL OFFHAUL PLAN

Ruggeri - Jensen - Azar & Associates

4883 CHABOT DRIVE, SUITE 200 • PLEASANTON, CA 94588
PHONE: (925) 227-9100 • FAX: (925) 227-9360

DATE: DECEMBER 15, 2005 JOB NO.: 011040 SHEET 8 OF 8

15074.1. Substitution of Mitigation Measures in a Proposed Mitigated Negative Declaration.

(a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.

(b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:

(1) Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.

(2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.

(c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.

(d) "Equivalent or more effective" means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(f), Public Resources Code.

Discussion: Public Resources Code Section 21080 allows a lead agency to delete mitigation measures which it concludes are infeasible or otherwise undesirable when it substitutes equivalent or more effective measures. Any proposed substitute measures must be considered at a public hearing. This section defines what can be considered an "equivalent or more effective" measure and clarifies that the lead agency may consider substitute measures at the same public hearing during which it considers that project.

DUE TO THE LENGTH OR COLOR OF THE REFERENCED EXHIBITS, THEY HAVE BEEN ATTACHED AS SEPARATE LINKS.

February 7, 2006

City of Hayward
Attn: Jesus Armas, City Manager
777 B Street
Hayward, CA 94541

Dear Mr. Armas:

Our parcels of land located on Bodega Street are naturally flatter than the nearby land that is being considered for annexation into the City of Hayward and developed into residential homes.

In light of the developers recent request for a rezoning from Medium Density Residential to Planned Development we again request at this time that the City of Hayward rezone each parcel on Bodega Street to residential medium density.

Thank you for your help and consideration.

Sincerely,

Adelaide Moita

Adelaide B. Moita

Jack Golden

Virginia Rose

Harry Brown

Andrea Darling

EXHIBIT D

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO._____

Introduced by Council Member_____

RESOLUTION ADOPTING MITIGATED NEGATIVE DECLARATION AND CONDITIONALLY APPROVING ZONE CHANGE APPLICATION PL 2005-0322 PD AND VESTING TENTATIVE TRACT MAP PL 2005-0323 TTM 7354 AND THE INCLUSIONARY HOUSING PLAN

WHEREAS, Zone Change Application PL 2005-0322 PD and Vesting Tentative Map PL 2005-0323 TTM 7354 concern a request by Garin Vista, LLC (Applicant) and Howard M. Settle, Maxine F. Theobald, Andrew E. Garin, Richard and Annette Warren and John and Lia McKenzie (Owners) to subdivide a 50-acre parcel and construct 126 single family residences located northeast of the intersection of Woodland Avenue and Bodega Street, west of Garin Regional Park (the "Project" or the "Property") and to prezone the Property from Medium Density Residential (RMB4) District and Agricultural (AB10A) District to Planned Development (PD) District, submitted in conjunction with a proposed development agreement; and

WHEREAS, an Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program have been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission held a public hearing on February 9, 2006, regarding the applications, in accordance with the procedures contained in the Hayward Zoning Ordinance, codified as Article 1, Chapter 10 of the Hayward Municipal Code, and recommended adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, the Zone Change application, the Vesting Tentative Tract Map, the proposed development agreement and the proposed Inclusionary Housing Plan; 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 Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are based, certifies that the Mitigated Negative Declaration has been completed in compliance with the requirements of the California Environmental Quality Act, and finds that the Mitigated 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:

<u>ZONE CHANGE - RECLASSIFICATION TO PLANNED DEVELOPMENT (PD)</u>

DISTRICT

1. Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15168, Program Environmental Impact Reports, and Section 15074, Mitigated Negative Declarations, the Mission-Garin Annexation Project Environmental Impact Report (SCH #2002072047) was prepared and certified in 2003 and a Mitigated Negative Declaration has been prepared in association with approval of Zone Change Application PL 2005-0322 PD, Tentative Map Application No. PL 2005-0323 TTM 7354 and Development Agreement Application PL 2005-0358 DA, as conditioned and it has been determined, based on the whole record (including the initial study and any comments received), that there is no substantial evidence that the proposed Project will have a significant effect on the environment, cumulative or otherwise, that cannot be mitigated, and that the Mitigated Negative Declaration is complete and final and reflected the City of Hayward's independent judgment and analysis.

2. The Project is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies in that project, proposed at 9.8 units per net acre, is consistent with the General Plan Land Use designation of Limited Medium Density Residential (8.7 to 12.0 units per net acre). The Project will further the City's goal to provide ownership housing opportunities, as expressed in the City's General Plan Housing Element and will further the City's Housing Element policy to provide housing opportunities for all household income levels in that 19 rental housing units for very low- and low-income households will be provided off-site in the City as a result of the Project, or will be provided on-site for moderate income households. Also, the development would be in substantial harmony with the surrounding area, including the single-family homes to the east and the apartment complex to the south, since the design and layout of the development involves a variety of single family homes of high quality design that will not result in significant visual impacts as a result of required landscaping, architecture and colors consistent with the City's Hillside Design Guidelines and Mission-Garin Area Special Design District provisions. The project will be constructed on a former quarry site that currently contains unnatural, over-steepened slopes with landslides.

3. Streets and utilities, existing or proposed, are adequate to serve the Project in that the conditions of approval require that a public road be constructed to City standards to serve the Project, as well as emergency access roads that will not only provide emergency access for the Project, but also northward from existing development; upgrades to the Garin Reservoir system, acceptable to the City, will be completed prior to completion of the Project, including construction of a new water tank and upgrades to the associated pump station. In addition, the Project will be required to contribute its fair share costs to

upgrade any identified undersized sewer mains that would serve the development.

4. The Project creates a residential environment of sustained desirability and stability in that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon. The Project will have no substantial adverse effect upon the surrounding development in that the Project will create a residential environment involving high quality design, including a 1.9-acre private park serving the Project and a trail leading to the development to the north and a new 30-acre park; and the Project, as conditioned, would result in a $1 million contribution toward the development of a new community center in an area of the City that lacks adequate recreational opportunities and allow for creation of emergency access in the area where the only means of vehicular egress from the area is over the fault trace via Garin Avenue.

5. 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 development standards, in that the exceptions requested for reduced minimum lot sizes for approximately 25% of the lots and the generally five foot front and rear yard setbacks is offset with enhanced outdoor space in the hillside setting and contributions to recreational facilities involving payment of a $1 million contribution toward the construction of a new community center in the general vicinity, as well as dedication and development of a new trail from the development to the adjacent tract to the north (La Vista) which will connect to a new 30-acre community park required to be constructed adjacent to the La Vista development.

VESTING TENTATIVE TRACT MAP 7354

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

7. The site is physically suitable for the proposed type of development;

8. 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.

9. The design or the subdivision and the proposed improvements are not likely to cause serious health problems.

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

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

INCLUSIONARY HOUSING PLAN

12. The Project will result in greater affordable housing opportunities in Hayward than what normally would be required for the Project in that 19 apartments affordable to households of low- and very low-incomes will be developed, which are more affordable than the units available to moderate income households that would otherwise be required.

13. The Project schedule, as conditioned, will ensure that development of at least 19 affordable units by Eden Housing, Inc., at the northeast corner of Saklan Road and North Lane will occur at the same time as the development of the Project or 19 units available to moderate income households shall be provided on the Project site.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that, based on the findings noted above, that Zone Change Application 2005-0322 PD, Preliminary Development Plan, Vesting Tentative Map Tract No. 7354 and the Inclusionary Housing Plan are hereby approved, effective immediately upon the effective date of annexation of the Property by the Local Agency Formation Commission of Alameda County, and subject to the conditions of approval contained in Exhibit A attached hereto and incorporated herein as a part of this resolution, and the adoption of the companion ordinance reclassifying the Property from Medium Density Residential (RMB4) District and Agricultural (AB10A) District, to PD (Planned Development) District.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

mtl
2/14/06

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY PREZONING CERTAIN TERRITORY IN CONNECTION WITH ZONE CHANGE APPLICATION PL-2005-0322 PD RELATING TO THE GARIN VISTA PROPERTY IN THE MISSION-GARIN ANNEXATION AREA

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

Section 1. Prezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to prezone the property located northeast of the intersection of Woodland Avenue and Bodega Street, west of Garin Regional Park, more particularly, Assessor Parcel Numbers 083-0125-001-13, 083-0265-003-01, and 083-0265-003-02, from Medium Density Residential (RMB4) District and Agricultural (AB10A) District to Planned Development (PD) District.

The City Council has adopted a companion resolution, adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approving Zone Change Application No. PL-2005-0322 PD and Vesting Tentative Map PL 2005-0323 TTM 7354, which findings contained therein are incorporated herein by reference.

Section 2. Severance.

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

Section 3. Effective Date.

This ordinance shall become effective immediately upon the effective date of the annexation of the Property by the Local Agency Formation Commission of Alameda County.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____day of_____, 2006, by Council Member_____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the_____ day of _____, 2006, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

DRAFT

ORDINANCE NO. _____

mrl
8/14/06

AN ORDINANCE AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT FOR DEVELOPMENT OF THE GARIN VISTA PROJECT

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

Section 1. Findings. This ordinance authorizes the execution of a development agreement with John M. McKenzie, Lia F. McKenzie and Garin Vista, LLC, for the Garin Vista Project ("Garin Vista Project Development Agreement"), to be developed on an approximately 50-acre site located northeast of the intersection of Woodland Avenue and Bodega Street, west of Garin Regional Park in the unincorporated area of Hayward, California (the "Property"), in the Mission-Garin Annexation Area. The findings and determinations contained in the Resolution _____ , which approves Zone Change Application PL 2005-0322 PD, reclassifying the Property from Medium Density Residential (RMB4) District and Agricultural (AB10A) District to Planned Development (PD) District and Vesting Tentative Map 7354 (PL 2005-0323), are incorporated by reference herein. The following additional findings also support the adoption of this ordinance authorizing the execution of a Development Agreement for the Garin Vista project.

A. This ordinance is adopted pursuant to the enabling provisions of Article 9, Chapter 10 of the Hayward Municipal Code, the City's Development Agreement Ordinance, and the provisions of state law which authorize the City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of their property, contained in Government Code sections 65864 through 65869.5.

B. The proposed Garin Vista Project Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, Mission-Garin Area Special Design District, and the Hillside Design and Urban Wildland/Interface Guidelines in that Section 4 of the Development Agreement stipulates the development must be consistent with such provisions.

C. The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the General Plan allows for Limited Medium Density Residential development at 8.7 to 12.0 dwelling units per net acre and the development is proposed to have 9.8 dwelling units per net acre.

D. The proposed Development Agreement is in conformity with public

convenience, general welfare, and good land use practice in that it will provide new housing opportunities and substantial contribution toward development of a new community center, while minimizing impacts to the area and ensuring a geologic hazard abatement district will be formed.

E. Existing or proposed public facilities have sufficient capacity to accommodate the proposed development in that Alquire Parkway and a new public road serving the development would be built, as well as a new emergency access easement road and emergency vehicle access easement road along the southern property line, providing for enhanced access during emergencies and a new 1.2 million gallon water tank and related system improvements to the Garin reservoir water system will also be constructed.

F. The public health, safety, and general welfare will be promoted and advanced by the proposed development in that mitigation measures will be required as a part of the development approvals to ensure that significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, naturally-occurring asbestos and geologic hazards.

G. The orderly development of property or the preservation of the property values will be promoted and advanced by the proposed development in that high-quality single-family housing will be constructed in an area that contains a former quarry with associated over-steepened slopes and landslides, resulting in fewer impacts to, and a development more compatible with, surrounding residences. Additionally, sewer and water service would be extended to properties along Bodega Street.

Section 2. Authorization of La Vista Project Development Agreement. Based on the findings set forth in this ordinance and in Resolution No._____, as well as a review of the proposed Garin Vista Project Development Agreement submitted to the City Council at the February 21, 2006, meeting, the City Council hereby takes the following actions:

A. The City Manager is authorized to execute a Development Agreement with La Vista, L.P., regarding the Garin Vista Project planned development proposal substantially in the form of the proposed development agreement presented to the City Council on February 21, 2006, together with such minor clarifying changes as may be necessary upon approval by the City Manager after consultation with the City Attorney.

B. The City Manager is also authorized to take such further actions which he or she deems necessary and proper to carry out and or monitor performance of the terms of the executed Garin Vista Project Development Agreement pursuant to applicable law and regulation. This authority includes but is not limited to

execution of any further agreement which the City Manager deems necessary to implement the Garin Vista Development Agreement ("Implementation Agreement").

Section 3. Effective Date. This ordinance shall become effective immediately upon the effective date of annexation of the Property by the Local Agency Formation Commission of Alameda County.

Section 4. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____day of_____, 2006, by Council Member_____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the_____ day of _____, 2006, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

VESTING TENTATIVE MAP
TRACT 7354 - GARIN VISTA
CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

BENCHMARK:

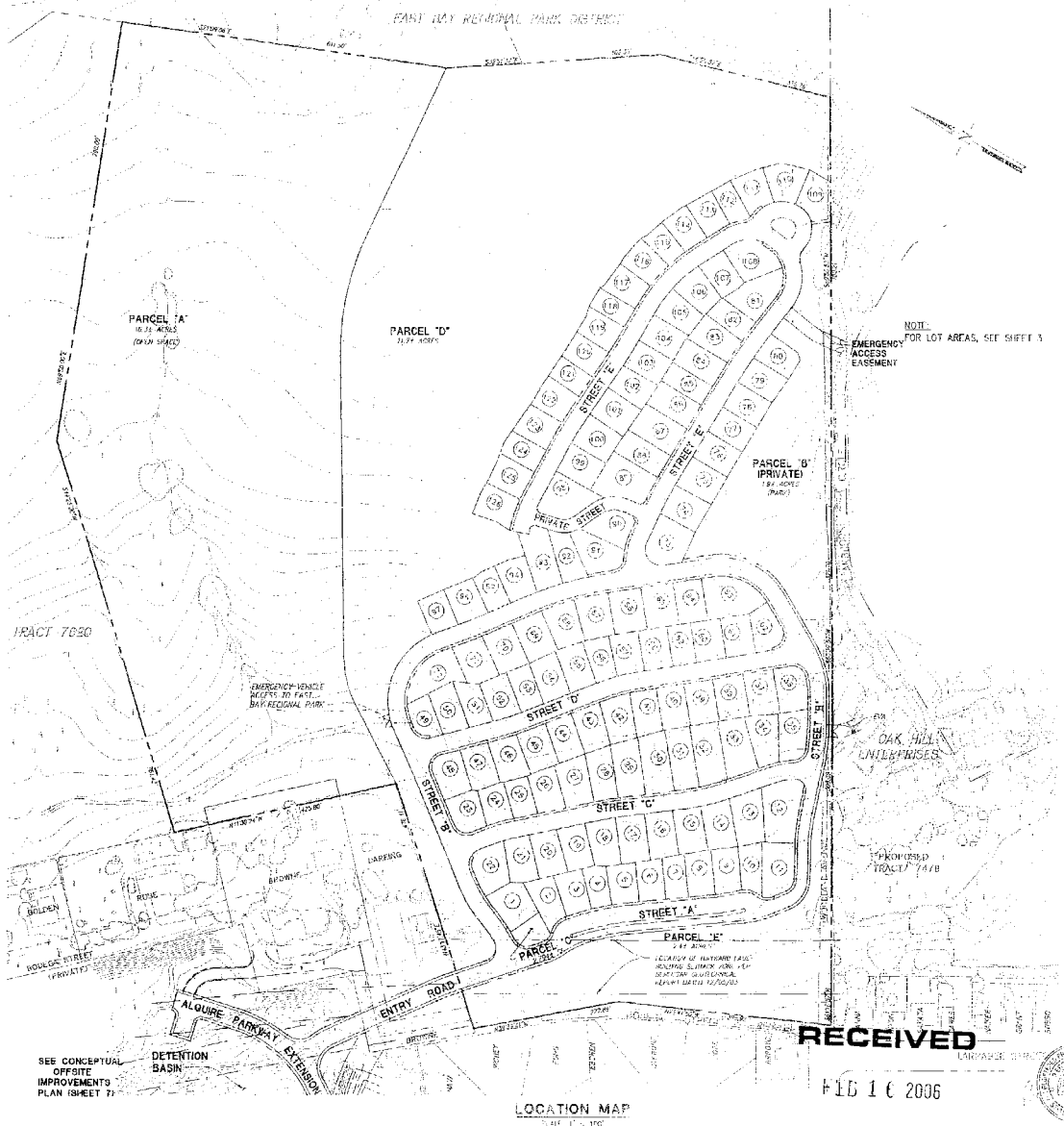
CITY OF HAYWARD STANDARD MONUMENT LOCATED AT THE INTERSECTION OF GARIN AVENUE AND VANSERBILT STREET.
ELEVATION = 56.306 (U.S.)

