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DATE: July 22, 2008

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Zone Change No. PL-2003-0656 and Vesting Tentative Tract Map 7478/PL-2003-0659 - Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners) – Request to Change Zoning from Medium Density Residential (RMB3.5/SD-5) to a Planned Development District (PD); and to Subdivide 6.3 Acres to Build 30 Townhomes

The Project Location is Northwesterly of the Intersection of Garin Avenue and Clearbrook Circle

RECOMMENDATION

That Council adopts the attached resolution adopting the Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program; approving Vesting Tentative Map Tract 7478; and the Preliminary Development Plan; and introduces the attached ordinance approving the Zone Change and Preliminary Development Plan, based on the attached conditions of approval.

SUMMARY

The property is located on the north side of Garin Avenue between Larrabee Street and Clearbrook Circle within a Medium Density Residential (RMB3.5, 3,500 square foot minimum lot size) Zoning District. The Planned Development is being proposed in order to allow the development to deviate from the Mission-Garin Area Special Design (SD-5) Overlay District restriction that prohibits development within natural slopes 25 percent or greater. The Planned Development (PD) District is established to allow for the preservation of open space and other natural features through sensitive design that is harmonious with the natural characteristics of a site, and permits deviations from typical development standards to achieve such design.

The developer is requesting to construct 30 townhomes, 16 of which would partially encroach into slopes that are greater than 25 percent. The encroachment into areas exceeding 25 percent slope will allow the townhomes to be constructed further away from the active Hayward fault trace located along the western portions of the site, and further away from the single-family homes on Larrabee Street. Clustering the townhomes in the central portion of the site will minimize the

grading and development footprint, maintain considerable open space around the outer portions of the site, and have less impact on the whole of the property.

The central issue associated with the development is whether the site can accommodate development from a geotechnical standpoint, without negatively impacting the Larrabee Street homes. The project's geotechnical engineer has recommended a grading and drainage design to stabilize the development and the hill below, including removing existing uncompacted fill and replacing it with engineered fill with keyways and benches, along with a drainage system that will direct surface water from the project site and hillside above away from the slope toward Garin Avenue. The City's consultant geotechnical engineer supports the recommendations of the project geotechnical engineer.

BACKGROUND

On October 20, 2005, this project was brought before the Planning Commission with a staff recommendation of denial. Staff was concerned from a geotechnical perspective related to slope stability and drainage with 16 of the proposed 30 units proposed to encroach into natural slopes that exceed 25 percent. Also the Mission-Garin Area Special Design District (SD-5) provisions state that "development is not permitted within areas where natural slopes are generally greater than 25 percent." The Commission voted (5-2) to direct staff to conduct a CEQA review, prepare findings and conditions of approval, and bring the project back to the Planning Commission for review. Those Commissioners in favor of the project expressed satisfaction with the proposed density and the architectural design of the units. They also cited that the development would improve the storm water flow in the area that would otherwise be directed to properties located on the east side of Larrabee Street located below the project site. The Planning Commissioners who did not vote in favor of the project expressed concerns regarding building on the steep slopes and recommended fewer units be constructed to comply with SD-5 provisions.

After extensive geotechnical investigations, and with proper mitigation that is explained later in this report, the project geotechnical engineer has determined that the site is suitable to support the proposed development, including the encroachment into slopes greater than 25 percent. A geotechnical engineering consultant, hired by the City, concurred with this determination. For these reasons, staff now recommends support of the project. Other than revisions to the proposed grading and drainage system, the proposed project is the same project brought before Planning Commission in 2005. Considerable time was spent on conducting environmental analysis and developing the attached Mitigated Negative Declaration and Initial Study, primarily related to geotechnical issues.

During the June, 26, 2008, Planning Commission hearing, at which only five of seven Commissioners voted on the project (one absent, one abstention), a motion to recommend approval of the project failed by a 2-3 vote. Since a minimum of four votes is required for a Commission recommendation, the project is being forwarded to the Council without a recommendation from the Commission. As reflected in the attached draft meeting minutes, all Commissioners complimented the design of the townhomes. However, three Commissioners voiced concerns with the amount of development proposed and the potential impacts of such development on the surrounding properties. Although some of the Commissioners acknowledged the recommendations of the

geotechnical engineer of record, they did not feel the amount of development was appropriate for a property that contained the Hayward earthquake fault trace and was directly uphill from existing properties that have experienced damage resulting from ground movement.

DISCUSSION

Project Description and Setting -

The proposal consists of 14 three-story townhomes located on the uphill side of a proposed central private street. Each of these units would contain three bedrooms. The remaining 16 two-story townhomes would be located downhill from the private road. Each of these units would contain four bedrooms. All units would contain private decks and/or balconies that provide at least the minimum required private open space per unit. These private use areas, combined with two centrally located group open space areas totaling 3,000 square feet, would provide a total of 17,740 square-feet of open space. The Zoning Ordinance requires this project to provide a minimum of 10,500 square-feet of open space.

The project site used to contain a drainage swale that carried storm water from the hillside above the site to lower elevations. When the adjacent Oak Hills Apartment complex was constructed in the early 1970s, that swale was filled and replaced with a drainage pipe that carried such water. Movement of the ground over the years has caused damage to properties along Larrabee Street, including ground deformation and breaking of curbs and driveways, which can be seen along the roadway. The project geotechnical engineer indicates that "the zone of deformation within the Larrabee subdivision coincides with the former swale." The project geotechnical engineer of record has indicated that the proposed development would result in a better drainage system that would direct most of the surface storm water from not only the project site, but from the hillside above the site and to the east, to Garin Avenue in a new pipe. This is an improvement to the existing condition that directs drainage through an old pipe on the site that runs between two properties along Larrabee Street.

The project would also entail removal of undocumented fill, including removal of 40 trees in a drainage area on the hillside in the northern portion of the site. The trees to be removed include four California Bay and seven Coast Live Oak. The majority of the remainder of the trees to be removed consists of pines, large shrubs and fruit trees. All trees removed will be required to be replaced with new trees that are equal in value to those removed, to the satisfaction of the City's landscape architect. The excavated soil would be replaced with new engineered fill and the installation of a new subsurface drainage system that would direct water out to Larrabee Street. The result would be less storm water on the hillside above Larrabee Street, which the project geotechnical engineer indicates would help minimize risk of further movement.

Grading, under the supervision of the project geotechnical engineer, would entail removal of the undocumented fill in the central portion of the site down to bedrock. Approximately 33,000 cubic yards of compacted engineered fill to be imported to the site would be placed in keyways and benches and compacted, along with drainage improvements for subsurface water. The fill material would raise the site to match that which exists in the northern area of the site.

Much of the imported fill material is anticipated to come from the Garin Vista site, eliminating the need to use public roads for hauling. If the Garin Vista fill is not available, or if additional fill is needed, it will be brought up Garin Avenue from Mission Boulevard. It is anticipated that 2,700 truck loads would be required. It is the opinion of the developer that it would take between two and three weeks to import the fill material. A condition of approval requires the developer to repair any damage done to the public streets. In addition, if the City Engineer determines that the trucks are creating an unsafe condition during peak hour periods, the deliveries would be limited to non-peak hour periods as determined by the City Engineer.

Access to the project would be from Clearbrook Circle, a private road, with an emergency access road connecting to Garin Avenue. The proposed access and circulation would not impact the Larrabee Street residents as vehicular trips generated from the development would be directed to Garin Avenue and not through Larrabee Street.

The City's parking regulations require 2.1 parking spaces per unit; the project would provide 2.6 parking spaces per unit. There are 78 parking spaces proposed; each unit has a two-car garage and there are 18 open parking spaces.

Surrounding uses include single-family residences along Larrabee Street to the west and along Clearbrook Circle to the east. The 148-unit Oak Hills Apartment complex is located to the northeast. Single-family homes and undeveloped steep areas are located across Garin Avenue to the south and the approved 126-unit Garin Vista development is located to the north.

Project Analysis –

Zone Change – Preliminary Development Plan

The project is consistent with the policies and designations of the City's General Plan, Zoning Ordinance, including the Mission-Garin Special Design District, and the City's Hillside Design Guidelines.

Rezoning the property to PD allows for cluster development that encroaches onto slopes greater than 25 percent and allows a fire truck turnaround to encroach into the adjacent property. Clustering development towards the center of the site minimizes grading and allows for concentrated placement of development to have less impact on the whole of the property, while also allowing units to be located more than the minimum 50-foot distance from the active fault of the Hayward fault trace. In addition, the cluster design creates a larger undeveloped area around the proposed improvements, minimizing the impact to surrounding development and establishing a larger separation between the proposed units, and the existing single-family homes on Larrabee Street.

The project is proposed with a density of 5.1 units per acre. The General Plan Designation of Limited Medium Density allows 8.7-12.0 units per net acre. The lower density of the proposed project may be considered potentially consistent with this designation as the project density is consistent with the surrounding developments in the area. The project is also consistent with the underlying zoning designation of Medium Density Residential (RMB3.5), which allows up to 12

units per acre. The infill will occur at a density that is compatible with the surrounding area. To the north is the approved Garin Vista Development, which consists of single-family homes on properties that range from 3,000 square feet to 7,745 square feet with a density of 9.8 units per acre. To the northeast are the Oak Hills Apartments, consisting of 148 units on 14.4 acres, at a density of 10.3 units per acre. To the southeast and west are single-family residential developments at densities of 1.9 to 5.4 units per acre.

The development creates a residential environment of sustained desirability in that the units are well designed, and by clustering the residences, the proposed project is able to accommodate two centrally-located group open space areas that would total 3,000 square feet; a 1,750 square foot barbeque/picnic area; and, a 1,250 square foot tot lot. These areas are adequate to serve the proposed number of units. In addition, the project is within walking distance of Garin Park, which is located 0.3 miles to the east.

The existing and proposed utilities and roads can adequately serve the development of these parcels. Also, the project is compatible with environmental constraints, as noted in the associated Mitigated Negative Declaration and Initial Study.

Environmental Assessment –

An Initial Study was performed and determined that the proposed project, with the recommended mitigation measures, would not result in significant effects on the environment.

The most significant issues relate to geotechnical/geologic impacts. The project site is located within a “State of California Earthquake Fault Zone” and “Landslide Seismic Hazard Zone.” However, recommendations of the project geotechnical engineer would be required to be implemented and verified by that professional, including supervision of grading, and building construction would be required to comply with the California Building Code standards to minimize seismic risk due to ground shaking. Also, the townhomes will be required to be located at least 50 feet from any active fault trace to minimize potential damage due to ground displacement in a seismic event, consistent with standard practice.

While concerns have been raised by City staff and citizens regarding the stability of the hillside, geotechnical reports have been prepared and the project geotechnical engineer has concluded the proposed townhomes can safely be constructed on this site, provided certain measures are implemented during construction. Such measures include removing uncompacted fill and replacing it with an engineered slope with keyways and benches, along with installation of subdrains to direct water away from the slope.

To help ensure that regular inspection and maintenance of the slopes occur in order to minimize failure of the slope, staff is recommending formation of a Geologic Hazard Abatement District (GHAD). The GHAD would provide a funding mechanism to pay for regular inspections and maintenance, as well as repairs if necessary. Recommended conditions of approval also include prohibitions for any future development in the common parcels that contain the steeper slopes. A project “Plan of Control,” prepared by a qualified professional, is required to be prepared, which

will stipulate the frequency and parameters of inspections, and maintenance. As recommended by the City's geotechnical consultant, monitoring the hillside during and after construction will be helpful in evaluating any impacts of the development on the site. Staff anticipates installation and subsequent readings of monitoring equipment will be required as part of the GHAD Plan of Control (See Condition No.17 of the Zone Change Conditions of Approval listed as Attachment F to the Planning Commission Report).

Vesting Tentative Map –

A vesting tentative tract map is being processed with this proposal to create individual parcels of land that will encompass each townhouse unit. The developer is proposing a vesting tentative map so that, for a period of two years after the date of approval, the developer gains the right to proceed with the proposed development under the ordinances, policies, and standards in effect at the time the City considered the developer's application for a tentative subdivision map to be complete.

The map substantially conforms to the Subdivision Map Act, the City's Subdivision Regulations, the General Plan, and the City of Hayward Zoning Ordinance. Upon completion of the remediation recommended by the project Geotechnical Engineer, the site will be physically suitable for the proposed type of development. Upon completion of the proposed improvements, the streets and utilities will be adequate to serve the project.

If the vesting tentative map is approved, a final map and improvement plans will be processed and approved, and the final map recorded, allowing each unit to be sold separately.

FISCAL IMPACT

This limited residential development project is not anticipated to generate significant revenues or demand significant services that would substantially impact the City's General Fund. However, to assist Council members with a general assessment of what the fiscal and economic impacts of such development would be, staff has roughly estimated that the development would cost approximately \$40,000 annually and would generate approximately \$54,000 annually.

The provided estimates are based on a general fiscal impact analysis conducted last year for the South of 92 Legacy development and calculates service costs on 2006 data and a per capita basis using a calculated daytime population and four year average of operating budgets (FYs 2005-2008). Revenue assumes a seven year turnover (sale) rate for the townhomes, and an initial sales price of \$600,000 for each unit, with no inflation factor assumed for value. Annual costs are calculated at \$20,000 for Police, \$10,600 for Fire, \$5,000 for Administration, \$2,600 for Community Services, \$1,600 for Library, and \$150 for Non-Departmental services. Annual revenues are assumed to total \$28,800 from property tax, \$11,500 from real property transfer tax, \$4,200 associated with sales tax generated by residents doing business in Hayward, \$1,500 associated with licenses; permit fees, etc., \$7,000 from franchise and DMV fees, and \$1,000 from emergency facilities tax.

PUBLIC CONTACT

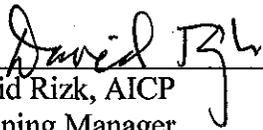
Five residents, who live in the established single-family subdivision below the proposed project, spoke in opposition to the development at the Planning Commission hearing. Their concerns related to potential erosion, slope stability, increased drainage onto the Larrabee Street homes, developing too close to the Hayward Fault line, an increase of traffic in the area, and a loss of privacy. A petition in opposition to the project was submitted with 67 signatures (see Attachment D), as well as two letters from Larrabee Street residents (see Attachments E and F).

On July 11, 2008, a Notice of Public Hearing for the City Council meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. At the time this report was prepared, no responses were received as a result of this notice.

NEXT STEPS

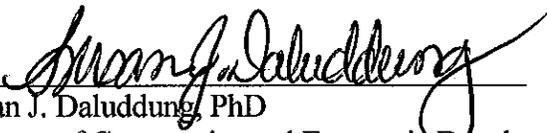
Should the project be approved, a Precise Plan must be submitted and approved detailing site improvements and architectural details. A final map and improvement plans will also need to be submitted and approved, to ensure substantial compliance with the approved tentative map and the conditions of approval. The final map will come before the City Council for approval and authorization for the City Manager to enter into a subdivision agreement. Prior to the recordation of the final map, documents shall be recorded vacating the public rights-of-way, as indicated on the tentative map. The excess rights-of-way for Garin Avenue and Woodland Avenue will be vacated as part of the final map. Building and grading permits will be obtained prior to any grading and construction of any buildings.

Prepared by:



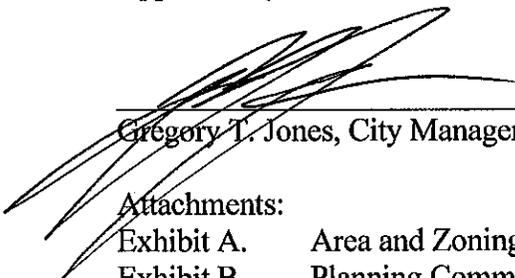
David Rizk, AICP
Planning Manager

Recommended by:



Susan J. Daluddung, PhD
Director of Community and Economic Development

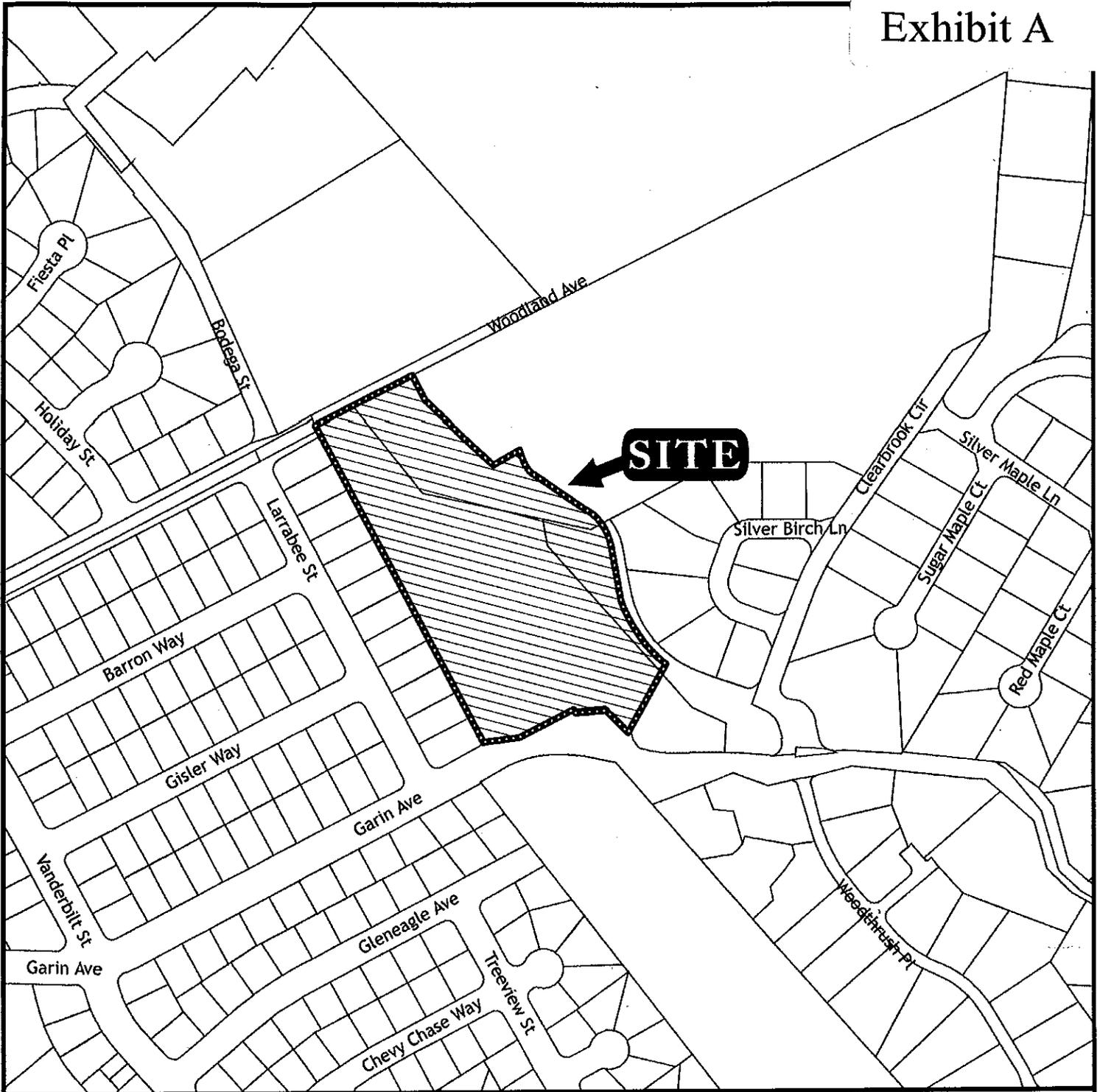
Approved by:



Gregory T. Jones, City Manager

Attachments:

- Exhibit A. Area and Zoning Map
- Exhibit B. Planning Commission Staff Report, dated June 26, 2008,
with the following attachments:
 - A. Vicinity Map
 - B. Area/Zoning Map
 - C. Mitigated Negative Declaration/Initial Study
 - D. Mitigation and Monitoring and Reporting Program
 - E. Findings for Approval – Zone Change Application
 - F. Conditions of Approval - Zone Change Application (with revised conditions 33 and 39)
 - G. Findings for Approval – Tract 7478
 - H. Conditions of Approval – Tract 7478 (with added condition 74 and revised condition 81)
 - I. Planning Commission Minutes, dated October 20, 2005
- Exhibit C. Draft Planning Commission Meeting Minutes, dated June 26, 2008
- Exhibit D. Petition with 67 signatures opposing the project
- Exhibit E. Unsigned Letter Dated June 26, 2008 from Larrabee Street residents opposing the development
- Exhibit F. Letter from David Sakata of 29862 Larrabee Street opposing the project
 - Draft Resolution
 - Draft Ordinance
 - Plans



Area Map

PL-2003-0659 TTM 7478

PL-2003-0656 ZC

Address: North of Garin Ave
between Larrabee S
and Clearbrook Circle

Applicant: Gil Zaballos

Owner: North of Garin Avenue



FEET 300 600



CITY OF
HAYWARD
HEART OF THE BAY

DATE: June 26, 2008

TO: Planning Commission

FROM: Tim R. Koonze, Associate Planner

SUBJECT: **Zone Change Application No. PL-2003-0656 & Vesting Tentative Tract Map 7478, Application No. PL-2003-0659 - Request to Change Zoning from Medium Density Residential (RMB3.5/SD-5) to a Planned Development District (PD), and Subdivide 6.3 Acres to Build 30 Townhomes. The Project will also Entail Abandonment of a Portion of the Garin Avenue and Woodland Avenue Rights-of-Way – Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners)**

The Project Location is Northwesterly of the Intersection of Garin Avenue and Clearbrook Circle

RECOMMENDATION:

That the Planning Commission recommends the following to the City Council:

1. Adopt the Initial Study, Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, pursuant to the California Environmental Quality Act (CEQA) and;
2. Approve the Zone Change, Preliminary Development Plan, Vesting Tentative Map, and abandonment of rights-of-way, subject to the attached findings and conditions of approval.

SUMMARY:

Staff recommends that this unimproved property be rezoned from Medium Density Residential (RMB3.5/SD-5) to a Planned Development District (PD), to accommodate development of 30 townhomes on a 6.3 acre site, 16 of which are partially situated on one-third of an acre of the site that exceeds 25 percent natural slope, and to allow a required fire truck turnaround area to encroach onto the adjacent property to the north.

Staff's recommendation is based on the determination that:

1. The townhomes are designed to be integrated into the slope, minimizing their visibility from Clearbrook Circle and surrounding development;
2. The development encroaching into natural slopes that exceed 25 percent allow the proposed townhomes to be located further than the minimum required 50 feet from the active Hayward fault trace that traverses the western portion of the site; and

3. The encroachments are consistent with one of the stated purposes of the PD District that “encourage development...which through attractive space utilization emphasizes conservation, open space, and recreational amenities, and which is harmonious with the natural characteristics of the land...”.

BACKGROUND:

On October 20, 2005, this project was brought before the Planning Commission with a staff recommendation of denial. A motion was passed (5-2) to direct staff to conduct a CEQA review, prepare findings and conditions of approval and bring them back to the Planning Commission for review (see attachment H). Those Commissioners in favor of the project expressed satisfaction with the proposed density and the architectural design of the units. They also determined that the development would improve the storm water flow in the area that would otherwise be directed to properties located on the east side of Larrabee Street located below the project site. The Planning Commissioners who opposed the motion expressed concerns regarding building on the steep slopes and recommended fewer units be constructed to comply with SD-5 provisions, which state that “development is not permitted within areas where natural slopes are generally greater than 25 percent.”

Staff’s main objection to the project was that 16 of the 30 proposed units were shown to encroach into natural slopes that exceed 25 percent, and that such encroachment was not consistent with the provisions of the Mission-Garin Area Special Design District (SD-5).

Staff has been working with the proponent since late 2005 to address primarily geotechnical issues, as part of the analysis required by the California Environmental Quality Act. Other than minor revisions to the grading and drainage system, the proposed project is the same project brought before Planning Commission in 2005.

DISCUSSION:

The proposed density conforms to the underlying zoning designation of Medium Density Residential (RMB3.5) which allows up to 12 units per acre. The project is located within the Mission-Garin Area Special Design (SD-5) Overlay District which prohibits development on natural slopes that exceed 25 percent.

The Planned Development (PD) District allows for deviations from standards, provided such deviations “are adequately offset or compensated for by providing functional facilities or amenities not otherwise required, or exceeding other required development standards.” The proposed cluster development on the hillsides minimizes grading and allows for concentrated placement of development while also allowing units to be located more than the minimum 50 foot distance from the active fault of the Hayward fault trace. The project proponent has also indicated that 30 townhomes are needed to make the project viable.

The cluster design also allows for the development to be concentrated towards the center of the site, creating a larger undeveloped area around the proposed improvements, minimizing the impact to surrounding development and establishing a larger separation between the proposed units and the existing single-family homes on Larrabee Street.

