

EXHIBIT “F”
Findings and Conditions of Approval for PLN2012-00197 (PD)
Hirsch Residential -42800 Caldas Court

FINDINGS

The findings below are made on the basis of information presented at the public hearing and contained in the staff reports to the City Council dated February 5, 2013, incorporated hereby.

Planned District Establishment Findings:

- a. The proposed P district can be substantially completed within four years of the establishment of the P district;
- b. That adequate assurance has been provided in the form of conditions of approval that each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability because the individual units are well-designed for accessibility and livability; the uses proposed would not be detrimental to present and potential surrounding uses, but would have a beneficial effect which could not be achieved under other zoning districts because the variety of unit types and styles enables appropriate individual living arrangements within the community;
- c. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and development within the existing general plan density will not generate traffic in such amounts as to overload the street network outside the P district;
- d. Exceptions from standard ordinance requirements for lot and siting standards are warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the planning commission and the city council, because the development maintains sufficient light and air between units, provides adequate separation for fire protection and firefighting, provides appropriate general building scale and placement in relation to the adjacent neighborhood, fosters a desirable pedestrian-oriented environment and neighborhood setting, promotes a reasonable physical relationship between residences, maintains privacy between neighboring properties, and results in a reduced development area that maintains the natural areas on the southern portion of the site to the maximum extent practicable;
- e. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development in that the surrounding neighborhood does not have undeveloped sites in the vicinity, and additions or modifications to existing properties will be limited to their sites and not be out of scale with this development;
- f. The P district is in conformance with the goals, objectives, and policies of the General Plan’s Land Use, Community Character, and Parks and Recreation Chapters as enumerated in the staff report;
- g. Existing utility services are adequate for the population densities proposed because the project

site is located within a developed area with utilities immediately available on the perimeter.

- h. The following additional findings are required for residential developments with lots having an area of less than six thousand square feet:
 - (1) The design and size of the dwelling units are in proportion to the size and shape of the lot in that the heights of the dwelling units are well below the height permitted by zoning, and the units are attractively articulated so as to reduce the imposition of massing;
 - (2) There is a diversity of design and structural elements within the P district in that there are a variety of contextually-designed unit types, floor plans, and architectural variations within various areas of the development as discussed in the staff report;
 - (3) Where the proposed residential P district abuts an existing residential development, the design of the proposed development is compatible with the design of the existing development because the proposed setbacks and heights of the proposed dwelling units are compatible with the surrounding properties' allowable heights and setbacks as discussed in the staff report;
 - (4) A variety of architectural designs, setbacks and lot sizes have been used wherever possible in order to avoid a monotonous streetscape and to provide a varying rhythm along the street;
 - (5) Implementation of this P district is consistent with the housing goals set forth in the general plan in that the units are proposed on an infill site consistent with General Plan policies as discussed in the report.

Vesting Tentative Tract Map Findings:

In order to approve proposed Vesting Tentative Map No. 8111, the proposed subdivision must be found consistent with the General Plan, Zoning Ordinance (FMC Section 8-1418), and the Subdivision Map Act (State law). Based on the analysis above, staff finds that the proposed Vesting Tentative Map is in conformance with the General Plan, Zoning Ordinance, and the Subdivision Map Act. However, if any of the following findings can be made, the Vesting Tentative Map shall be denied. Staff was not able to make any of the following findings to deny the map and, therefore, recommends approval of the Vesting Tentative Map.

- i. The map fails to meet or perform one or more requirements or conditions imposed by the Map Act or the Zoning Ordinance.
- j. The proposed subdivision, together with the provisions for its design and improvement, is not consistent with the general and specific plans.
- k. The site is not physically suitable for the type or proposed density of development.
- l. The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

- m. The design of the subdivision or the type of improvements is likely to cause serious public health problems.
- n. The design of the subdivision or the type of improvements will conflict with the easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

Preliminary Grading Plan Findings:

- o. The proposed project described in the application will not have an appearance, due to the grading, excavation or fill, substantially and negatively different from the existing natural appearance in that the site will be graded to permit construction of home pads, street improvement, and positive drainage, and the overall grade of the infill site outside of the hill area will remain similar to that existing.
- p. The proposed project described in the application will not result in geologic or topographic instability on or near the site because the proposed development is designed in accordance with a geotechnical report that supported the safety of development on the site as proposed.
- q. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way because the grading is specifically intended to provide for functional drainage across the site in conjunction with existing and proposed off-site improvements.
- r. The project conforms to special concerns relating to the adopted seismic safety element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology in that there are no such special concerns for this site, and the site-specific geotechnical report supports development on the site as proposed.
- s. The proposed project described in the application will not unacceptably affect the health, safety or welfare of adjacent residents or landowners, nor the citizens of Fremont because the grading is feasible in consistency with codified grading procedures, and no effects on adjacent sites are likely due to on-site grading of this urban infill site.

Tree Removal Finding:

- t. As discussed in the staff report, the project will require the removal of 75 trees located in various areas of the site. The removal of the trees is consistent with the City Tree Preservation Ordinance criteria for removal because the trees substantially impact the placement of the proposed dwellings and street improvements. The removal of the trees will not adversely affect the appearance of the subject property as new trees and landscaping will be installed. This project will comply with the Ordinance required mitigation, for the loss of the trees with payment of an in-lieu fee for the removal of the 75 trees.

CONDITIONS OF APPROVAL

General Conditions:

1. The approval of this residential development project includes the following:
 - a. Preliminary and Precise Planned District for development of 33 single-family homes per Exhibit "B."
 - b. Vesting Tentative Tract Map No. 8111 for 33 residential lots, common areas, public streets, and park dedication areas per Exhibit "D."
 - c. Preliminary Grading Plan for approximately 33,000 cubic yards of cut and 20,000 cubic yards of fill per Exhibit "E."
 - d. Site Plan and Architectural Approval for homes on the 31 standard lots per Exhibit "C." The two custom lots (Lots 22 and 33) shall be subject to Site Plan and Architectural Approval at the time they are proposed for construction.
2. Construction-level detailed plans for site improvements shall be submitted to the City for review and approval to ensure conformance with conditions herein, as well as with applicable laws and regulations. The development shall comply in all respects with all applicable provisions of the Fremont Municipal Code, State, and federal law at the time of building permit and on an ongoing basis.
3. The applicant shall submit a final color and material palette for the project (including all siding, trim, roofing, and both entry and garage doors) to the Planning Division as part of the building permit application submittal for review and approval by the Planning Manager. At the building permit stage, the applicant shall show design palette elements for all home elevations, including for the rear and side elevations.
4. The applicant shall submit an application to the City's GIS Division for the addressing of the project. The addressing application shall be submitted concurrently with the final map or building permit application, whichever occurs first. Addressing shall be approved prior to building permit issuance. If secondary dwelling unit options are chosen for the eight plan three units, the applicant shall apply for and receive addresses for each of those units during building permit review.
5. The multi-generational space within the Plan Three units on Lots 3, 7, 9, 12, 19, and 32 shall be either provided as a secondary dwelling unit in accordance with the City's Zoning Ordinance, or a notice of limitation shall be recorded prior to building permit issuance requiring payment of impact fees and compliance with other City requirements prior to conversion to a secondary dwelling unit. The multi-generational spaces within Lots 14, 17, and 30 shall not be converted to secondary dwelling units because they do not meet the minimum lot size requirements. The second front doors shall not be included on Plan Three units that are not converted to secondary dwelling units.
6. The applicant shall apply for and comply with all applicable provisions of any permits required from any state, regional, or local agencies, including, but not limited to, Alameda County Water District and Union Sanitary District.