LEGEND

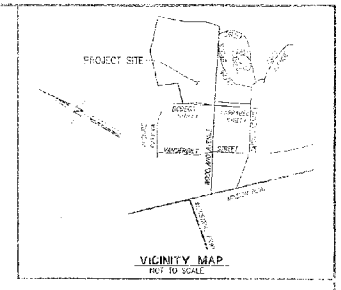
PROPOSED	DESCRIPTION	EXISTING
	TRACT BOUNDARY	
	LOT LINE	
	RIGHT OF WAY	
	CENTER LINE	
	MATCH LINE	
	RETAINING WALL	
	EASEMENT LINE	
SD	STORM DRAIN	SD
SS	SANITARY SEWER	SS
W	WATER	W
RW	RECYCLED WATER	RW
	CURB & GUTTER	
	SIDEWALK	
	EARTH OR GRASS SWALE	
	CONCRETE DITCH	
	STORM WATER INLET	
	FIELD INLET	
	AREA DRAIN	
	DIRECTION OF FLOW	
	MANHOLE	
	FIRE HYDRANT	
	BLOW OFF	
	SANITARY SEWER CLEAN OUT	
	STREET LIGHT	
	SLOPE	
	HANDICAP RAMP	
	SAVE TREE	20" OAK (S)
	REMOVE TREE	X 10" OLIVE (R)
	CONTOUR ELEVATIONS	
	SPOT ELEVATION	
	ASPHALT PAVEMENT	

ABBREVIATIONS

AD	ACCESS DRAIN
AC	ASPHALT CONCRETE
AD	AREA DRAIN
BC	BEGINNING OF CURVE
BVC	BEGIN VERTICAL CURVE
BO	BLOW OFF
BW	BOTTOM OF WALL
CL	CENTER LINE
CMP	CORRUGATED METAL PIPE
CP	CENTER POINT
CS	CURB STATION
DWY	DRIVEWAY
DIP	DUCTILE IRON PIPE
EC	END OF CURVE
EVC	END VERTICAL CURVE
EVA	EMERGENCY VEHICLE ACCESS
EX	EXISTING
FC	FACE OF CURB
FG	FINISHED GRADE
FI	FIELD INLET
FF	FINISHED FLOOR ELEVATION
FL	FLOW LINE
GB	GRADE BREAK
GE	LIP OF GARAGE ELEVATION
GR	GRATE
HP	HIGH POINT
INV	INVERT ELEVATION
LP	LOW POINT
MH	MANHOLE
PL	PROPERTY LINE
PRV	PRESSURE REDUCING VALVE
PSDE	PRIVATE STORM DRAIN EASEMENT
PSE	PUBLIC SERVICE EASEMENT
PVC	POLYVINYL CHLORIDE PIPE
PVI	POINT OF VERTICAL INTERSECTION
RCP	REINFORCED CONCRETE PIPE
RET	CURB RETURN
RW	RIGHT OF WAY
SDE	STORM DRAIN EASEMENT
SNS	STREET NAME SIGN
SC	SIDE CROSSING INVERT
SSCO	SANITARY SEWER CLEAN OUT
STA	STATION
SWI	STORM WATER INLET
SWK	SIDEWALK
TC	TOP OF CURB
TW	TOP OF WALL
WM	WATER METER
VC	VERTICAL CURVE
VCP	VITRIFIED CLAY PIPE



LOCATION MAP
SCALE 1" = 100'



VICINITY MAP
NOT TO SCALE

SHEET INDEX

1. TITLE SHEET
2. DETAILS AND SECTIONS
3. PRELIMINARY GRADING PLAN
4. PRELIMINARY GRADING PLAN
5. PRELIMINARY UTILITY PLAN
6. PRELIMINARY UTILITY PLAN
7. CONCEPTUAL OFFSITE IMPROVEMENTS PLAN
8. CONCEPTUAL OFFHAUL PLAN

NOTES

1. OWNER: WILBERN, RICHARD S. SR. & JANETTE F. 934 SAN MARINO PLACE TURLOCK, CA 95380
   MORGUTZE, JOHN H. & LIV PO BOX 1463 OREGON, CA 94523
2. SUBDIVIDER: GARIN VISTA, LLC 22330 FOOTHILL BOULEVARD, SUITE 200 HAYWARD, CA 94541 (510) 538-6400
3. CIVIL ENGINEER: RUGGERI-JENSEN-AZAR & ASSOCIATES 4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588 (925) 227-9100
4. ARCHITECT: DUSHAN HROVAT, ARCHITECT 5150 SNOWDEN ST. #203 SAN FRANCISCO, CA. 94132 (415) 239-1444
5. GEOTECHNICAL ENGINEER: GEOLOGIC GEOTECHNICAL CONSULTANTS 5557 SUNOL BLVD PLEASANTON, CA 94566 (925) 484-0220
6. LANDSCAPE ARCHITECT: MICHAEL D. FERNANDEZ & ASSOCIATES 1970 SATER STREET FRUITVALE, CA. 94530 (510) 483-8507
7. PROPERTY DESCRIPTION: REAL PROPERTY SITUATED IN THE CITY OF HAYWARD ALAMEDA COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE PARCEL DESCRIBED IN SERIES NO. 00-201521, OFFICIAL RECORDS OF ALAMEDA COUNTY AND ALL OF THE PARCELS DESCRIBED IN THE DEED TO INCREDIBLE IN SERIES NO. 01-339193 AND 01-189385, OFFICIAL RECORDS OF ALAMEDA COUNTY.
8. APN: 083-125-201-13, 083-1065-003-01 AND 083-4065-002-02
9. CURRENT USE: MIXED RESIDENTIAL AND VACANT
10. EXISTING ZONING: RA/B4
11. PROPOSED ZONING: PD-PLANNED DEVELOPMENT
12. TOTAL NUMBER OF UNITS: 126 SINGLE FAMILY
13. TOTAL SITE AREA: 50.1 ACRES
14. AVERAGE LOT SIZE: 4,425 SF
15. TOPOGRAPHY: TOPOGRAPHY SHOWN IS BASED ON AN AERIAL TOPOGRAPHIC MAP BY AERO-GEODETIC CORPORATION IN APRIL 2001.
16. MULTIPLE FINAL MAPS MAY BE FILED ON THE LANDS ON THIS MAP.

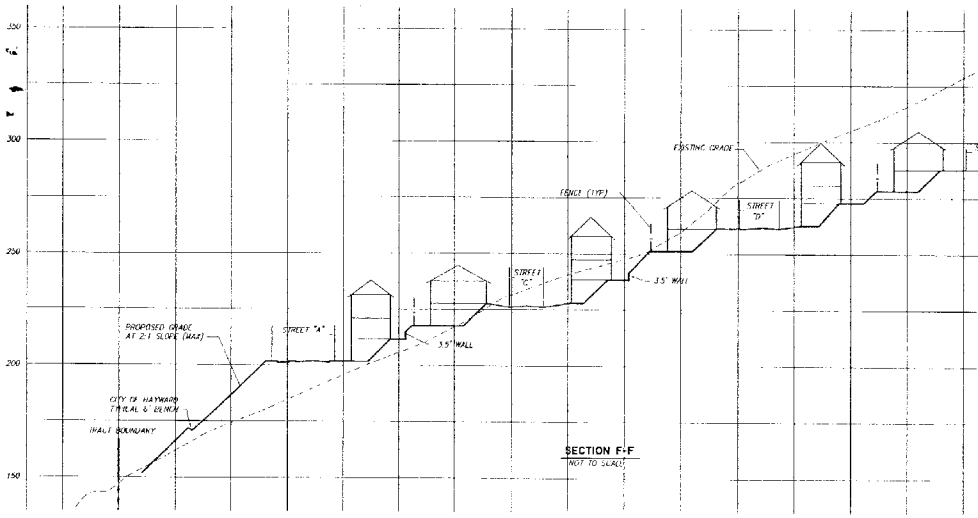
OWNERS' AND SUBDIVIDER'S CERTIFICATE:

THE PERSONS SIGNED BELOW HEREBY AGREE TO THE FILING OF THIS MAP AND TO COMPLY WITH THE PROVISIONS OF THE CITY OF HAYWARD SUBDIVISION REGULATIONS AND THE STATE OF CALIFORNIA SUBDIVISION MAP ACT AS THEY APPLY TO THE PROCESSING AND APPROVAL OF SAID MAP.

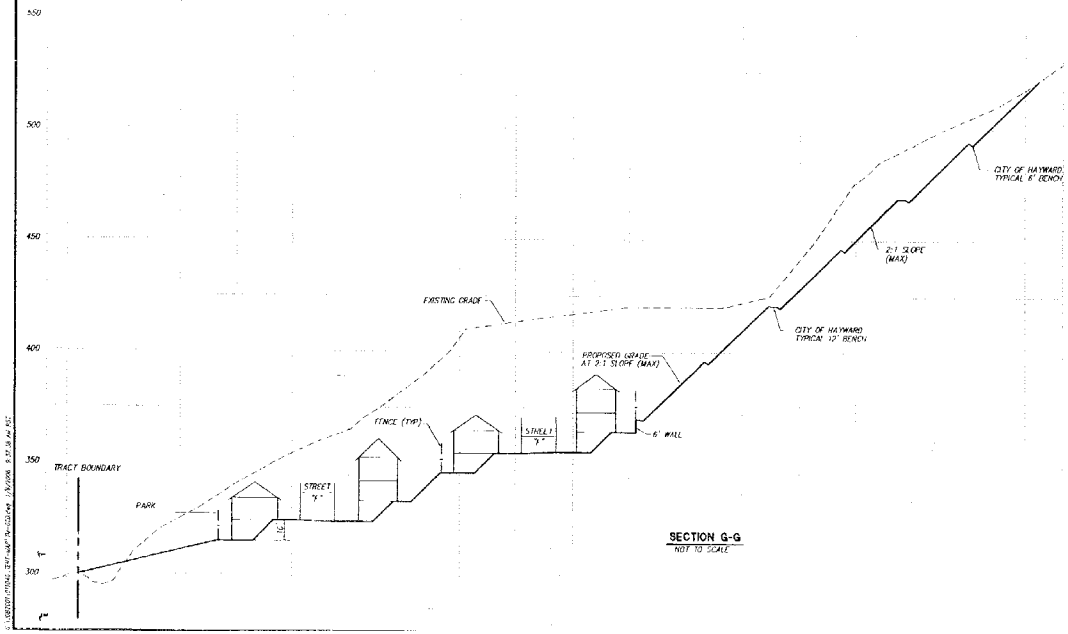
SUBDIVIDER _____ OWNER _____

RECEIVED
FEB 16 2006

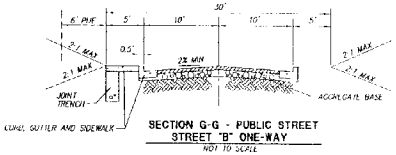
Ruggeri-Jensen-Azar & Associates



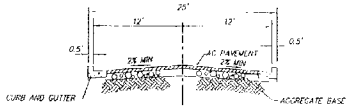
SECTION F-F
NOT TO SCALE



SECTION G-G
NOT TO SCALE



SECTION G-G - PUBLIC STREET
STREET "B" ONE-WAY
NOT TO SCALE



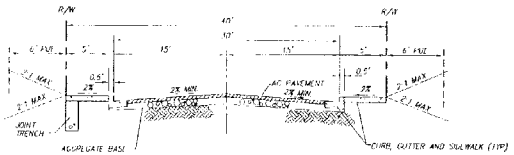
SECTION F-F - PRIVATE STREET
NOT TO SCALE

ESTIMATED EARTHWORK QUANTITIES

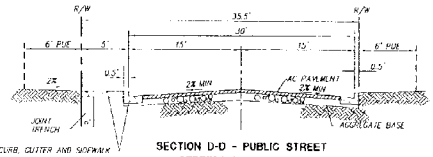
AREA	CUT (C.Y.)	FILL (C.Y.)
GARIN VISTA	854,000	102,600
TOTAL (EXPORT)	751,400	

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

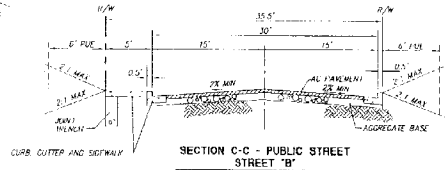
ASSUMED ROADWAY SECTION TO BE 14.5 INCHES AND SHRINKAGE FACTOR IS 18 OR



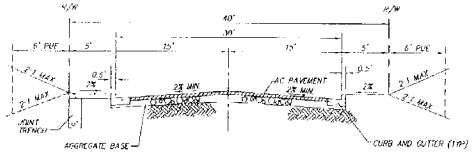
SECTION E-E - PUBLIC STREET
ENTRY ROAD AND ALQUIRE PARKWAY EXTENSION
NOT TO SCALE



SECTION D-D - PUBLIC STREET
STREETS "C", "D" & "E"
NOT TO SCALE



SECTION C-C - PUBLIC STREET
STREET "B"
NOT TO SCALE



SECTION B-B - PUBLIC STREET
STREET "B"
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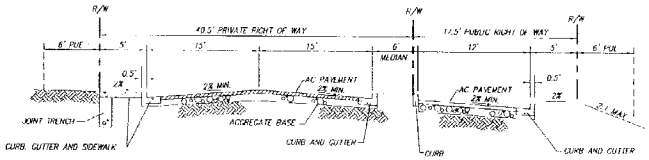

SECTION A-A - PUBLIC STREET/PRIVATE STREET
STREET "A"
NOT TO SCALE

VESTING TENTATIVE MAP

TRACT 7354 - GARIN VISTA

DETAILS AND SECTIONS

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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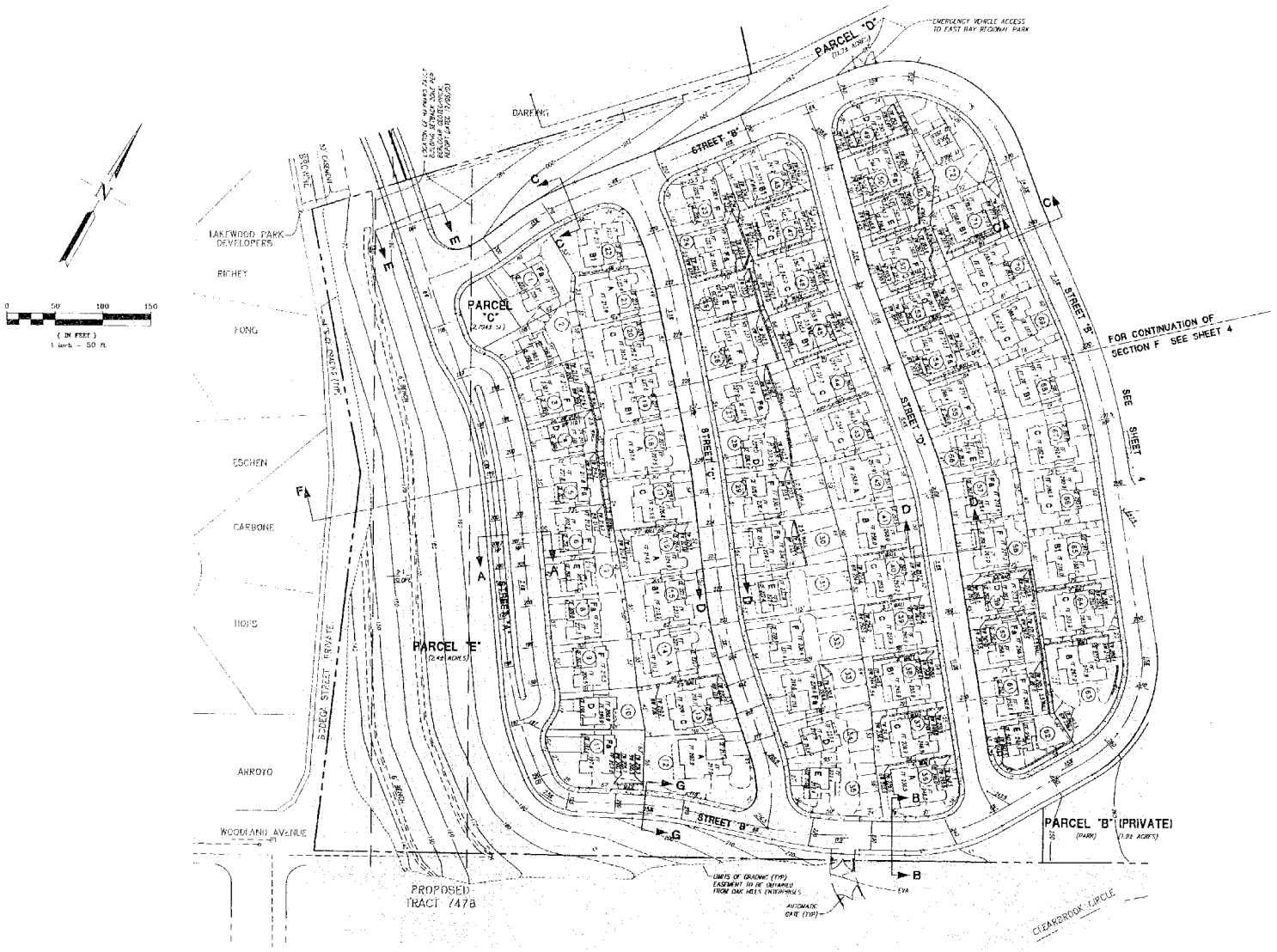

LOT NO.	AREA (SF)	LOT NO.	AREA (SF)
1	5,153	64	4,245
2	4,481	65	4,769
3	4,126	66	4,760
4	3,189	67	4,855
5	3,822	68	4,793
6	3,728	69	4,802
7	3,297	70	4,812
8	4,093	71	4,746
9	4,143	72	5,883
10	3,607	73	5,806
11	5,742	74	4,533
12	7,543	75	4,581
13	5,372	76	4,102
14	4,714	77	3,946
15	4,430	78	4,013
16	4,535	79	4,099
17	4,693	80	3,909
18	4,569	81	5,664
19	4,337	82	3,440
20	4,554	83	4,505
21	4,286	84	4,575
22	5,057	85	3,582
23	4,187	86	4,537
24	3,539	87	5,199
25	3,192	88	4,496
26	4,275	89	7,003
27	5,026	90	4,382
28	4,480	91	5,257
29	5,305	92	4,201
30	5,873	93	6,139
31	5,425	94	4,253
32	5,963	95	3,397
33	5,744	96	4,225
34	4,882	97	3,681
35	4,745	98	6,275
36	4,673	99	4,455
37	4,594	100	4,612
38	4,534	101	4,440
39	4,266	102	3,903
40	4,108	103	4,068
41	4,092	104	4,074
42	4,518	105	4,132
43	4,307	106	4,240
44	4,202	107	3,897
45	4,559	108	5,408
46	4,502	109	4,531
47	4,303	110	4,533
48	4,693	111	4,057
49	3,345	112	2,982
50	4,387	113	3,621
51	3,723	114	3,697
52	4,263	115	3,058
53	3,567	116	3,964
54	4,490	117	3,825
55	4,488	118	3,018
56	3,515	119	3,861
57	4,003	120	3,831
58	4,057	121	3,161
59	3,366	122	4,240
60	4,084	123	4,231
61	4,078	124	3,496
62	4,007	125	4,159
63	7,077	126	4,308

PARCEL	AREA
A	16.3± ACRES
B	1.9± ACRES
C	2,794 SF
D	11.7± ACRES
E	2.7± ACRES

VESTING TENTATIVE MAP
TRACT 7354 - GARIN VISTA
PRELIMINARY GRADING PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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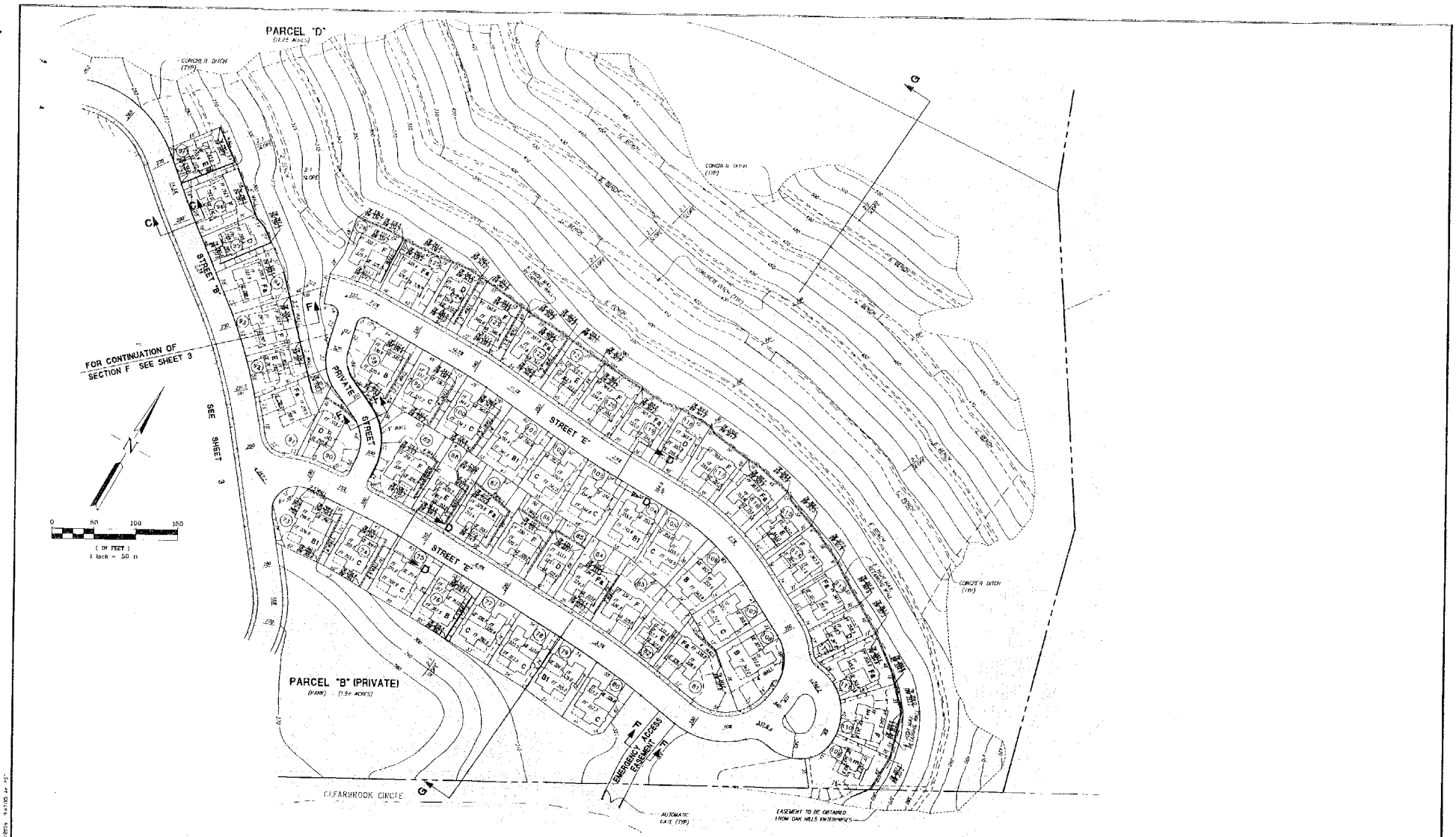