The proposal would help to increase the variety of housing types within the Mission-Garin neighborhood, which is developed with primarily single-family dwellings on standard or large parcels. The townhouses would allow for home ownership opportunities for people who would like to live in the hills, but cannot afford the typical single-family detached home.

The project design also shows that the necessary fire truck turnaround, located at the northeastern portion of the development, would encroach into the adjacent apartment complex property to the north. The encroachment is necessary to accommodate the proposed number of townhomes and to accommodate a fire truck turnaround which is needed to meet Fire Department standards. The portion of the turnaround that encroaches onto the adjacent property would be located within an easement that would be created and recorded in the Office of the Alameda County Recorder, prior to the commencement of any construction on the adjacent property.

The proposed Planned Development District would rezone part of the Planned Development District approved in 1969 associated with the Oak Hills Apartments development, in that approximately 0.9 acres of the western portion of that parcel would become part of the new Planned Development District. Only 148 of the originally approved 160 units of that development were constructed. Those 12 units that were not built were approved on the portion of land that is proposed to be part of this Planned Development.

Project Setting and Description

Surrounding uses include single-family residences along Larrabee Street to the west and along Clearbrook Circle to the east. The 148-unit Oak Hills Apartment complex is located to the northeast. Single-family homes and undeveloped steep areas are located across Garin Avenue to the south and the approved 126-unit Garin Vista development is located to the north.

The proposed 30 townhomes would be served by a 26-foot-wide private street, within a 27-foot right-of-way, that is accessed via Clearbrook Circle. A four-foot-wide sidewalk is shown along one side of the street within a 6-foot wide public utility easement. The circulation design includes an emergency vehicle turnaround at the north terminus of the street and a vehicular turnaround on the south terminus. There is also a emergency vehicle access road connecting the internal private street to Garin Avenue, which would only be used in cases of emergency. The private street would be owned and maintained by the homeowners association.

The project is proposing 2.6 parking spaces per unit which exceeds the 2.1 parking space requirement of the City's Off-Street Parking Regulations. Each unit has a two car garage and there are 18 open parking spaces, 8 of which are dedicated to visitor parking.

Proposed grading would entail approximately 40,000 cubic yards of cut and fill, with approximately 33,000 cubic yards of material proposed to be imported, to be placed up to 20 feet in depth in

certain portions of the site, to raise the ground elevation to approximately the same level as that existing in the northern portion of the site. Such area was created partially by fill that was imported to the site when the adjacent Oak Hills Apartment complex was developed approximately 35 years ago.

The existing 48-inch drainage pipe that crosses the fault trace and carries water from the adjacent watershed to the east above Clearbrook Circle to a storm drain pipe that runs to Larrabee Street is proposed to be removed. A new pipe is proposed to carry storm water through the southern portion of the site out to the existing storm drain system in Garin Avenue. A subsurface drainage system, designed as part of the geotechnical remediation plan, would be installed within the graded remediation area and directed to the existing storm drain system that connects to the Larrabee Street system.

Architecture and Site Layout

The proposal includes two types of townhouse units. Units #1 through #14 ("Unit A", see Sheet 3 and 4 of the architectural plans) are considered "uphill" units, located in three separate buildings east of the central private road serving the complex. The units would "step up" into the hillside located below Clearbrook Circle. The units are three stories totaling 1,700 square feet with a standard two-car garage and entry area on the ground floor, the main living area on the second floor, and bedrooms and laundry room on the third floor. The main living area includes a great room, half-bath, kitchen, fireplace and ground-level rear patio and front balcony. The top floor includes three bedrooms, including a master bedroom suite.

The remaining 16 units ("Unit B" see Sheet 3 of the architectural plans) are two-story units located west of the central road in four separate buildings and are considered "downhill" units in that they "step down" the hill, providing views toward the west and the Bay. They consist of 2,210 square feet of living area, plus a 400 square foot, standard two-car garage. The ground level includes the garage, unit entry, half-bath and a bonus room. The plan "steps down" into the main living area, which includes the kitchen, great room with fireplace and a patio that will provide residents with excellent views toward the Bay. The top floor is comprised of the master bedroom suite, two bedrooms with a full bath and the laundry room.

Open Space

The standards for multi-family residential projects require a minimum of 350 square feet of usable open space for each dwelling unit, 100 square feet of which is to be provided in group open space. Therefore, at least 10,500 square feet of open space is required for this project, and a minimum of 3,000 square feet of group open space is required. The applicant is meeting the group open space requirement by providing two centrally-located group open space areas: a centrally located 1,750-square-foot barbeque/picnic area on the east side of the private street and a 1,250 square foot tot lot on the west side.

For private open space to be considered usable, a minimum of 100 square feet with a minimum 10-foot dimension must be provided for ground-level private open space areas, and a minimum of 60 square feet with a minimum dimension of 6 feet provided for balconies. Private open spaces

meeting such criteria are, by code, allowed to be counted at double their actual areas. Each uphill unit has a rear patio that would count as 230 square feet, and a front balcony that would count as 200 square feet. Downhill units would have private rear patios that would count as 720 square feet each.

In summary, a minimum total of 10,500 square feet of open space is required and the project is designed with a total of 20,540 square feet of open space.

In June 2003, the City Council adopted an Inclusionary Housing Ordinance which requires any development of 20 or more units to provide units affordable to low and moderate-income households. Because the ordinance took effect on January 1, 2004, and the application was deemed complete on December 30, 2003, the project is not subject to the ordinance.

Green Building

Since the project entails more than 20 multi-family units, in accordance with adopted City policy, the applicant will be required to submit a completed Multi-Family checklist from Build-It-Green that identifies the green building components that have been integrated into the project. No minimum checklist score is currently required, though the City is developing a Green Building Ordinance that may eventually require such projects to be *Green Point Rated*, which will require a minimum checklist score and an independent third party rater to verify checklist measure are incorporated. Staff has included as a condition of approval a requirement to submit the completed checklist, and also encourages the proponent to have the project *Green Point Rated*.

Tentative Tract Map

When the project was brought before the Planning Commission in 2005, the subdivision consisted of one whole parcel and a portion of two adjoining parcels. On January 14, 2008, a lot line adjustment was approved and documents recorded that merged all properties associated with this subdivision into one parcel. The proposed vesting tentative map reflects that lot line adjustment.

A vesting tentative tract map is being processed with this proposal to create individual parcels of land that would encompass each townhouse unit. If the vesting tentative map is approved, a final map will be processed and recorded, allowing each unit to be sold separately.

The developer is proposing a vesting tentative map so that the developer gains for a period of two years after the date of approval, the right to proceed with the proposed development under the ordinances, policies, and standards in effect at the time the City considered the developer's application for a tentative subdivision map to be complete. The date that the tentative map application was deemed complete was June 16, 2008.

As depicted on the tentative map, there are portions of the Garin and Woodland Avenues rights-of-way that are no longer necessary to accommodate the existing public streets; therefore, the excess rights-of-way will be vacated and become part of the proposed subdivision. Such areas are not needed to accommodate future growth contemplated in the General Plan.

All of the civil engineering work associated with the project, including street improvements, utilities, grading, and geotechnical concerns, are determined to be acceptable by Public Works staff and the Development Review Engineer, as conditioned.

The vesting tentative map substantially conforms to the Subdivision Map Act, the City's Subdivision Regulations, the General Plan, and the City of Hayward Zoning Ordinance. Upon completion of the remediation recommended by the project Geotechnical Engineer, the site would be physically suitable for the proposed type of development. Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project.

Findings

The Planning Commission must make the following findings to recommend approval of the Zone Change:

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 policies and designations of the City's General Plan, Zoning Ordinance, including the Mission-Garin Special Design District, and the City's Hillside Design Guidelines.

The proposed project meets land use policies expressed in the General Plan:

- *"Promote infill development that is compatible with the overall character of the surrounding neighborhood."*

The proposed project, with a density of 5.1 units per acre, allows infill to occur at a density that is compatible with the surrounding area. To the north is the approved Garin Vista Development, which consists of single-family homes on properties that range from 3,000 square feet to 7,745 square feet. To the northeast are the Oak Hills Apartments, consisting of 148 units on 14.4 acres, at a density of 10.3 units per acre. To the southeast and west are single-family residential developments at densities of 1.9 to 5.4 units per acre.

The proposed density of 5.1 dwelling units per acre is consistent with the General Plan Designation of Limited Medium Density (8.7-12.0 units per net acre) and the underlying zoning designation of Medium Density Residential (RMB3.5), which allows up to 12 units per acre.

- *"Encourage visual integration of projects of different types or densities through the use of building setbacks, landscaped buffers, or the other design features."*

The developer, recognizing the sensitivity of hillside development, is proposing a cluster development at a lower density than that allowed by the underlying zoning. The cluster type design allows the construction to take place on a smaller percentage

of the lot, which creates more undeveloped open space and leaves a higher percentage of undisturbed natural slopes.

The proposed zone change meets the land use purposes expressed in the Zoning Ordinance:

- *“Allow for the infill and reuse areas at their prevailing scale and character.”*
- *“Accommodate expansion of development into vacant and underutilized lands within environmental and infrastructure constraints.”*

The proposed zone change meets the above land use purposes by creating an infill development on an underutilized parcel. The density proposed is consistent with existing densities in the area. The existing and proposed utilities and roads can adequately serve the development of these underutilized parcels. Also the project is compatible with environmental constraints, as noted in the associated Mitigated Negative Declaration and Initial Study.

The abandonment of the Garin Avenue and Woodland Avenues rights-of way are consistent with the General Plan, in that such areas are not needed for future development anticipated in the General Plan. These areas would be maintained by the homeowners association.

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

Clearbrook Circle and Garin Road have adequate capacity to serve the proposed development. There are adequate storm drain, sanitary sewer, and water services available to serve the proposed development.

C. In the case of residential development, that 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 public authorities having jurisdiction thereon, and the development will have no substantial adverse affect on the surrounding development.

The development creates a residential environment of sustained desirability in that the units are well designed, and by clustering the residences, the proposed project is able to accommodate two centrally-located group open space areas that would total 3,000 square feet: a 1,750 square foot barbeque/picnic area and a 1,250 square foot tot lot. These areas are adequate to serve the proposed number of units. In addition, the project is within walking distance of Garin Park, which is located 0.3 miles to the east.

A varied contemporary architectural style is proposed for both the uphill and downhill units. Both designs incorporate “staggered” units with varying front and rear elevation planes, which would help break up the massing of the structures. The units would have a stucco exterior complimented with stucco stone accents. Roofs are proposed to be visually broken up with a mixture of hips and gables surfaced with composition shingles. The proposed trellises over the rear patios and the fact that the patios would be at grade level will help them appear to be subordinate and integrated into the overall building design, rather than

appear to be visually detached as separate elements. To further help break up the mass of the buildings the uphill units would have second story balconies over the garages to help soften the three story element.

The downhill units utilize gabled dormers along the ends and at the rear of the buildings and "pop-outs" along the end wall, to further reduce their visual massing. The trellises would further help reduce the bulk of the structures. Prior to issuance of a building permit, the Planning Director would approve the color and materials for the project to ensure the colors are earth tones and compatible with the site setting.

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

Rezoning the property to PD allows for cluster development that encroaches onto slopes greater than 25 percent and contains a fire truck turnaround located that encroaches into the adjacent property. Clustering development on hillsides minimizes grading and allows for concentrated placement of development to have less impact on the whole of the property, while also allowing units to be located more than the minimum 50 foot distance from the active fault of the Hayward fault trace.

The cluster design also allows for the development to be concentrated towards the center of the site, creating a larger undeveloped area around the proposed improvements, minimizing the impact to surrounding development and establishing a larger separation between the proposed units and the existing single-family homes on Larrabee Street.

The proposal would help to increase the variety of housing types within the Mission-Garin neighborhood, which is developed with primarily single-family dwellings on standard or large parcels. The townhouses would allow for home ownership opportunities for people would like to live in the hills, but cannot afford the typical single-family detached home.

ENVIRONMENTAL REVIEW:

The subject property was part of the Mission Garin Annexation and, as such, was also a part of the Environmental Impact Report (EIR) prepared for the annexation, certified by the City in July 2003. The EIR determined that development of the subject sites at the proposed density would not have a significant environmental impact that could not be mitigated.

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 tiers off the Mission-Garin Annexation Project Program Environmental Impact Report, certified by the City of Hayward in July of 2003 (SCH #: 2002072047). The Initial Study has determined that the proposed project, with the recommended mitigation measures, would not result in significant effects on the environment.

The project will not adversely affect any scenic resources or vistas, nor will it substantially degrade the visual character of the site through its design of stepping buildings with the terrain and utilizing earth-toned colors and non-reflective building materials. With a mitigation measure that requires submittal of a lighting plan that utilizes fixtures that will not shine onto adjacent properties, impacts on surrounding developments related to project lighting will be less than significant.

With required mitigation measures, the project will not result in significant impacts related to air quality. As reflected in mitigation measures, during construction, the City will require the developer to implement standard dust control measures and an asbestos dust mitigation plan that must be approved by the Bay Area Air Quality Management District, which will reduce impacts related to particulate matter and naturally occurring asbestos to levels of insignificance.

Geotechnical reports have been prepared and the project geotechnical engineer has concluded the proposed project is feasible, provided certain measures are implemented during construction. Such measures include removing uncompacted fill and replacing it with an engineered slope with keyways and benches, along with installation of drainage features to direct water away from the slope. The City's Geotechnical Consultant concurs with these recommendations.

The project site is located within a "State of California Earthquake Fault Zone." However, construction will be required to comply with the Building Code standards to minimize seismic risk due to ground shaking and all habitable structures will be required to be located at least 50 feet from any active fault trace to minimize potential damage due to ground displacement in a seismic event, consistent with standard practice. The project will be required to incorporate recommendations from a California-registered geotechnical engineer, to minimize potential impacts related to landslides and other ground movement, including removal of unengineered fill and replacement of such fill as recompacted material keyed into bedrock, with related benches and associated subsurface and surface drainage systems that will direct water away from such areas.

The developer would be required to participate in a geologic hazard abatement district (GHAD) for the maintenance of the undeveloped slopes within the tract boundaries identified as Parcel A on the Tentative Map. A GHAD is an assessment district where assessments are collected and used for required maintenance and/or repairs of slope areas. The GHAD would ensure that these slope areas are regularly inspected, maintained and, if necessary, repaired. Recommended conditions of approval would include prohibitions for any future development in these parcels.

The project will be required to meet all water quality standards. The project will also be required to not augment storm water flow to downstream drainage facilities, unless mitigation measures are installed to address such flows so that impacts to such facilities are eliminated.

The project could have a significant noise impact related to temporary construction noise; however, required mitigation would limit construction hours in accordance with City regulations and also would require implementation of a construction noise management plan, to be approved by City staff, which will require use of mufflers on equipment, limitations on construction vehicle speeds and other noise-reducing measures.

The project will not result in significant impacts related to population and housing or public services, given the limited number of dwelling units proposed, a number anticipated in the adopted General Plan.

The project will not result in significant impacts to traffic or result in significant changes to traffic patterns or emergency vehicle access, given the limited number of townhomes proposed and the existing capacity, volumes and intersections levels of service associated with Clearbrook Circle, Garin Avenue and Mission Boulevard.

PUBLIC NOTICE:

On May 18, 2008, a Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records.

One response was received from a resident living in the Fairway park neighborhood expressing concerns about allowing development on hillsides that are prone to slides and constructing near the Hayward Fault.

Staff received a phone call from a Larrabee Street resident who was concerned that drainage from the new development would not be directed towards the rear of the Larrabee Street properties. In addition, the resident was wondering whether the common dilapidated fence at the rear of the Larrabee Street was going to be replaced. Concerns with any development proposed on this site have been expressed in the past by residents along Larrabee Street. Some of those properties have experienced ground movement or creep that has caused damage to properties.

The project will be required to incorporate recommendations from a California-registered geotechnical engineer, to minimize potential impacts related to landslides and other ground movement. In addition, the recommended conditions of approval will be require that a Geological Hazard Assessment District be established that will provide regular inspections and maintenance of the recontoured slopes to help prevent or control landslides, land subsidence, soil erosion and similar geologic hazards.

A new drainage system is being installed as part of the development that will direct the drainage from this subdivision to Garin Road via an underground pipe. A condition of approval would require the developer to install a 6-foot-high solid board wood fence along the common property line of the subject project and the rear property line of the Larrabee Street properties.

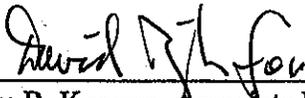
NEXT STEPS:

The Planning Commission can:

- Deny the request, which would be the final decision unless the decision is appealed to the City Council (findings for denial would need to be made).
- Recommend that City Council approve the proposed zone change, vesting tentative map, and vacation of rights-of-way
- Continue action and direct staff and/or the developer to make revisions and bring the item back to the Planning Commission.

If the project is approved the developer would submit a precise plan, final map, and improvement plans. Prior to construction, the final map would have to be approved by the City Council and recorded.

Prepared by:



Tim R. Koonze, Associate Planner

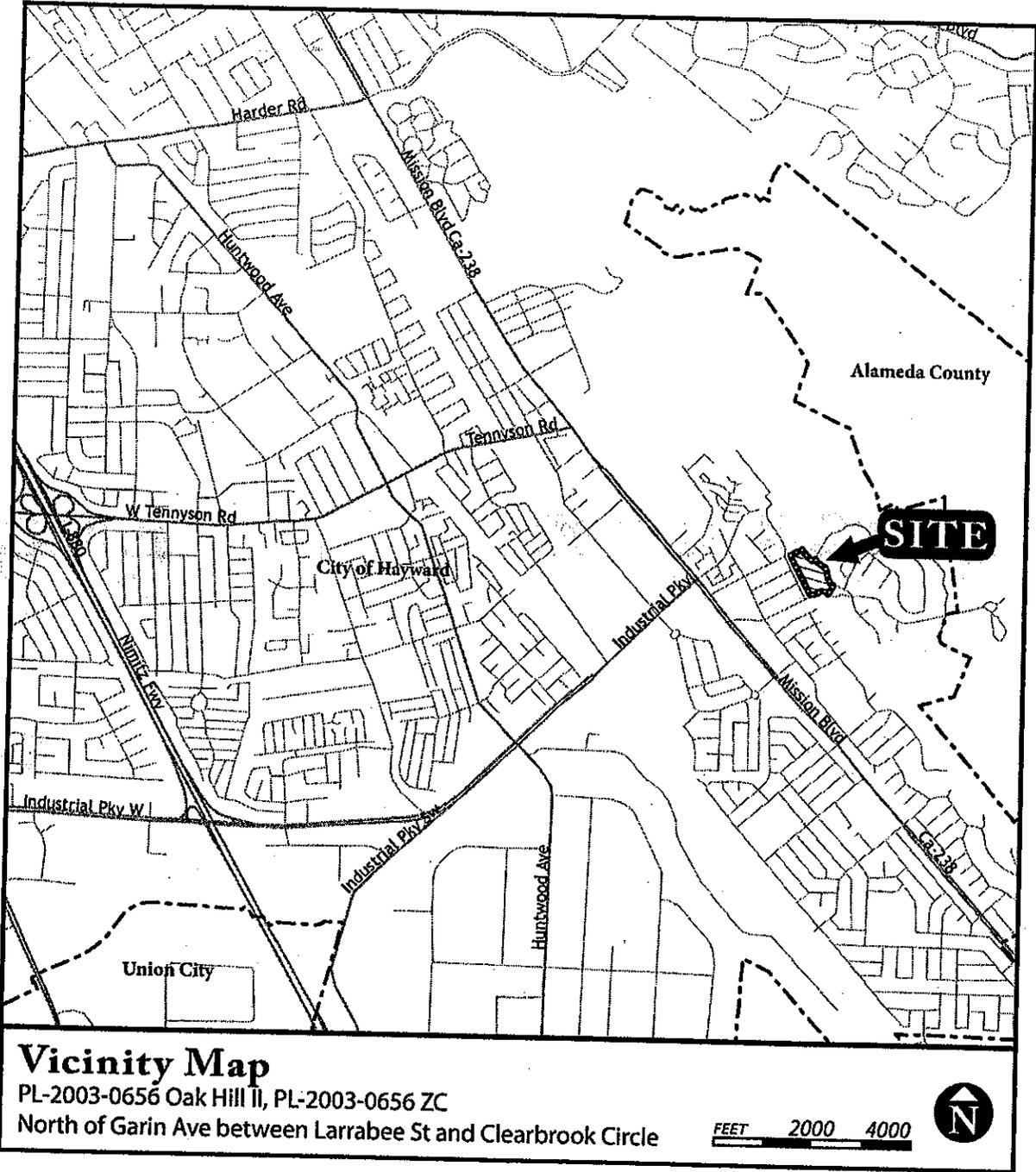
Recommended by:



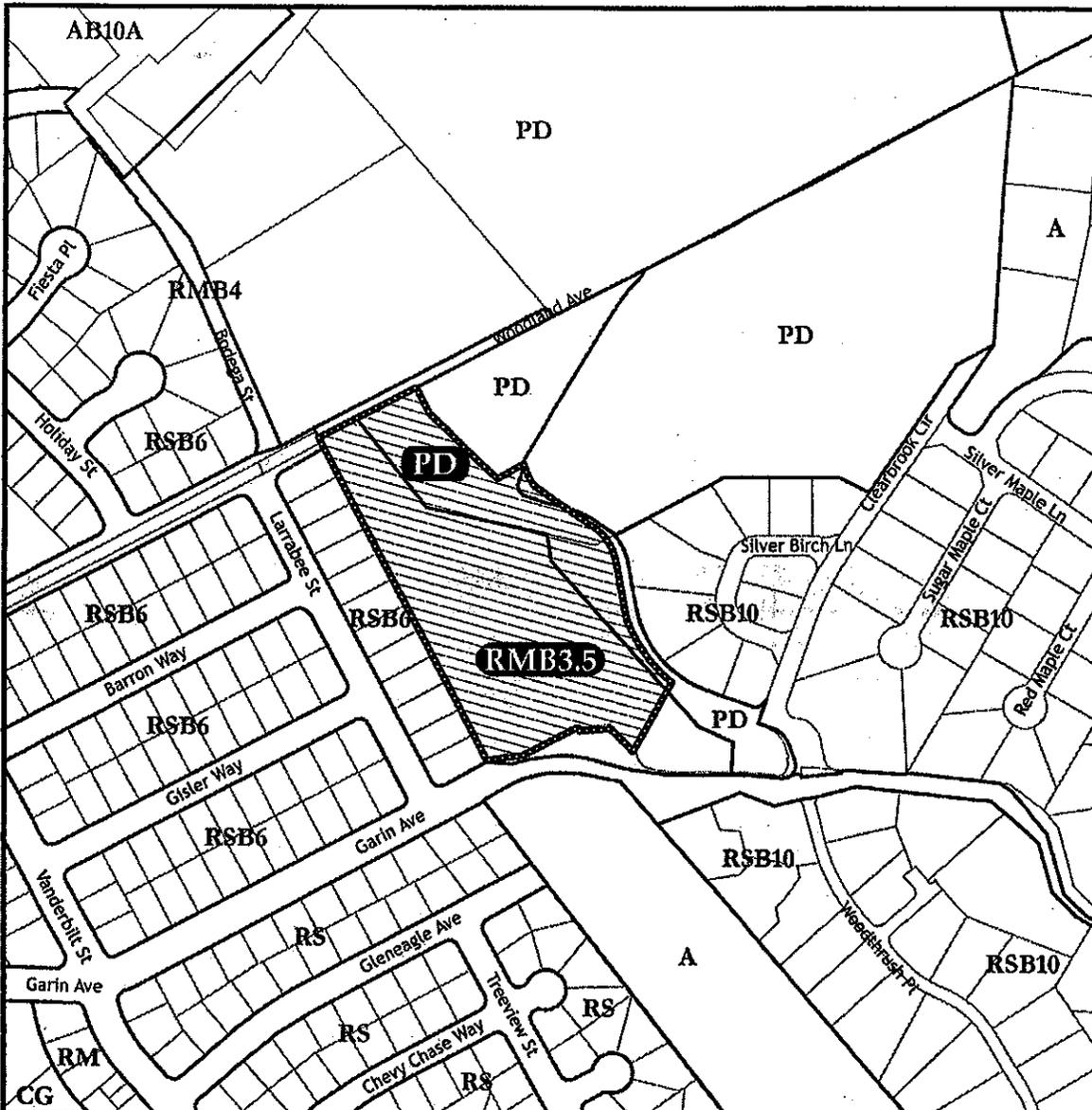
David Rizk, AICP, Planning Manager

Attachments:

- A. Vicinity Map
- B. Area/Zoning Map
- C. Mitigated Negative Declaration / Initial Study
- D. Mitigation Monitoring and Reporting Program
- E. Findings for Approval – Zone Change Application
- F. Conditions of Approval - Zone Change Application
- G. Findings for Approval – Vesting Tentative Map (Tract 7478)
- H. Conditions of Approval – Vesting Tentative Map (Tract 7478)
- I. Planning Commission Meeting Minutes of October 20, 2005
Plans



Attachment A



Area & Zoning Map

PL-2003-0659 TTM 7478

PL-2003-0656 ZC

Address: North of Garin Ave
between Larrabee S
and Clearbrook Circle

Applicant: Gil Zaballos

Owner: North of Garin Avenue

Zoning Classifications

RESIDENTIAL

RM Medium Density Residential, min lot size 2500 sqft

RMB3.5 Medium Density Residential, min lot size 3500 sqft

RMB4 Medium Density Residential, min lot size 4000 sqft

RS Single Family Residential, min lot size 5000 sqft

RSB4 Single Family Residential, min lot size 4000 sqft

RSB6 Single Family Residential, min lot size 6000 sqft

RSB10 Single Family Residential, min lot size 10000 sqft

COMMERCIAL

CG General Commercial

OPEN SPACE

A Agricultural

OTHER

PD Planned Development



FEET 300 600



**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 No. PL-2003-0656 & Vesting Tentative Tract Map 7478/PL-2003-0659 – Request to Change Zoning from Medium Density Residential (minimum lot area per dwelling unit of 3,500 square feet) in the Mission Garin Area Special Design District (RMB3.5/SD-5) to a Planned Development District (PD) and subdivide 6.3 acres to build 30 townhomes. The project will also entail abandonment of a portion of the Garin Avenue and Woodland Avenue rights-of-way. Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners).