7. Minor modifications to the floor plans and elevations may be made subject to review and approval of the Planning Manager if such modifications are in keeping with the intent of the original approval. However, the Planning Manager may refer any modification to the Planning Commission when they find that the request is of such a nature that it warrants consideration at a public hearing.
8. The design of homes on the two custom lots (Lots 22 and 33) shall be governed by the following standards, subject to review and approval by staff of Site Plan and Architectural Review. Site Plan and Architectural Review shall take into account general consistency of the plan with the Planned District. The Planning Manager shall have the discretion to refer the design to Planning Commission for review and approval if the design varies substantially from the overall Planned District design.
 - a. Setbacks shall generally be larger than the minimums required for the remainder of the subdivision, with a minimum of 10 feet for the front yard, six feet for each side yard, with a minimum of 18 feet combined side yards, and 20 feet for the rear yard. The floor area ratio shall not exceed 0.5 for each lot.
 - b. The single-family home on Lot 33 shall be a one-story house or primarily one-story in character as viewed from the street.
 - c. Architectural styles, colors, materials, and finishes shall be contextual with the homes on the standard lots.
9. The final building permit plans as approved shall include, as reference, the Landscape Plans approved through the Final Map Improvement Plan Review.
10. The Landscape Plans included in the Planned District Plans are conceptual in nature. Landscape construction documents shall be submitted with Final Map Improvement Plans for review and approval, indicating full details.
11. This project is subject to Development Impact Fees collected by the City under the authority of the Mitigation Fee Act. These fees include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact, and shall be paid at the fee rates in effect prior to building permit issuance. The applicant shall be eligible for a credit for a portion of the park land dedication and park facilities fees based upon dedication and improvement of the park parking lot and trailhead facility.
12. The applicant shall mitigate the removal of 75 protected trees pursuant to Tree Preservation Ordinance. An in-lieu fee shall be paid at the time of building permit issuance for the 75 private protected trees that will be removed ($\$250$ per tree \times 75 = $\$18,750$). The amount of the fee equals the per unit cost to the City for a 24-inch box tree as established by the City's last award of a contract following a competitive bid for such work. The trees shall be irrigated and maintained by the home owners association upon project completion.
13. Tree No. 37 (71-inch blue gum eucalyptus) shall be preserved in place. The design of grading and wall placement in its vicinity shall be subject to review and approval of the City Landscape Architect.

14. The project shall be subject to compliance with all applicable provisions of the Affordable Housing Ordinance. In particular, the applicant shall comply with affordable housing requirements by payment of in lieu fees in accordance with City Council Resolution No. 2010-35.
15. Pursuant to Government Code Section 66474.9, the Subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this project, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
16. These conditions of approval shall be binding upon the applicant, future property owners within the site, and all successors in interest.

Special Project Considerations:

17. The subdivider shall grant Lot C to the City for incorporation into Sabercat Historical Park. The subdivider shall prepare the plat and legal descriptions for the grant deed. The deed shall be recorded prior to or concurrently with the recording of the final map.
18. No exterior additions to the residential structures, including the addition of pre-manufactured sunrooms, shall be permitted. This requirement shall also be included in the CC&Rs for the project.
19. The exterior parking of boats, campers, and trailers on the site are prohibited. In no event shall storage of household goods preclude the parking of vehicles in a garage. All new occupants and property owners at the time of purchase or lease shall receive a separate notice on bright color paper of this condition. This requirement shall also be included in the CC&Rs for the project
20. All roof-mounted and other mechanical equipment shall be screened from view from adjacent public rights-of-way and internal private streets.
21. An approved arborist shall assist the design team and City staff during the preparation of construction documents and during construction to preserve and maintain the existing trees. The arborist shall also prepare Preservation and Maintenance Manual submitted with Tract Improvement Plans for ongoing preservation and maintenance of the trees.
22. The location of all proposed trees shall be coordinated with existing trees to compliment rather than compete with the existing trees.
23. The design of the bioretention planters adjacent to Lots 10 and 33 shall be enhanced with additional plantings and the inclusion of natural or architectural elements to create an enhanced landscape character at the entrance to the development.
24. Each lot shall include one medium to large canopy street tree. All street trees shall be a minimum 24-inch box size with the final tree selection approved by the Urban Forestry Manager.

25. The design of the trailhead parking lot shall be generally as shown on the Conceptual Plan, and shall include an enlarged overlook area with a restroom, bike rack, trash and recycling containers and an interpretative sign. The perimeter of parking lot shall be bounded by a low stone faced wall with a cast stone cap. All other site retaining walls shall be segmental split-faced gravity retaining walls or natural rock walls of a design and color that minimizes the visibility of the walls on the hillside.
26. The developer shall pay the City \$10,000 for establishment of an endowment fund to provide for ongoing gate maintenance prior to granting the park facility to the City.
27. The open space easement areas on the southern side of the site shall be bounded by a view fence such as a wire fence or cattle fence. Solid fences shall not be permitted in areas further than 20 feet from the buildings.
28. A four-foot high view fence shall be installed on top of the low retaining wall along the back of Lots 22 through 33 to separate the private rear yards from the open space easement area.
29. Additional native oak trees shall be planted in a naturalistic pattern and in compliance with wildfire management requirements within the open space easement and open space areas. The naturalistic design of these areas shall provide an attractive transition from the woodland area below to the built environment above. An automatic underground irrigation system shall be installed to irrigate the native plantings.