VESTING TENTATIVE MAP

TRACT 7354 - GARIN VISTA

PRELIMINARY GRADING PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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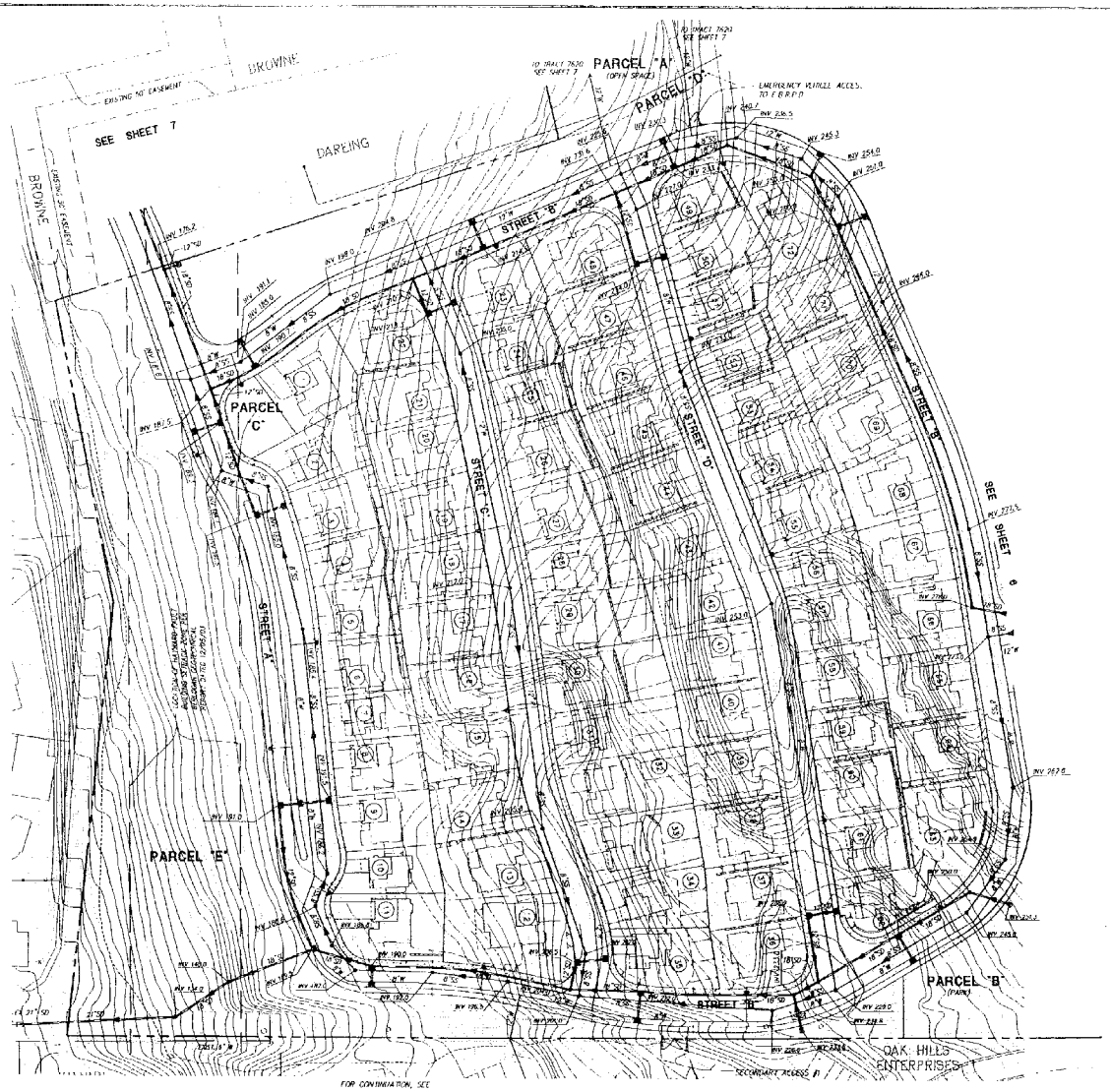
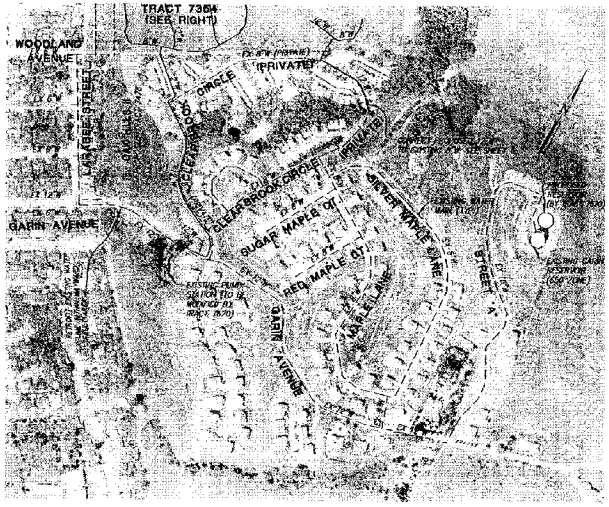


LEGEND FOR PHOTO BELOW

EXISTING 8"W (PUBLIC)
EXISTING 8"W (PRIVATE)
PROPOSED W



EXISTING WATER SYSTEM LAYOUT
SCALE: 1" = 300'

NOTE:
NEW WATER LINE FROM EXISTING PUMP STATION THROUGH TRACT 7354 IS UPSIZED FROM 8" TO 12" IN ORDER TO SERVE TRACT 7870.

VESTING TENTATIVE MAP
TRACT 7354 - GARIN VISTA
PRELIMINARY UTILITY PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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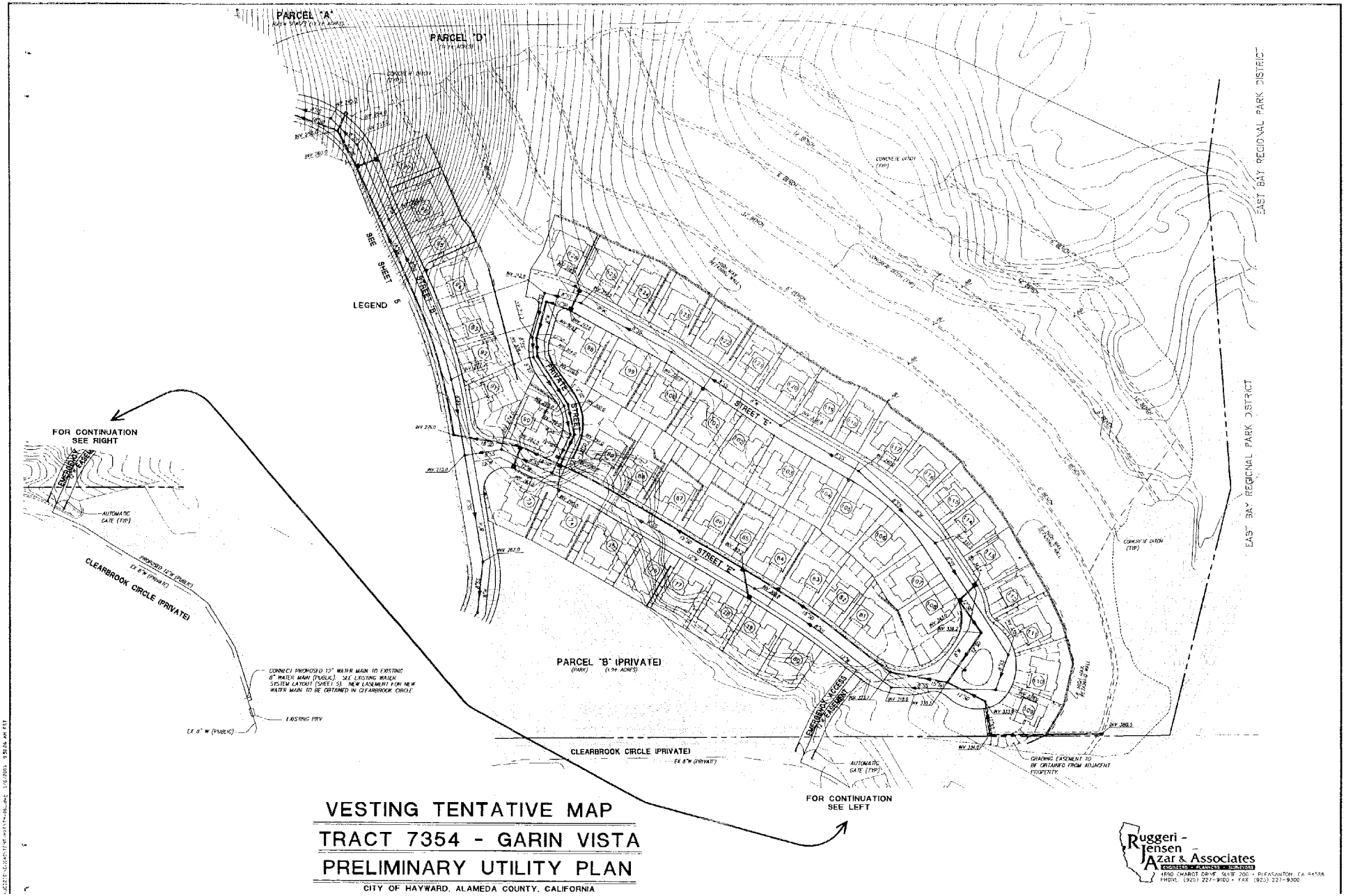

VESTING TENTATIVE MAP
TRACT 7354 - GARIN VISTA
PRELIMINARY UTILITY PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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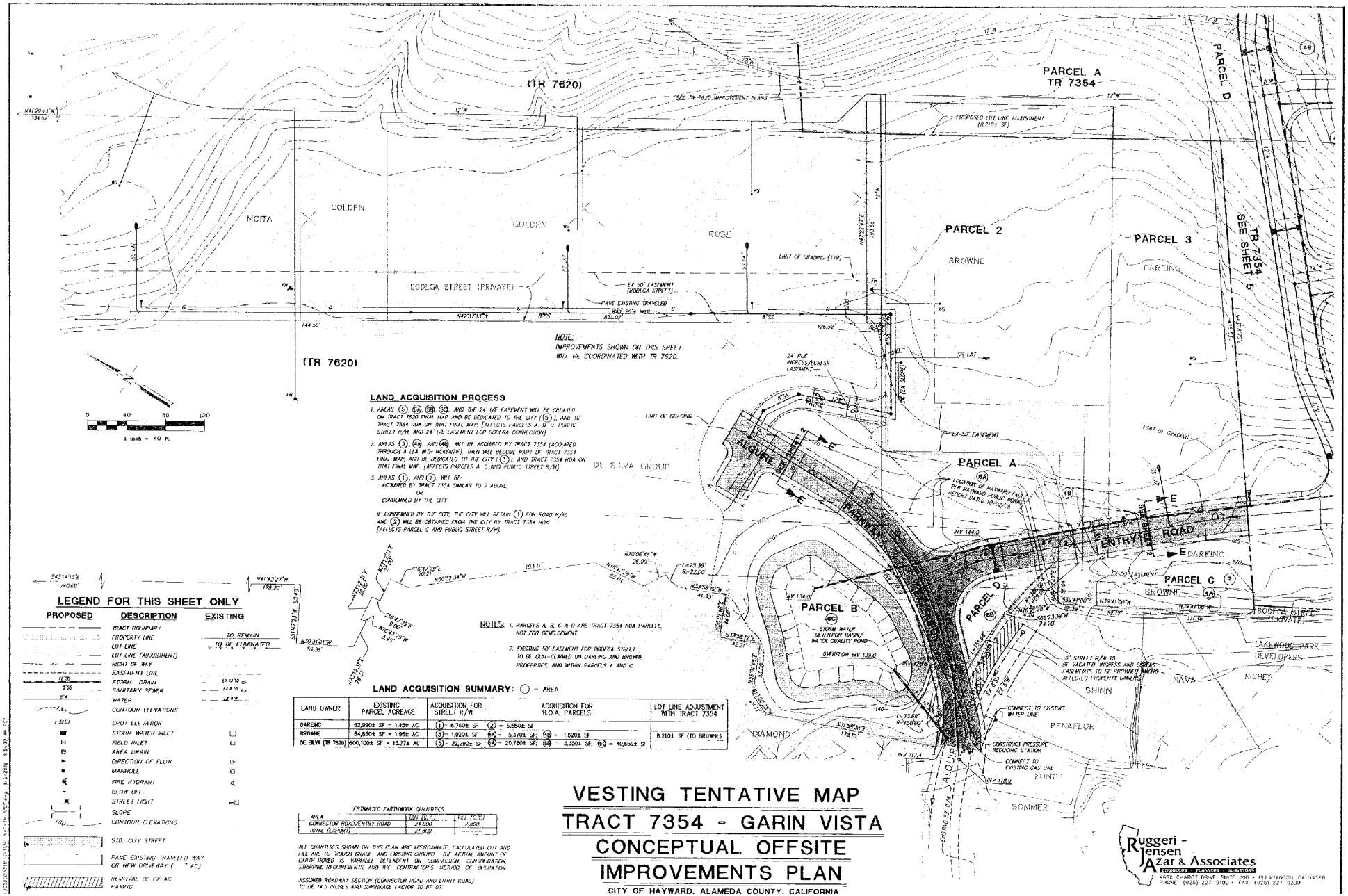

NOTE:
IMPROVEMENTS SHOWN ON THIS SHEET WILL BE COORDINATED WITH TR 7620.

LAND ACQUISITION PROCESS

1. AREAS (5), (6A), (6B), (6C), AND THE 24' I/E EASEMENT WILL BE CREATED ON TRACT 7620 FINAL MAP AND BE DEDICATED TO THE CITY ((5)), AND TO TRACT 7354 HOA ON THAT FINAL MAP. [AFFECTS PARCELS A, B, D, PUBLIC STREET R/W, AND 24' I/E EASEMENT FOR BODEGA CONNECTION]
2. AREAS (3), (4A), AND (4B), WILL BE ACQUIRED BY TRACT 7354 (ACQUIRED THROUGH A LLA WITH MCKENZIE). THEN WILL BECOME PART OF TRACT 7354 FINAL MAP, AND BE DEDICATED TO THE CITY ((3)), AND TRACT 7354 HOA ON THAT FINAL MAP. [AFFECTS PARCELS A, C AND PUBLIC STREET R/W]
3. AREAS (1), AND (2), WILL BE:
   - ACQUIRED BY TRACT 7354 SIMILAR TO 2 ABOVE,
   - OR
   - CONDEMNED BY THE CITY

   IF CONDEMNED BY THE CITY, THE CITY WILL RETAIN (1) FOR ROAD R/W, AND (2) WILL BE OBTAINED FROM THE CITY BY TRACT 7354 HOA. [AFFECTS PARCEL C AND PUBLIC STREET R/W]

NOTES: 1. PARCELS A, B, C & D ARE TRACT 7354 HOA PARCELS, NOT FOR DEVELOPMENT.

2. EXISTING 50' EASEMENT FOR BODEGA STREET TO BE QUIT-CLAIMED ON DAREING AND BROWNE PROPERTIES, AND WITHIN PARCELS A AND C.

LEGEND FOR THIS SHEET ONLY

PROPOSED	DESCRIPTION	EXISTING
	TRACT BOUNDARY	
	PROPERTY LINE	TO REMAIN
	LOT LINE	TO BE ELIMINATED
	LOT LINE (ADJUSTMENT)	
	RIGHT OF WAY	
	EASEMENT LINE	
12"SD	STORM DRAIN	
8"SS	SANITARY SEWER	
8"W	WATER	
	CONTOUR ELEVATIONS	
x 5151	SPOT ELEVATION	
	STORM WATER INLET	
	FIELD INLET	
	AREA DRAIN	
	DIRECTION OF FLOW	
	MANHOLE	
	FIRE HYDRANT	
	BLOW OFF	
	STREET LIGHT	
	SLOPE	
180	CONTOUR ELEVATIONS	
	STD. CITY STREET	
	PAVE EXISTING TRAVELED WAY OR NEW DRIVEWAY (" AC)	
	REMOVAL OF EX AC PAVING	

LAND ACQUISITION SUMMARY: ○ = AREA

LAND OWNER	EXISTING PARCEL ACREAGE	ACQUISITION FOR STREET R/W	ACQUISITION FOR H.O.A. PARCELS	LOT LINE ADJUSTMENT WITH TRACT 7354
DAREING	62,990± SF = 1.45± AC	(1) = 6,760± SF	(2) = 6,550± SF	
BROWNE	84,650± SF = 1.95± AC	(3) = 1,020± SF	(4A) = 5,370± SF; (4B) = 1,820± SF	8,210± SF (TO BROWNE)
DE SILVA (TR 7620)	600,100± SF = 13.77± AC	(5) = 22,290± SF	(6A) = 20,780± SF; (6B) = 3,350± SF; (6C) = 40,650± SF	

ESTIMATED EARTHWORK QUANTITIES

AREA	CUT (C.Y.)	FILL (C.Y.)
CONNECTOR ROAD/ENTRY ROAD	24,600	2,800
TOTAL (EXPORT)	21,800	------

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

ASSUMED ROADWAY SECTION (CONNECTOR ROAD AND ENTRY ROAD) TO BE 14.5 INCHES AND SHRINKAGE FACTOR TO BE 0%

VESTING TENTATIVE MAP
TRACT 7354 - GARIN VISTA
CONCEPTUAL OFFSITE IMPROVEMENTS PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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LEGEND

- LIMITS OF GRADING
- AREAS OF SERPENTINITIC MATERIAL TO BE EXCAVATED (CUT)
- AREAS WHERE SERPENTINITIC MATERIAL CAN BE BURIED

NOTES:

1. ALL GRADING AND HAULING OPERATIONS SHALL BE IN CONFORMANCE WITH THE APPLICABLE REPORTS AND RECOMMENDATIONS BY BERLOGAR GEOTECHNICAL CONSULTANTS AND NORTHGATE ENVIRONMENTAL MANAGEMENT, INC.