The project location is north of Garin Avenue, south of Woodland Avenue, east of Larrabee Street and west of Clearbrook Circle, in the City of Hayward, County of Alameda, State of California.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project could not have a significant effect on the environment.

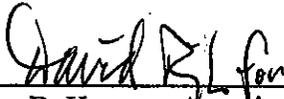
FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study tiers off the Mission-Garin Annexation Project Program Environmental Impact Report, certified by the City of Hayward in July of 2003 (SCH #: 2002072047). The Initial Study has determined that the proposed project, with the recommended mitigation measures, would not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources or vistas, nor will it substantially degrade the visual character of the site through its design of stepping buildings with the terrain and utilizing earth-toned colors and non-reflective building materials. With a mitigation measure that requires submittal of a lighting plan that utilizes fixtures that will not shine onto adjacent properties, impacts on surrounding developments related to project lighting will be less than significant.
3. The project will not have an adverse effect on agricultural land since the property is primarily surrounded by residential uses and does not contain significant soils.

4. With required mitigation measures, the project will not result in significant impacts related to air quality. As reflected in mitigation measures, the City will require the developer to implement standard construction dust control measures and an asbestos dust mitigation plan that will be required to be approved by the Bay Area Air Quality Management District, which will reduce impacts related to particulate matter and naturally occurring asbestos to levels of insignificance.
5. Although the site is substantially surrounded by development, with mitigation measures that require current assessments to confirm that no special status species or related habitat exist on the site, the project will not result in significant impacts to biological resources.
6. The project is not expected to result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, or disturb human remains because as stated in the Mission-Garin Annexation Project Program Environmental Impact Report no known archeological resources, paleontological resources, or human remains on the site.
7. The project site is located within a "State of California Earthquake Fault Zone." However, construction will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground shaking and all habitable structures will be required to be located at least 50 feet from any active fault trace to minimize potential damage due to ground displacement in a seismic event, consistent with standard practice. The project will be required to incorporate recommendations from a California-registered geotechnical engineer, to minimize potential impacts related to landslides and other ground movement, including removal of unengineered fill and replacement of such fill as recompacted material keyed into bedrock, with related benches and associated subsurface and surface drainage systems that will direct water away from such areas. Project recommended conditions will be require that a Geological Hazard Assessment District be established that will provide regular inspections and maintenance of the recontoured slopes to help prevent or control landslides, land subsidence, soil erosion and similar geologic hazards.
8. With required mitigation measures to address impacts related to naturally occurring asbestos, the project will not lead to the exposure of people to hazardous materials (see also discussion under item #4 related to naturally occurring asbestos).
9. The project will be required to meet all water quality standards. The project will also be required to not augment storm water flow to downstream drainage facilities, unless mitigation measures are installed to address such flows so that impacts to such facilities are eliminated.
10. The project is consistent with the policies and designations of the City's General Plan, Zoning Ordinance, including the Mission-Garin Special Design District, and the City's Hillside Design Guidelines.
11. The project would not result in a significant impact to mineral resources as it is not designated as a regional or local mineral resource site of significance.

12. The project could have a significant noise impact related to temporary construction noise; however, required mitigation would limit construction hours in accordance with City regulations and also would require implementation of a construction noise management plan, to be approved by City staff, which will require use of mufflers on equipment, limitations on construction vehicle speeds and other noise-reducing measures.
13. The project will not result in significant impacts related to population and housing or public services, given the limited number of dwelling units proposed, a number anticipated in the adopted General Plan.
14. The project will not result in significant impacts to traffic or result in significant changes to traffic patterns or emergency vehicle access, given the limited number of townhomes proposed and the existing capacity, volumes and intersections levels of service associated with Clearbrook Circle, Garin Avenue and Mission Boulevard.
15. The project will not result in significant environmental impacts to utilities and service systems, as reflected in the Mission-Garin Annexation Project Program Environmental Impact Report.

PERSON WHO PREPARED INITIAL STUDY:



Tim R. Koonze, Associate Planner

Dated: June 19, 2008

COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact Tim Koonze at the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007; telephone: (510) 583-4207 or e-mail: tim.koonze@hayward-ca.gov.

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 30 days in advance of initial public hearing and/or published once in Daily Review 30 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

INITIAL STUDY CHECKLIST FORM

Project title: Zone Change PL-2003-0656 and Vesting Tentative Tract Map 7478 (PL-2003-0659) – Request to Change Zoning from Medium Density Residential (RMB3.5 - minimum lot area per dwelling unit of 3,500 square feet) in the Mission Garin Area Special Design District (SD-5) to a Planned Development District (PD) and Subdivide 6.3 acres and Build 30 Townhomes. The project will also entail the vacation of a portion of the Garin Avenue and Woodland Avenue rights-of-way. Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners).

Lead agency name and address: City of Hayward, 777 "B" Street, Hayward, CA 94541-5007

Contact person: Tim R. Koonze, Associate Planner
(510) 583-4207 tim.koonze@hayward-ca.gov

Project location: The property is located north of Garin Avenue between Larrabee Street and Clearbrook Circle in Hayward, California.

Project sponsor's name and address: Christian Zaballos
Oak Hills Enterprises/Clearbrook Partnership
22320 Foothill Blvd., Suite 660
Hayward, CA 94541

General Plan: Limited Medium Density Residential (LMDR)
(8.7-12.0 dwelling units per net acre)

Zoning: Medium Density Residential (RMB3.5, minimum lot area per unit of 3,500 square feet) in the Mission-Garin Area Special Design District (SD-5)

Description of project: Proposal entails subdivision of 6.3 acres to develop 30 townhome lots, 2 common lots and a private street, connecting to Clearbrook Circle and, via an emergency access easement, to Garin Avenue, with 14 of the townhomes proposed to be uphill of the private street and the other 16 units to be downhill of the private street. The uphill units are proposed at 1,700 square feet with three bedrooms and two-and-a-half bathrooms with standard two-car garage and the downhill units are proposed to be 2,200 square feet with four bedrooms and two-and-a-half bathrooms and standard two-car garage. Approximately 8,000 square feet of the Garin Avenue road right-of-way, along the project frontage, is proposed to be vacated and converted to a slope easement to be maintained by the homeowners association. The eastern-most portion of Woodland Avenue is proposed to be vacated by the City as there are no plans to extend Woodland Avenue.

**Surrounding land
uses and setting:**

To the north is undeveloped land with a Planned Development zoning designation where a 126-unit single-family residential development has been approved to be developed, to the northeast is a 148-unit apartment complex, and to the east, southeast, south and west are single-family residential developments.

**Other public agencies whose
approval is required:**

Bay Area Air Quality Management District (asbestos dust mitigation plan); California Division of Occupational Safety and Health (naturally occurring asbestos); State Water Resources Control Board (Notice of Intent for grading).

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

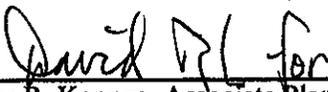
- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/>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

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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

Signature:



Tim R. Koonze, Associate Planner, City of Hayward

Date: June 19, 2008

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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ENVIRONMENTAL ISSUES:

I. AESTHETICS -- Would the project:

- | | | | | |
|---|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <p>a) Have a substantial adverse effect on a scenic vista?</p> <p><i>Comment: The project would entail development of a site that is substantially surrounded by existing development. Some of the limited views through existing trees towards the Bay from the western-most apartments to the east will be impacted by the project; however, the resulting views from those units will be consistent with the views from other apartments within that complex. Therefore, the project would not have a substantial adverse effect on a scenic vista.</i></p> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</p> <p><i>Comment: The project site is not located in a state scenic highway view shed.</i></p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <p>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</p> <p><i>Comment: Implementation of the project and associated grading to address geotechnical issues would result in removal of several large trees from the site, including those within a drainage course that runs in an east-west direction across the northern portion of the site. However, with the proposed replacement landscaping at key locations, including on the slope below proposed units in the western portion of the site, the resulting project visual impacts will be less than significant. Additionally, because the proposed site design integrates buildings into the hillside below and to the west of Clearbrook Circle and locates buildings away from existing residences to the west, the project will not substantially degrade the existing visual character or quality of the site and its surroundings. The use of non-reflective materials and earth tones for the buildings and the stepped building designs that follow the contours of the site will further contribute to the project being consistent with the City's Hillside Design Guidelines and Mission Garin Area (SD-5) Special Design District provisions, further minimizing visual impacts.</i></p> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</p> <p><i>Comment: A lighting plan has not been submitted by the applicant.</i></p> <p><i>Impact I (d): Impacts due to new lighting introduced onto the existing undeveloped site, including that associated with lighting along the private street, could generate negative off-site lighting impacts, particularly as seen from downhill properties.</i></p> <p><i>Mitigation Measure I(d): A lighting plan prepared by a qualified illumination engineer shall be prepared as part of a precise development plan to show exterior landscape and building lighting. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas, consistent with the City's Building Security Standards Ordinance. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s) and have lighting that is shielded and directed away from neighboring properties and from windows of units in the project. Implementation of this mitigation measure will ensure lighting impacts are reduced to a level of insignificance.</i></p> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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II. **AGRICULTURE RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project site does not contain such farmland.</i> | | | | |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project is not located in an agricultural district nor an area used for agricultural purposes, nor is it subject to a Williamson Act contract.</i> | | | | |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project area does not contain agricultural uses or farmland.</i> | | | | |

III. **AIR QUALITY --** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project will not conflict with the Bay Area Air Quality Management District's Bay Area 2000 Clean Air Plan. The project would not entail an amendment to the existing General Plan land use designation for the project site and the existing Hayward General Plan, adopted in March of 2002, has been determined to be consistent with the Air Quality District's Clean Air Plan (see Hayward General Plan Update DEIR, dated November, 2001, pages 8-12 to 8-16; EIR certified in March of 2002).</i> | | | | |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <i>Comment: In 2007, the Bay Area air basin met both federal and state standards for ground level ozone and state standards for particulate matter <10 microns and <2.5 microns in diameter (PM₁₀ and PM_{2.5}).</i> | | | | |
| <i>Impact III(b): The proposed 30-townhome development project is of a relatively small scale and would not exceed any project-generated thresholds of significance for air quality pollutants. However, during the construction period, suspended particulates would be generated intermittently and therefore the following mitigation measure has been put in place to minimize any potential impact.</i> | | | | |
| <i>Mitigation Measure III(b): In order to reduce intermittent air pollutants during the project construction phase, and as recommended by the Bay Area Air Quality Management District CEQA guidelines, the developer shall:</i> | | | | |
| <ul style="list-style-type: none"> a. Water all active construction areas at least twice daily. b. Cover all trucks hauling soil, sand, and other loose material or require all trucks to maintain at least two feet of freeboard. | | | | |

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- c. *Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas.*
- d. *Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas.*
- e. *Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public or private streets (i.e., Clearbrook Circle and Garin Avenue).*
- f. *Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).*
- g. *Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).*
- h. *Limit traffic speeds on unpaved roads to 15 mph.*
- i. *Install sandbags or other erosion control measures to prevent silt runoff to public roadways.*
- j. *Replant vegetation in disturbed areas as quickly as possible.*

Implementation of this mitigation measure will reduce such air quality impacts to a level of insignificance.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project would not be expected to generate cumulative air quality impacts in that the project would not individually have significant operational air quality impacts.*

- | | | | | |
|--|--------------------------|-------------------------------------|--------------------------|--------------------------|
| d) Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|-------------------------------------|--------------------------|--------------------------|

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 in 1986. Serpentinite may contain chrysotile asbestos, especially near fault zones. Serpentinite-bearing bedrock underlies a portion of the central and northern portions of the site in the area of the active Hayward fault that traverses the western portion of the site, according to geotechnical investigations and boring logs ("Geotechnical Study Update, Clearbrook Parcel, Hayward, California," by Purcell, Rhoades & Associates, dated August 30, 2002). Also, the central and northern portions of the site contain a large amount of unengineered fill, sample tests of which did not detect the presence of any asbestos material ("Geologic Investigation to Evaluate Naturally Occurring Asbestos, Oak Hills Property, Hayward California," by Northgate Environmental Management, Inc., dated December 15, 2003). Also, serpentinite-bearing mélange rock obtained from the adjacent property to the north may be used as subgrade fill at the site. Grading and construction activities in areas where naturally-occurring asbestos may exist are required to be conducted in accordance with regulations established by the California Air Resources Board (ARB) and California Division of Occupational Safety and Health (Cal-OSHA). In response to such requirements, a construction management plan has been developed entitled, "Construction Management Plan for Oak Hills Property, Hayward California," by Northgate Environmental Management, Inc., dated December 14, 2003 (copy attached). Such plan includes an overview of Cal-OSHA standards related to work with naturally-occurring asbestos, an*

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asbestos dust mitigation plan and air monitoring requirements.

Impact III(d): According to the project geologist and geotechnical engineer, serpentinite-bearing bedrock could be exposed during keyway construction and grading at the property. Material that may be imported from the adjacent property to the north to be used as fill on the subject property could contain unacceptable levels of asbestos materials, which could release asbestos fibers in the air, resulting in a potentially significant air quality impact.

Mitigation Measure III(d): All grading and road construction activities, including that associated with any import of material from the adjacent property to the north, shall be conducted in compliance with the provisions of all applicable regulations associated with naturally occurring asbestos, including those in the California Air Resources Board's asbestos airborne toxic control measure for construction, grading, quarry and surface mining operations (Section 93105 of Subchapter 7.5 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations) and those related to Cal-OSHA standards.

Implementation of the "Construction Management Plan for Oak Hills Property, Hayward California," by Northgate Environmental Management, Inc., dated December 14, 2003 is required, as approved by applicable regulatory agencies. Such plan includes an asbestos dust mitigation plan, which is required to be approved by the Bay Area Air Quality Management District. The dust mitigation plan includes measures that require that active construction and vehicle areas be properly wetted, treated or covered and grading operations be suspended during elevated wind speeds so as not to result in dust emissions crossing the property line. Also, as recommended by Northgate Environmental Management, Inc., any serpentinite-bearing material that contains levels of asbestos that exceed 0.25 percent shall be capped by at least four feet of fill that does not contain serpentinite-bearing material. 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 air quality impacts resulting from release of asbestos-containing materials will be less-than-significant.

- e) Create objectionable odors affecting a substantial number of people?

Comment: The project will not create objectionable odors affecting a substantial number of people in that it would result in a typical residential development, consistent with adjacent residential developments.

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 subject site is included within the Mission-Garin Annexation Study area. The related Mission-Garin Annexation Project Program Environmental Impact Report (EIR), which was certified by the Hayward City Council in July of 2003, indicates that a focused habitat assessment shall be conducted by a qualified biologist "for projects that have the potential to

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adversely affect the habitat elements for a given special-status species." The EIR further indicates that if the habitat assessment demonstrates the habitat could be occupied, full protocol-level surveys are to be conducted with concurrence from U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), and that if such surveys and subsequent analyses demonstrate that the habitat is occupied, then a project-specific special status species mitigation plan be developed, approved by the USFWS and CDFG prior to development, and implemented.

The EIR also indicates that project-specific surveys be conducted to determine if special-status raptors or shrikes are nesting within or adjacent to a project area, and that project-specific studies be conducted during the Golden Eagle breeding season to determine if project sites are important as foraging areas for any Golden Eagles that nest in the vicinity and, if so, that appropriate mitigation measures be developed in consultation with CDFG, and implemented.

Finally, the EIR requires that project-level special status plant surveys be conducted to determine if any such plants are present on project sites and, if they are, a mitigation and monitoring program be developed to provide for the long-term protection of such plants.

A special status wildlife species habitat assessment and rare plant survey were conducted in April of 2003 ("Wetlands Assessment, Special Status Wildlife Species Habitat Assessment, and Rare Plant Update, Oak Hills – 2 Project (Zaballos Property), Hayward, Alameda County, California," prepared by Wetlands Research Associates, Inc, dated May of 2003). No special status wildlife species, including Golden Eagles, were observed during the site assessment and, due to poor habitat conditions, including small parcel size, isolation, adjacent development and the presence of feral cats, no special status species are likely to utilize the property, including Golden Eagles for foraging. During the 2003 reconnaissance, no special status plant species were observed. The project biologist indicated that due to the historic tilling of the property and the surrounding area, it is unlikely that rare plants would colonize the project site and that further plant surveys were not warranted.

A site assessment was conducted in August of 2003 to determine the quality of habitat for Alameda whipsnake ("Site Assessment for the Alameda Whipsnake at the Proposed Oak Hills 2 Project Site in Hayward, Alameda County, California," prepared by Swaim Biological Consulting, dated January 15, 2004). The assessment concluded that no suitable habitat for the Alameda whipsnake was present on the project site and that the Alameda whipsnake would not be expected to occur on the project site, due to the distance between potential whipsnake scrub habitat (1,700 feet away) and the presence of intervening roads and development. No site assessment was conducted for California red-legged frog; however, the site clearly does not contain suitable habitat for such species in that it does not contain water bodies and is substantially surrounded by development.

Impact IV(a): Since it has been over five years since habitat assessments were conducted on the site and given the proximity of Garin Regional Park and adjacent open space to the project site, it cannot be concluded that the project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species.

Mitigation Measure IV(a): A special status wildlife species habitat assessment by qualified biologists shall be conducted during the breeding

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season of the Golden Eagle or other special status nesting raptor or shrike species which immediately precedes the start of grading activity. The assessment shall include assessment of the Alameda whipsnakes and/or their occupied habitat. The assessment shall be confirmed by an independent biologist hired by the City and paid for by the project proponent.

If such assessments 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) or 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.

If such assessments indicate that Alameda whipsnakes and/or their occupied habitat are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific Alameda whipsnake mitigation plan should be developed, approved by the US Fish and Wildlife Service and California Department of Fish and Game prior to development, and implemented.

Implementation of such measures will ensure that potential impacts to special status species as a result of the project will be less-than-significant.

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

Comment: The site contains no riparian or sensitive habitat identified in local or regional plans and consists primarily of non-native annual grassland with a limited number of trees (primarily Coast live oaks and California bays), as indicated in the Mission-Garin Annexation Program EIR, certified by the City of Hayward on July 15, 2003, and according to a field investigation conducted on April 3, 2003 (Wetlands Assessment, Special Status Wildlife Species Habitat Assessment, and Rare Plant Update, Oak Hills -2 Project (Zaballos Property), Hayward, Alameda County, California," prepared by Wetland Research Associates, Inc., Dated May, 2003).

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Comment: Utilizing the Corps' methodology, a site reconnaissance was conducted on April 3, 2003 to determine the presence of wetlands and other waters of the United States on the subject property (Wetlands Assessment, Special Status Wildlife Species Habitat Assessment, and Rare Plant Update, Oak Hills -2 Project (Zaballos Property), Hayward, Alameda County, California," prepared by Wetland Research Associates, Inc., Dated May, 2003). The reconnaissance concluded that the site did not contain any wetlands in that there were no areas found that exhibited hydric soils, hydrophytic vegetation, or wetlands hydrology, nor were any perennial or intermittent watercourses observed on the site. However, since it has been five years since such

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assessment, a more current assessment should be conducted prior to grading to affirm no wetlands exist on the site.

- 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 site does not contain habitat used by migratory fish or wildlife nor is it a migratory wildlife corridor in that it is surrounded on three sides by development. Also, the Mission-Garin Annexation Program EIR, certified by the City of Hayward on July 15, 2003, indicates that there are no wildlife movement corridors on the subject site or in the general vicinity.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Comment: A report was prepared to evaluate the health and condition of 69 trees and large shrubs on the subject site that would be considered as "protected" trees, under Hayward's Tree Preservation Ordinance (Tree Evaluation and Appraisal Report, Oak Hills II Development, Hayward, California," prepared by Ralph Osterling Consultants, Inc., dated April 9, 2004).

Impact IV(e): The project will entail removal of 40 of the 69 "protected" trees/large shrubs that were surveyed on the site, which would be considered to be a significant impact. Remediation to address geotechnical issues would require removal and replacement of unengineered material, which would require removal of several trees, including California bay and Coast live oak trees in an existing drainage swale and also a large Coast live oak tree proposed between units 4 and 5.

Mitigation Measure IV(e): The project shall conform to the requirements of the City of Hayward's Tree Preservation Ordinance. Replacement/mitigation trees shall be planted as required by Hayward's Tree Preservation Ordinance, to be confirmed by the City's Landscape Architect, and be in general conformance with the proposed landscape Plan (Sheet L-1), prepared by Manuel C. Fernandez & Associates, Landscape Architects, dated October 30, 2006, with the requirement that the value of the replacement/mitigation trees shall be at least equal to the value of the trees to be removed, as determined by the City's Landscape Architect. Efforts should be made to preserve the 24-inch diameter Coast live oak tree between proposed townhome units 4 and 5 and as many as possible of the existing bay and oak trees in the drainage swale in the northwestern portion of the site. Implementation of these measures will ensure that potential impacts to biological resources are reduced to a level of insignificance.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?

Comment: There are no habitat conservation plans affecting the property.

V. CULTURAL RESOURCES -- Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

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Comment: No buildings or known historical resources exist on the site.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Comment: No known archaeological resources exist in on the site and most of the area where development is proposed contains fill that was imported from off-site. However, consistent with State law, if previously unknown unique archaeological resources are encountered during future grading activities, work on the project in the general area of the discovery shall cease until a resource protection plan conforming to CEQA Section 15064.5 is prepared by a qualified archeologist and approved by the Hayward Planning Director. Project work may be resumed in compliance with such plan.

- c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Comment: No known paleontological resources exist on the site.

- d) Disturb any human remains, including those interred outside of formal cemeteries?

Comment: No known human remains are located on-site. However, consistent with State law, if any human remains are found during project grading, work on the project in the general area of the discovery shall cease until a resource protection plan conforming to CEQA Section 15064.5 is prepared by a qualified archeologist and approved by the Planning Director. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and procedures followed as specified in CEQA Guidelines Section 15064.5) including contacting the Native American Heritage Commission, who would then designate a most likely descendant of those North Americans whose remains are discovered, who would then develop a plan for the proper treatment of such remains.

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, as delineated on the most recent Hayward Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

Comment: The project is located within a State-defined Earthquake Fault Zone, in that the Hayward fault traverses the western portion of the property. The location of the fault trace, as represented on the project plans, was confirmed via site-specific fault investigations conducted on the property in 1988 by the firm Purcell, Rhoades and Associates. The project geological consultant, ES Geotechnologies, and the City's peer reviewer, Connell Geotechnical, Inc., have accepted the trench logs and location of the fault setback zone as depicted on the plans. No habitable structures are proposed within 50 feet of the fault trace; however, some of the proposed western-most townhomes would be located at the edge of the fault setback line, with the patios of the northern-most and southwestern-most units encroaching into the setback area. A new storm drain line is

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proposed to cross the fault at the southwestern portion of the project site.

Impact VI(a)(i): Fault rupture may occur along the Hayward Fault during a moderate to severe earthquake, which could damage units, roadways, and/or utility lines, resulting in potential loss of life or injury to residents.

Mitigation Measure VI(a)(i): To minimize impacts associated with fault rupture, no dwelling units are to be constructed within 50 feet of the Hayward fault trace, to be confirmed by the project geologist during site excavation via a letter to the City prior to permanent foundation work being completed. Any storm drain line that would traverse the fault in the southwestern portion of the site shall be ductile iron or similar material, to be approved by City staff. The project will be required to be within a Geological Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards. With these measures, impacts associated with fault rupture would be considered to be less-than-significant.

ii) Strong seismic ground shaking?

Comment: As stated above, the project site is located within an Earthquake Fault Zone and the Hayward fault trace runs along the western portion of the site. The project geotechnical consultant, ES Geotechnologies, provides recommendations, including those associated with a slope stability analysis, to minimize potential impacts associated with strong seismic ground shaking, which the City's geotechnical peer reviewer has endorsed.

Impact VI(a)(ii): Given the close proximity of the Hayward fault, it is reasonable to assume that the subject property may experience violent ground shaking during a moderate to severe earthquake, which could result in damage to, or failures of, proposed townhome units, roads and/or utility lines.

Mitigation Measure VI(a)(ii): The design of townhome units shall adhere to Uniform Building Code standards in effect at the time of building permit submittal. Also, all recommendations by the project geotechnical engineer, ES Geotechnologies, shall be implemented throughout project grading and construction. Such measures include on-site observation by the project geotechnical consultant of excavations and placement of engineered fill and keyway construction, and installation of subgrade drainage features. The project will be required to be within a Geological Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards. The soils engineer or his appointed representative shall monitor the hillside during and after construction to evaluate any impacts the construction may have along Larrabee Street. Adherence to recommendations of the project's geotechnical engineer and engineering geologist and to Building Code standards will ensure impacts related to seismic ground shaking will be reduced to less-than-significant levels.

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iii) Seismic-related ground failure, including liquefaction?

Comment: The State Seismic Hazard Zone Map (Hayward Quadrangle) does not show the project site to be in a liquefaction zone. Liquefaction is not considered to be likely on this site.

iv) Landslides?

Comment: The State Seismic Hazard Zone Map (Hayward Quadrangle) shows the project site to be in an earthquake-induced landslide hazard zone. Portions of the development site contain unengineered fill that was placed during construction of the adjacent Oak Hills Apartment complex in the 1970's. The project geotechnical engineer and City's geotechnical consultant indicate likelihood of a landslide in the northern portion of the site, which will be confirmed during project excavation and grading.

Impact VI(a)(iv): Given the close proximity of the Hayward fault and the geologic characteristics of the site, potential impacts related to landslides are considered potentially significant.

Mitigation Measure VI(a)(iv): Implement mitigation measures associated with item VI(a)(ii). Implementation of such measures would reduce impacts associated with landslides to a less-than-significant level.

b) Result in substantial soil erosion or the loss of topsoil?

Comment: The subject site is undeveloped and substantially covered with vegetation, with little or no impervious surfaces.

Impact VI(b): During construction, short-term increases of soil erosion, particularly in sloped areas where the rate of runoff is increased, could result due to exposure of untreated ground surfaces to water or wind erosion. Also, erosion could occur after project construction if adequate permanent erosion control measures are not implemented and maintained.

Mitigation Measure VI(b): An erosion and sedimentation control plan for implementation throughout project construction shall be required, to be approved by the Hayward Engineering Division staff. All exposed areas within the project's limits of grading shall be landscaped, to the satisfaction of the City's Landscape Architect, and adequately maintained. Such measures will ensure impacts related to soil erosion are less-than-significant.

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: Movement of the existing ground has been observed in the past, causing damage to structures and roadways of properties along Larrabee Street located downhill and west of the project site. As indicated previously, the site contains unengineered fill. The project geotechnical engineer indicates that such movement is likely related to water pressure buildup associated with water flowing from displaced storm drains or from seeps in the uphill slopes, and that proposed removal of unengineered fill and replacement with engineered fill and keyways and surface and subsurface drainage improvements that will direct water away from the slope and into new storm drain facilities will improve the existing conditions related to ground movement along the Larrabee Street properties. The City's geotechnical engineering consultant indicates acceptance of such recommendations and

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conclusions.

Impact VI(c): The proposed project, which includes new development on an undeveloped hillside, has the potential to exacerbate existing negative conditions associated with poor drainage and related ground movement and creep.

Mitigation Measure VI(c): Implement mitigation measures associated with item VI(a)(ii). Implementation of such measures would reduce impacts associated with unstable geologic units to a less-than-significant level.

- d) Be located on expansive soil, as defined in the Uniform Building Code, creating substantial risks to life or property?

Comment: The project geologist indicates expansive soils are one of the identified geologic hazards at the site.

Impact VI(d): Due to this potential for expansive soils, impacts to foundations could be significant.

Mitigation Measure VI(d): Implement mitigation measure VI(a)(ii), which requires that all recommendations of the project geotechnical engineer be implemented. The project design shall be in accordance with the California Building Code, in effect at the time of building permit submittal. Implementation of such measures would reduce impacts associated with expansive soils to a less-than-significant level.

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Comment: The site would be connected to Hayward's 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: Hazardous materials are not routinely planned to be used, transported or disposed at or near the project site. Also, according to the project applicant who has owned the property since 1965, the site has never had a structure on it and was used for many years prior to 1965 for cattle grazing.

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Comment: The subject property has not been previously developed, though unengineered fill was imported to the site from development of the apartment complex to the east in the 1970's. However, the area is known to contain bedrock material that could contain naturally-occurring asbestos. See discussion under Air Quality comment III(d) related to naturally-occurring asbestos in the soil.

Impact VII(b): Due to the potential for naturally occurring asbestos on the site, grading and related activities could release toxic asbestos materials into the air, thereby representing a potentially significant health hazard. Also, roadways that utilize materials that contain asbestos could release toxins into the air, also representing a potentially significant impact. See Air Quality

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Impact III(d)

Mitigation Measure VII(b): Implement mitigation measure III(d) under air quality impacts associated with naturally-occurring asbestos, which would reduce such impacts 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 closest school, Treeview Elementary School, is located approximately one-quarter mile from the project site. See comment VII(b) above.

Impact VII(c): See impact VII(b) above.

Mitigation Measure VII(c): Implement air quality mitigation measure III(d) associated with naturally-occurring asbestos, which would reduce such impacts to levels of insignificance.

- 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 project site is not on the State Cortese List, compiled pursuant to Government Code Section 65962.5.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

Comment: The project is not located within an airport zone or within two miles of a public airport.

- f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Comment: The project is not located within the vicinity of a private airstrip

- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Comment: The project will not interfere with any known emergency response plan or emergency evacuation plan. The Hayward Fire Department serves the area. Emergency response times will be maintained.

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Comment: The project is located in an urban/wildland interface zone with steep slopes both uphill and downhill of proposed townhomes, with a large undeveloped area adjacent to the north. Hayward's Hillside Design and Urban/Wildland Interface Guidelines require the preparation of a fuel management plan for residential projects located within such interface zones. A fuel management plan has been developed and tentatively approved by the Hayward Fire Department staff.

Impact VII(h): New development on the project site could expose people or structures to significant risk of loss, injury or death due to the wildland fire hazards that exist in the area.

Mitigation Measure VII(h): The project shall be constructed and maintained

in compliance with Hayward's Hillside Design and Urban/Wildland Interface Guidelines, to be approved by the Hayward Fire Department. Also, subject to final approval by the Hayward Fire Department, recommendations of the fuel management plan developed for the project shall be implemented ("Fuel Management Plan for Oak Hills Partnership, Hayward, CA," prepared by Wildland Resource Management, Inc., dated October 1, 2004). Such measures include building construction standards, a fuel management program that includes a maintenance schedule of open space, and a homeowners' education program. Implementation of such measures will ensure impacts related to wildland fire hazards are reduced to a level of insignificance.

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

- a) Violate any water quality standards or waste discharge requirements?

Comment: *The project will not violate any waste discharge as the project will be connected to the municipal sewer system. A surface and subsurface drainage system will be installed to accommodate storm water runoff and subsurface water.*

Impact VIII(a): *The project has the potential to degrade water quality during project construction due to erosion during storm events. The developer will be required to comply with City erosion control measures during construction.*

Mitigation Measure VIII(a): *In Accordance with 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 prior to any construction taking place on-site. These documents shall also be submitted along with the grading permit application for review and approval by the City of Hayward. The project plan shall comply with the Alameda Countywide Clean Water Program requirements, including implementation of construction and post construction 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. Final water quality storm drain system design shall be reviewed and approved by the City of Hayward Public Works Department staff. Such measures will ensure 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 (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

Comment: *The site will be served with water supply by the City of Hayward, so no use of groundwater by the project would be required. Although recharge of the groundwater table may be decreased slightly as a result of the project adding impervious surfaces, drainage from which will be connected to a drainage system that will carry storm water off the site to existing systems in the vicinity, impacts to the groundwater level in the area would be considered insignificant.*

- 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?

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Comment: The existing on-site drainage system includes a storm drain line within a public storm drain easement that carries storm water from the open channel to the east of Clearbrook Circle through the site and into an existing storm drain line that runs between two properties along Larrabee Street that eventually connects to a storm drain line along Garin Avenue. The Garin Avenue line runs to Mission Boulevard and eventually feeds storm water to Alameda County Flood Control and Water Conservation District Zone 3A, Line N. Line N is an earth-lined channel located southwesterly of the project site. The proposed storm drain system, as shown on the project preliminary utility plan, indicates the existing storm drainage line that runs through the site is proposed to be removed, the easement quitclaimed and a new storm drain line and private easement created that will carry surface water from the proposed development and the open channel to the east, through the site and to the existing storm drain line along Garin Avenue. The proposed subsurface drainage system is shown to connect to the existing storm drain inlet that ties into the line that runs between two Larrabee Street properties out to Larrabee Street. Since the storm water uphill of the project site will be directed through a new line that will connect directly to the Garin Avenue storm drain line, the amount of water entering the storm drain line that runs to Larrabee Street will carry substantially less water than it currently does. Since drainage from impervious surfaces is proposed to be carried off-site via a culvert, no substantial erosion or siltation impacts related to this topic area are anticipated as a result of the project.

- d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

Comment: Although the project would entail an increase in impervious surfaces, the project is not expected to substantially alter drainage in a manner that would cause flooding. As stated under item VIII c) above, the proposed storm water drainage system would connect to the existing system that runs along Garin Avenue.

- e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

Comment: The project will add impervious surfaces and will involve both surface and subsurface drainage systems. The preliminary utility plan shows a new 33-inch storm drain culvert that would carry surface water to Garin Avenue and connect to an existing 33-inch storm drain culvert. The system will be designed consistent with the Alameda county Flood Control Design Standards and runoff from the development will be treated.

Impact VIII(e): The project-generated storm water runoff could potentially have a negative impact on storm water quality.

Mitigation Measure VIII(e): Utilizing the Alameda County Flood Control and Water Conservation District's (ACFCD) latest hydrology design criteria, the project civil engineer shall provide hydraulic calculations sufficient to analyze downstream impacts associated with both surface and subsurface drainage from the site. The storm drain system to be implemented shall be reviewed and approved by the Hayward Public Works Department staff and the Alameda County Flood Control and Water Conservation District.

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Mitigation measures will require the installation of storm water treatment measures consistent with Alameda County Clean Water Program C-3 Storm Water Technical Guidance to reduce the potential impacts relative to runoff water to a level of insignificance.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) Otherwise substantially degrade water quality?
<i>Comment: No other impacts associated with water quality are anticipated.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?
<i>Comment: According to FEMA Flood Insurance Rate Maps (panel # 065033-0012C dated 9/16/81), this site is not within the 100-year flood hazard area.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?
<i>Comment: See comment under VIII(g).</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?
<i>Comment: The site is not within the 100-year flood zone, is not near any levees and is not located downstream of a dam or in a dam failure inundation area.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow?
<i>Comment: The project is not in a location that would allow these phenomena to affect the site.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

IX. LAND USE AND PLANNING - Would the project:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Physically divide an established community?
<i>Comment: The project will not physically divide the existing community. The site is located between existing development, with single-family homes to the west and an apartment complex and single-family homes to the east.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?
<i>Comment: The project site has a Limited Medium Density General Plan land use designation (8.7 to 12.0 dwelling units per net acre) and is zoned RMB3.5 (Medium Density Residential, 3,500 square foot minimum lot area) in the Mission-Garin Area Special Design District (SD-5). Applying the same methodology used to determine the maximum number of units allowed in the SD-5 provisions yields nearly 31 units; 30 units are proposed. Because the project would be consistent with the densities and/or the number of units allowed in the General Plan and zoning ordinance, the project would not create a significant land use impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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Comment: A habitat conservation plan does not exist nor a natural community conservation plan for the site or general vicinity.

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 site is not designated as a resource of regional significance, according to the State ("Update of Mineral Land Classification: Aggregate Materials in the South San Francisco Bay Production-Consumption Region, 1996" [DMG Open File Report 96-03]).

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

Comment: The site is not designated as a locally important mineral resource recovery site.

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 subject property is not shown in an area that is or will be subject to significant noise impacts associated with roadway traffic, according to Appendix M of the Hayward General Plan.

- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Comment: The project will not generate or expose persons to excessive groundbourne vibration or noise levels in that the project is not located within the vicinity of a railroad, airport or any such use that would generate such impacts.

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Comment: The project would not be expected to substantially increase ambient noise levels in the project vicinity, since it involves a limited number of townhomes on a site substantially surrounded by residential development.

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Comment: Temporary substantial noise impacts could occur as a result of motorized construction equipment during construction, given the proximity of existing surrounding development.

Impact XI(d): Residents in nearby homes, particularly those on Larrabee Street and in the Oak Hills Apartment complex, could be exposed to short-term, but potentially significant noise associated with grading and construction activity associated with the proposed project.

Mitigation Measure XI(d): All building construction activity shall be in compliance with Hayward Municipal Code Section 4-1.03(b)(2), which

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prohibits construction noise levels at the property line from exceeding six decibels above the local ambient level between 7:00 a.m. and 7:00 p.m. on Mondays through Saturdays and between 10:00 a.m. and 6:00 p.m. on Sundays and holidays. All grading activity shall be limited to between 7:30 am to 6:00 pm on weekdays unless otherwise approved by the City Engineer. A Construction Noise Management Plan, to be approved by City staff prior to issuance of grading permits, shall be prepared and implemented, which shall identify measures to be taken to minimize construction noise on surrounding developed properties, including a listing of hours of construction operations, use of mufflers on construction equipment, limitation on 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. Implementation of these measures will reduce temporary construction-related noise impacts to levels of insignificance.

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|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) | For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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Comment: *The project is not located within two miles of a public airport.*

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|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) | For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project is not located within the vicinity of a private airstrip.*

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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|----|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

Comment: *Thirty new townhomes are proposed on a site located between existing residential developments. Although the project would result in new residents (estimated to be approximately 90 residents if one assumes the 2000 Census City-wide average household size of 3.08 persons), the limited number of units would not generate substantial population growth in the area.*

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|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) | Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *No homes exist on the site.*

- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) | Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *No homes exist on the site.*

XIII. PUBLIC SERVICES

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

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- a) Fire protection?
Comment: No new fire protection facilities will be required as a result of the project.
- b) Police protection?
Comment: No new police protection facilities will be required as a result of the project.
- c) Schools?
Comment: No new school facilities will be required as a result of the project. However, the applicant will be required to pay a school impact mitigation fee, as required for other developments in Hayward.
- d) Parks?
Comment: Consistent with Hayward standards, no parkland dedication is required for the development, since the project involves less than 50 units. However, the applicant will be required to pay park dedication in-lieu fees, as required by the Hayward Code.
- e) Other public facilities?
Comment: No other public facilities will be significantly impacted.

XIV. RECREATION --

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
Comment: Residents of the proposed development would be expected to use Garin Regional Park and the closest local park, Stony Brook Park. However, the increase will not be significant enough to cause deterioration of the facilities at those parks.
- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?
Comment: The proposal includes the construction of two on-site group open spaces totaling approximately 3,000 square feet that would include a tot lot and a picnic/barbeque area. However, the construction of such facilities will not cause a significant adverse physical effect on the environment.

XV. TRANSPORTATION/TRAFFIC -- Would the project:

- a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
Comment: Traffic impacts for a portion of this development were studied in the Mission-Garin Annexation Project Program Environmental Impact Report (EIR). The EIR assumed construction of up to 13 single family homes on this site. This development consists of 30 townhomes. Trip generation for

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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townhomes is approximately one-half of the trip generation for single family homes. The proposed development is projected to generate 15 PM peak hour trips as opposed to 13 PM peak hour trips in the EIR. The EIR study of intersections along Mission Boulevard was projected to operate at LOS D (the city standard) or better. The addition of at most 10 additional PM peak hour trips will have no significant impact on the operation of intersections on Mission Boulevard.

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| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: As indicated in item XVa) above, the project would generate well below the 100 P.M. peak hour trip threshold that would require a Tier 1 analysis by the Alameda County Congestion Management Agency. As indicated in item XV a), Garin Avenue's capacity is well above current loads/volumes.</i> | | | | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project will not affect air traffic patterns.</i> | | | | |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The proposal will not substantially increase hazards and will be required to comply with Hayward's standards for roadways, turnaround areas and intersections.</i> | | | | |
| e) Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The Hayward Fire Department has reviewed the project and finds the project acceptable. The provision of a secondary access in the southern portion of the project site via an emergency access easement to Garin Avenue that could be used by emergency vehicles or residents in the event of an emergency is acceptable to the Hayward Fire Department.</i> | | | | |
| f) Result in inadequate parking capacity? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The proposal meets the requirements for parking as specified in the City's Off-Street Parking Regulations.</i> | | | | |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project does not conflict with adopted policies supporting alternative transportation.</i> | | | | |

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>Comment: The project will not exceed wastewater treatment requirements and will be connected to Hayward's public sewer system. The Mission-Garin Annexation Project Program EIR was certified by the City in July of 2003 and indicates on page 183 of the Draft EIR that the City's wastewater treatment plant can accommodate anticipated development in the Mission-Garin area,</i> | | | | |

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which includes the proposed project.

However, upgrades to existing downstream main sewer lines may be necessary, which would not result in an environmental impact. The wastewater from the project would eventually flow to a public sewer main in Mission Boulevard that crosses the street and connects to the mains in Valle Vista Avenue (about 800 feet long), and in Dixon Street (about 1600 feet long). Both mains are currently impacted by high flows and lack adequate capacity. The project developer would be required to pay a fair-share contribution towards the costs of upgrading of such lines, as determined by the City staff, with such upgrades to be completed prior to finalization of the built project.

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|----|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| b) | Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | <i>Comment: The Mission-Garin Annexation Project Program EIR was certified by the City in July of 2003 and indicates on page 183 of the Draft EIR that the City's wastewater treatment and disposal treatment systems can accommodate anticipated development in the Mission-Garin area, including that of the proposed project.</i> | | | | |
| c) | Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | <i>Comment: As indicated in comments VIII(c) and VIII(e), the project would entail installation of a new storm water drainage line that would carry water from the project development to an existing storm water drainage line along Garin Avenue. The installation of such line is not expected to cause significant environmental effects.</i> | | | | |
| d) | Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | <i>Comment: The City of Hayward would supply water to the site and has sufficient capacity to serve the project, as indicated on page 175 in the Mission-Garin Annexation Project Program Draft EIR; the EIR was certified by the City in July of 2003.</i> | | | | |
| e) | Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | <i>Comment: The City of Hayward operates its own wastewater facility. This facility has the capacity to accommodate the amount of wastewater that will be generated by the project. (Also, see comment under item XVI(b).)</i> | | | | |
| f) | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | <i>Comment: Waste Management of Alameda County will serve the development. The Altamont landfill is available to the City of Hayward until 2009 and has sufficient capacity to handle the amount of solid waste generated by the project. The landfill recently received an approval that increases the capacity and adds 25 years to the life of the landfill to the year 2034.</i> | | | | |
| g) | Comply with federal, state, and local statutes and regulations related to solid | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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waste?

Comment: *The project study area participates in the Waste Management of Alameda County recycling program. Construction and operation of the project will comply with all federal, state and local statutes and regulations related to solid waste.*

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XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Comment: A special status wildlife species habitat assessment and rare plant survey were conducted in April 2003. No special status wildlife species were observed during the assessment and due to poor habitat condition, including small parcel size, isolation adjacent development and the presence of feral cats, no special status species are likely to utilize this property. During the assessment no special plant species were observed. The project biologist indicated that due to the historic tilling of the property and the surrounding area, and it is unlikely that plants would colonize within the project site and stated that further plan surveys were not warranted.

Mitigation measures include that, prior to the start of any grading activity a special status wildlife species habitat assessment be conducted. If the assessment reveals the presence of any special status species, construction activity shall not occur during the nesting season or until all the young have fledged from the nest. These measures ensure that potentially significant impacts are reduced to a level of insignificance.

The project shall conform to the City of Hayward's Tree Preservation Ordinance.

- b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Comments: The proposed development consist of 30 townhome units that are estimated to house 90 residents. In the context of the existing development in the area, 30 townhomes is not significant. To the south and west are established single-family residential tracts. To the north 126 single-family homes within a Planned Development project have been approved and to the northwest there is an existing 148-uit apartment complex. The project conforms to the General Plan and therefore is in compliance with the anticipated growth of the area. The limited number of units would not generate substantial population growth in the area. The project can be developed without a significant impact to the existing infrastructure.

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

Comments: The project could potentially have a significant impact on human beings in terms of air quality, hazards and hazardous materials, geology and soils, and noise; however mitigation measures have been taken in these areas to reduce the impacts to less than significant levels.

Air quality mitigation measures include such measures as the watering of

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active construction areas, covering trucks that are hauling soil, sand, and other loose material or require all trucks to maintain at least two feet of freeboard, paved areas and staging areas are to be swept daily, hydro seed or apply soil stabilizers to inactive construction areas and replant vegetation in disturbed areas as soon as possible.

Due to the potential for naturally occurring asbestos on the site which could be release during grading and related activities, the mitigation measure requirements includes active grading areas to be wetted, treated or covered and all grading activity suspended during periods of elevated wind speed. In addition, any sperpentinite-bearing material that has asbestos levels that exceed .25 percent shall be capped by at least four feet of fill that does not contain sperpentinite-bearing material.

The project is located within a state defined earthquake fault zone. Mitigation measures require that the design of the townhouse units comply with Uniform Building Code standards and the requirements of the project geotechnical engineer. The project will be required to be within a Geological Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards.

To mitigate noise generated during construction all building construction activity shall comply with City of Hayward Municipal Code Section 4-1.03(b)(2). which prohibits construction noise levels at the property line from exceeding six decibels above the local ambient level between 7:00 p.m. and 7:00 a.m. on Mondays through Saturdays and between 10:00 a.m. and 6:00 p.m. on Sundays and holidays. All grading activity shall be limited to between 7:30 am to 6:00 pm on weekdays unless otherwise approved by the City Engineer.

The proposed 30-unit townhouse development would generate 15peak hour and 176 daily vehicular trips onto Garin Avenue. The current traffic volume for Garin Avenue is 3,150 vehicles per day. The street has the capacity to carry 16,000 vehicles per day, therefore, the vehicular trips generated from the proposed development onto Garin Avenue is less than significant.

Implementation of these mitigation measures will reduce potential impacts to a level of insignificance.

Attachments:

"Construction Management Plan for Oak Hills Property, Hayward California," by Northgate Environmental Management, Inc., dated December 14, 2003.

Project development plans

Information Sources:

Project development plans (attached)

"Hayward General Plan Update Environmental Impact Report," dated January of 2002, by Lamphier-Gregory, Urban and Environmental Planners (State Clearinghouse Number 2001072069).

"Mission-Garin Annexation Project Program Environmental Impact Report," dated May of 2003, by City of Hayward and Jerry Haag, Urban Planner (State Clearinghouse Number 2002072047).

Report entitled, *"Geologic Investigation to Evaluate Naturally Occurring Asbestos, Oak Hills Property, Hayward California,"* dated December 15, 2003, by Northgate Environmental Management, Inc.

Report entitled, *"Tree Evaluation and Appraisal Report, Oak Hills II Development, Hayward, California,"* dated April 9, 2004, by Ralph Osterling Consultants, Inc.

Report entitled, *"Wetlands Assessment, Special Status Wildlife Species Habitat Assessment, and Rare Plant Update, Oak Hills – 2 Project (Zaballos Property), Hayward, Alameda County, California,"* dated May of 2003, prepared by Wetland Research Associates, Inc.

Report entitled, *"Site Assessment for the Alameda Whipsnake at the Proposed Oak Hills 2 Project Site in Hayward, Alameda County, California,"* dated January 15, 2004, prepared by Swaim Biological Consulting.

Report entitled, *"Geotechnical Study Update, Clearbrook Parcel, Hayward, California,"* dated August 30, 2002, by Purcell, Rhoades & Associates.

Report entitled *"Supplemental Subsurface Investigation and Slope Stability Evaluation, Proposed Oak Hill Phase II Townhouse Development, Clearbrook Circle at Garin Road, Hayward, California,"* dated August 2005, by Earth System Consultants, Northern California.

Report entitled *"Response to City Review, Oak Hill Phase II Townhouse Development, Clearbrook Circle at Garin Road, Hayward, California,"* dated January 2006, by Earth System Consultants, Northern California.