VESTING TENTATIVE MAP
TRACT 7354 - GARIN VISTA
CONCEPTUAL OFFHAUL PLAN

Ruggeri - Jensen - Azar & Associates
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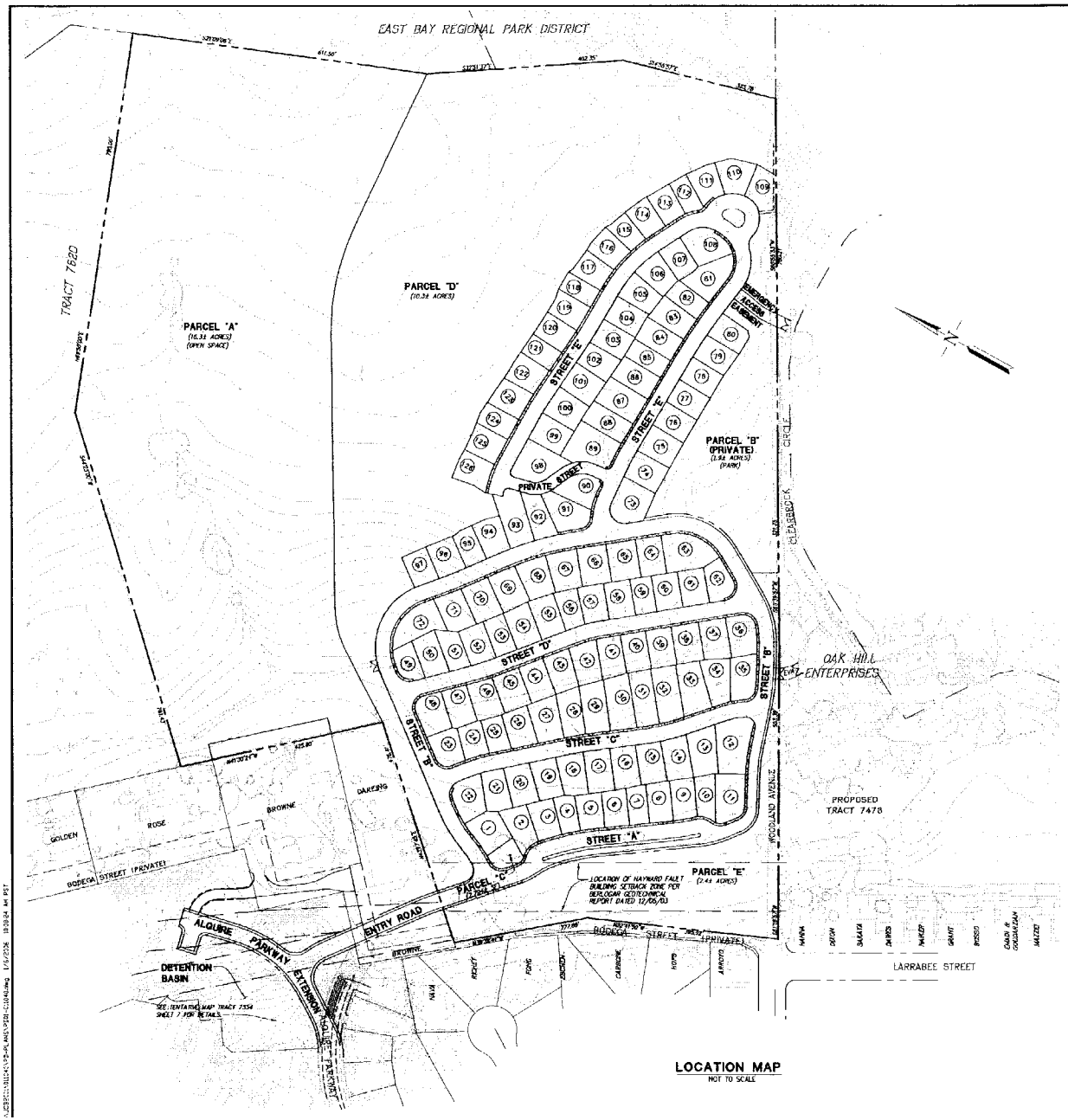


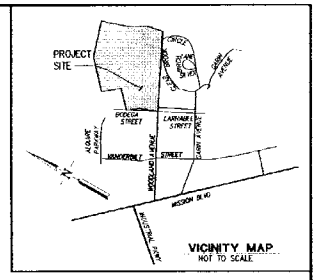
LOCATION MAP
NOT TO SCALE

BENCHMARK:

CITY OF HAYWARD STANDARD MONUMENT LOCATED AT THE INTERSECTION OF GARIN AVENUE AND VANDERBILT STREET.
ELEVATION – 56.366 FEET

SHEET INDEX

1. TITLE SHEET
2. SITE PLAN
3. SITE PLAN
4. CROSS SECTIONS
5. SLOPE MAP
6. PARKING PLAN



VICINITY MAP
NOT TO SCALE

NOTES

1. OWNER:	WARREN, RICHARD S SR & ANNETTE P 964 SAN MARTIN PLACE FREMONT, CA 94539 MCKENZIE, JOHN M & LIA PO BOX 15157 FREMONT, CA 94539
2. SUBDIVIDER:	GARIN VISTA, LLC 22320 FOOTHILL BOULEVARD, SUITE 620 HAYWARD, CA 94543 (510) 538-6400
3. CIVIL ENGINEER:	RUGGERI -JENSEN- AZAR & ASSOCIATES 4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588 (925) 227-9100
4. ARCHITECT:	DUSHAN HROVAT, ARCHITECT 2120 STOCKTON ST. #203 SAN FRANCISCO, CA. 94133 (415) 399-1449
5. GEOTECHNICAL ENGINEER:	BERLOGAR GEOTECHNICAL CONSULTANTS 5587 SUNOL BLVD PLEASANTON, CA 94566 (925) 484-0220
6. LANDSCAPE ARCHITECT:	MANUEL C. FERNANDEZ & ASSOCIATES 3039 SMITH STREET UNION CITY, CA. 94587 (510) 489 8502
7. PROPERTY DESCRIPTION	REAL PROPERTY SITUATED IN THE CITY OF HAYWARD, IN ALAMEDA COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE PARCEL DESCRIBED IN SERIES NO. 02-011121 OFFICIAL RECORDS OF ALAMEDA COUNTY AND ALL OF THE PARCELS DESCRIBED IN THE DEED TO MCKENZIE, IN SERIES NO. 02-238619 AND 01-185961 OFFICIAL RECORDS OF ALAMEDA COUNTY.
8. APN	083-125-001-13, 083-0265-003-01 AND 083-0265-002-02
9. CURRENT USE:	RURAL RESIDENTIAL AND VACANT
10. EXISTING ZONING:	RM34
11. PROPOSED ZONING:	PD-PLANNED DEVELOPMENT
12. TOTAL NUMBER OF UNITS:	126 SINGLE FAMILY
13. TOTAL SITE AREA:	50.4 ACRES
14. AVERAGE LOT SIZE:	4425 SF
15. TOPOGRAPHY:	TOPOGRAPHY SHOWN IS BASED ON AN AERIAL TOPOGRAPHIC MAP BY AREO-GEODETIC CORPORATION IN APRIL, 2001

RECEIVED
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PLANNING DIVISION

PLANNED DEVELOPMENT
TRACT 7354 - GARIN VISTA
CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

Ruggeri - Jensen - Azar & Associates
4690 CHABOT DRIVE, SUITE 200 - PLEASANTON, CA 94588
PHONE: (925) 227-9100 - FAX: (925) 227-9300

DATE: JANUARY 5, 2006 JOB NO. 011040 SHEET 1 OF 6

LAND USE TABULATION

LAND USE	NET ACRES	% ACRES
RESIDENTIAL LOTS	12.8	25.4%
PUBLIC STREETS/PARKING	4.9	9.7%
LANDSCAPED AREAS	10.5	20.8%
PARK	1.9	3.8%
SUBTOTAL	30.1	59.7%
REMAINING NATURAL OPEN SPACE (PARCEL "A" & A PORTION OF PARCEL "D")	20.3	40.3%
SITE TOTAL	50.4	100%

SETBACK STANDARDS

	UPHILL SPLIT LOTS	DOWNHILL SPLIT LOTS
FRONT YARD		
GARAGE	20' MIN	20' MIN
BUILDING	10' MIN	10' MIN
SIDE YARD	5' MIN	5' MIN
REAR YARD (SEE NOTE 1)	10' MIN	10' MIN

NOTE:
1.- PORCH MAY ENCROACH INTO THE REARYARD SETBACK.

SITE SUMMARY

TOTAL RESIDENTIAL UNITS	126
TOTAL SITE AREA	50.4 ACRES
GROSS DENSITY	2.5 DU/AC
TOTAL DEVELOPED AREA (LOTS AND STREETS)	17.7 ACRES
OPEN SPACE & LANDSCAPE AREAS	32.7 ACRES
NET DENSITY (LOT AREA / # UNITS)	9.8 DU/AC
AVERAGE LOT SIZE	4425 SF
PROPOSED ZONING	PD–PLANNED DEVELOPMENT

PARKING SUMMARY *

126 RESIDENTIAL UNITS WITH 2 CAR GARAGES	252 SPACES
ON STREET PARKING	126 SPACES

*PARKING IS PROVIDED ON ONE SIDE OF ALL STREETS

UNIT SUMMARY

PLAN	# UNITS	SQ FT	LOT TYPE
A	7	2,665	10' DOWNHILL SPLIT
B	6	2,025	10' DOWNHILL SPLIT
B1	13	2,090	10' DOWNHILL SPLIT
C	26	2,573	10' DOWNHILL SPLIT
D	14	1,953	10' UPHILL SPLIT
E	15	2,006	10' UPHILL SPLIT
F	22	2,437	10' UPHILL SPLIT
Fa	23	2,437	10' UPHILL SPLIT
TOTAL	126		

PLANNED DEVELOPMENT

TRACT 7354 - GARIN VISTA

SITE PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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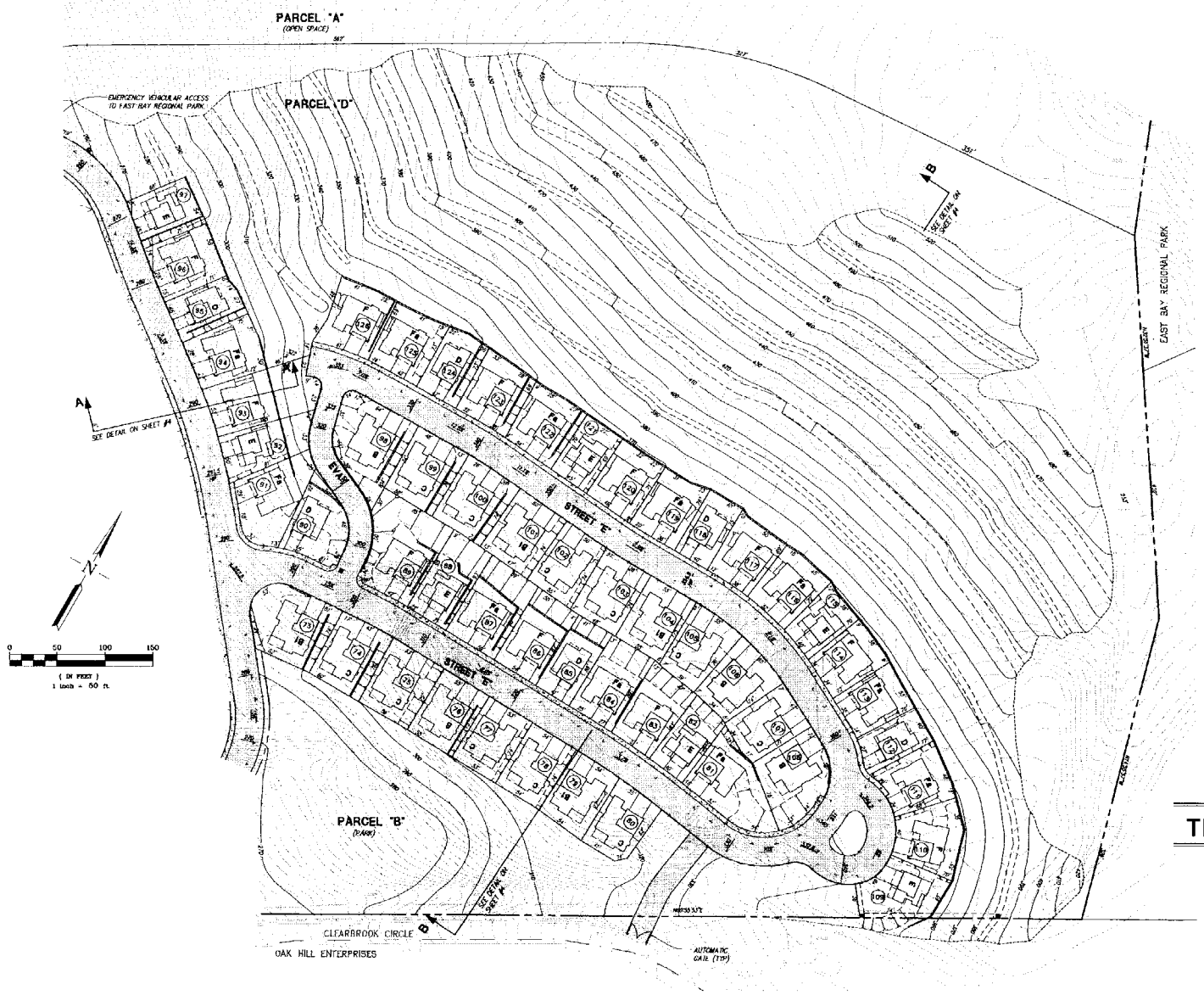
DATE: JANUARY 6, 2006 JOB NO. 011040 SHEET 2 OF 6



PLANNED DEVELOPMENT

TRACT 7354 - GARIN VISTA

SITE PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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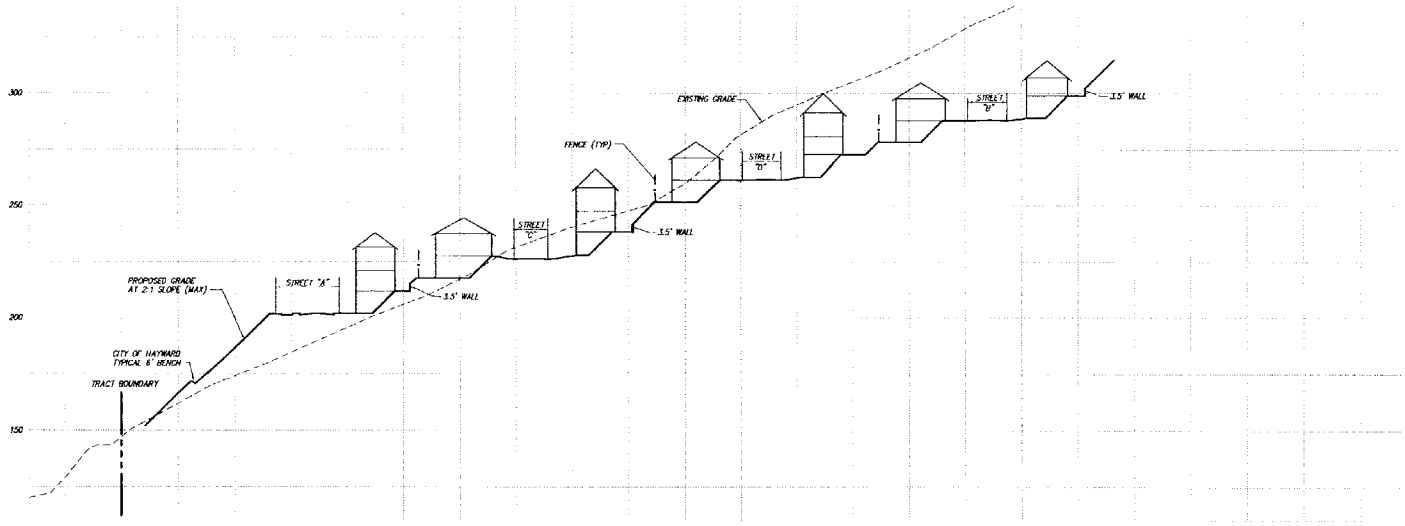
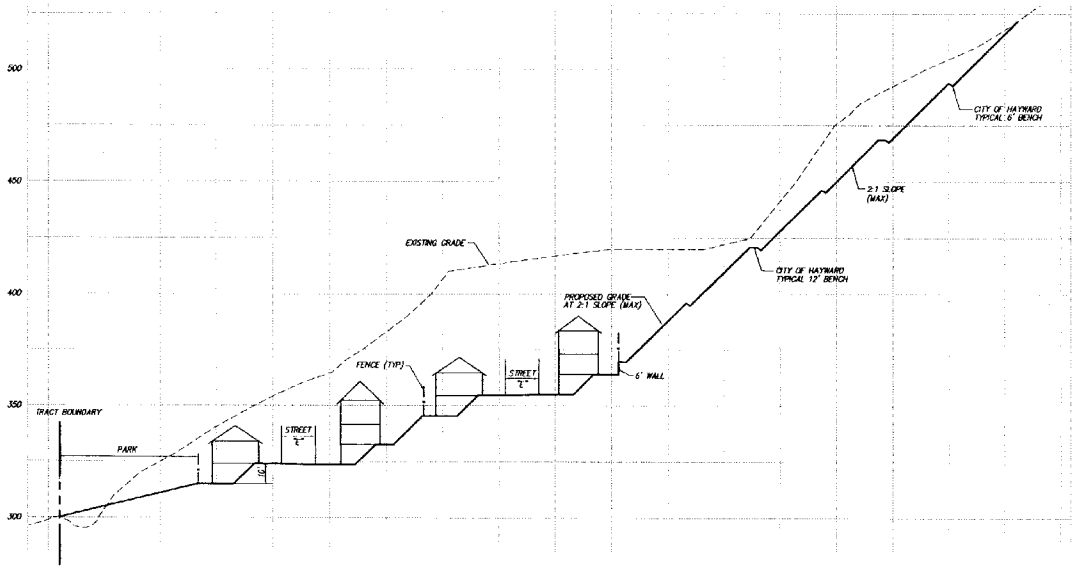


SECTION A-A
1" = 50' (V & H)



SECTION B-B
1" = 50' (V & H)

PLANNED DEVELOPMENT
TRACT 7354 - GARIN VISTA
CROSS SECTIONS

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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SLOPE PERCENTAGES TABULATION

SLOPE	PERCENT OF SITE
0–10%	4.0
10% – 20%	22.4
20% – 30%	34.7
30% +	38.9

PLANNED DEVELOPMENT
TRACT 7354 - GARIN VISTA
SLOPE MAP

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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DATE: JANUARY 6, 2006 JOB NO. 011040 SHEET 5 OF 6

PLANNED DEVELOPMENT

TRACT 7354 - GARIN VISTA

PARKING PLAN

CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA

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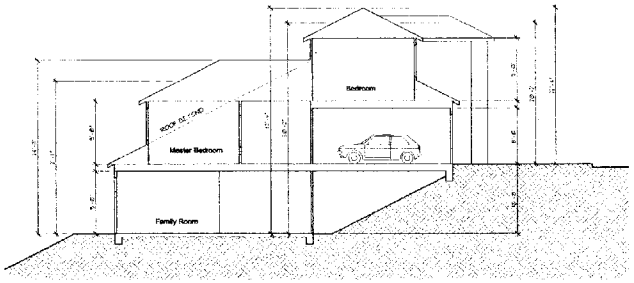
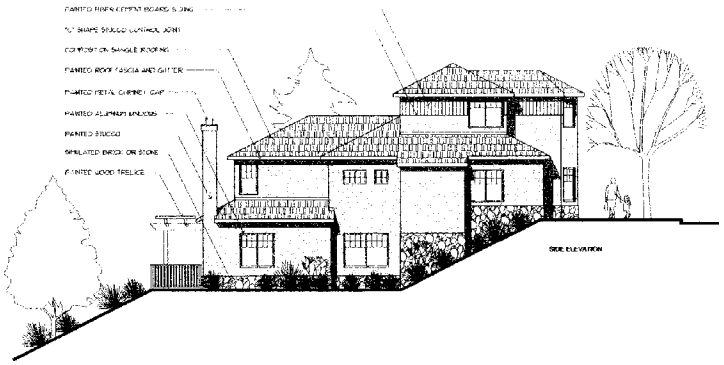
DATE: JANUARY 5, 2006 JOB NO. 011040 SHEET 5 OF 5