Letter entitled, *"Response to City of Hayward Geotechnical Issues Letter Dated June 26, 2006,"* dated January 18, 2006, by ES Geotechnologies.

Report entitled, *"Fuel Management Plan for Oak Hills Partnership, Hayward, CA,"* dated October 1, 2004, by Wildland Resource Management, Inc.

**Construction Management Plan
for Oak Hills Property
Hayward, California**

December 15, 2003

**Prepared by:
Northgate Environmental Management, Inc.
on behalf of
Garin Vista LLC**



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1.0 INTRODUCTION AND BACKGROUND

Northgate Environmental Management, Inc. (Northgate) has prepared this construction management plan for proposed earthwork involving serpentinite-bearing rock and soil at the Oak Hills property, in Hayward, California (the Site). Although existing fill soils at the Site have been tested and found not to contain asbestos, it is possible that the underlying serpentinite-bearing bedrock will be excavated and handled as part of deeper excavations at the Site (e.g., for keyway construction). In addition, serpentinite-bearing mélange rock (with an estimated asbestos concentration of 0.27 %) obtained from adjacent properties may be used as subgrade fill at the Site. Such fill would be capped by at least four feet of fill that does not contain serpentinite-bearing mélange rock.

The placement of serpentinite-bearing rock from the neighboring property at the Site is subject to California Air Resource Board (ARB) regulations pertaining to construction, grading, quarrying and surface mining operations. These regulations require the preparation of a dust mitigation plan, compliance with record-keeping and reporting requirements, notifications to the Bay Area Air Quality Management District (BAAQMD) prior to beginning construction work, and compliance with ARB restrictions on the reuse of the material. In particular, serpentinite mélange material would be restricted from use as surface fill.

In addition to the ARB requirements, the proposed earthwork activities may be subject to certain Cal-OSHA regulations (Title 8 of California Code of Regulations, Section 1529) pertaining to the disturbance of asbestos containing soil (ACS), as detailed below. These requirements include asbestos awareness training, dust control measures, and respiratory protection if air-quality monitoring exceeds applicable standards.

Plan Organization

This plan addresses the field procedures, site safety requirements, and regulatory requirements that apply to the excavation and grading of soils and rock that contain naturally occurring asbestos. This plan is organized as follows:

Section 2.0 describes the general health and safety requirements required by Cal-OSHA for earthwork at sites involving ACS.

Section 3.0 summarizes the components that must be included in the site-specific dust mitigation plan, based on ARB requirements.



Section 4.0 describes the air monitoring program to be implemented for the project construction work.

Section 5.0 lists the regulatory notification requirements that apply for construction work involving ACS.

Section 6.0 lists the record-keeping requirements specified by Cal-OSHA and the BAAQMD for work involving ACS.



2.0 HEALTH AND SAFETY REQUIREMENTS SPECIFIED BY CAL-OSHA

In accordance with Cal-OSHA asbestos regulations (8CCR 1529), employers performing work that disturbs ACS shall implement the following activities:

1. Designate a competent person to ensure that there is adequate dust control and to make frequent and regular inspection of work activities to ensure they conform with the requirements of these procedures. The competent person shall have sufficient knowledge and authority to take corrective actions if work is not performed in accordance with applicable regulations, these procedures, or the site-specific dust mitigation plan.
2. Use wet methods to minimize airborne dust emissions whenever working with ACS.
3. Implement an asbestos awareness training program for any employees required to work with ACS. This training program shall address the elements specified in 8CCR1529(k)(9). These include a discussion of the nature of asbestos, its uses, its adverse effects of asbestos, and the required procedures to minimize asbestos exposures. Records of employee training shall be maintained on site.
4. Conduct personal air monitoring to document that employee exposures do not exceed Cal-OSHA Permissible Exposure Limits (PELs). Air monitoring records shall be kept on site.
5. Clean up promptly any ACS debris or releases into non-asbestos work areas.
6. The use of dry methods (such as sweeping) or any other procedures that generate airborne dust emissions is not permitted unless in association with HEPA filtered equipment.
7. Employees shall not eat, drink or smoke in areas where there is active disturbance of ACS. The employer shall provide adequate facilities and supplies for employees to wash hands and face when leaving active work areas.

Neither respiratory protection, protective clothing, regulated areas, decontamination stations (beyond the provision of adequate facilities and supplies for employees to wash hands and face when leaving active ACS work areas) nor medical surveillance are required based on the available information, because it is anticipated that adequate dust control measures will preclude exposures from exceeding the Cal-OSHA PELs for asbestos. This shall be verified through personal air monitoring as described in Section 3.0. However, the use of respiratory protection, protective clothing regulated areas, decontamination stations and medical surveillance shall be required if dust mitigation measures are insufficient to ensure that employee exposures remain below Cal-OSHA PELs.



3.0 DUST MITIGATION PLAN

The BAAQMD is responsible for implementing regulations under the Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying and Surface Mining Operations (Asbestos ATCM for Construction and Quarrying). The purpose of this regulation is to reduce public exposure to naturally-occurring asbestos from construction and quarrying/ surface mining activities that emit dust that may contain asbestos. The ATCM requires road construction and maintenance activities, construction and grading operations, and quarrying and surface mining operations in areas where naturally-occurring asbestos is likely to be found to employ the best available dust mitigation measures to reduce dust emissions.

The BAAQMD requires that construction work involving ACS does not produce visible dust emissions beyond the property boundaries during any road construction, grading or maintenance activity. Employers working with ACS must submit an Asbestos Dust Mitigation Plan Application to the BAAQMD. This application must be approved by the BAAQMD before commencing work.

The application identifies project-specific information, including company and project information, including the anticipated start date and completion date, and site-specific procedures for controlling dust emissions. These measures need to include the following provisions:

1. Unpaved areas subject to vehicle traffic must be stabilized by being kept adequately wetted, treated with a chemical dust suppressant, or covered with material that contains less than 0.25 percent asbestos;
2. Active work areas shall be wetted down at least every two hours to keep them adequately wetted.
3. For excavation work, the ground shall be pre-wetted to the depth of anticipated cuts.
4. Grading operations shall be suspended when wind speeds are high enough to result in dust emissions crossing the property line, despite the application of dust mitigation measures. The competent person shall be responsible for making this determination.
5. The speed of any vehicles and equipment traveling across unpaved areas shall not exceed 15 miles per hour unless the road surface and surrounding area has been sufficiently stabilized to prevent vehicles and equipment traveling faster than 15 miles per hour from emitting visible dust crossing the project boundaries.



6. Activities shall be conducted so that dust is not tracked out from the project Site 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;
 - Pavement extending for not less than 50 consecutive feet from the intersection with the paved public road
7. Storage piles and disturbed areas not subject to vehicular traffic must be stabilized by being kept adequately wetted, treated with a chemical dust suppressant, or covered with material that contains less than 0.25 percent asbestos, and,
8. 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 Site 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.



4.0 AIR MONITORING REQUIREMENTS

Employers engaged in work that disturbs ACS must collect personal air samples in accordance with NIOSH Method 7400 to estimate employee 8-hour time weighted average (8h-TWA) exposures to asbestos and worst-case 30-minute excursion level exposures. Samples shall be analyzed by phase contrast microscopy (PCM). This monitoring shall be conducted when work begins for a period of at least 3 days, and once every 10 working days thereafter.

Additional sampling shall be conducted if dust emissions in work areas cannot be satisfactorily controlled using dust suppression methods. All air sample results shall be made available to the monitored employees and the project owner within 24 hours of sample collection. These results shall be compared to Cal-OSHA's 8h-TWA PEL and 30 minute excursion level. Respiratory protection, protective clothing regulated areas, decontamination stations and medical surveillance shall be required if employee exposures exceed Cal-OSHA criteria.

At this time, neither ARB nor BAAQMD have specific air monitoring requirements for work with ACS. However, it is possible BAAQMD may require ambient air monitoring when work gets under way. This monitoring could potentially include the collection of perimeter air samples that would be analyzed in accordance with NIOSH Method 7402. The results of this monitoring, if performed, shall be made available to BAAQMD.



5.0 REGULATORY NOTIFICATIONS

The contractor performing earthwork operations in the mélange zone units is required to file notifications with the BAAQMD and Cal-OSHA prior to commencing work. Copies of these notifications need to be maintained on-site.

BAAQMD

Employers engaged in work that disturbs ACS are required to notify the BAAQMD at least 14 days before the beginning of work with ACS. The Notification shall include a copy of the site specific dust mitigation plan as described in Section 3 above. The BAAQMD will need to review and approve this plan prior to commencing work that disturbs the mélange zone materials.

Cal-OSHA

Employers working with ACS need to submit a report of carcinogen use to Cal-OSHA's occupational carcinogen control unit as required by 8CCR5203. This is a one-time only requirement. In addition, these employers shall submit a temporary work site notification to the Oakland Cal-OSHA District Office at least 24 hours before commencing work that disturbs ACS.

It should be noted that Employers working with ACS are exempted from Cal-OSHA asbestos related work registration because the project work does not involve asbestos containing construction materials, defined as manufactured materials that contain more than 0.1% asbestos.



6.0 RECORDKEEPING

As required by Cal-OSHA's access to medical and exposure records regulations (8CCR3204), employers shall retain personal air sample results for employees for a period of at least 30 years. In addition, the project owner/operator shall maintain all of the following records for at least 7 years following the completion of the construction project:

1. The results of any air monitoring conducted at BAAQMD's request.
2. Documentation of any geologic evaluation conducted on the property for the purposes of obtaining an exemption.
3. The results of any asbestos bulk sampling that meets any of the following conditions:
 - i. The asbestos bulk sampling was conducted to document the applicability of or compliance with CARB regulations, or
 - ii. The asbestos bulk sampling was done at BAAQMD's request.
4. Documentation of all areas where ACS has been placed as part of the construction work.



Oak Hills 2 Development Mitigation Monitoring and Reporting Program

**Planned Development Application No. PL-2003-0656 ZC;
Vesting Tentative Tract Map 7478/PL-2003-0659 TTM**

**Christian Zaballos representing
Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners)**

May 16, 2008

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact I(d) (lighting):</u> Impacts due to new lighting introduced onto the existing undeveloped site, including that associated with lighting along the private street, could generate negative off-site lighting impacts, particularly as seen from downhill properties.</p>	<p><u>Mitigation Measure I(d):</u> A lighting plan prepared by a qualified illumination engineer shall be prepared as part of a precise development plan to show exterior landscape and building lighting. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas, consistent with the City's Building Security Standards Ordinance. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s) and have lighting that is shielded and directed away from neighboring properties and from windows of units in the project. Implementation of this mitigation measure will ensure lighting impacts are reduced to a level of insignificance.</p>	<p>Project developers, including project architect, landscape architect and contractor</p>	<p>City of Hayward Planning Division and Building Division</p>	<p>During precise plan review for design and layout, and prior to project finalization during inspections, for construction</p>
<p><u>Impact III(b) (particulate matter):</u> The proposed 30-townhome development project is of a relatively small scale and would not exceed any project-generated thresholds of significance for air quality pollutants. However, during the construction period, suspended particulates would be generated intermittently, therefore, the following mitigation measure has been put in</p>	<p><u>Mitigation Measure III(b):</u> In order to reduce intermittent air pollutants during the project construction phase, and as recommended by the Bay Area Air Quality Management District CEQA guidelines, the developer shall: (a) Water all active construction areas at least twice daily. (b) Cover all trucks hauling soil, sand, and other loose material or require all</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>Hayward Public Works Department personnel and Hayward's grading inspector</p>	<p>Ensure measures are stated on grading plans prior to issuance of grading permits; ensure measures are implemented throughout project grading</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><i>place to minimize any potential impact. This is considered a potentially significant impact.</i></p>	<p><i>trucks to maintain at least two feet of freeboard.</i></p> <ul style="list-style-type: none"> <i>(c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas.</i> <i>(d) Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas.</i> <i>(e) Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public or private streets (i.e., Clearbrook Circle and Garin Avenue).</i> <i>(f) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).</i> <i>(g) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).</i> <i>(h) Limit traffic speeds on unpaved roads to 15 mph.</i> <i>(i) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</i> <i>(j) Replant vegetation in disturbed areas as quickly as possible.</i> <p><i>Implementation of this mitigation measure will reduce such air quality impacts to a level of insignificance.</i></p>			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact III(d) (naturally occurring asbestos):</u> According to the project geologist and geotechnical engineer, serpentinite-bearing bedrock could be exposed during keyway construction and grading at the property. Material that may be imported from the adjacent property to the north to be used as fill on the subject property could contain unacceptable levels of asbestos materials, which could release asbestos fibers in the air, resulting in a potentially significant air quality impact.</p>	<p><u>Mitigation Measure III(d):</u> All grading and road construction activities, including that associated with any import of material from the adjacent property to the north, shall be conducted in compliance with the provisions of all applicable regulations associated with naturally occurring asbestos, including those in the California Air Resources Board's asbestos airborne toxic control measure for construction, grading, quarry and surface mining operations (Section 93105 of Subchapter 7.5 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations) and those related to Cal-OSHA standards. Also, implementation of the "Construction Management Plan for Oak Hills Property, Hayward California," by Northgate Environmental Management, Inc., dated December 14, 2003 is required, as approved by applicable regulatory agencies. Such plan includes an asbestos dust mitigation plan, which is required to be approved by the Bay Area Air Quality Management District. The dust mitigation plan includes measures that require that active construction and vehicle areas be properly wetted, treated or covered and grading operations be suspended during elevated wind speeds so as not to result in dust emissions</p>	<p>Project Developers, including project grading and construction contractors, including, if required by the Bay Area Air Quality Management District, an air quality monitoring sampling designee on site</p>	<p>Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward's grading inspector</p>	<p>Obtain approval of asbestos dust mitigation plan from Bay Area Air Quality Management District prior to start of grading, implement provisions of asbestos dust mitigation plan, including any required air sampling, throughout project grading</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
	<p><i>crossing the property line. Also, as recommended by Northgate Environmental Management, Inc., any serpentinite-bearing material that contains levels of asbestos that exceed 0.25 percent shall be capped by at least four feet of fill that does not contain serpentinite-bearing material. 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 air quality impacts resulting from release of asbestos-containing materials will be less-than-significant.</i></p>			
<p><u>Impact IV(a) (special status species):</u> <i>Since it has been over five years since habitat assessments were conducted on the site and given the proximity of Garin Regional Park and adjacent open space to the project site, it cannot be concluded that the project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species.</i></p>	<p><u>Mitigation Measure IV(a):</u> <i>A special status wildlife species habitat assessment by qualified biologists shall be conducted during the breeding season of the Golden Eagle or other special status nesting raptor or shrike species which immediately precedes the start of grading activity. The assessment shall include assessment of the Alameda whipsnakes and/or their occupied habitat. The assessment shall be confirmed by an independent biologist hired by the City and paid for by the project proponent.</i></p>	<p>Project Developers, including biological consultants and contractors</p>	<p>Hayward Planning Division and biological consultant; If mitigation plans are required, California Department of Fish and Game and US Fish and Wildlife Service</p>	<p>Revised assessments for Alameda Whipsnake, Golden Eagle and special status raptor or shrike species to be completed prior to start of grading during breeding season; mitigation plans, if required, to be implemented prior to and throughout construction period</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
	<p><i>If such assessments 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) or 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.</i></p> <p><i>If such assessments indicate that Alameda whipsnakes and/or their occupied habitat are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific Alameda whipsnake mitigation plan should be developed, approved by the US Fish and Wildlife Service and California Department of Fish and Game prior to development, and implemented.</i></p> <p><i>Implementation of such measures will ensure that potential impacts to special status species as a result of the project</i></p>			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact IV(e) (tree preservation):</u> The project will entail removal of 40 of the 69 "protected" trees/large shrubs that were surveyed on the site, which would be considered to be a significant impact. Remediation to address geotechnical issues would require removal and replacement of unengineered material, which would require removal of several trees, including California bay and Coast live oak trees in an existing drainage swale and also a large Coast live oak tree proposed between units 4 and 5.</p>	<p><i>will be less-than-significant.</i></p> <p><u>Mitigation Measure IV(e):</u> The project shall conform to the requirements of the City of Hayward's Tree Preservation Ordinance. Replacement/mitigation trees shall be planted as required by Hayward's Tree Preservation Ordinance, to be confirmed by the City's Landscape Architect, and be in general conformance with the proposed landscape Plan (Sheet L-1), prepared by Manuel C. Fernandez & Associates, Landscape Architects, dated October 30, 2006, with the requirement that the value of the replacement/mitigation trees shall be at least equal to the value of the trees to be removed, as determined by the City's Landscape Architect. Efforts should be made to preserve the 24-inch diameter Coast live oak tree between proposed townhome units 4 and 5 and as many as possible of the existing bay and oak trees in the drainage swale in the northwestern portion of the site. Implementation of these measures will ensure that potential impacts to biological resources are reduced to a level of insignificance.</p>	<p>Project Developers, including project grading and landscape contractors, and landscape architect</p>	<p>City of Hayward Planning Division (City's Landscape Architect)</p>	<p>Plans to be submitted and approved prior to issuance of grading permits and tree protection measures to be installed prior to start of grading; trees to be planted prior to project finalization</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VI(a)(i) (fault rupture):</u> Fault rupture may occur along the Hayward Fault during a moderate to severe earthquake, which could damage units, roadways, and/or utility lines, resulting in potential loss of life or injury to residents.</p>	<p><u>Mitigation Measure VI(a)(i):</u> To minimize impacts associated with fault rupture, no dwelling units are to be constructed within 50 feet of the Hayward fault trace, to be confirmed by the project geologist during site excavation via a letter to the City prior to permanent foundation work being completed. Any storm drain line that would traverse the fault in the southwestern portion of the site shall be ductile iron or similar material, to be approved by City staff. The project will be required to be within a Geological Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards. With these measures, impacts associated with fault rupture would be considered to be less-than-significant.</p>	<p>Project Developers, project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan review during permit applications review stage; fault location confirmation letter due prior to permanent foundation work being completed; confirmation of pipe material during construction</p>
<p><u>Impact VI(a)(ii) (seismic ground shaking):</u> Given the close proximity of the Hayward fault, it is reasonable to assume that the subject property may experience very violent to violent ground shaking during a moderate to severe earthquake, which could result in damage to, or failures of, proposed</p>	<p><u>Mitigation Measure VI(a)(ii):</u> The design of townhome units shall adhere to Uniform Building Code standards in effect at the time of building permit submittal. Also, all recommendations by the project geotechnical engineer, ES Geotechnologies, shall be implemented throughout project grading and construction. Such measures include on-site observation by the project</p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan review letter from project geotechnical consultant due prior to issuance of building permits; "as-built" letter from project geotechnical consultant due prior to project finalization and</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><i>townhome units, roads and/or utility lines.</i></p>	<p><i>geotechnical consultant of excavations and placement of engineered fill and keyway construction, and installation of subgrade drainage features. The project will be required to be within a Geological Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards. The soils engineer or his appointed representative shall monitor the hillside during and after construction to evaluate any impacts the construction may have along Larrabee Street. Adherence to recommendations of the project's geotechnical engineer and engineering geologist and to Building Code standards will ensure impacts related to seismic ground shaking will be reduced to less-than-significant levels.</i></p>			<p>before framing inspections, confirming on-site observations by project geotechnical engineer and geologist were done throughout construction</p>
<p>Impact VI(a)(iv) (landslides): <i>Given the close proximity of the Hayward fault and the geologic characteristics of the site, potential impacts related to landslides are considered potentially significant.</i></p>	<p>Mitigation Measure VI(a)(iv): <i>Implement mitigation measures associated with item VI(a)(ii). Implementation of such measures would reduce impacts associated with landslides to a less-than-significant level.</i></p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan review letter from project geotechnical consultant due prior to issuance of building permits; "as-built" letter from project geotechnical consultant due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
				engineer and geologist were done throughout construction
<p><u>Impact VI(b) (erosion):</u> During construction, short-term increases of soil erosion, particularly in sloped areas where the rate of runoff is increased, could result due to exposure of untreated ground surfaces to water or wind erosion. Also, erosion could occur after project construction if adequate permanent erosion control measures are not implemented and maintained.</p>	<p><u>Mitigation Measure VI(b):</u> An erosion and sedimentation control plan for implementation throughout project construction shall be required, to be approved by the Hayward Engineering Division staff. Also, all exposed areas within the project's limits of grading shall be landscaped, to the satisfaction of the City's Landscape Architect, and adequately maintained. Such measures will ensure impacts related to soil erosion are less-than-significant.</p>	<p>Project Developers and grading and construction contractors</p>	<p>City of Hayward Planning Division, including City's Landscape Architect, and Public Works Department staff and grading inspectors</p>	<p>Throughout project construction</p>
<p><u>Impact VI(c) (unstable geologic units):</u> The proposed project, which includes new development on an undeveloped hillside, has the potential to exacerbate existing negative conditions associated with poor drainage and related ground movement and creep.</p>	<p><u>Mitigation Measure VI(c):</u> Implement mitigation measures associated with item VI(a)(ii). Implementation of such measures would reduce impacts associated with unstable geologic units to a less-than-significant level.</p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan review letter from project geotechnical consultant due prior to issuance of building permits; "as-built" letter from project geotechnical consultant due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical engineer and geologist were done throughout</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
				construction
<p><u>Impact VI(d) (expansive soils):</u> Due to this potential for expansive soils, impacts to foundations could be significant.</p>	<p><u>Mitigation Measure VI(d):</u> Implement mitigation measure VI(a)(ii), which requires that all recommendations of the project geotechnical engineer be implemented. The project design shall be in accordance with the California Building Code in effect at the time of building permit submittal. Implementation of such measures would reduce impacts associated with expansive soils to a less-than-significant level.</p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Buildings design to be confirmed to be in compliance with the Uniform Building Code during permit application plan check review; plan review letter from project geotechnical consultant due prior to issuance of building permits; “as-built” letter from project geotechnical consultant due prior to project finalization and before framing inspections</p>
<p><u>Impact VII(b) (naturally occurring asbestos):</u> Due to the potential for naturally occurring asbestos on the site, grading and related activities could release toxic asbestos materials into the air, thereby representing a potentially significant health hazard. Also, roadways that utilize materials that contain asbestos could release toxins into the air, also representing a potentially significant impact. See Air Quality Impact III(d).</p>	<p><u>Mitigation Measure VII(b):</u> Implement mitigation measure III(d) under air quality impacts associated with naturally-occurring asbestos, which would reduce such impacts to levels of insignificance.</p>	<p>Project Developers, including project grading and construction contractors, including, if required by the Bay Area Air Quality Management District, an air quality monitoring sampling designee on site</p>	<p>Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward’s grading inspector</p>	<p>Obtain approval of asbestos dust mitigation plan from Bay Area Air Quality Management District prior to start of grading, implement provisions of asbestos dust mitigation plan, including any required air sampling, throughout project grading</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VII(c) (hazardous materials within one-quarter mile of school):</u> See discussion under impact VII(b) above.</p>	<p><u>Mitigation Measure VII(c):</u> Implement air quality mitigation measure III(d) associated with naturally-occurring asbestos, which would reduce such impacts to levels of insignificance.</p>	<p>Project Developers, including project grading and construction contractors, including, if required by the Bay Area Air Quality Management District, an air quality monitoring sampling designee on site</p>	<p>Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward's grading inspector</p>	<p>Obtain approval of asbestos dust mitigation plan from Bay Area Air Quality Management District prior to start of grading, implement provisions of asbestos dust mitigation plan, including any required air sampling, throughout project grading</p>
<p><u>Impact VII(h) (wildland fires):</u> New development on the project site could expose people or structures to significant risk of loss, injury or death due to the wildland fire hazards that exist in the area.</p>	<p><u>Mitigation Measure VII(h):</u> The project shall be constructed and maintained in compliance with Hayward's Hillside Design and Urban/Wildland Interface Guidelines, to be approved by the Hayward Fire Department. Also, subject to final approval by the Hayward Fire Department, recommendations of the fuel management plan developed for the project shall be implemented ("Fuel Management Plan for Oak Hills Partnership, Hayward, CA," prepared by Wildland Resource Management, Inc., dated October 1, 2004). Such measures include building construction standards, a fuel management program that includes a maintenance schedule of open space, and a homeowners'</p>	<p>Project developers, including project designers and engineers</p>	<p>Hayward Building Division, Public Works Department and Fire Department</p>	<p>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 Dept.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
	<p><i>education program. Implementation of such measures will ensure impacts related to wildland fire hazards are reduced to a level of insignificance.</i></p>			
<p><i>Impact VIII(a) (water quality):</i> <i>The project has the potential to degrade water quality during project construction due to erosion during storm events.</i></p>	<p><i>Mitigation Measure VIII(a):</i> <i>In accordance with 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 project plan shall comply with the Alameda Countywide Clean Water Program requirements, including implementation of construction and post construction 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. Final water quality storm drain system design shall be reviewed and approved by the City of Hayward Public Works Department staff. Such</i></p>	<p>Project developers, including project designers and engineers, and grading and construction contractors</p>	<p>San Francisco Bay Regional Water Quality Control Board, Hayward Public Works Department and Hayward grading inspector consultant</p>	<p>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</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
	<i>measures will ensure water quality impacts are less-than-significant.</i>			
<p><u>Impact VIII(e) (drainage capacity):</u> <i>The project-generated storm water runoff could potentially have a negative impact on storm water quality.</i></p>	<p><u>Mitigation Measure VIII(e):</u> <i>Utilizing the Alameda County Flood Control and Water Conservation District's (ACFCD) latest hydrology design criteria, the project civil engineer shall provide hydraulic calculations sufficient to analyze downstream impacts associated with both surface and subsurface drainage from the site. The storm drain system to be implemented shall be reviewed and approved by the Hayward Public Works Department staff and the Alameda County Flood Control and Water Conservation District. Mitigation measures will require the installation of storm water treatment measures consistent with the Alameda County clean Water Program C-3 Storm Water Technical Guidance to reduce the potential impacts relative to runoff water to a level of insignificance.</i></p>	<p>Project developers, including project designers and engineers, and grading and construction contractors</p>	<p>Hayward Public Works Department and Alameda Flood Control and Water Conservation District staff</p>	<p>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</p>
<p><u>Impact XI(d) (temporary construction noise):</u> <i>Residents in nearby homes, particularly those on Larrabee Street and in the Oak Hills Apartment complex, could be exposed to short-term, but potentially significant noise associated with grading and construction activity associated with the proposed project.</i></p>	<p><u>Mitigation Measure XI(d)</u> <i>All building construction activity shall be in compliance with Hayward Municipal Code Section 4-1.03(b)(2), which prohibits construction noise levels at the property line from exceeding six decibels above the local ambient level between 7:00 a.m. and 7:00 p.m. on</i></p>	<p>Project developers, including project grading and construction contractors</p>	<p>Hayward Public Works Department. Planning and Building Divisions and Hayward Police Department</p>	<p>Construction Noise Management plan to be developed and approved prior to issuance of construction permits; measures to be implemented throughout</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
	<p><i>Mondays through Saturdays and between 10:00 a.m. and 6:00 p.m. on Sundays and holidays. All grading activity shall be limited to between 7:30 am to 6:00 pm on weekdays unless otherwise approved by the City Engineer.</i></p> <p><i>A Construction Noise Management Plan, to be approved by City staff prior to issuance of grading permits, shall be prepared and implemented, which shall identify measures to be taken to minimize construction noise on surrounding developed properties, including a listing of hours of construction operations, use of mufflers on construction equipment, limitation on 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. Implementation of these measures will reduce temporary construction-related noise impacts to levels of insignificance.</i></p>			<p>project construction</p>

FINDINGS FOR APPROVAL

**Zone Change No. PL-2003-0656 & Vesting Tentative Tract Map 7478/PL-2003-0659
Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership**

(Applicants/Owners): Request to Change Zoning from Medium Density Residential (minimum lot area per dwelling unit of 3,500 square feet) in the Mission Garin Area Special Design District (RMB3.5/SD-5) to a Planned Development District (PD), to modify a Portion of the PD Zoning District for the Clearbrook Circle Development, and subdivide 6.3 acres to build 30 townhomes. The project will also entail abandonment of a portion of the Garin Avenue and Woodland Avenue rights-of-way.

The project location is north of Garin Avenue, south of Woodland Avenue, east of Larrabee Street and west of Clearbrook Circle.

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 policies and designations of the City's General Plan, Zoning Ordinance, including the Mission-Garin Special Design District, and the City's Hillside Design Guidelines.

The proposed project meets land use policies expressed in the General Plan:

- *"Promote infill development that is compatible with the overall character of the surrounding neighborhood."*

The proposal condominium project, with a density of 5.1 units per acre, allows infill to occur at a density that is compatible with the surrounding area. To the north is the approved Garin Vista Development, which consists of single-family homes on properties that range from 3,000 square feet to 7,745 square feet. To the northeast are the Oak Hills Apartments, consisting of 148 units on 14.4 acres, at a density of 10.3 units per acre. To the southeast and west are single-family residential developments at densities of NN to NN units per acre.

The proposed density of 5.1 dwelling units per acre is consistent with the General Plan Designation of Limited Medium Density (8.7-12 units per net acre) and the underlying zoning designation of Medium Density Residential (RMB3.5), which allows up to 12 units per acre.

- *"Encourage visual integration of projects of different types or densities through the use of building setbacks, landscaped buffers, or the other design features."*

The developer, recognizing the sensitivity of hillside development, is proposing a cluster development at a lower density than that allowed by the underlying zoning. The cluster type design allows the construction to take place on a smaller percentage of the lot, which creates more undeveloped open space and leaves a higher percentage of undisturbed natural slopes.

The proposed zone change meets the land use purposes expressed in the Zoning Ordinance:

- *“Allow for the infill and reuse areas at their prevailing scale and character.”*
- *“Accommodate expansion of development into vacant and underutilized lands within environmental and infrastructure constraints.”*

The proposed zone change meets the above land use purposes by creating an infill development on an underutilized parcel. The density proposed is consistent with existing densities in the area. The existing and proposed utilities and roads can adequately serve the development of these underutilized parcels. Also the project is compatible with environmental constraints, as noted in the associated Mitigated Negative Declaration.

The abandonment of the Garin Avenue and Woodland Avenues rights-of way are consistent with the General Plan, in that such areas are not needed for future development anticipated in the General Plan. These areas would be maintained by the homeowners association.

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

Clearbrook Circle and Garin Road have adequate capacity to serve the proposed development. There are adequate storm drain, sanitary sewer, and water services available to serve the proposed development.

C. In the case of residential development, that 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 public authorities having jurisdiction thereon, and the development will have no substantial adverse affect on the surrounding development.

The development creates a residential environment of sustained desirability in that the units are well designed, and by clustering the residences, the proposed project is able to accommodate two centrally-located group open space areas that would total 3,000 square feet: a 1,750 square foot barbeque/picnic area and a 1,250 square foot tot lot. These areas are adequate to serve the proposed number of units. In addition, the project is within walking distance of Garin Park which is located 0.3 miles to the east.

A varied contemporary architectural style is proposed for both the uphill and downhill units. Both designs incorporate “staggered” units with varying front and rear elevation planes,

which would help break up the massing of the structures. The units would have a stucco exterior complimented with stucco stone accents. Roofs are proposed to be visually broken up with a mixture of hips and gables surfaced with composition shingles. The proposed trellises over the rear patios and the fact that the patios would be at grade level will help them appear to be subordinate and integrated into the overall building design, rather than appear to be visually detached as separate elements. To further help break up the mass of the buildings the uphill units would have second story balconies over the garages to help soften the three story element.

The downhill units utilize gabled dormers along the ends and at the rear of the buildings and "pop-outs" along the end wall, to further reduce their visual massing. The trellises would further help reduce the bulk of the structures. Other architectural elements include stucco coated foam trim and decorative bands. Prior to issuance of a building permit the Planning Director would approve the color and materials for the project to ensure the colors are earth tones and compatible with the site setting.

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

Rezoning the property to PD allows for cluster development that encroaches onto slopes greater than 25 percent and contains a fire truck turnaround located that encroaches into the adjacent property. Clustering development on hillsides minimizes grading and allows for concentrated placement of development to have less impact on the whole of the property, while also allowing units to be located more than the minimum 50 foot distance from the active fault of the Hayward fault trace.

The cluster design also allows for the development to be concentrated towards the center of the site, creating a larger undeveloped area around the proposed improvements, minimizing the impact to surrounding development and establishing a larger separation between the proposed units and the existing single-family homes on Larrabee Street.

The proposal would help to increase the variety of housing types within the Mission-Garin neighborhood, which is developed with primarily single-family dwellings on standard or large parcels. The townhouses would allow for home ownership opportunities for people would like to live in the hills, but cannot afford the typical single-family detached home.

The proposal would help to increase the variety of housing types within the Mission-Garin neighborhood, which is developed with primarily single-family dwellings on standard or large parcels. The townhouse design allows for home ownership opportunities for people would like to live in the hills but cannot afford the typical single-family detached home

**CITY OF HAYWARD
PLANNING DIVISION
ZONE CHANGE APPROVAL**

**Conditions of Approval
June 26, 2008**

ZONE CHANGE APPLICATION NO. PL-2003-0656 - Chris and Gil Zaballos for Clearbrook Partnership and Oakhills Enterprises (Owners and Applicants):

Request to Change the Zoning from Medium Density Residential with a 3,500 square foot minimum lot area (RMB3.5) district to a Planned Development (PD) district within the Mission-Garin Area Special Design District (SD-5) and Subdivide 6.3 acres and Build 30 Townhomes

The Project Location is at the Southwest Corner of Clearbrook Circle and Garin Avenue.

CONDITIONS OF APPROVAL:

1. Zone Change No. PL-2003-0656 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. This approval is void two years after the effective date of approval unless the Precise Development Plan has been submitted for review and processing in accordance with all conditions of the Preliminary Development Plan. A maximum of two one-year extensions may be approved by the City Council. A request for an extension of time must be submitted to the Planning Division at least 30 days prior to the expiration date.
2. The approval of this development is subject to the approval of Tentative Map No. 7478 and the associated conditions of approval. No building permit shall be issued for any structure within this application until the City Council has approved the final map and said map is recorded.
3. If a building permit is issued for construction of improvements authorized by the zone change approval, the zone change approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the zone change approval.
4. 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.

5. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
6. The project proponent shall submit a completed Multi-Family checklist from *Build-It-Green*, identifying green building measures that will be incorporated into the project. Such measures should be reflected in submitted plans and incorporated into project construction. The project proponent is encouraged to have the project *Green Point Rated*, in accordance with *Build-It-Green's* green point rating system.
7. The Precise Plan shall be submitted for approval of the Planning Director and shall include:
 - a. Architectural plans which include enhanced side elevations where there are large areas where no window are proposed;
 - b. Samples of colors and materials for all exterior building finishes;
 - c. Details of address numbers shall be provided. Address number shall be decorative.
 - d. The pavement at the driveway entries shall be enhanced by the use of decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials. Details for fencing of private yards and of the perimeter;
 - e. The slope of the turn-around area within the proposed roadway easement on the adjacent property to the east shall be increased to minimize or eliminate the need for a retaining wall, with the final slope to be less than 15% and be approved by the City Engineer and the Fire Chief;
 - f. A lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project;
 - g. Location and design of mailboxes; if mailboxes are grouped, they shall be enclosed by a structure compatible with the architecture of the dwellings;
 - h. Detailed landscaping and irrigation plans for all common areas;
 - i. Detailed plans for all site amenities within the common recreation areas
 - j. Details of retaining walls shall be included. Retaining walls within the project shall conform to the Hillside Design Guidelines. The wall location and materials shall be approved by the City Engineer and the Planning Director. All retaining walls shall be constructed of reinforced concrete with a decorative facing, approved by the Planning Director and the City Engineer. No retaining walls shall exceed 6 feet in height;

- k. Details of required safety railings and barricades;
 - l. Show that a 6-foot-high, wood, "good-neighbor" fence shall be erected along all interior property lines. Fencing of the private front yard areas shall be no taller than 3 feet and shall be an open, picket style fence;
 - m. Show that a 6-foot-high, wood, "good-neighbor" fence shall be erected along the western tract boundary along the rear property lines of the properties fronting on Larabee Street;
 - n. The two group open space areas shall be handicap accessible, in compliance with the federal Americans with Disabilities Act and State Handicap Accessibility standards;
 - o. The eastern group open space area shall be expanded/reconfigured to be a minimum 1,750 square feet, to exclude areas under the adjacent oak tree canopy and areas that exceed 5% slope, or the other group open space area shall be expanded so the total usable group open space for the site is at least 3,000 square feet;
 - p. Show that an exterior hose bib shall be provided for each private yard or porch area;
 - q. A visual screen shall be included along the west property line to shield the occupants of the condominium building from headlights of cars driving within the project;
 - r. Details of the project entry sign;
 - s. Location of above and below ground utilities;
 - t. Screening of above-ground utilities, transformers and utilities;
 - u. Site plan including rough grading, streets. And parking and circulation areas; and
 - v. A phasing plan that establishes an orderly development pattern. The plan shall include provisions for project staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for noise and dust control, and common area landscaping.
8. Prior to issuance of a building permit, the developer shall submit a soils investigation report for review and approval by the City Engineer.
9. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the Building Permit plans.
10. Future additions to residential units are prohibited.
11. Prior to final inspection all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.

12. Prior to approval of the precise plan a road maintenance agreement for Clearbrook Circle, between the developer and owner of the Oak Hills Apartment complex, shall be recorded in the office of the Alameda County Recorder.
13. Violation of these conditions or requirements may result in the City of Hayward instituting a revocation hearing before the Planning Commission.

HOMEOWNERS ASSOCIATION AND COVENANTS, CONDITIONS AND RESITRICTIONS:

14. 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, open space amenities 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. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association;
 - e. 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;
 - f. 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;

- g. 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;
- h. 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;
- i. 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;
- j. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance;
- k. 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;
- l. 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;
- m. 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;
- n. The homeowners association shall have the right 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;
- o. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.

- p. Any transformer shall be located underground and shall be located within the right-of-way or public utility easement;
 - q. Any future major modification to the approved site plan shall require review and approval by the Planning Commission;
 - r. 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;
 - s. Eight open parking spaces shall be provided for and maintained as visitors' spaces and shall not be used for recreational vehicles, camper shells, boats or trailers. These spaces shall be clearly marked and monitored by the homeowners association. Parking stalls shall be used only for vehicles in operating condition; and
 - t. Individual garbage can(s) shall be kept within the garage of each unit except upon pick-up day.
15. Prior to the start of grading or construction, a special status wildlife species habitat assessment by qualified biologist shall be conducted during the breeding season of the Golden Eagle or other special status nesting raptor or shrike species which immediately precedes the start of grading activity. The assessment shall include assessment of the Alameda whipsnakes and/or their occupied habitat. The assessment shall be confirmed by an independent biologist hired by the City and paid for by the project proponent. If such assessments 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) or 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.
- If such assessments indicate that Alameda whipsnakes and/or their occupied habitat are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific Alameda whipsnake mitigation plan should be developed, approved by the US Fish and Wildlife Service and California Department of Fish and Game prior to development, and implemented.
16. To minimize impacts associated with fault rupture, no dwelling units are to be constructed within 50 feet of the Hayward fault trace, to be confirmed by the project geologist during site excavation via a letter to the City prior to permanent foundation work being completed. Any storm drain line that would traverse the fault in the southwestern portion of the site shall be ductile iron or similar material, to be approved by City staff. The project will be required to be within a Geological

Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards.

17. The design of townhome units shall adhere to Uniform Building Code standards in effect at the time of building permit submittal. Also, all recommendations by the project geotechnical engineer, ES Geotechnologies, shall be implemented throughout project grading and construction. Such measures include on-site observation by the project geotechnical consultant of excavations and placement of engineered fill and keyway construction, and installation of subgrade drainage features. The project will be required to be within a Geological Hazard Assessment District established to prevent or control landslides, land subsidence, soil erosion and similar geologic hazards. The soils engineer or his appointed representative shall monitor the hillside during and after construction to evaluate any impacts the construction may have along Larrabee Street.
18. The project shall be constructed and maintained in compliance with Hayward's Hillside Design and Urban/Wildland Interface Guidelines, to be approved by the Hayward Fire Department. Also, subject to final approval by the Hayward Fire Department, recommendations of the fuel management plan developed for the project shall be implemented ("Fuel Management Plan for Oak Hills Partnership, Hayward, CA," prepared by Wildland Resource Management, Inc., dated October 1, 2004). Such measures include building construction standards, a fuel management program that includes a maintenance schedule of open space, and a homeowners' education program.
19. All building construction activity shall be in compliance with Hayward Municipal Code Section 4-1.03(b)(2), which prohibits construction noise levels at the property line from exceeding six decibels above the local ambient level between 7:00 a.m. and 7:00 p.m. on Mondays through Saturdays and between 10:00 a.m. and 6:00 p.m. on Sundays and holidays. All grading activity shall be limited to between 7:30 am to 6:00 pm on weekdays unless otherwise approved by the City Engineer. A Construction Noise Management Plan, to be approved by City staff prior to issuance of grading permits, shall be prepared and implemented, which shall identify measures to be taken to minimize construction noise on surrounding developed properties, including a listing of hours of construction operations, use of mufflers on construction equipment, limitation on 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.

Fire Protection:

20. Each townhouse unit within each 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.

21. Exterior local alarm bell(s) shall be installed on each fire sprinkler system riser.
22. Interior audible device(s) shall be installed within each townhouse unit and shall be capable of activating upon any fire sprinkler system water flow activity.
23. A manual and automatic fire alarm (evacuation) system will be required within each building. The system shall be equipped with manual pull stations, audible and visual devices, and smoke detectors within all common areas of the building.
24. Central station monitoring is required for the fire alarm system, and for any fire sprinkle system installation which has more than 100 fire sprinkler heads.
25. Interior (single-station) residential smoke detectors shall be installed within each (single-family residence) building. Single-station smoke detectors shall not be interconnected the building's fire alarm system.
26. Portable fire extinguishers having a minimum rating of 2A:10BC shall be installed in common areas and locations of each building as required by the Fire Department.
27. Building addressing shall be established prior to issuance of building permits. Addressing shall be approved by the Hayward Fire Department.

Building Construction:

28. All structures within this development shall be designated as Category I structures with Class A roofing materials and non-combustible exterior siding materials, with a minimum 1-hour fire resistive rating (stucco and/or Hardi-Board).
29. 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.

Landscaping:

30. Prior to the approval of improvement plans or issuance of the first building permit, 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. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance.
31. Landscape plans shall show that solid building walls and/or fences facing a street or driveway will be buffered with continuous shrubs or vines.

32. Minimum landscape areas shall be 5 feet in any direction. Upright trees shall be planted in the areas between the units. The size and variety of trees shall be approved by the City Landscape Architect.
33. Street trees shall be planted every 25 – 40 feet along the property frontage depending on the variety of tree chosen. The trees should be 20' from a light pole and 5' from any utility. Trees should be about 8 to 10 feet away from the power lines and should be smaller tree varieties with a maximum height of 25 to 30 feet.
34. Landscape plans shall specify site amenities such as, benches, tables, fencing, play equipment and barbecues, for the common open space areas.
35. 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.
36. Landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy for each building.
37. Landscaping shall be maintained in a healthy, weed-free condition at all times. Plants shall be replaced when necessary. Required street, parking lot and buffer trees that are severely topped or pruned shall be replaced immediately, as determined by the City Landscape Architect.
38. Prior to the sale of any individual unit/lot, or prior to the acceptance of tract improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses. A reserve fund shall be maintained to cover the costs of replacement and repair of all improvements shown on the approved plans.
39. Park Dedication In-Lieu Fees are required for the 30 new dwelling units. The fees shall be those in effect at the time of issuance of the building permit.
40. A tree removal permit is required prior to the removal of any protected tree as designated in the Tree Preservation Ordinance. Replacement trees shall be required for any trees removed, equal in value to the tree(s) being removed, as determined by a certified Arborist and approved by the City Landscape Architect.
41. Prior to the issuance of a grading or building permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved. The bond, surety or deposit shall be returned 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.
42. Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Trees shall be fenced at the drip line throughout the construction period and shall be maintained in a healthy condition throughout the construction period.

43. Decomposed granite paths shall not be used in areas with a grade of over 2%. Large areas of decomposed granite (D.G.) shall not be used unless proper methods of maintenance can be shown which will not allow weed penetration or degradation of the surface.
44. Provide self-climbing vines such as Boston Ivy on the exterior walls and retaining walls around the project.

Solid Waste & Recycling:

45. A Construction and Demolition Debris Recycling Statement must be submitted with the building permit application.
46. A Construction and Demolition Debris Recycling Summary Report must be completed, including weigh tags, at the COMPLETION of the project.

FINDINGS FOR APPROVAL
VESTING TENTATIVE MAP TRACT 7478

1. The approval of Vesting Tentative Map Tract 7478, 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. Upon the completion of remediation recommended by the project Geotechnical Engineer the site is physically suitable for the proposed type of development.
4. The design of the subdivision and the proposed improvements are **not** likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
5. The design of the subdivision and the proposed improvements are **not** likely to cause serious health problems.
6. Upon completion of the proposed improvements the streets and utilities would be adequate to serve the project.
7. None of the findings set forth in Section 66474 of the Subdivision Map Act¹ have been made.

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.

CONDITIONS OF APPROVAL
VESTING TENTATIVE TRACT MAP 7478

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.

All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.

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.

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.

The applicant/developer's Professional Engineers registered to practice in the State of California shall perform all design work unless otherwise indicated.

Unless otherwise stated, all documents, agreements, required improvement bonds or securities, completely signed improvement plans, and signed final map shall be submitted to the City for approval prior to presenting to the City Council for approval.

A copy of these approved conditions of approval shall be inscribed on full-sized sheets in the tentative tract map and tract improvement plan sheets.

PRIOR TO FILING OF FINAL MAP

GEOLOGIC HAZARD ABATEMENT DISTRICT FORMATION

1. A Geologic Hazard Abatement District (GHAD) shall be formed prior to the issuance of the sixth building permits for residential units. The developer shall either prepare all necessary reports, maps, and supporting documents, which will be reviewed by 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 tract improvement plans; however, the GHAD shall maintain lands and drainage facilities within Parcels A as shown on the Vesting Tentative Map Tract 7478, and, if necessary, repair such adjacent lands impacted by failure of the slopes or drainage facilities within such parcels.

LOCAL IMPROVEMENT DISTRICT 16 (LID 16)

2. 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.

TRACT IMPROVEMENTS

Improvement plans, Grading and Erosion control plans, and Landscaping 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:

IMPROVEMENTS ON GARIN AVENUE

3. New 24-foot wide driveway approach with four-foot flare shall be constructed for the proposed Emergency Vehicle Access (EVA) connecting to the development site.
4. New standard streetlights shall be installed along the Garin Avenue frontage. The design and location shall be approved by the City Engineer.

STREETS

5. The improvement plans shall be reviewed with the Fire and Public Works Departments 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, longitudinal and/or cross slopes for Street A, or intersection alignments.
6. Clearbrook Circle and proposed Street 'A' and 'B' improvements shall be designed, generally reflective of the alignment shown on the submitted tentative map set, and as approved by the City Engineer. Pavement section shall be designed to public street standards. The connection of Street 'B' and Clearbrook Circle shall be designed and constructed per City Standard detail SD-100A, excluding pedestrian ramps.
7. All interior street rights-of-way shall be a minimum of 27 feet in width with a 26 feet curb to curb travel lane width, with no parking on both sides, and four foot wide sidewalk on the west side (downhill slope side). Except at designated parking stalls, no parking shall be allowed within these two private streets. Red-curbs and fire lane signage shall be installed along both sides of the streets as approved by the Fire Chief and City Engineer.
8. Two hammer head cul-de-sac shall be designed with a minimum curb to curb width of 34' and other minimum dimensions as shown on Sheet 2 of SD-103.
9. The on-site private street lights shall be installed along all streets and street terminus, and shall have a decorative design approved by the Planning Director. The locations

of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Such fixtures shall have shields to minimize “spill-over” lighting on adjacent properties that are not part of the tract. Street lights shall be owned and maintained by the homeowners association.

STORM DRAIN

Stormwater Quality Requirements

10. 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. In general, the project plan shall be designed in accordance with the recommendations outlined in the Balance Hydrologics, Inc. letter dated January 9, 2008 subject to the approval by the City Engineer. Stormfilter units manufactured by Contech Stormwater Solution or equivalent shall be used in place of the proposed CDS units.
11. 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. 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 practicable. 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). The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit (page 22). In addition, the California Stormwater Quality Association's Stormwater Best Management Practice Handbook New Development and Redevelopment, Subsection 5.5 on pages 5 – 12 has a section titled “BMP Design Criteria for Flow and Volume.” Those materials are available in the internet at www.cabmphandbooks.com for your reference.
12. 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.

Stormwater Drain Design

13. The on-site storm drain system shall be a private system owned and maintained by the homeowners association.

14. The storm drain manhole located across Unit No. 5 shall be the Alameda County Flood Control & Water Conservation District standard manhole Type III, SD-402.
15. Minimum longitudinal storm drain pipe shall be 10-inch in diameter. Install 10-inch storm drain pipe behind Lot Nos. 15 to 22 within a private storm drain easement.
16. The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the Flood Control District and the City Engineer. Development of this site is not to augment runoff to the District flood control downstream facilities. 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 and any augmented runoff will need to be mitigated on-site.
17. An erosion and sedimentation control plan 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 shall be approved by the City Engineer prior to implementing throughout project construction. In addition, all exposed areas within the project's limits of grading shall be landscaped, to the satisfaction of the City's Landscape Architect, and adequately maintained.
18. 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 area tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
19. The storm drains in the private street shall be located a minimum of one foot from the face of curb for pipes up to 24 inches in diameter and 2 feet from the face of curb for pipes 27 to 48 inches in diameter.
20. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.