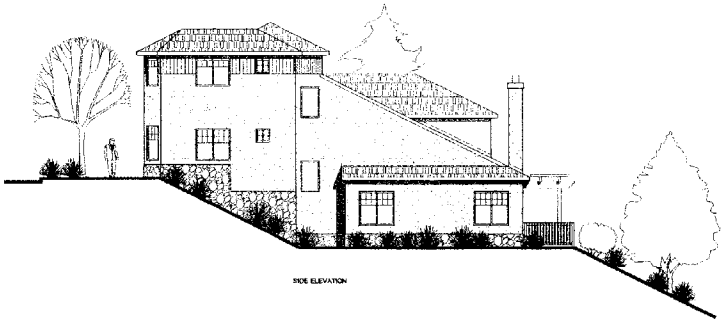
Unit A: Section



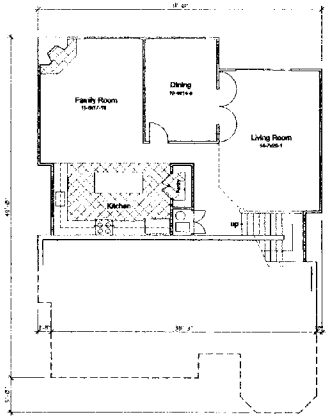
SIDE ELEVATION

FRONT (STREET) ELEVATION

REAR ELEVATION

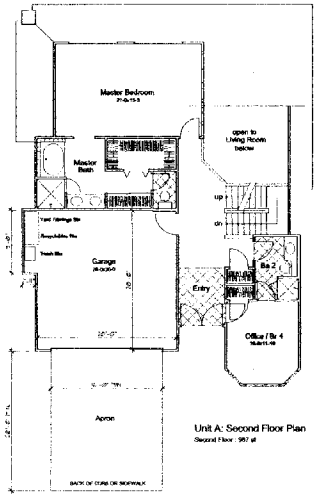


SIDE ELEVATION



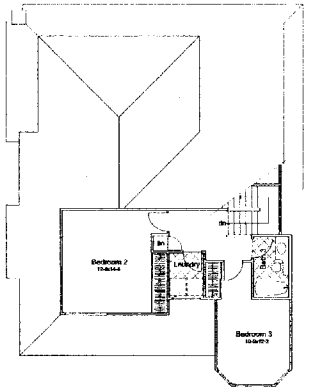
Unit A: First Floor Plan

First Floor: 1,063 sf + 429 sf garage
Building gross 2,966 + 438 sf garage



Unit A: Second Floor Plan

Second Floor : 997 sf



Unit A: Third Floor Plan

Third Floor : 595 sf

Unit A (4 Br / 3 Ba)

Floor plans, Section and Elevations

Scale: 1/8"=1'-0"

GARIN VISTA

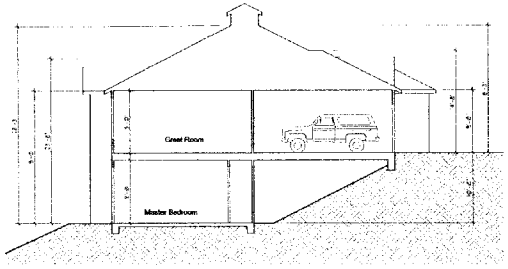
a Single Family Housing Development
Hayward, California

Prepared by:
DDH Architectecture
San Francisco, California
(415) 399-1449

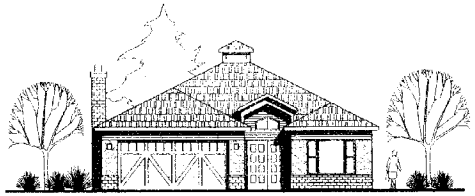
Date: 12/15/05

Drawing No.

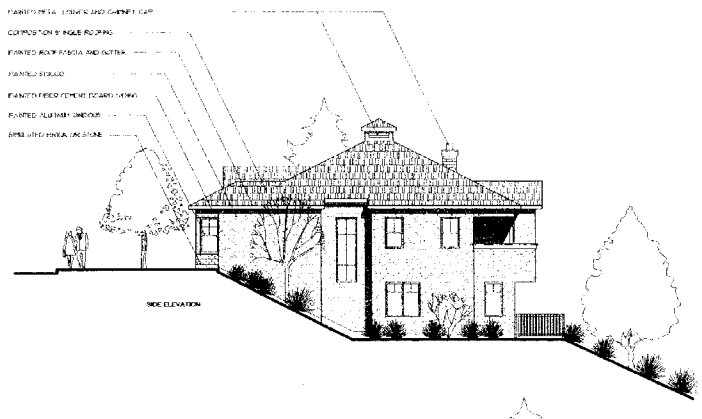
A 1



Unit B Section

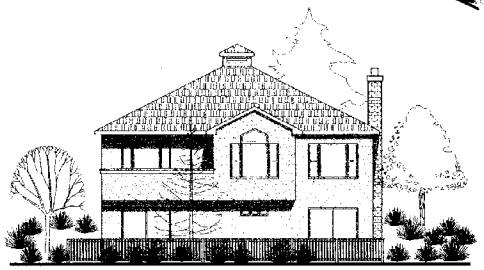


FRONT (STREET) ELEVATION

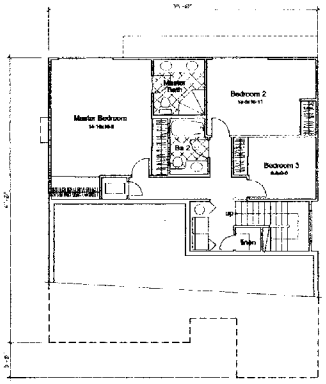


SIDE ELEVATION

SIDE ELEVATION

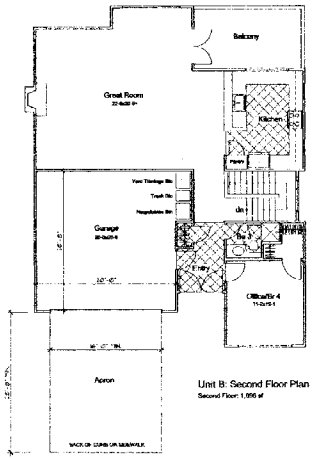


REAR ELEVATION



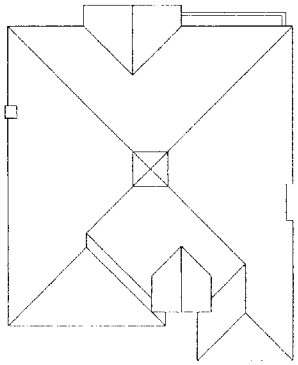
Unit B: First Floor Plan

First Floor: 941 sf.
Building gross: 2,037 sf. + 412 sf. garage



Unit B: Second Floor Plan

Second Floor: 1,096 sf



Unit B: Roof Plan

Unit B (4 Br / 3 Ba)

Floor plans, Section and Elevations

Scale: 1/8"=1'-0"

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a Single Family Housing Development
Hayward, California

Prepared by:
DDH Architectecture
San Francisco, California
(415) 399-1449

LICENSED ARCHITECT
DUNCAN D. HOWATT
REG. C 7154
REG. 11.30.07
STATE OF CALIFORNIA

Date: 12/15/05

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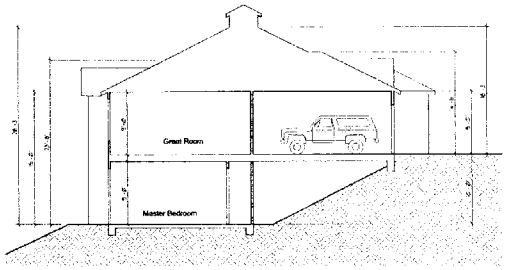
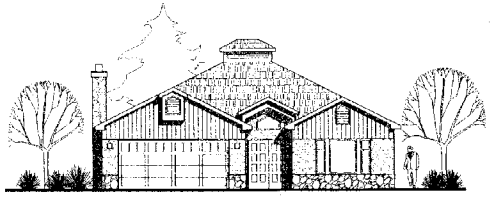
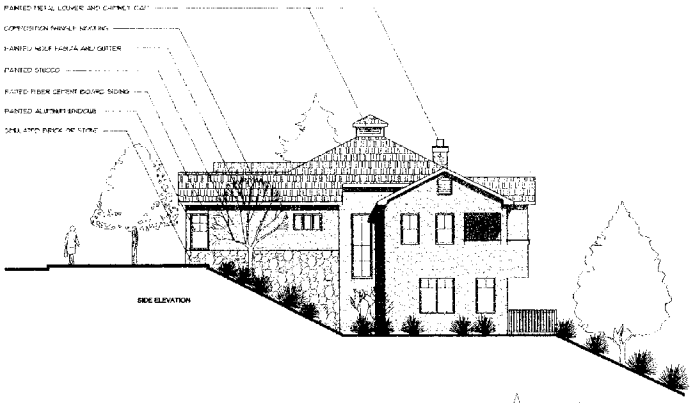
A 2



Unit B1 Section



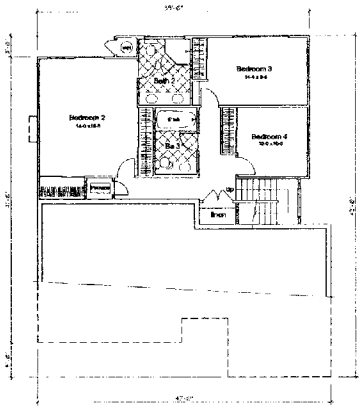
FRONT (STREET) ELEVATION



SIDE ELEVATION

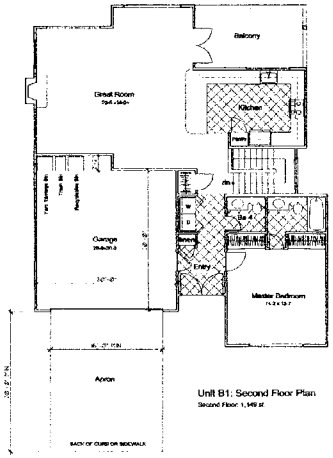
SIDE ELEVATION

REAR ELEVATION



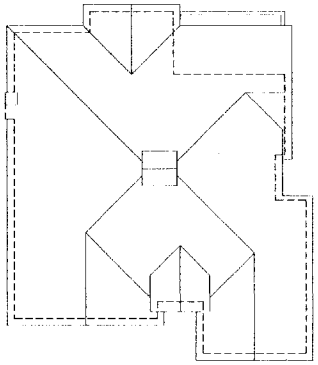
Unit B1: First Floor Plan

First Floor: 941 sf
Building gross: 2,500 sf. + 436 sf. garage



Unit B1: Second Floor Plan

Second Floor: 1,149 sf



Unit B1: Roof Plan

Unit B1 (4 Br / 3 1/2 Ba)

Floor plans, Section and Elevations

Scale: 1/8"=1'-0"

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(415) 399-1449

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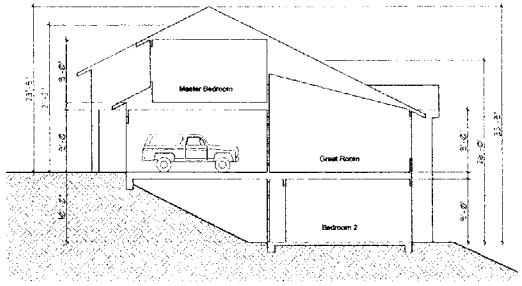
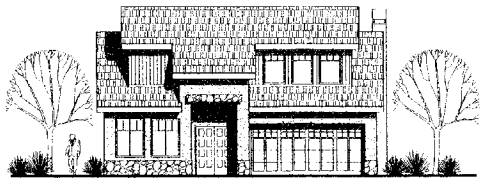
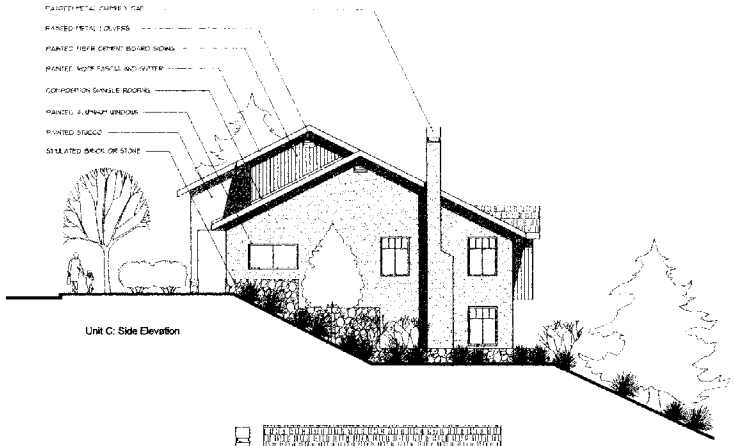
A 3



Unit C: Building Section



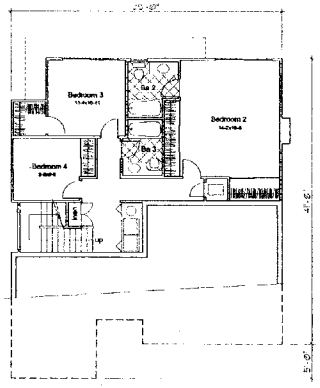
Unit C: Front (Street) Elevation



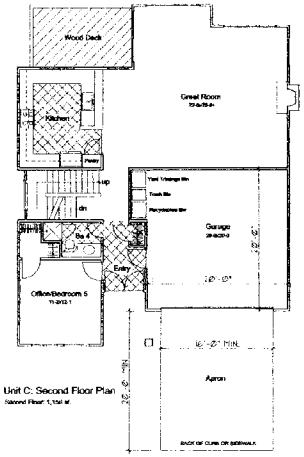
Unit C: Side Elevation

Unit C: Side Elevation

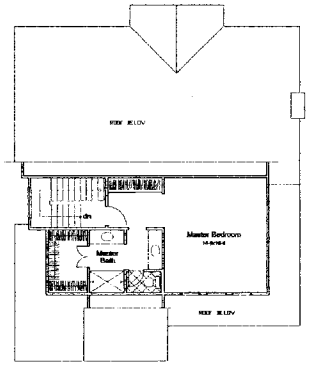
Unit C: Rear Elevation



Unit C: First Floor Plan
First Floor: 898 sf
Building gross: 2,575 sf. + 424 sf. garage



Unit C: Second Floor Plan
Second Floor: 1,150 sf.



Unit C: Third Floor Plan
Third Floor: 497 sf.

Unit C - 5 Br / 4 Ba

Floor plans, Section and Elevations

Scale: 1/8"=1'-0"

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(415) 399-1449

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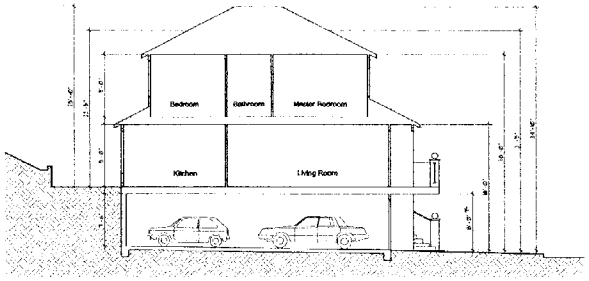
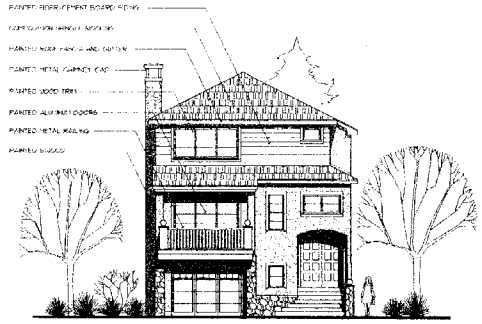
A 4



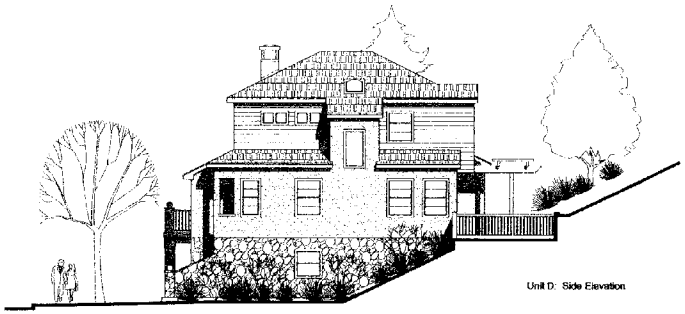
Unit D: Building Section

Unit D: Side Elevation

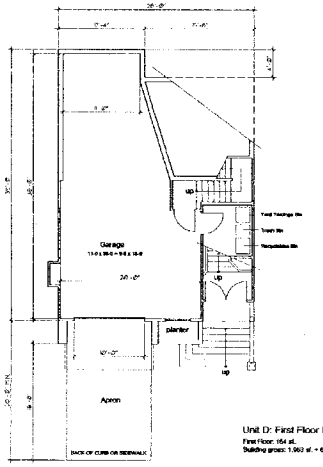


Unit D: Front (Street) Elevation

Unit D: Rear Elevation

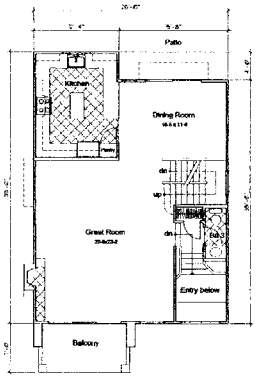


Unit D: Side Elevation



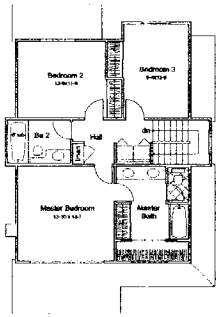
Unit D: First Floor Plan

First Floor: 164 sf.
Building gross: 1,993 sf. + 660 sf. garage



Unit D: Second Floor Plan

First Floor: 967 sf.



Unit D: Third Floor Plan

Third Floor: 522 sf.

Unit D (3 Br / 2.5 Ba)

Floor plans, Section and Elevations

Scale: 1/8"=1'-0"

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(415) 399-1449

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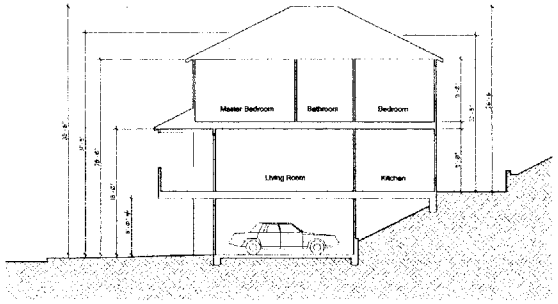
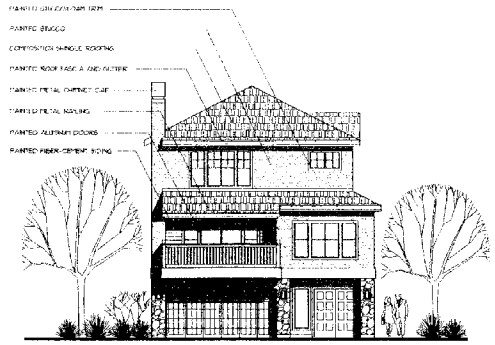
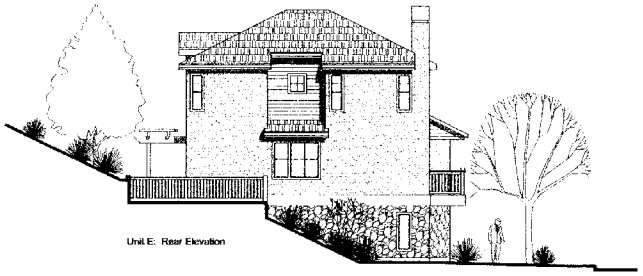


Unit E: Building Section



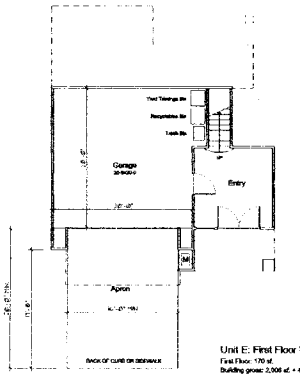
Unit E: Front Elevation

Unit E: Side Elevation

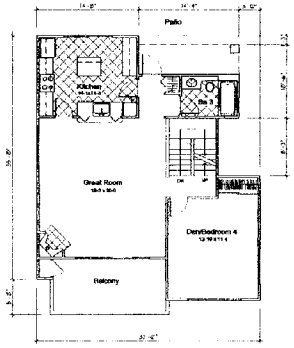


Unit E: Rear Elevation

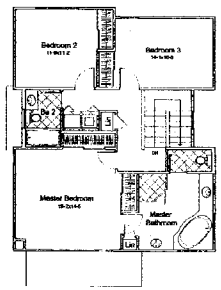
Unit E: Side Elevation



Unit E: First Floor Plan
First Floor: 170 sf.
Building gross: 2,006 sf. + 442 sf. garage



Unit E: Second Floor Plan
Second Floor: 908 sf.