SANITARY SEWER SYSTEM

21. Sewer service will be available from the City and is subject to standard conditions and fees in effect at the time of application for sewer service and payment of fees.
22. The proposed abandonment of existing 8-inch sewer main along the western boundary of the site to the intersection of Bodega Street, Woodland Avenue and Larrabee Street shall be terminated by either manhole or cleanout structure to be located within the

intersection of Woodland Avenue and Bodega Street. New sewer laterals to properties to maintain sewer service to the existing residences at that intersection may be required.

23. The on-site sanitary sewer system shall have 8-inch public main, designed with a straight grade and manholes at all angle points and ending with a manhole, and per the City's 2006 Specifications for the Construction of Sanitary Sewer Mains and Appurtenances. The sewer system design, layout and construction shall meet the approval of the City Engineer.
24. The minimum separation distances for water mains and sewer mains shall be 10 feet horizontally and one-foot vertically measured from the outside edge of each pipe barrel.

WATER SYSTEM

25. Water service will be available from the City and is subject to standard conditions and fees in effect at the time of application for water service and payments of fees.
26. The water system shall be designed to comply with all the requirements and recommendations as stated in the Garin Hills Water Service Study dated March 3, 2005, prepared by Carollo Engineers; the Hydraulic Analysis of La Vista-Garin Development draft report dated February 22, 2008, prepared by Brown and Caldwell; the City's Review Comments letter regarding the Hydraulic Analysis draft report dated March 10, 2008; and the City's 2006 Specifications for the Construction of Water Mains and Fire Hydrants. The water system design, layout and construction shall meet the approval of the City Engineer.
27. Water mains and supply (water service) lines shall be a minimum of 10 feet from and 1 foot above pipes containing sewage (sewer mains, service laterals, etc.), and 4 feet from and 1 foot above storm drains, measured from the outside edge of each pipe barrel (per the March 2008 revised Waterworks Standards, Title 22 California Code of Regulations, Section 64572, Water Main Separation).
28. The proposed abandonment and removal of existing 8-inch water main located at the intersection of Clearbrook Circle and Street B must be terminated with either a blow-off or at a fire hydrant in order to facilitate water quality maintenance on this line.
29. Valves are required on each side of the proposed "T" connection of the proposed 8-inch water main and the 12-inch water main constructed by Tract 7354.
30. All water mains crossing the Hayward fault shall be designed and constructed similarly to the planned Garin Avenue Fault Crossing and in accordance with the project geotechnical consultant's recommendations, as approved by the City Engineer. This fault crossing will also require a pressure release valve and a seismically actuated valve located at the east side of the fault near the north end of street A.

31. Install Reduced Pressure Backflow Prevention Assembly as Per City of Hayward Standard Detail 202 on irrigation water meters.
32. Development shall be served by radio read meters.
33. Only water distribution personnel shall perform operation of valves on the Hayward Water System.
34. 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.
35. Water mains to be located 5 feet from face of curb.
36. Ductile Iron Pipe is required for water mains in all easements. Control valves are required in streets before entering easements.
37. 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.

UTILITIES

38. Existing overhead facilities shall be place underground. All utility services shall be "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T, Comcast and AT&T 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.
39. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.
40. 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.
41. Recommendations of the project geotechnical engineer, or geologist consultants, related to street and utility lines shall be incorporated into the project design, subject to final approval by the City Engineer. 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.

FIRE

Fire Protection

42. The Fuel Management Plan shall be completed by a qualified consultant and shall be submitted to the Fire Department for review and approval. The fuel management plan shall reflect the necessary requirements for maintaining defensible space, fire protection, water supply capabilities, EVA's, etc. The plan shall also include a homeowner's education guide which shall be provided to each homeowner as part of the CC & R's. This plan shall be approved as an addendum to the Tentative Tract Map approval.

Fire Access

43. The emergency vehicle access easement/road (EVA) proposed to connect Garin Avenue 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. Gate opening shall be electrically controlled by the Hayward Fire Dispatch Center.
44. The EVA shall be designed and constructed with a grade of less than 15% and all-weather surface materials to withstand 50,000 lbs gross vehicle weight (GVW).

Water Supply

45. The fire hydrant system shall be a looped system and fire hydrant locations shall be reviewed and approved by the Fire Chief and City Engineer. Blue reflective hydrant markers shall be installed on the street pavement adjacent to each fire hydrant location. Fire hydrants shall be double steamer type hydrants with 2-4 ½" outlets and 1-2 ½" outlet.
46. The minimum fire flow for the development (from each fire hydrant) shall be 2,000 gallons per minute at 20 psi. A 50% reduction is included in this flow for automatic fire sprinkler systems, which are required within each building.
47. 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.

LANDSCAPING

48. 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 Landscape Architect.
49. 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.

50. Within all required landscape areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed.
51. The project shall conform to the requirements of the City of Hayward's *Tree Preservation Ordinance*. Replacement/mitigation trees shall be planted as required by Hayward's *Tree Preservation Ordinance*, to be confirmed by the City's Landscape Architect, and be in general conformance with the proposed landscape Plan (Sheet L-1), prepared by Manuel C. Fernandez & Associates, Landscape Architects, dated October 30, 2006, with the requirement that the value of the replacement/mitigation trees shall be at least equal to the value of the trees to be removed, as determined by the City's Landscape Architect. Efforts should be made to preserve the 24-inch diameter Coast live oak tree between proposed townhome units 4 and 5 and as many as possible of the existing bay and oak trees in the drainage swale in the northwestern portion of the site. Implementation of these measures will ensure that potential impacts to biological resources are reduced to a level of insignificance
52. 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*.

DEDICATIONS, EASEMENTS AND DEED RESTRICTIONS

53. The lands in the western portion of the tract located between the development and existing residential units along Larrabee Street and the eastern portion of the tract located between Clearbrook Circle and Lot Nos. 1-14, designated as Parcels A and shown on Vesting Tentative Map Tract 7354, shall not be developed and shall remain as open space in perpetuity.
54. 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 rights-of-way for the proposed streets and emergency access roads within the project site.

AGREEMENTS

55. The Utility and Ingress and Egress and Maintenance Agreement between the owners of this development and of the Oak Hill Apartment Complex for the use of Clearbrook Circle by Tract 7478 development shall be executed and recorded prior to the approval of the tract final map.
56. 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.

57. 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.

PRIOR TO ISSUANCE OF GRADING PERMITS

58. 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.
59. 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.
60. Prior to the start of any construction or grading activity, including hauling of material from the project site, a mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. 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. Control for traffic traveling on project site unpaved roads, parking lots, and staging areas.
 - c. Control for earth moving activities.
 - d. Post construction stabilization of disturbed areas.
 - i) Frequency of reporting.
61. 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.

62. 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. 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.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

63. Prior to start of construction involving combustible materials, either required water system improvements shall be completed and operational, or provide alternative improved water system acceptable to the Fire Chief and City Engineer, and 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

64. 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 (Mitigation Measure III (b)). Project construction grading plans shall state such measures on the plans, to be approved by the City Engineer.
 - a) Water all active construction areas at least twice daily.
 - b) Cover all trucks hauling soil, sand, and other loose material or require all trucks to maintain at least two feet of freeboard.
 - c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas.
 - d) Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas.
 - e) Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public or private streets (i.e., Clearbrook Circle and Garin Avenue).
 - f) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
 - g) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
 - h) Limit traffic speeds on unpaved roads to 15 mph.
 - i) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - j) Replant vegetation in disturbed areas as quickly as possible.

65. All grading and road construction activities, including that associated with any import of material from the adjacent property to the north, shall be conducted in compliance with the provisions of all applicable regulations associated with naturally occurring asbestos, including those in the California Air Resources Board's asbestos airborne toxic control measure for construction, grading, quarry and surface mining operations (Section 93105 of Subchapter 7.5 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations) and those related to Cal-OSHA standards.

Also, implementation of the "Construction Management Plan for Oak Hills Property, Hayward California," by Northgate Environmental Management, Inc., dated December 14, 2003 is required, as approved by applicable regulatory agencies. Such plan includes an asbestos dust mitigation plan, which is required to be approved by the Bay Area Air Quality Management District. The dust mitigation plan includes measures that require that active construction and vehicle areas be properly wetted, treated or covered and grading operations be suspended during elevated wind speeds so as not to result in dust emissions crossing the property line. Also, as recommended by Northgate Environmental Management, Inc., any serpentinite-bearing material that contains levels of asbestos that exceed 0.25 percent shall be capped by at least four feet of fill that does not contain serpentinite-bearing material.

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 air quality impacts resulting from release of asbestos-containing materials will be less-than-significant.

66. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director and City Engineer:
- a. Grading and construction activities shall be limited to the hours 7:30 AM to 6:00 PM on weekdays; there shall be no grading or construction activities on Saturday, Sundays or national holidays;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. 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 Garin Avenue 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 by the City Engineer and the 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.
67. A representative of the geotechnical 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 geotechnical engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.
68. 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.
69. 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.
70. 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.
71. If it is necessary to truck infill material up Garin Avenue and if the City Engineer determines that the trucks are creating an unsafe condition during peak hour periods, the deliveries would be limited to non-peak hour periods as determined by the City Engineer.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

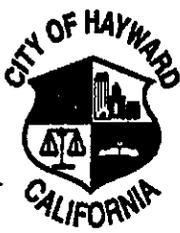
72. The final map shall be approved by the City and filed in the County Recorders Office prior to the issuance of a Certificate of Occupancy of any unit.
73. The developer shall pay all required fees, including those indicated below, with the amount of such fees to be in accordance with the fee schedule 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. 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.
74. Any curb, gutter and/or sidewalk along the Garin Avenue 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.
75. All common area landscaping, irrigation and other required improvements in the current phase shall be installed according to the approved plans.
76. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.
77. 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.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

78. 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.
79. 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.
80. 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.
81. Any damage to Garin Avenue that occurs during the construction of the Oak Hills Development shall be repaired at the developers cost to the satisfaction of the City Engineer. An asphalt concrete (AC) overlay along Garin Avenue 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 Oak Hills II development.
82. 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.
83. The subdivider shall submit an "as built" plan on mylars and in compact disc containing files in PDF format 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.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2005, 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, Zermefio
CHAIRPERSON: Thnay
Absent: COMMISSIONER: None

Staff Members Present: Anderly, Conneely, Gaber, Rizk, Torrey, Lens

General Public Present: Approximately 35

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. Zone Change Application No. PL-2003-0656 & Vesting Tentative Tract Map Application No. PL-2003-0659 (TTM 7478) – Oak Hills Enterprises/Clearbrook Partnership, Gil and Chris Zaballos (Applicants/Owners) – Request to Change Zoning From the Medium Density Residential (RMB3.5) District to Planned Development (PD) District and to Subdivide 6.3 Acres to Construct 30 Town homes - The Undeveloped Site is Located North of Garin Avenue between Clearbrook Circle and Larrabee Street

Staff report submitted by Senior Planner Rizk, dated October 20, 2005, was filed.

Senior Planner Rizk made the staff report indicating that a Larrabee Street resident submitted an e-mail raising concerns about the project regarding movement and the creek. Mr. Rizk mentioned that the concerns would be addressed in an environmental analysis should recommendation come from the Commission. He answered questions from the Commissioners.

Chair Thnay opened the public hearing at 7:48 p.m.

Mr. John "Jack" Smith, attorney and partner for the Zaballos and co-owner of Oak Hills Apartment Complex, thanked staff for finding the project attractive. In reference to the areas along Garin Avenue on the steeper southwestern portions of the site, he did not concur with the staff recommendation to include them in the homeowner's association responsibilities because the area

is maintained by the Oak Hills Apartments and would not be used by the homeowners of the proposed project. He asked kindly for the project's approval.

Mr. Gil Zaballos, co-applicant, expressed that he invested a large amount of time and money with the preliminary design to comply with the Mission-Garin Area Special Design District (SD-5) regulations. He mentioned that in trying to conform to the 25% slope requirement, he would lose 14 units which would not be economically feasible. In regards to the slope, he mentioned that what they are doing is cutting off the bottom of the slope and putting a garage underneath so that part of the building is on 25% slope. The back foundation would be on the slope. He mentioned that the project would be a good fit for the area.

In response to Commissioner Peixoto's enquiry regarding the 25% slope and slippage, Mr. Zaballos commented that soil engineers indicated that the project is feasible with a condition that the project be managed and inspected by soil engineers during construction. He also mentioned that the project would mitigate water problems that already exist in the area.

Mr. Chris Zaballos, co-applicant, mentioned that after the two-and-a-half years of working on the project and with the input received from the City, the project has improved enormously. He mentioned that they gave up two units in order to save a sizable oak tree. He expressed satisfaction with the project because it fills housing needs in the area.

Mr. Joseph Connell, Chief Administrator for Moreau High School and former chair for the Mission-Garin Neighborhood Planning Task Force, mentioned that the Task Force never held or debated a position of preventing good projects to be developed over matters of slope. He urged the Commissioners for support of the project.

Mr. William Burnside, Gisler Way resident, spoke against the proposed project because it may cause traffic problems and inconvenience for the neighbors in the area.

Chair Thnay closed the public hearing at 8:08 p.m.

In response to Commissioner Sacks' enquiry regarding reasoning for the 25% guideline, Senior Planner Rizk responded that 25% slope is used in other municipalities and in association with the hillside guidelines. In reference to the composition in the areas of the project that are 25% and greater, Senior Planner Rizk mentioned that the samples taken show that the area contains colluvium deposits over bed rock, and artificial or non-engineered fill in the middle section. He added that there would need to be more geotechnical investigation to determine the precise composition of the area.

In reference to Chair Thnay's request, Senior Planner Rizk clarified the difference between engineered versus non-engineered fill. He added that most of the Parcel A slope is natural fill where most of the artificial or un-engineered fill has been imported to the middle portion of the site.

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



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Applicant Gil Zaballos clarified the fill materials indicating that there is some fill that is not engineered that will be pulled and analyzed. He mentioned that there will be a system in place that is in accordance with the engineering design of today.

Chair Thnay closed the public hearing at 8:20 p.m.

Commissioner Zermefio made a motion to approve the project.

Assistant Attorney Conneely clarified that if the Commission's action is inclined to approve the project, it would need to direct staff to perform the necessary environmental analysis and bring back findings and conditions of approval.

Commissioner Zermefio indicated his support for planned development and approved the fact that it will prevent water run-off to the residences on Larrabee Street. He showed support for the project.

Commissioner Bogue seconded the motion. He also concurred with Commissioner Zermefio in that the water will be drawn off in a different fashion and thus will help the area. He also expressed interest in the analysis of the landscaping and appearance of the buildings of Oak Hill that will have to be considered. Additionally, he asked staff to re-examine group open space with 5% slope and for consideration to keeping existing trees.

Commissioner McKillop supported the motion indicating that enough time and effort has been put into a project that grants approval.

Commissioner Peixoto supported the motion, indicating satisfaction with the number of units per parcel. Also, he added that slope concerns were answered to his satisfaction and approved the fact that the drainage in the area will be improved by this project.

Commissioner Sacks mentioned that slope concerns were not answered to her satisfaction and therefore, she did not show support for the motion.

Commissioner Lavelle expressed support for the staff recommendation to deny the project. She spoke about the effort that went on the Mission-Garin Area Special Design and expressed concern for slopes that are too steep. She added that the slope concern could be mitigated by having fewer units developed.

Chair Thnay mentioned approval for the proposed project with reservations about the slope requirement and safety concerns. He added that after further review is conducted, the proposed development will be a success.

Commissioner Zermefio moved, seconded by Commissioner Bogue, and approved to accept the project and direct staff to conduct CEQA review, prepare findings and conditions of approval, and bring them back for Commission review.

AYES: COMMISSIONERS McKillop, Bogue
Peixoto, Zermefio
CHAIR Thnay
NOES: COMMISSIONERS Lavelle and Sacks
COMMISSIONER None
ABSTAIN: COMMISSIONER None

2. I. **General Plan Amendment (PL-2004-0184) - Request to Amend the General Plan Land Use Map Designation from "Industrial Corridor" to "Residential - Medium Density;"**
- II. **Specific Plan Amendment - Request to Amend the "South of Route 92/Oliver & Weber Properties Specific Plan" from "Light Manufacturing/Business Park" to "Planned Development;"**
- III. **Amendment to the Mount Eden Business and Sports Park Community Development Agreement;**
- IV. **Zone Change Application No. PL-2004-0189 - Request to Amend the Zoning District from "Light Manufacturing and Business Park" to Planned Development in Order to Construct 139 Small-Lot Single-Family Homes and a Multi-Family Development of 122 Dwelling Units;**
- V. **Approval of the Preliminary Development Plan for the Planned Development;**
- VI. **Vesting Tentative Map Tract No. PL-2004-0190 (TTM 7489) - Request for a Small-Lot Single-Family Development of 139 Homes and for a Multi-Family Development of 122 Dwelling Units;**
- VII. **Revisions to South of 92 Development Guidelines - Request to address the change from Light Manufacturing and Business Park to Residential on a Portion of the Oliver East Property under the Specific Plan**
Duc Housing Partners, Inc. - Applicant/Owner - The Project Site is Located West of Marina Drive and on Either Side of Eden Shores Boulevard on Property Known as "Oliver East"

Staff report submitted by AICP Torrey, dated October 20, 2005, was filed.

Consultant Anderly made the report referencing a November 8, 1998 ballot measure that was placed at the Council request, which changed the general plan designation in some areas of the South of 92 Area from open space-baylands to low density residential, open space-parks and recreation, and industrial corridor. She added that the west side was primarily housing and light manufacturing and wetlands. The plan for the east side was proposed as a business park, along with a small commercial area, light manufacturing area, and sports park. Voters favored a 25-acre sports park as well as high technology industrial type of development. The Council measure included a provision for changing uses on the land as long as the legislative process was followed, which

Commissioner Lavelle observed graffiti in the neighborhood and inquired for other types of fences other than stucco. Associate Planner Emura indicated that stucco has generally been used, but in the past, chain fencing has been recommended and approved by the Commission at the request of the applicant.

Commissioner Sacks inquired about the materials used for the project on Industrial Boulevard and Depot Road. Associate Planner Emura responded that even though he was not familiar with the project, he noted it to be a masonry wall.

Chair Peixoto opened the public hearing at 7:44 p.m.

Mr. Gilberto Ochoa, project applicant, approached the podium and was available for questioning.

Commissioner Lavelle asked Mr. Ochoa if he was satisfied with the proposed stucco wall. Mr. Ochoa was amenable to the recommendation.

Chair Peixoto closed the public hearing at 7:45 p.m.

Commissioner Mendall noted that the project adds attractiveness to the area and that the neighbors were enthusiastic about the project. He was supportive of the conditions of approval recommended by staff; however, he expressed concern for potential graffiti on the walls. He encouraged the applicant to exercise due diligence in covering the walls, especially during the early stages. Mr. Mendall made a motion per the staff recommendation.

Commissioner Sacks seconded the motion.

Commissioner Mendall moved, seconded by Commissioner Sacks, and approved with Commissioner Thnay absent, to find the proposed project Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Existing Facilities; and approve the Use Permit Application, subject to the findings and conditions of approval.

After discussion ensued regarding possible continuance of the following hearing due to lack of quorum, it was determined that it would be heard by the Commission.

Chair Peixoto, abiding by the Fair Political Practice Commission requirements, indicated that he was required to disqualify himself from deliberation on the following hearing because he was in receipt of campaign contributions from the party involved with the project.

Chair Peixoto left the chambers and Vice Chair Lavelle preceded the meeting.

2. **Zone Change Application No. PL-2003-0656 & Vesting Tentative Tract Map 7478, Application No. PL-2003-0659 - Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners) - Request to Change Zoning from Medium Density Residential (RMB3.5/SD-5) to a Planned Development District (PD), and Subdivide 6.3 Acres to Build 30 Townhomes. The Project will also Entail Abandonment of a Portion of the Garin Avenue and Woodland Avenue Rights-of-Way - The Project Location is Northwesterly of the Intersection of Garin Avenue and Clearbrook Circle**



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Planning Manager Rizk gave a synopsis of the report and he noted that Zone Change Approval, Condition of Approval No. 39, will be corrected to read, "Park Dedication In-Lieu Fees are required for 30 new dwelling units."

Commissioner Mendall referenced the Vesting Tentative Map - Oak Hills 2, Site Sections page, and inquired about the elevations related to sea level. Planning Manager Rizk indicated that site elevations are typically from sea level. Mr. Rizk also clarified Findings for Approval A and D, regarding functional facilities or amenities.

Commissioner Sacks inquired about observations she made during a site visit the day before the hearing including the trenching done to the left of Clearbrook Circle and about a hose pipe across the road going into the Oak Hills properties. Planning Manager Rizk indicated that the minor trenching was associated with repairing of a water line break on Clearbrook Circle and the water hose was associated with the dust control on the Garin Vista site. In reference to the storm drain pipe that runs into Larrabee Street, Mr. Rizk indicated that the subsurface drainage system would be directed to the storm drain system that connects to the Larrabee Street system. He added that the pipe system on Larrabee Street would be maintained by the City.

Commissioner Loché asked for the reasoning for the provision that prevents the encroachment into a natural slope of 25 percent or greater. Planning Manager Rizk responded that it was to minimize development on steep slopes due to potential erosion and drainage problems.

Commissioner Mendall inquired about the change to staff recommendation on the project since the hearing in 2005. Planning Manager Rizk indicated that it was due to direction by the Commission and the results of an environmental geotechnical analysis, which indicated that the proposed drainage improvements could bring about a more stable hillside.

Commissioner McKillop recollected the direction from the Commission to staff to conduct a CEQA review at the hearing in 2005 and indicated she did not have further questions.

Vice Chair Lavelle inquired about the reason for the project's exemption from the Inclusionary Housing Ordinance of 2004. Planning Manager Rizk indicated that the basic components of the application, e.g., Vesting Map and Preliminary Development Plan, were deemed complete before the ordinance came into effect. Mr. Rizk added that the recommended requirement of formation of the Geological Hazard Abatement District, a funding mechanism for maintenance and repair of slope areas, is a further reassurance that regular monitoring of the hills will occur.

Vice Chair Lavelle opened the public hearing at 8:21 p.m.

Mr. Chris Zaballos, project applicant, expressed that he has spent the past two and a half years working on meeting geotechnical requirements. As a clarification, he noted that he does not own the Clearbrook Highlands development on Clearbrook Circle, and he has complained about the

landscaping and the plastic pipes. He mentioned that the proposed project is going to improve the area and he asked for the Commission's approval.

Commissioner Sacks asked for assurance for the people on the downhill side of the development. Mr. Zaballos deferred the question to Geotechnical Engineer Zehrbach.

Commissioner Loché inquired if the project was going to be Green Point Rated. Planning Manager Rizk indicated that Council adopted a resolution requiring that a Multi-Family checklist from Build-In-Green be submitted for a development of at least 20 multi-family units. He also indicated that the mandatory Green Point rating system has not yet been adopted but indicated that staff will encourage the applicant to incorporate green building measures into the project.

In response to Commissioner Mendall's inquiry, Mr. Zaballos indicated that the project would not be feasible if less than 16 units were situated at the site that exceeds 25 percent natural slope.

Mr. David Sakata, Larrabee Street resident, submitted a petition with 67 signatures in opposition to the 30 townhouses proposed to be built between Larrabee Street and Clearbrook Circle. As reasons for his objection, he expressed: erosion on Larrabee Street, threat to habitat, closeness to the Hayward fault line, invasion of privacy, potential for further pollution, congestion, and rezoning. He showed photographs of the ground being shifted on Larrabee Street and he submitted the petition for the record.

Mr. Thomas Pham-Gia, Larrabee Street resident, opposed the project because of potential for increase of traffic and land erosion. He was also concerned with the drainage, privacy concern, wild life habitat, and landslides. He asked for assurance for properties on Larrabee Street should something happen due to the building of the proposed project. He asked for a cement wall to protect the properties.

Commissioner Loché asked staff if traffic impact was anticipated due to the project. Planning Manager Rizk indicated that, according to Public Works staff, minimal traffic impact was anticipated and expected volumes would be well under roadway capacity.

Commissioner Sacks asked Mr. Pham-Gia if he was aware of the drainage improvement that the proposal would have on the neighboring properties. Mr. Pham-Gia was aware; however, he was in opposition to building more houses in the area and was concerned with fire hazards and evacuation plans. Vice Chair Lavelle indicated that, according to the report, the Fire Department reviewed the application and it was determined to have adequate space for fire trucks to get into the potential development. Planning Manager Rizk concurred and added that as part of the Garin Vista Development to the north, there is a requirement to provide additional emergency access points, which would connect to the extension of Alquire Parkway.