Unit E: Third Floor Plan
Third Floor: 629 sf.

Unit E (3 Br + Den / 2.5 Ba)

Floor plans, Section and Elevations
Scale: 1/8"=1'-0"

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(415) 399-1449

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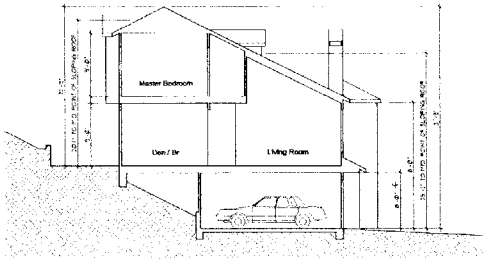
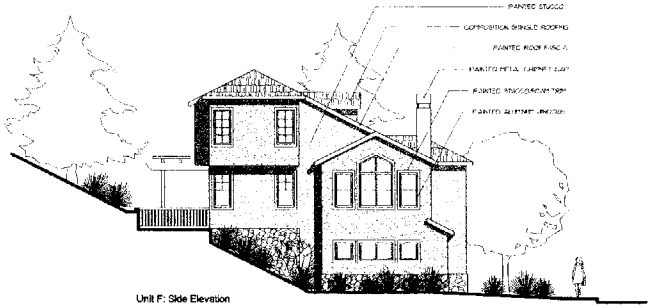
A 6



Unit F: Building Section



Unit F: Side Elevation

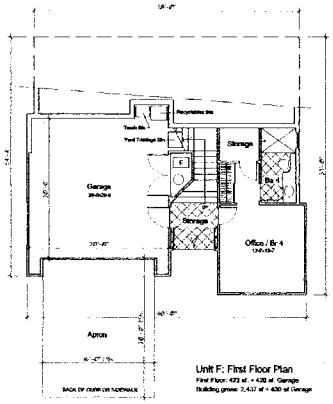
Unit F: Street Elevation

Unit F: Alternate Side Elevation

Unit F: Rear Elevation

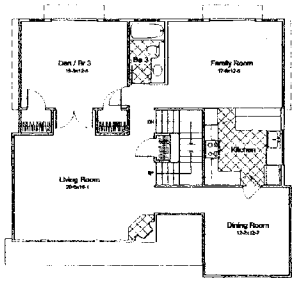
Unit F: Side Elevation

Unit F: Alternate Street Elevation



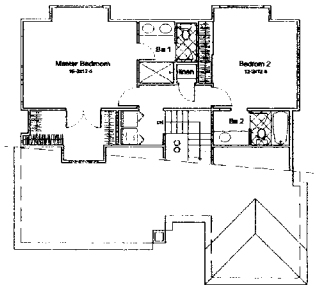
Unit F: First Floor Plan

First Floor: 473 sf + 438 sf Garage
Building gross: 2,437 sf + 438 sf Garage



Unit F: Second Floor Plan

Second Floor: 1,278 sf.



Unit F: Third Floor Plan

Third Floor: 730 sf.

Unit F and Fa (4 Br / 4 Ba)

Floor plans, Section and Elevations

Scale: 1/8"=1'-0"

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A 7

SUMMARY

LAND USE SUMMARY		
LAND USE	NET ACRES	%
RESIDENTIAL LOTS	28	79.4%
STREET (PARKING)	4.0	11%
LANDSCAPED AREAS	1.5	10.2%
PARK	.19	0.5%
NATURAL OPEN SPACE	2.0	5.6%
SITE TOTAL	35.4	100%

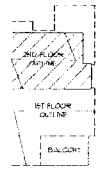
SITE SUMMARY	
TOTAL RESIDENTIAL UNITS	196
TOTAL SITE AREA	35.4 AC
GROSS DENSITY	5.5 DU/AC
DEVELOPED AREA (LOTS/STREETS)	31.1 AC
OPEN SPACE + LANDSCAPE AREAS	3.1 AC
NET DENSITY	6.3 DU/AC

UNIT SUMMARY			
TYPE	SF	QUANTITY	TOTAL SF
A	2,498	7	17,486
B	2,035	6	12,210
B1	1,990	13	25,870
C	1,513	36	54,468
D	1,951	14	27,314
E	1,606	16	25,696
F	2,431	22	53,482
Fa	2,437	23	56,051
TOTAL	1,931 AVG.	196	378,192

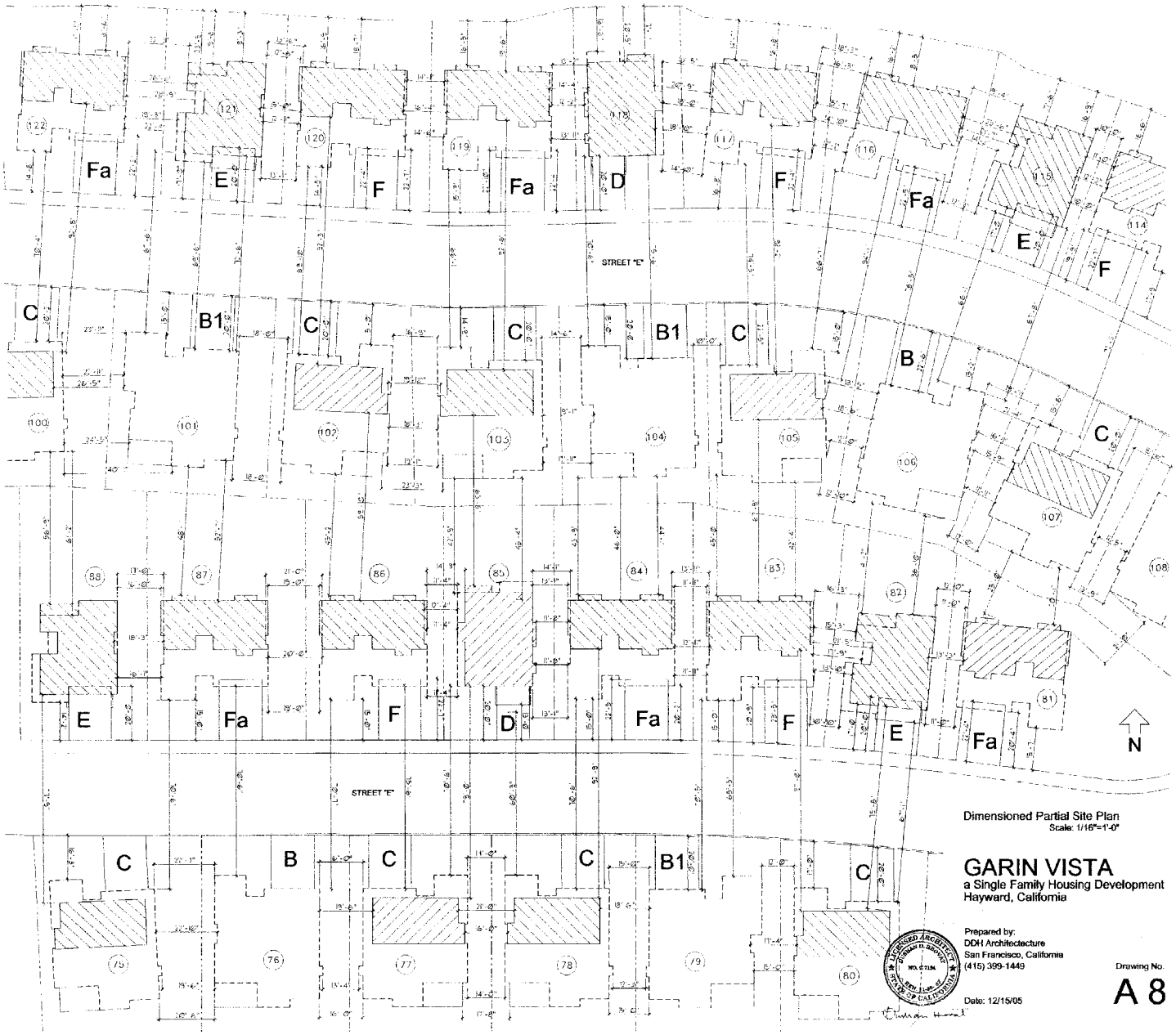
LAND COVERAGE				
LOT		UNIT		
NO.	AREA (SF)	TYPE	COVERAGE (SF)	COVERAGE (%)
1	5,811	Fa	1,308	23
2	4,481	E	1,609	36
3	4,106	F	1,308	32
4	3,884	D	1,951	50
5	3,822	Fa	1,308	34
6	3,126	F	1,308	42
7	3,751	E	1,609	43
8	4,050	Fa	1,308	32
9	4,143	F	1,308	32
10	3,623	D	1,951	54
11	5,742	Fa	1,308	23
12	3,543	A	1,498	42
13	5,370	C	1,606	30
14	4,114	A	1,498	36
15	4,410	B1	1,990	45
16	4,035	A	1,498	37
17	4,612	C	1,606	35
18	4,249	A	1,498	35
19	4,337	B1	1,990	46
20	4,551	C	1,606	35
21	4,286	A	1,498	35
22	4,091	B1	1,990	49
23	4,831	C	1,606	33
24	4,575	Fa	1,308	29
25	3,72	E	1,609	43
26	4,270	F	1,308	31
27	5,016	Fa	1,308	26
28	4,468	D	1,951	44
29	5,305	F	1,308	25
30	5,973	Fa	1,308	22
31	5,475	E	1,609	29
32	5,962	F	1,308	22
33	5,744	Fa	1,308	23
34	4,888	D	1,951	40
35	4,116	E	1,609	39
36	4,673	A	1,498	32
37	4,794	C	1,606	33
38	4,024	B1	1,990	49
39	4,266	C	1,606	38
40	4,108	C	1,606	39
41	4,292	B	1,629	38
42	4,518	A	1,498	33
43	4,381	C	1,606	37
44	4,207	C	1,606	38
45	4,548	B1	1,990	44
46	4,549	C	1,606	35
47	4,929	C	1,606	33
48	4,850	B1	1,990	41
49	3,945	B1	1,990	50
50	4,361	Fa	1,308	30
51	3,123	F	1,308	42
52	4,263	F	1,308	31
53	5,241	D	1,951	37
54	4,150	Fa	1,308	32
55	4,466	F	1,308	29
56	3,615	F	1,308	36
57	4,067	Fa	1,308	32
58	4,251	F	1,308	31
59	3,449	D	1,951	57
60	4,264	Fa	1,308	31

LAND COVERAGE (CONTINUED)				
LOT		UNIT		
NO.	AREA (SF)	TYPE	COVERAGE (SF)	COVERAGE (%)
61	4,078	F	1,308	32
62	4,003	E	1,609	40
63	3,217	D	1,951	61
64	4,119	C	1,606	39
65	4,369	B1	1,990	46
66	4,346	C	1,606	37
67	4,610	C	1,606	35
68	4,183	B1	1,990	48
69	4,003	C	1,606	40
70	4,82	C	1,606	33
71	4,346	B1	1,990	46
72	3,862	C	1,634	42
73	3,939	B1	1,990	50
74	4,103	C	1,634	40
75	4,073	B1	1,990	49
76	3,927	C	1,634	41
77	5,844	Fa	1,308	22
78	3,440	E	1,609	47
79	4,109	F	1,308	32
80	4,576	Fa	1,308	29
81	3,570	D	1,951	55
82	4,531	F	1,308	29
83	5,398	Fa	1,308	24
84	4,456	E	1,609	36
85	3,623	F	1,308	36
86	4,362	C	1,634	37
87	5,271	Fa	1,308	25
88	4,228	E	1,609	38
89	6,109	F	1,308	21
90	5,398	Fa	1,308	24
91	3,381	D	1,951	58
92	4,275	F	1,308	31
93	5,041	F	1,308	26
94	4,075	B	1,629	40
95	4,455	C	1,606	36
96	4,873	C	1,606	33
97	4,440	B1	1,990	45
98	3,903	C	1,606	41
99	4,096	C	1,606	39
100	4,014	B1	1,990	50
101	4,151	C	1,606	39
102	4,240	B1	1,990	47
103	3,951	C	1,606	41
104	3,488	B1	1,990	57
105	4,531	E	1,609	35
106	4,531	E	1,609	35
107	4,531	E	1,609	35
108	4,533	F	1,308	29
109	4,251	F	1,308	31
110	2,991	D	1,951	65
111	3,631	Fa	1,308	36
112	3,623	F	1,308	36
113	3,658	E	1,609	44
114	3,944	Fa	1,308	33
115	3,879	F	1,308	34
116	3,686	D	1,951	53
117	3,561	Fa	1,308	37
118	3,831	F	1,308	34
119	3,561	E	1,609	45
120	4,240	Fa	1,308	31
121	4,231	F	1,308	31
122	3,456	D	1,951	56
123	4,954	Fa	1,308	26
124	4,496	F	1,308	29
TOTAL	403,546		148,422	37

LEGEND



BASEMENT NOT OUTLINED



Dimensioned Partial Site Plan
Scale: 1/16"=1'-0"

GARIN VISTA

a Single Family Housing Development
Hayward, California

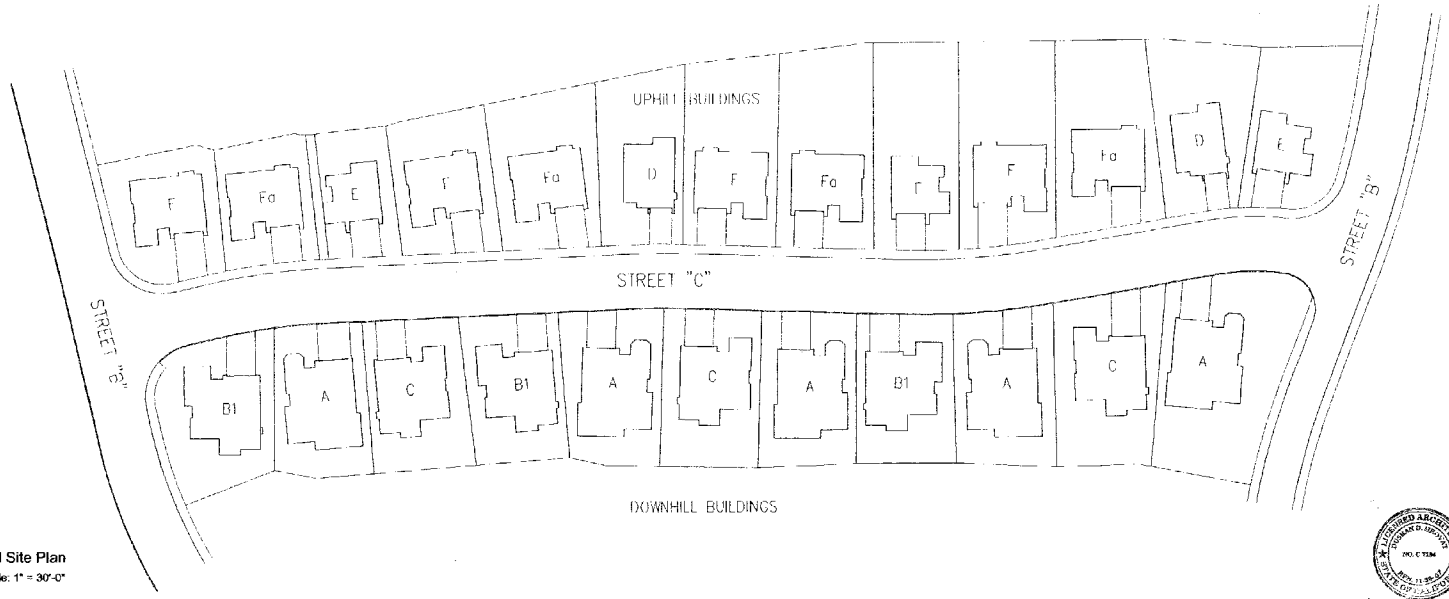
Prepared by:
DDH Architectecture
San Francisco, California
(415) 399-1449

Date: 12/15/05

Drawing No.
A 8

Street "C" Uphill Buildings Elevations
Scale: 1/16"=1'-0"

Street "C" Downhill Buildings Elevations
Scale: 1/16"=1'-0"



Partial Site Plan
Scale: 1" = 30'-0"

Typical Street Elevations

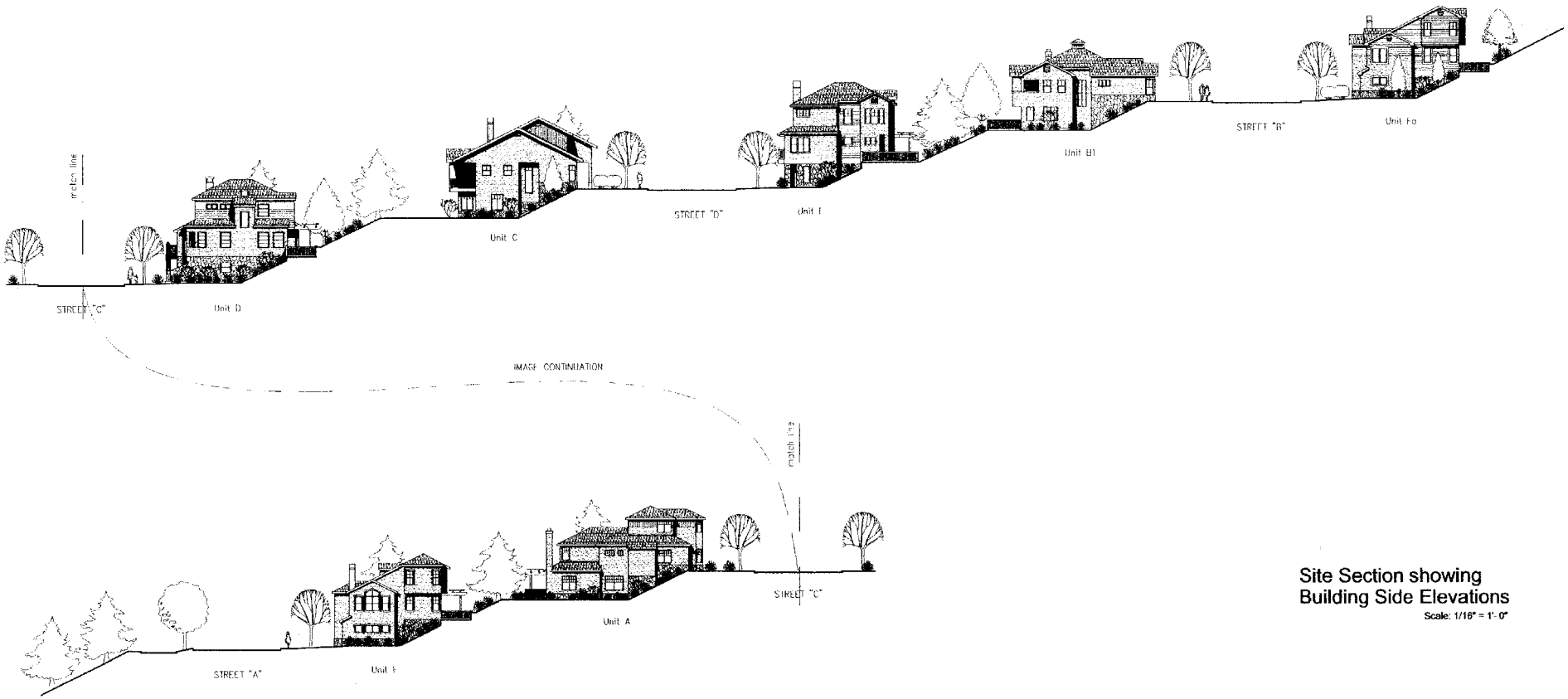
GARIN VISTA

a Single Family Housing Development
Hayward, California

Prepared by:
DDH Architectecture
San Francisco, California
(415) 399-1449

Date: 12/15/05

Drawing No.
A 9



Site Section showing Building Side Elevations

Scale: 1/16" = 1'- 0"

GARIN VISTA

a Single Family Housing Development
Hayward, California

Prepared by:
DDH Architectecture
San Francisco, California
(415) 399-1449

Date: 12/15/06

Drawing No.

A 10

PLANT LIST

	BOTANNICAL NAME	COMMON NAME
TREES		
T-1	PISTACIA CHINENSIS	CHINESE PISTACHE
T-2	QUERCUS AGRIFOLIA	COAST LIVE OAK
T-3	QUERCUS DOUGLASI	BLUE OAK
T-4	QUERCUS KELLOGGII	CALIFORNIA BLACK OAK
T-5	QUERCUS LOBATA	VALLEY OAK
T-6	ACER MACROPHYLLUM	BIG LEAF MAPLE
T-7	PYRUS KAWAKAMI	EVERGREEN PEAR
T-8	AESCULUS CALIFORNICA	CALIFORNIA BUCKEYE
T-9	UMBELLULARIA CALIFORNICA	CALIFORNIA BAY
T-10	PLATANUS RACEMOSA	CALIFORNIA SYCAMORE
T-11	SEQUOIA SEMPERVIRENS	COAST REDWOOD
T-12	CEROS OCCIDENTALIS	WESTERN REDBUD
T-13	ARBUTUS 'MARINA'	ARBUTUS
SHRUBS		
S-1	LAVANDULA STOECHAS	SPANISH LAVENDER
S-2	SALVIA LEUCOPHYLLA	PURPLE SAGE
S-3	RHAPHIOLEPIS INDICA 'JL EVANS'	INDIA HAWTHORNE
S-4	ARTEMESIA SCHMIDTIANA 'SILVERMOUND'	ARTEMESIA
S-5	CISTUS LADANIFER	CRIMSON SPOT ROCKROSE
S-6	TULBAGHIA VIOLACEA	SOCIETY GARLIC
S-7	MEYERIOCALLIS PULVA	DAY LILY
S-8	AGAPANTHUS PETER PAN	LILY OF THE NILE
S-9	CORTOPHYTUS CANDELABRA	TORCH LILY
S-10	ARBUTUS UNEDO 'COMTOCEFEST'	STRAWBERRY TREE
S-11	PHORMIUM TENAX 'DARK DELIGHT'	NEW ZEALAND FLAX
S-12	PENSTEMON BARBATUS 'ROSE ELF'	BEARD TONGUE
S-13	HELICTOTRICHON SEMPERVIRENS	BLUE OAT GRASS
S-14	ARCTOSTAPHYLOS BINGHAM TORIS (DWARF)	MANZANITA
GROUNDCOVER		
G-1	FRAGARIA CHILOENSIS	WILD STRAWBERRY
G-2	TRACHELOSPERMUM JASMINOIDES	STAR JASMINE
G-3	ARCTOSTAPHYLOS 'EMERALD CARPET'	MANZANITA
G-4	GAZANIA 'AZTEC QUEEN'	GAZANIA (MULTI COLORED)
G-5	ARCTOSTAPHYLOS HOOKERI 'MONTEREY CARPET'	MANZANITA
G-6	AJUGA REPTANS 'GIANT BRONZE'	CARPET BUGLE
G-7	VINCA MINOR 'ATROPURPUREA'	DWARF PERIWINKLE
G-8	ERIGERON GLAUCUS 'SEA BREEZE'	FLEABANE
G-9	LANTANA MONTEVIDENSIS 'GOLD BUSH'	LANTANA
G-10	ROSMARINUS OFFICINALIS 'PROSTRATUS'	CREEPING ROSEMARY
LAWN		
L-1	FESTUCA ARUNDINACEA 'BONZA'	DWARF FESCUE
VINES		
V-1	TECOMARIA CAPENSIS	CAPE HONEYSUCKLE
V-2	PASSIFLORA X ALATOCAERULEA	PASSION VINE
V-3	MACFADYENA UNGUIS-CATI	YELLOW TRUMPET VINE

SLOPE PLANTING PALETTE

SHRUBS	
LEUCOPHYLLUM FRUTESCENS	TEXAS RANGER
VITEX AGNUS CASTUS	CHASTE TREE
LUPINUS ALBIFRONS	SILVER BUSH LUPINE
CISTUS X SKANBERGII	ROCKROSE
SALVIA GREGII 'DESERT BLAZE'	AUTUMN SAGE
VERBENA BONARIENSIS	VERBENA
ACHILLEA MILLEFOLIUM 'PINK KING'	COMMON YARROW
ABELIA X GRANDIFLORA	ABELIA
ARCTOSTAPHYLOS 'SUNSET'	MANZANITA
ATRIPLEX SEMIBACCATA	SALTBUSH
BERBERIS THUNBERGII 'SPARKLE'	BARBERRY
GROUNDCOVER	
ARCTOSTAPHYLOS UVA-URSI	BEARBERRY
ARCTOSTAPHYLOS EDMUNDSII 'CARMEL SUN'	ARCTOSTAPHYLOS EDMUNDSII
HYPEORIUM PATULUM 'HIDCOTE GOLD'	HYPEORIUM PATULORUM
ROSMARINUS OFFICINALIS 'HUNTINGTON CARPET'	ROSMARINUS OFFICINALIS
OENOTHERA BERLANDIERI	MEXICAN EVENING PRIMROSE
SANTOLINA CHAMAECYPARISSUS	LAVENDER COTTON
NEPETA 'SIX HILLS GIANT'	CATMINT
CEANOTHUS GRIGESIS 'HORIZONTALIS'	CARMEL UNLEASH
CEANOTHUS GLORIOSUS	POINT REYES CEANOTHUS
RUBUS PENTABOLUS 'EMERALD CARPET'	RUBUS

PLANTING NOTES

1. ALL PLANTING AREAS WILL BE IRRIGATED WITH AUTOMATIC SYSTEM DESIGNED AND ADJUSTED TO LOCAL EVAPOTRANSPIRATION RATE (ETo). THE IRRIGATION WILL CONFORM WITH THE CITY OF HAYWARD STANDARD DETAILS AND SPECIFICATIONS FOR LANDSCAPING.
2. TREES PLANTED WITHIN 10 FEET OF ANY PAVED AREA SHALL INCLUDE A ROOT CONTROL BARRIER AND DEEP WATERING SLEEVES. THE DESIGN OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE PUBLIC WORKS DEPARTMENT.
3. ALL PLANTING AREAS SHALL BE COVERED BY 3" BARK MULCH.
4. SEE SHEET LDP-3 FOR TREE INVENTORY LIST AND NOTES.
5. SEE SHEET LDP 4 FORTYFICAL FRONTYARD LANDSCAPING PER UNIT.
6. TREES SHALL BE PRESERVED IN ACCORDANCE WITH THE TREE PRESERVATION ORDINANCE.

GENERAL NOTES

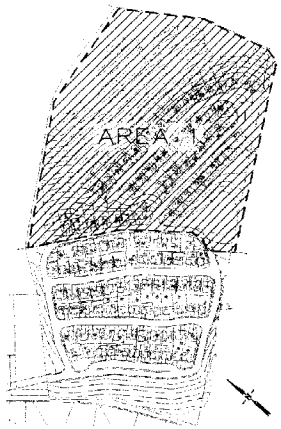
1. PROPOSED PLANTINGS UNDER NATIVE TREES IN THE DEVELOPED AREAS WILL BE SUITABLE AND APPROPRIATE FOR PLANTINGS UNDER OAKS AND BAYS.
2. THE AREAS DIRECTLY BEHIND THE UNITS FOR AT LEAST 30 FEET SHOULD BE IRRIGATED AND PLANTED WITH FIRE RESISTANT PLANT MATERIAL. FOR ADDITIONAL FIRE RESISTANCE, AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM SHALL BE PROVIDED FOR ALL AREAS WITHIN 100 FEET OF LOTS.
3. FRONT LAWNS MUST BE A MAXIMUM OF 50% ONLY OF THE TOTAL FRONT YARD.
4. MINIMUM TREE SIZE SHALL BE 24" BOX. CLUSTERED TREES SHALL BE DESIGNED WITH A COMBINATION OF 24" AND 36" BOX SIZE, PER CITY APPROVAL.
5. ALL ABOVE GROUND UTILITIES AND MECHANICAL EQUIPMENT SHALL BE SCREENED WITH SHRUBS FROM THE STREET. REFER TO CIVIL PLANS FOR SITE UTILITY LOCATIONS.
6. MASONRY WALLS ALONG THE PERIMETER PROPERTY LINES OR OPEN SPACE SHALL BE SCREENED WITH VINES AND SHRUBS.
7. IN ADDITION TO TREES, PROVIDE SLOPE PLANTING WITH A COMBINATION OF LOW TO MEDIUM HIGH GROUND COVERS AND GROUP TO LARGE SHRUBS. THEY SHALL BE PLANTED IN CLUSTERS OR GROVES OF NATURAL APPEARING VEGETATION AND SHALL BE SPACED AT ABOUT 30 FEET APART.
8. FOR STREET SIDE PLANTING WERE THERE IS UNDERLYING ROCK, PROVIDE A MINIMUM 5 FEET MINIMUM 5 FEET DIAMETER WIDE AND 3 FEET DEEP TREE PIT FILLED WITH SOIL MIX TO GIVE MORE ROOM FOR ROOTS TO GROW.
9. PROVIDE EVERGREEN TREES AT 20 FEET ON CENTER TO SCREEN AS NECESSARY BETWEEN SINGLE FAMILY HOMES AND ADJACENT APARTMENTS, PARKING LOTS, AND TOWNHOME/CONDOMINIUMS.
10. TOTAL COST OF 438 NEW MITIGATION TREES EXCLUDE TOTAL APPROVED VALUE OF $11,855 OF 26 TREES TO BE REMOVED. SEE SHEET LDP 3 AND ARBORIST REPORT DATED MARCH 3,2000.
11. FOR THE 2:1 SLOPE PROPOSED ABOVE THE HIGHEST ROWS OF HOMES (LOTS 94-94, 109-126), ROCK GROUPINGS SHALL BE PLACED TO MIMIC NATURAL ROCK OUTCROPPINGS. SEE SHEET LDP-6.

LEGEND

- NEW NON-STREET TREES (MITIGATION) TOTAL – 438
- NEW STREET TREES (NON-MITIGATION) TOTAL – 458
- EXISTING TREES TO REMAIN
- EXIST. TREE TO BE REMOVED
- EXIST. TREE TO BE PROTECTED
- LAWN AREAS
- GROUND COVER I
- GROUND COVER II
  FOR A LIST OF GROUNDCOVER TO BE USED, REFER TO SLOPE PLANTING PALETTE ON SHEET LDP-1

NOTE: SEE SHEET LDP-3 FOR TREE PRESERVATION PLAN

AREA MAP N.T.S.



Manuel C. Fernandez & Associates
Landscape Architects & Urban Designers
3939 SMITH STREET, UNION CITY, CA 94587
510 489 6572 FAX 489 9545

CONSULTANTS

DRAWN BY	JLP
CHECKED BY	JC
DATE	10/16/00
FILE	GARIN VISTA

Manuel C. Fernandez - Landscape Architect
Jim Cantrell - Civil Engineer
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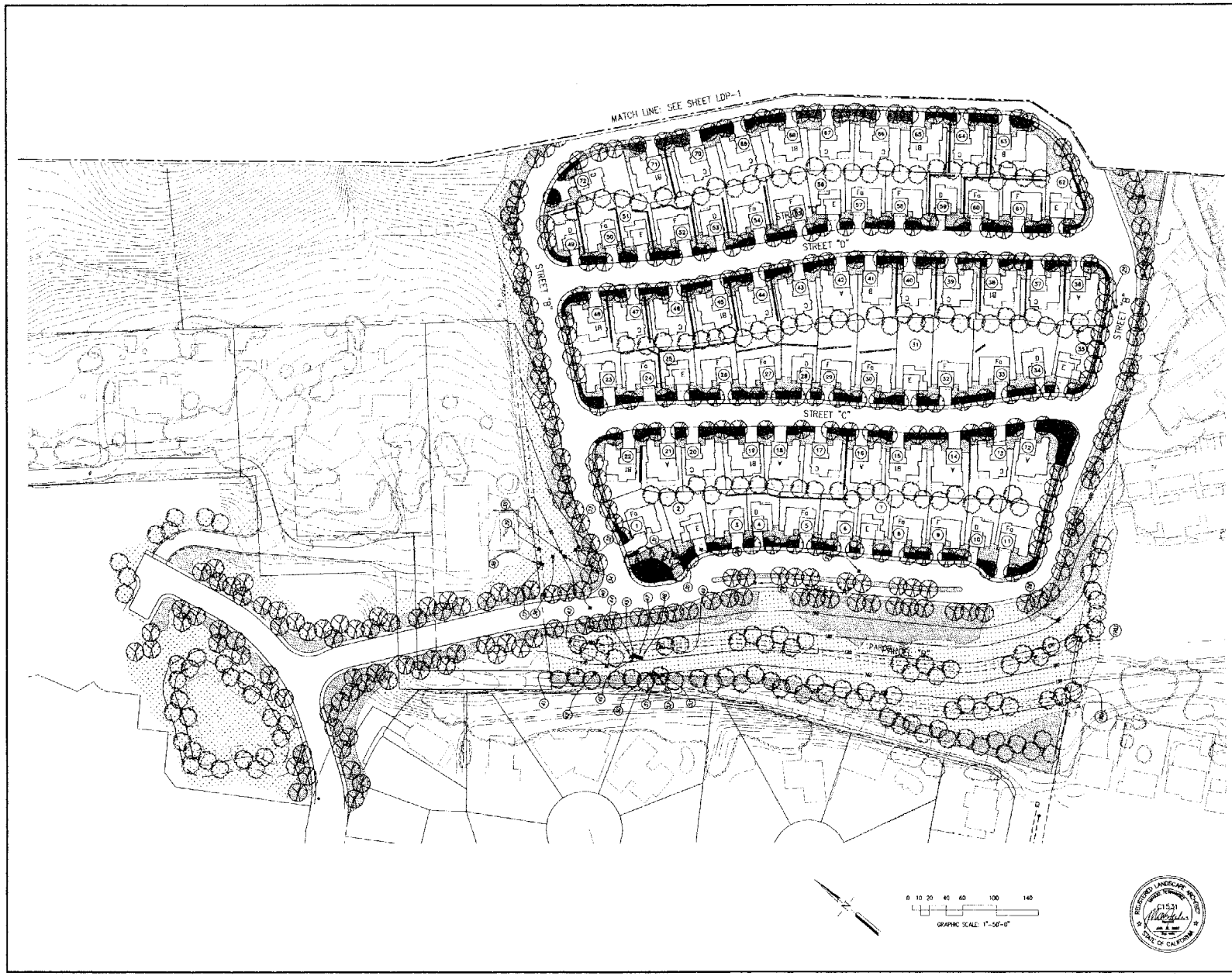
GARIN VISTA

OWNER:
DEVELOPER:

LANDSCAPE DEVELOPMENT PLAN

LANDSCAPE CONCEPT PLAN AND NOTES – AREA 1

LDP-1
OF

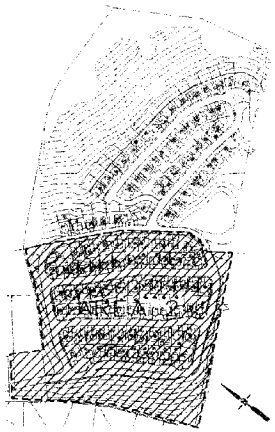


LEGEND

- NEW NON-STREET TREES (MITIGATION) TOTAL - 436
- NEW STREET TREES (NON-MITIGATION) TOTAL - 458
- EXISTING TREES TO REMAIN
- EXIST. TREE TO BE REMOVED
- EXIST. TREE TO BE PROTECTED
- LAWN AREAS
- GROUND COVER I
- GROUND COVER II
  FOR A LIST OF GROUNDCOVER TO BE USED, REFER TO SLOPE PLANTING PALETTE ON SHEET LDP-1

NOTE: SEE SHEET LDP-3 FOR TREE PRESERVATION PLAN

AREA MAP N.T.S.