Mr. Norm Ihle, Gislen Way resident, indicated that the U.S. Geological Survey shows concern for earthquake faults for the proposed site and that it does not need to be developed. Mr. Ihle felt that there was pure economical interest on developing the site. He wanted to know if prospective buyers were going to be informed about the fault zone. He was concerned about asbestos materials, compacting soil that could create vibrations, and sewage crossing over the fault. He asked that the Commission be mindful in considering the proposed project.



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Ms. Karen Dickinson, Larrabee Street resident, indicated same sentiments as previous neighbors: traffic concerns, fire danger, privacy issue, and drainage on one side of her property. Lastly, she was concerned that, due to the trend in real estate, the development might have empty housing and attract more crime to the area.

Mr. Lee Newfield, Larrabee Street resident, felt that the proposed project would increase the traffic to the area, was concerned for wildlife habitat and for the proposed development having direct views into the surrounding backyards. On behalf of the Larrabee Street residents, he suggested mitigations for the project should it be approved: that the Geological Hazard Abatement District include the houses on Larrabee Street and include requirements for repairs should problems arise, that Larrabee Street be closed off at Garin Avenue and become a local access street, that sewer pop-off valves be installed at Larrabee Street and all downhill houses at the developer's expense, and that parking for construction trucks be forbidden on City streets. He submitted a statement for the record.

Mr. Bill Zehrbach, engineer for the project with ES Geotechnologies, summarized planned improvements to the uphill site, which would positively impact the proposed site as well as the downhill properties. He indicated that as part of the engineering analysis, borings and laboratory tests were conducted and it was determined that in addition to the compacted fill, there were erosion materials that caused pressure on the hill. He also added that according to a fieldtrip sponsored by Cal State Hayward, it was found that the movement on the hill above Larrabee Street might have been exacerbated by water pressure along the Hayward fault. Lastly he added that by removing uncompacted fill and replacing it with drainage benches, the water could be directed away to Garin Avenue.

Vice Chair Lavelle closed the public hearing at 8:56 p.m.

Commissioner Sacks noted that in 2005 she voted against the project because there was not enough geotechnical or drainage information. She later learned from the U.S. Geological Survey that the San Francisco Bay Area is the ideal habitat for slides because of steep slopes, weak rocks and intense rain storms. However, Ms. Sacks felt that the project would benefit the entire area. In reference to traffic, she indicated that the number of proposed units would not have a great impact on traffic. She was concerned about compacting soils and the resulting vibrations on Larrabee Street, but she was confident that the conditions of approval would mitigate such concerns. She did not think that exceeding the 25 percent natural slope was enough reason to oppose the project. She added that the privacy factor is not always guaranteed regardless of the type of project. She thought that asbestos and serpentine were important considerations that were included in the report. She further indicated that when determining the pros and cons of the project, she felt more inclined to approve the proposal as long as due diligence is exercised when approving it. She made a motion recommending approval of the project per staff recommendation.

Commissioner McKillop seconded the motion. Ms. McKillop asked staff for clarification about the comment made by Mr. Newfield in reference to “sewer pop-off valves.” Planning Manager Rizk was not familiar with the concept, but he indicated that the sewage was going to cross the fault trace, except not at the proposed site, but along Garin Avenue. Commissioner McKillop indicated that she met with the applicant in 2005 and at that time she thought the project was attractive and now it was improved after the CEQA review was conducted.

Commissioner Mendall indicated he was pleased with the drainage improvements that would be done as a result of the project. From his personal experience having seen landslides, he noted that a hillside with a 25 percent natural slope or greater, was not stable and therefore not a safe place to build homes. He concurred with the sentiment voiced by Mr. Ihle, but he also considered the improvements proposed. He added that other projects have not proven to be safe regardless of assurance measures taken. Lastly, he expressed mixed feelings about the project.

Commissioner Loché noted that he was not present when the project was first heard. He indicated that it was an attractive and well done project and he was impressed with the way it was put together; however, he did not agree with the proposed location because of the closeness of the fault trace. Therefore, he did not support the motion.

Vice Chair Lavelle thanked the audience for the input and the professionalism shown by the Zaballos organization. Ms. Lavelle noted that she did not support the project the first time it was heard because she did not agree that homes should be built on slopes steeper than allowed by law. She added that it was not appropriate to build uphill units too close to the Hayward fault trace. She also indicated that she might feel differently if the houses were built on flat land, had less units, and there was 100 percent assurance that there would not be slippage. She did not support the motion.

Commissioner Sacks moved, seconded by Commissioner McKillop, and failed with the following vote, to recommend that City Council adopt the Initial Study, Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, pursuant to the California Environmental Quality Act (CEQA) and; approve the Zone Change, Preliminary Development Plan, Vesting Tentative Map, and abandonment of right-of-way, subject to the findings and conditions of approval.

AYES:	Commissioners McKillop, Sacks
NOES:	Commissioners Mendall, Loché Vice Chair Lavelle
ABSENT:	Commissioners Thnay Chair Peixoto
ABSTAINED:	None

As a result of the motion, Assistant City Attorney Conneely stated that the application would go before City Council without a recommendation from the Planning Commission.

Chair Peixoto returned to precede the meeting.

We the people of this petition are strongly opposing and discouraging the 30 townhouses that are planned to be built between Larrabee St. and Clearbrook Circle In Hayward California.

Print Name	Signature	Address	Phone/E-mail	Date
1. David Sakata	<i>David Sakata</i>	29862 Larrabee St. Hayward	(510) 582-5791 E-mail: DSAKATA@AOL	6/11/08
2. Sid Grant	<i>Sid Grant</i>	29884 Larrabee St	510-537-3906 SIDGRANT2@AOL	6/11/08
3. KAREN DICKINSON	<i>Karen M</i>	29916 LARRABEE ST	510-733-5546 wbbfan2005@yahoo	6/11/08
4. Kelly Mazer	<i>Kelly Mazer</i>	29916 LARRABEE ST	"	6/11/08
5. James Stuart	<i>James Stuart</i>	29934 Larrabee St	510-7270332	6/11/08
6. Evelyn WNUKOWSKI	<i>Evelyn WNUKOWSKI</i>	29942 Larrabee St	510-538-9922	6/11/08
7. THOMAS PHAM & LEE Newfield	<i>Thomas</i>	29950 Larrabee St.	510-247-1913 NEWFIELD@Yahoo	6/11/08
8. JAMES EVELY	<i>James Evely</i>	641 GARIN AVE	(510) 449-9800	6-11-08
9. James	<i>J/E</i>	633 Garin Ave	510-477-0100	
10. Jaime	<i>Jaime</i>	609 Garin Ave	510-324-1353	6/11/08
11. Marvin Pagan	<i>Marvin Pagan</i>	647 Garin Ave	510 538 5242	6/11/08
12. RODERICK TOLENTINO	<i>Roderick Tolentino</i>	682 GARIN AVE	510-881-0307	6/11/08
13. Victor Bonilla	<i>Victor Bonilla</i>	644 Gistler Ave	510.727.0192	6/11/08
14. Glenn HASEMOTO	<i>Glenn Hasekoto</i>	660 GISTLER WAY	510 538 2990	6/11/08
15. Faye Hoffman	<i>Faye Hoffman</i>	668 Gistler Way	510-538-4546	6/11/08
16. Patricia Burnside	<i>Patricia Burnside</i>	676 Gistler Way	510-537-3863	6/11/08
17. Nancy Pearson	<i>Nancy Pearson</i>	684 Gistler Way	510-538-8758	
18. Roger DeFrancis	<i>Roger DeFrancis</i>	661 BARRON WAY	510374-2058	6/11/08
19. LUIS	<i>Luis</i>	629 BARRON WAY	9378871	6/11/08
20. Javier Miramontes	<i>Javier Miramontes</i>	621 Barron Way	510-862-6283	6/11/08

I, David S. Sakata, was the petitioner of this petition.

29862 Larrabee St.
Hayward Ca. 94544
(ph. no.) (510)-582-5791

Signed,
David S. Sakata

We the people of this petition are strongly opposing and discouraging the 30 townhouses that are planned to be built between Larrabee St. and Clearbrook Circle in Hayward California.

	Print Name	Signature	Address	Phone/E-mail	Date
21.	GRACE	Basso	29894 LARRABEE ST	510 863 637	6/1
22.	Gina Riccomi	Gina Riccomi	638 Barron Way	537-5940	
23.	NICK	Nick Pannun	687 Woodland Ave	581-3072	6/12
24.	ARIEL ^{WINDS}	ARIEL WINDS	679 Woodland Ave.	510 886-2441	6/12
25.	Jahn	Wundes	679 Woodland Ave.	910 886 2441	6/12
26.	DIEGO	Diego Reyes	663 Woodland Ave	no ↓	
27.				538 2261	6/12
28.	William Gardner	William Gardner	29844 VANDERBILT ST HAYWARD CA	billgardner@att.net	5/12
29.	WILLIAM RAYNB	William R	29998 VANDERBILT ST	247-9565	6/12
30.	MARIA BARAJAS	Maria Barajas	680 Woodland Ave	887-7968	6/12
31.	HIKOSHI SAKATA	Hikoshi Sakata	29717 Woodland St.	537-3297	6/12
32.	MARY SOTELO	Mary Sotelo	691 Fiesta Pl. ^{Hay-} wood	881-0824	6/12
33.	Anna Nobrega	Anna Nobrega	741 Chery Chase Way Hayward	386-3580	6/12
34.	Peter DeRose	Peter DeRose	675 Fiesta Pl Hayward	11	6/12
35.	Tom Bradford	Tom Bradford	674 Woodchuck Pl Hayward CA 94544	(510) 582-1194	6/12
36.	Thomas Bradford	Thomas Bradford	674 Woodchuck Pl Hayward CA 94544		
37.	Mary Bradford	Mary Bradford	686 Woodchuck Pl Hayward CA 94544	(510) 531-6361	6/12
38.	Eusebia Hernandez	Eusebia Hernandez	683 Woodchuck Pl. ^{Hay-} wood	(510) 754-4607	6/12
39.	Larry Taylor	Larry Taylor	685 Woodchuck Pl Hayward	510 581-5009	6/12
40.	Tim Moore	Tim Moore	681 Woodchuck Pl Hayward	(510) 880-8310	6/12

I, David S. Sakata, was the petitioner of this petition.

29862 Larrabee St,
Hayward Ca. 94544
ph. no. (510)-582-5791

Signed,
David S. Sakata

We the people of this petition are strongly opposing and discouraging the 30 townhouses that are planned to be built between Larrabee St. and Clearbrook Circle in Hayward California.

Print Name	Signature	Address	Phone/E-mail	Date
41. Debbie Wiseman		70 Woodland Ave ⁹⁴⁵⁴⁴	510 582 4169	6-14-08
42. Iamin		398787 Larrabee St	510 2583-560	6/14/08
43. Rosa		29508 Larrabee	510 582-4270	6-6-08
44. THUAN NGUYEN		29870 LARRABEE ST	(510) 586-3641	
45. THOMAS W. WILLIAMS		658 GLENVALE AVE	(510) 471-1983	
46. SCOTT LARSON		618 GLENVALE AVE	510 471-8664	6-17-08
47. ALISHA HANDANI		610 GLENVALE AVE	(510) 598-299-5557	6/17/08
48. Juan Sandoval		723 Glenvale Ave.	(510) 471-1224	6/17/08
49. Thuan Nguyen		628 Cherry Chase way	510 407-1831	6/17/08
50. Jesus Vazquez		653 Cherry Chase way	(510) 477-0410	6-17-08
51. Ray Concer		633 Cherry Chase Way	510 429 9459	6-17-08
52. Gloria Low Rouse		421 GARIN AVE	510/489-3228	
53. Jim ABETTA		673 Garin Av	810 441-4798	
54. Deborah Birn		649 Garin Ave	510-471-1749	6-17-08
55. SHANN FORSYTH		626 GARIN AVE	510-585-1200	6-17-08
56. Jessica Pangill		674 Garin Ave	510-588-6899	6-17-08
57. Rene G.		627 Gistler Way	N/A	
58. Laurie Blue		612 Gistler Way	510 538-6853	
59. Claudia Rivas		685 Barron Way	510 588-0979	
60. MYRNA STEPHENSON		677 Barron way	510 538 6762	6/17/08

I, David S. Sakata, was the petitioner of this petition.

29862 Larrabee St,
Hayward Ca. 94544
ph. no. (510)-582-5791

Signed,

We the people of this petition are strongly opposing and discouraging the 30 townhouses that are planned to be built between Larrabee St. and Clearbrook Circle in Hayward California.

Print Name	Signature	Address	Phone/E-mail	Date
61. Ana Rojas	<i>Ana Rojas</i>	29854 Larrabee ST.	(510) 582-1247	6/20/08
62. ANU SAMBATH	<i>Anu Sambath</i>	942 Silver Birch	510-4328499	6-24-08
63. SAMBATH	<i>Sambath</i>	942 Silver Birch	510-7320623	
64. KINGSTON	<i>Kingston</i>	646 Barron Way, Hayward	(510) 881-9099	6/20/08
65. LAURIE PRICE	<i>Laurie Price</i>	614 Barron Way, Hayward	510-427-3839	6/24/08
66. CONNIE STANTON	<i>Connie Stanton</i>	29932 Vanderbilt St.	510 3059009	6/20/08
67. FATAWA KOTZAD	<i>Fatawa Kotzad</i>	29193 Holiday St	(510) 368-6437	6/29/08
68. CLYDE RIDENOUR	<i>Clyde Ridenour</i>	659 Gisher Way, Hay	510 583-5832	6-29-08
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I, David S. Sakata was the petitioner of this petition.

29862 Larrabee St.
Hayward Ca. 94544
ph. no. (510)-582-5791

Signed,
David S. Sakata

To: Hayward Planning Commission
From: Larrabee Street Residents
26 June 2008
Subject: PL-2003-0656

Sirs:

We, the residents, of Larrabee Street would like to see this project halted. After reviewing the reports from both Mr. Rizk and Mr. Koonze, we conclude that the risks and losses from this project outweigh the benefits, for the following reasons.

1. Hillside slump and geological concerns - At least twice a year, a University of California East Bay geology class is conducted on Larrabee St. to show ground creep to the students. Adding 40,000 cubic yards of compacted fill and housing to the slope would exacerbate this problem. The details of the planned abatement of this problem have not been made available to us and are probably inadequate.
2. Traffic and emergency access - Clearbrook Circle, and the emergency access both exit onto Garin road. There is no alternative route to the new development or the many developments already in that area, which use this single two-lane road. One accident, one down tree, one fire and the areas will be cut off. The comment that this is a relatively small development is a slippery slope argument that has been used by the last three developments. There clearly would be an increase in traffic to the area and an alternate route is necessary.
3. Wildlife habitat: - There are many creatures that live in or use the proposed building area, Deer, foxes, raccoons, turkeys, owls, hawks, turkey vultures, is just a partial list of the larger creatures. We like these creatures as neighbors, they add to the charm and character of the area. It is unfortunate that the city only takes into account federal and state requirements concerning our furry neighbors.
4. Privacy concerns - Some of the proposed units will have direct views into our back yards and bedroom windows.

We realize that the City of Hayward would receive \$300,000.00 per year in property taxes from this project and that there is a predisposition by the planning commission and the city to approve the project. We want the following mitigations to be included in the project.

1. The Geologic hazard abatement district specifically include all of the houses on Larrabee Street, and accept liability for slump, runoff, and all other geological risks raised by this project in perpetuity.
2. Larrabee Street be closed off at Garin Avenue. This would reduce the traffic flow and accidents at this corner.

3. Sewer pop-off valves be installed at Larrabee Street and all downhill houses at the developers expense. We are not as positive as the developer that the 40 year old sewer system is adequate for the task.
4. Parking during construction be forbidden on city streets.

We reached these conclusions during a neighborhood meeting.

Larrabee Street residents.

June 23, 2008

To
Mr. Tim Koonze,

Hello, I am writing to you about the 30 townhomes that are planned to be built between Larrabee St. and Clearbrook Circle. I, David Sakata, lives on 29862 Larrabee St. Hayward Ca..

My father, the late Tamio Tom Sakata, built my house in 1966. That makes my house 42 years old. It was my house and a few others that was the birth of Larrabee St.

There is a major concern about erosion to Larrabee St.. It is evident and significant that there is already too much erosion already. We know this by seeing too many cracks on the street, driveways, patios and other concrete fixtures. If you go to the middle of Larrabee St. you can see the street curb shifted about 1 foot over the years.

I am speculating if the townhomes pass. It is going to worse the erosion for Larrabee St.. Leading that it will definitely damage the homes. If that happens our re-sale value to our houses will go down.

The habitat, deer, wild turkeys, birds, raccoons, squirrels, hawks, possums and foxes are being threatened also. There is not a day that goes by where I don't see at least 3 of them from my backyard.

Why build so close to the Hayward fault line? In the past few months there was a commotion on the local news that they are speculating a major earthquake, on the Hayward fault line, in the next several years.

Privacy, is a major concern for me also. If you don't know on my part of Larrabee St. there is a hill directly behind my backyard. If the townhomes sit on that hill. Every person will be looking down on my backyard. Which is a major invasion of privacy.

There are also a lot of others concerns. Such as, pollution, congestion, and rezoning.

I also like to add that the scenery from the back of our houses on Larrabee St. is very pleasant.

Please take all my reasons into consideration and stop the development of the 30 townhomes.

Yours Sincerely,

David S. Sakata

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 08-_____

Introduced by Council Member _____

mel
7/17/08

RESOLUTION ADOPTING THE INITIAL STUDY,
MITIGATED NEGATIVE DECLARATION AND RELATED
MITIGATION MONITORING AND REPORTING PROGRAM
AND APPROVING ZONE CHANGE APPLICATION NO. PL-
2003-0656, PRELIMINARY DEVELOPMENT PLAN AND
VESTING TENTATIVE MAP TRACT 7478/PL-2003-0659

WHEREAS, Zone Change Application No. PL-2003-0656 and Vesting Tentative Map Tract 7478/PL-2003-0659 submitted by Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners), concerns a request to change the zoning from Medium Density Residential (RMB 3.5/SD-5) District to Planned Development (PD) District and to subdivide 6.3 acres to build 30 townhomes on property located north of Garin Avenue, east of Larrabee Street, west of Clearbrook Circle and south of Woodland Avenue (the "Project"); and

WHEREAS, during the June 26, 2008, Planning Commission hearing, at which five Commissioners participated (one absent, one abstention), a motion to recommend approval of the Project failed by a 2-3 vote, and the Project is being forwarded to the City Council without a recommendation from the Planning Commission; and

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

WHEREAS, on July 12, 2008, notice of public hearing was published in the Daily Review as required by law .

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

CEQA

1. The Project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA), and an Initial Study has been prepared for the Project. The Initial Study tiers off the Mission-Garin Annexation Project Program Environmental Impact Report, certified by the City in July, 2003 (SCH # 2002072047). The Initial Study has determined that the Project, with the recommended mitigation measures, will not result in significant effects on the environment, and a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been prepared.

Zone Change- Planned Development

2. 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 policies and designations of the City's General Plan, Zoning Ordinance, including the Mission-Garin Special Design District, and the City's Hillside Design Guidelines.

3. The Project meets the land use policy expressed in the General Plan to promote infill development that is compatible with the overall character of the surrounding neighborhood. The Project, with a density of 5.1 units per acre, allows infill to occur at a density that is compatible with the surrounding area. To the north is the approved Garin Vista Development, which consists of single-family homes on properties that range from 3,000 square feet to 7,745 square feet. To the northeast are the Oak Hills Apartments, consisting of 148 units on 14.4 acres, at a density of 10.3 units per acre. To the southeast and west are single-family residential developments at densities of to 1.9 to 5.4 units per acre.
4. The proposed density of 5.1 dwelling units per acre is consistent with the General Plan Designation of Limited Medium Density (8.7-12 units per net acre) and the underlying zoning designation of Medium Density Residential (RMB 3.5), which allows up to 12 units per acre.
5. The proposed zone change encourages visual integration of projects of different types or densities through the use of building setbacks, landscaped buffers, or other design features. The Project, located in an area sensitive to hillside development, proposes clustering development at a lower density than that allowed by the underlying zoning. The cluster type design allows the construction to take place on a smaller percentage of the property, which creates more undeveloped open space and leaves a higher percentage of undisturbed natural slopes.
6. The Project meets the land use purposes expressed in the Zoning Ordinance to allow for the infill and reuse of areas at their prevailing scale and character and accommodate expansion of development into vacant and underutilized lands within environmental and infrastructure constraints. The Project meets the above land use purposes by creating an infill development on an underutilized parcel at a density that is consistent with existing densities in the area. The existing and proposed utilities and roads can adequately serve the development of these underutilized parcels. Also the Project is compatible with environmental constraints, as noted in the Mitigated Negative Declaration.
7. Streets and utilities, existing or proposed are adequate to serve the development in that Clearbrook Circle and Garin Road have adequate capacity to serve the Project and there are adequate storm drain, sanitary sewer, and water services available to serve the Project.
8. The Project creates a residential environment of sustained desirability and stability, with sites proposed for public facilities, such as playgrounds and parks, that are adequate to serve the anticipated population and are acceptable to public authorities having jurisdiction thereon, and the development will have no substantial adverse affect on the surrounding development. The Project creates a residential environment of sustained desirability in that the units are well designed, and by clustering the residences, the Project can accommodate two

centrally-located group open space areas totalling 3,000 square feet: a 1,750 square foot barbeque/picnic area and a 1,250 square foot tot lot. These areas are adequate to serve the proposed number of units. In addition, the Project is within walking distance of Garin Park which is located less than one-half mile to the east. A varied contemporary architectural style is proposed for both the uphill and downhill units. Both designs incorporate "staggered" units with varying front and rear elevation planes, which would help break up the massing of the structures. The units would have a stucco exterior complimented with stucco stone accents. Roofs are proposed to be visually broken up with a mixture of hips and gables surfaced with composition shingles. The proposed trellises over the rear patios and the fact that the patios would be at grade level will help them appear to be subordinate and integrated into the overall building design, rather than appear to be visually detached as separate elements. To further help break up the mass of the buildings, the uphill units would have second story balconies over the garages to help soften the three story element. The downhill units utilize gabled dormers along the ends and at the rear of the buildings and "pop-outs" along the end wall, to further reduce their visual massing. The trellises would further help reduce the bulk of the structures. Other architectural elements include stucco coated foam trim and decorative bands. Prior to issuance of a building permit the Planning Director would approve the color and materials for the project to ensure the colors are earth tones and compatible with the site setting.

9. Any latitude or exception(s) to development regulations or policies is adequately off-set, or is compensated for, by providing functional facilities or amenities not otherwise required or exceeding other required development standards. Rezoning the property to Planned Development allows for cluster development that encroaches onto slopes greater than 25 percent and contains a fire truck turnaround located that encroaches into the adjacent property. Clustering development on hillsides minimizes grading and allows for concentrated placement of development to have less impact on the whole of the property, while also allowing units to be located more than the minimum 50 foot distance from the active fault of the Hayward fault trace. The cluster design also allows for the development to be concentrated towards the center of the site, creating a larger undeveloped area around the proposed improvements, minimizing the impact to surrounding development and establishing a larger separation between the proposed units and the existing single-family homes on Larrabee Street. The Project would help to increase the variety of housing types within the Mission-Garin neighborhood, which is developed with primarily single-family dwellings on standard or large parcels. The townhouses would allow for home ownership opportunities for people would like to live in the hills, but cannot afford the typical single-family detached home.

Vesting Tentative Map

10. 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.
11. Upon completion of remediation recommended by the project Geotechnical Engineer, the site is physically suitable for the proposed type of development.

12. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
13. The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
14. Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the Project.
15. None of the findings set forth in Section 66474 of the Subdivision Map Act have been made.

BE IT FURTHER RESOLVED that, based on the above findings, the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are hereby adopted and Zone Change Application No. PL-2003-0656, the Preliminary Development Plan and Vesting Tentative Tract Map 7478/ PL-2003-0659, are hereby approved, subject to the adoption of the companion ordinance and the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2008

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

Mal
7/17/08

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH ZONE CHANGE APPLICATION NO. PL-2003-0656 RELATING TO THE PROPERTY LOCATED NORTH OF GARIN AVENUE, SOUTH OF WOODLAND AVENUE, EAST OF LARRABEE STREET AND WEST OF CLEARBROOK CIRCLE

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

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the following properties located north of Garin Avenue, south of Woodland Avenue, east of Larrabee Street and west of Clearbrook Circle, from Medium Density Residential (RMB 3.5/SD-5) District to a Planned Development (PD) District, as more specifically shown on Exhibit "A" attached hereto:

APN: 083-0254-002-03

APN: 083-0254-003-01

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 adoption.