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Landscape Architects & Urban Designers
3939 SMITH STREET, UNION CITY, CA 94587
510 489 8502 FAX 489 8545

CONSULTANTS

DRAWN	PC,MF	
CHECKED	MF,PC	JOB NO. 301206
DATE	12/14/96	FILE GARIN VISTA

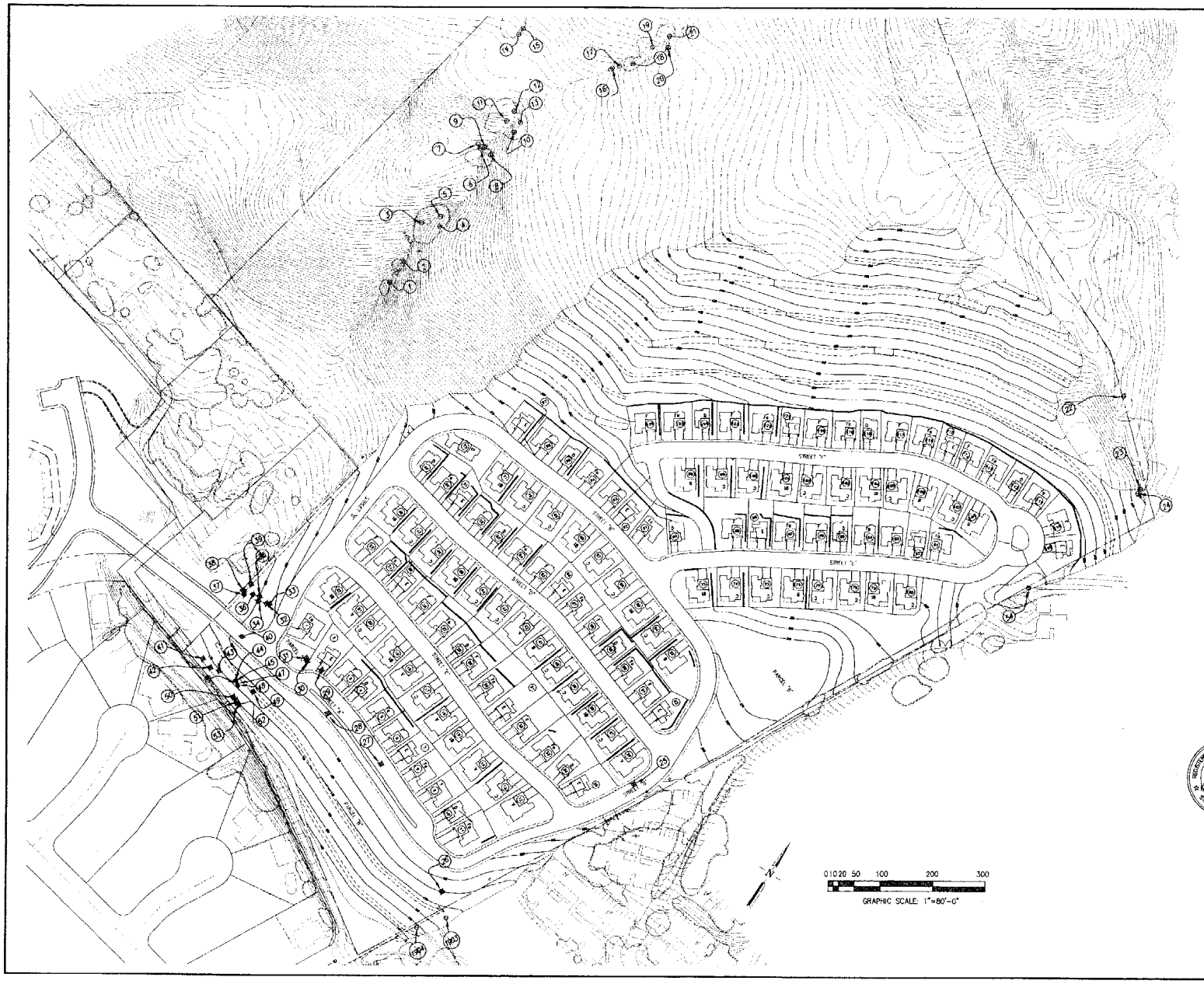
GARIN VISTA

OWNER:
DEVELOPER:

LANDSCAPE DEVELOPMENT PLAN

LANDSCAPE CONCEPT PLAN - AREA 2

LDP-2 OF



LEGEND

- EXISTING TREES TO REMAIN
- EXISTING TREE TO BE REMOVED
- EXISTING TREE TO BE PROTECTED

TREE INVENTORY LIST

ITEM #	TREE #	SPECIES	TRUNK DIAMETER (inches)	ACTION save remove protect	APPRAISED VALUE (none if removed)
1	1	ALMOND	10	save	n/a
2	2	YELLOW WILLOW	7	save	n/a
3	3	RED WILLOW	11	save	n/a
4	4	RED WILLOW	34	save	n/a
5	5	RED WILLOW	18	save	n/a
6	6	RED WILLOW	14	save	n/a
7	7	RED WILLOW	7	save	n/a
8	8	RED WILLOW	11	save	n/a
9	9	RED WILLOW	17	save	n/a
10	10	RED WILLOW	24	save	n/a
11	11	RED WILLOW	7	save	n/a
12	12	RED WILLOW	15	save	n/a
13	13	RED WILLOW	7	save	n/a
14	14	YELLOW WILLOW	34	save	n/a
15	15	YELLOW WILLOW	21	save	n/a
16	16	ELDERBERRY	9	save	n/a
17	17	ELDERBERRY	8.5	save	n/a
18	18	ALMOND	25	save	n/a
19	19	ELDERBERRY	32	save	n/a
20	20	ELDERBERRY	4	save	n/a
21	21	ALMOND	4	save	n/a
22	22	COAST LIVE OAK	21	protect	n/a
23	23	COAST LIVE OAK	13	protect	n/a
24	24	COAST LIVE OAK	7	protect	n/a
25	25	ALMOND	4	remove	$10
26	26	ALMOND	5	remove	$90
27	27	FIG	12	remove	$480
28	28	FIG	14	remove	$560
29	29	ALMOND	11	remove	$250
30	30	OLIVE	14	remove	$780
31	31	OLIVE	18	remove	$1450
32	32	ALMOND	7	remove	$110
33	33	ALMOND	11	remove	$300
34	34	CALIFORNIA PEPPER	7	remove	$110
35	35	DATE PALM	25	remove	$380
36	36	PLUM	5	remove	$35
37	37	PLUM	6	remove	$60
38	38	PLUM	4	remove	$40
39	39	PLUM	4	remove	$40
40	40	FIG	5	remove	$110
41	41	ENGLISH WALNUT	13	remove	$370
42	42	ENGLISH WALNUT	13	remove	$280
43	43	LEMON	5	remove	$140
44	44	ITALIAN STONE PINE	17	remove	$1250
45	45	ITALIAN STONE PINE	15	remove	$980
46	46	ITALIAN STONE PINE	13	remove	$780
47	47	ITALIAN STONE PINE	18	remove	$1380
48	48	ITALIAN STONE PINE	16	remove	$1080
49	49	CALIFORNIA PEPPER	12	remove	$220
50	50	ARIZONA CYPRESS	8	remove	$190
51	51	ARIZONA CYPRESS	9	remove	$190
52	52	ARIZONA CYPRESS	7	remove	$130
53	53	ARIZONA CYPRESS	4	remove	$40
54	54	COAST LIVE OAK	55	protect	n/a
55	1903	COAST LIVE OAK	10	protect	n/a
56	1904	COAST LIVE OAK	7	protect	n/a
OVERALL MITIGATION VALUE (32 REMOVED TREES)					$11,855

TREE INVENTORY SUMMARY	
TO REMAIN	29
TO BE REMOVED	25
TOTAL	54

NOTES:
1. TREE INVENTORY LIST IS BASED ON AN ON-SITE TREE EVALUATION AND APPRAISAL REPORT CONDUCTED BY RALPH OSTERING CONSULTANTS, INC. PLEASE REFER TO THE TREE EVALUATION AND APPRAISAL REPORT FOR ADDITIONAL INFORMATION ON EACH TREE.
2. VERIFY EXACT TREE LOCATION IN THE FIELD
3. TOTAL COST OF 438 NEW INSTALLATION TREES EXCEEDS TOTAL APPRAISED VALUE OF $11,855 OF THE 29 TREES TO BE REMOVED.

Manuel C. Fernandez & Associates
Landscape Architects & Urban Designers
1322 Webster Street, Suite 208 Oakland, CA 94612
FAX (510) 832-1627 TEL (510) 832-2140

REGISTERED LANDSCAPE ARCHITECT MANUEL FERNANDEZ C1531 STATE OF CALIFORNIA

CONSULTANTS	

DRAWN	PC/MF	
CHECKED	MF/PC	JOB NO. 95/006
DATE	8/28/96	FILE GARIN VISTA

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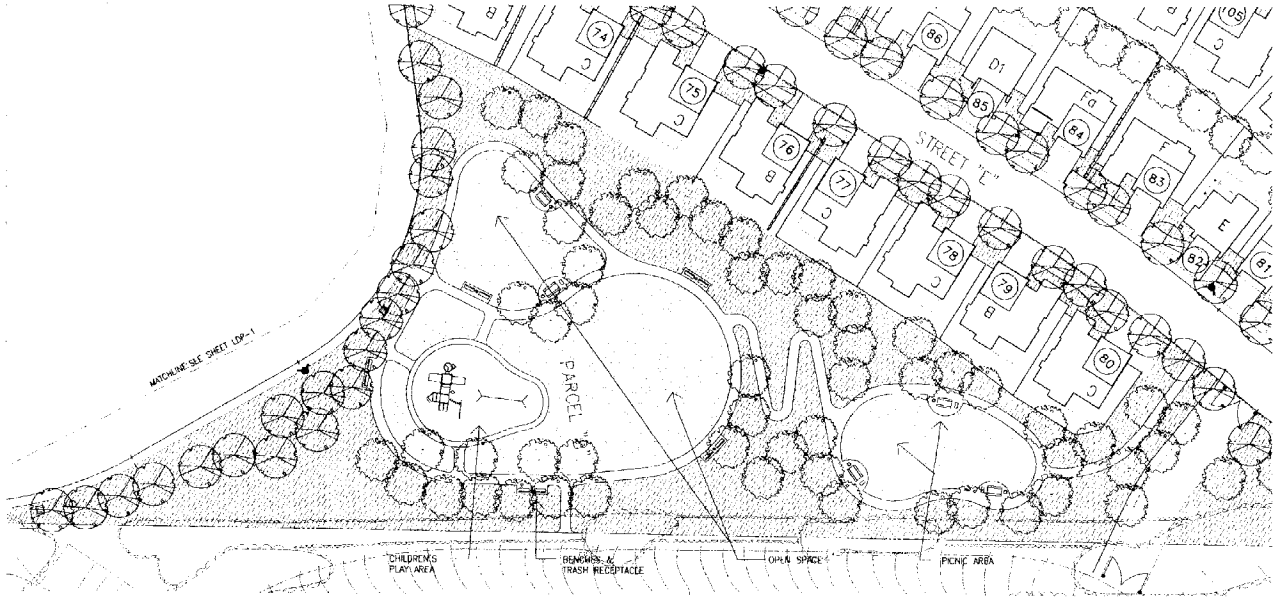
GARIN VISTA

OWNER:
DEVELOPER:

LANDSCAPE DEVELOPMENT PLAN

TREE PRESERVATION PLAN & NOTES

LDP-3 OF



NEIGHBORHOOD PARK BLOW-UP PLAN

SITE LEGEND

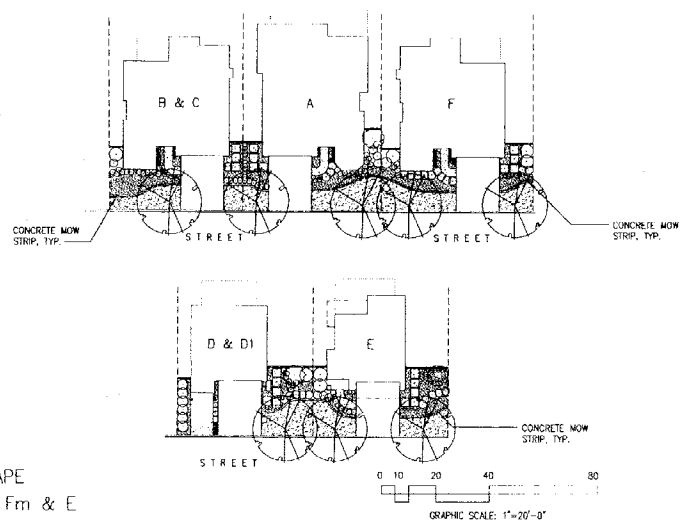
- PLAY LOT / TOT LOT WITH ACTIVITY STRUCTURE & SWING SET
- PICNIC AREA ON CONCRETE PAD W/ PICNIC TABLE, BBQ PIT & TRASH RECEPTACLE
- BENCHES & TRASH RECEPTACLE
- 8' WIDE PEDESTRIAN & BICYCLE PATH
- NEW TREES
- TURF
- GROUND COVER
- LANDSCAPE TO REMAIN

0 10 20 30 60 120

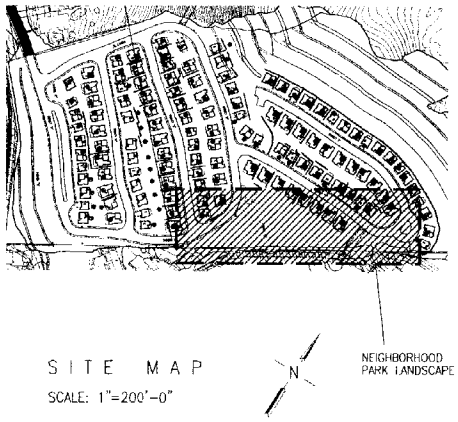
GRAPHIC SCALE: 1"=30'-0"

LEGEND

- STREET TREE
- ORNAMENTAL TREES
- ORNAMENTAL SHRUBS
- LAWN AREAS
- GROUNDCOVER
- PROPERTYLINE



TYPICAL FRONTYARD LANDSCAPE
FOR UNITS C, B, Cm, F, G, Fm & E



SITE MAP
SCALE: 1"=200'-0"

REGISTERED LANDSCAPE ARCHITECT
C15311
STATE OF CALIFORNIA

Manuel C. Fernandez & Associates
Landscape Architects & Urban Designers
3939 SMITH STREET, UNION CITY, CA 94587
510 489 8502 FAX 489 8545

CONSULTANTS

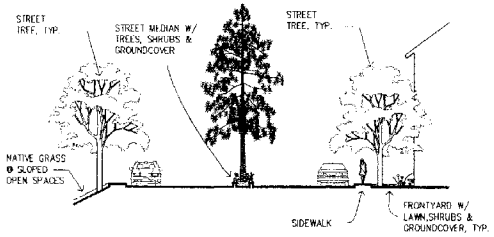
DRAWN FC,MF
CHECKED MF,FC
DATE 10/14/00
JOB NO. 301204
FILE GARIN VISTA

GARIN VISTA

LANDSCAPE DEVELOPMENT PLAN

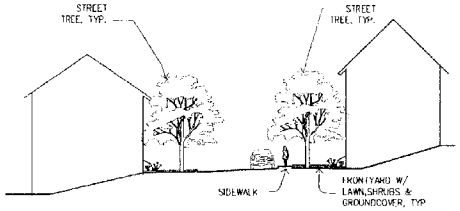
TYPICAL FRONTYARD LANDSCAPE & NEIGHBORHOOD PARK BLOW-UP PLAN

LDP-4 OF



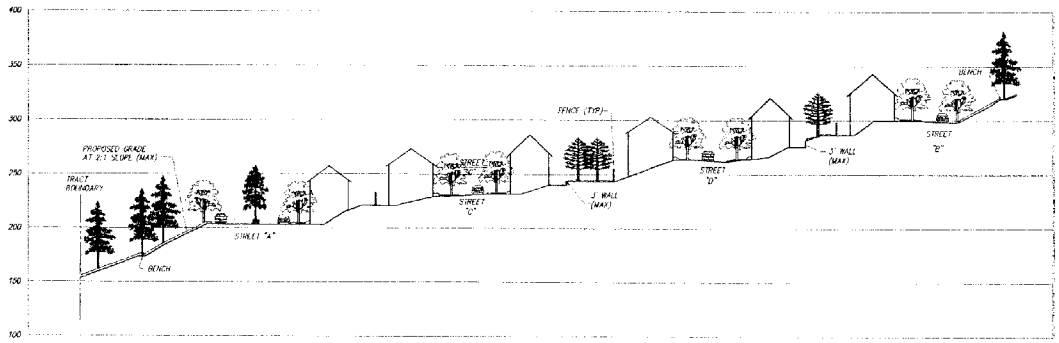
SECTION A–A LANDSCAPE @ MAJOR STREET 'A'

SCALE: 1" = 20' 0"



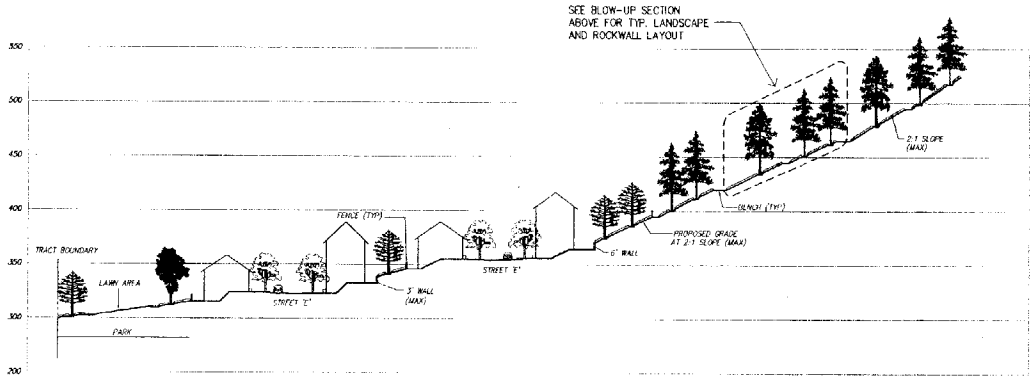
SECTION B–B
TYPICAL LANDSCAPE @ MINOR STREETS 'B, C, D & E'

SCALE: 1" - 20' - 0"



SECTION C–C

SCALE: 1" = 50'– 0"

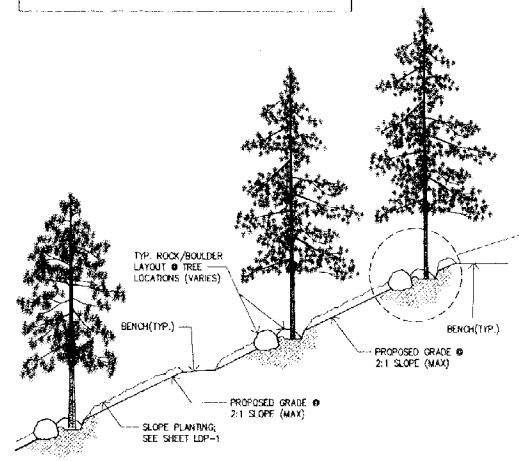


SECTION D–D

SCALE: 1" = 50'– 0"

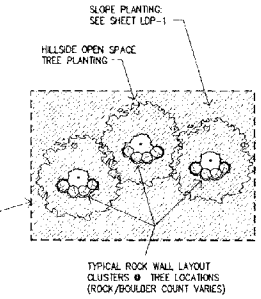
NOTES:

1. ROCK/BOULDERS SHALL BE APPROXIMATELY 3-4 FEET DIAMETER
2. HILLSIDE TREE WELLS SHALL BE SURROUNDED BY ROCK/BOULDERS
3. ROCK/BOULDER SHALL BE PROPERLY ANCHORED



TYPICAL SECTION FOR HILLSIDE OPEN SPACE LANDSCAPE AND ROCKWALL LAYOUT

SCALE: 1"=10'-0"

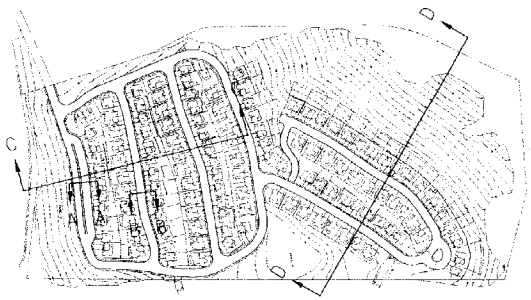


BLOW-UP PLAN – TYP. ROCK WALL LAYOUT PLAN

SCALE: 1"=20'-0"

TYPICAL LANDSCAPE SECTION AND PLAN @ OPEN SPACE ABOVE HIGHEST BACKYARDS (LOTS 94–97, 109–126)

SCALE: AS NOTED



KEY MAP

NOT TO SCALE

N

REGISTERED LANDSCAPE ARCHITECT
STATE OF CALIFORNIA

Manuel C. Fernandez & Associates
Landscape Architects & Urban Designers
3939 SMITH STREET, UNION CITY, CA 94587
510 489 8502 FAX 489 8545

CONSULTANTS

DRAWN FC,MP
CHECKED MF,FC
DATE 12/14/06
JOB NO. 86104
FILE GARIN VISTA

GARIN VISTA

OWNER:
DEVELOPER:

LANDSCAPE DEVELOPMENT PLAN

SECTIONS

LDP-5
OF