Mitigation Measures:

30. **Mitigation Measure 1: Dust Control:** Prior to the issuance of a permit, the following best management practices shall be included in a dust control plan and noted on construction plans with a designated contact person for on-site implementation of the dust control plan.
 - a. Water all active construction and site preparation work areas at least twice daily and more often during windy periods.
 - b. Cover all hauling trucks or maintain at least two feet of freeboard.
 - c. Pave, apply water at least twice 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 and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
 - e. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas
 - f. Enclose or cover securely exposed stockpiles.
 - g. Replant vegetation in disturbed areas as quickly as possible.
 - h. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.
31. **Mitigation Measure 2: Congdon's Tarplant:** If the first grading, clearing, or ground disturbance on the site occurs after June 2013, focused plant surveys shall be conducted on the property between the months of June through November for Congdon's tarplant according to California Department of Fish and Game (CDFG) Protocols for Surveying and Evaluating Impacts to

Special Status Plant Populations and Natural Communities. If any plants are found, the applicant shall work with a professional biologist and follow protocols to reduce potential impacts from plant removal.

32. **Mitigation Measure 3:** Burrowing Owls: No more than 14 days prior to any ground disturbance activities, a qualified biologist will conduct a take avoidance survey for burrowing owls. If no owls are found during this first survey, a final survey will be conducted within 48 hours prior to ground disturbance to confirm that burrowing owls are still absent. If ground disturbing activities are delayed or suspended for more than 14 days after the initial take avoidance survey, the property will be resurveyed. All surveys will be conducted in accordance with CDFG guidelines.

If burrowing owls are found on the property during the surveys, mitigation will be required in accordance with CDFG guidelines. If the surveys identify breeding or wintering burrowing owls on or adjacent to the property, occupied burrows will not be disturbed and will be provided with protective buffers. Where avoidance is not feasible, an exclusion plan will be implemented to encourage owls to move away from the work area prior to construction. The exclusion plan will be subject to CDFG approval and monitoring requirements. Compensatory mitigation would also be required either by CDFG as part of the approval of an exclusion plan or through the CEQA review process.

33. **Mitigation Measure 4:** Nesting Birds: If construction during the nesting season cannot be avoided, preconstruction surveys for native birds that may nest on or adjacent to the property shall be conducted within 20 days of project commencement. If active nests are found, appropriate buffer zones during construction shall be established in consideration of the surroundings and proposed activities. The typical setback would be 50 to 250 feet, depending upon species.

34. **Mitigation Measure 5:** Noise Study: Prior to permit issuance for the single-family homes within the 65 dB(A) 2030 traffic noise contours on General Plan Diagram 10-9, the developer shall prepare a noise study addressing the site-specific attributes of the site and identify appropriate acoustic treatment and building systems to meet the General Plan noise requirement.

Vesting Tentative Tract Map No. 8111 and Preliminary Grading Plan:

35. The project shall conform to Exhibit "D" (Vesting Tentative Tract Map 8111), all conditions of approval set forth herein, and the conditions of approval of Planned District P-2012-197.
36. Approval of this Vesting Tentative Map shall be effective only after City Council approval of Planned District P-2012-197 and adoption of a [Mitigated](#) Negative Declaration under CEQA.
37. Approval of this Vesting Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act. This tentative map shall expire twenty-four (24) months after the date of tentative map approval unless tentative map extensions are approved in accordance with the Subdivision Map Act.

38. This Vesting Tentative Map may employ multiple phased Final Maps, which shall be prepared in accordance with state and local laws. Prior to the approval of a phased Final Map creating a lot for development of a residential structure, the subdivider shall improve or agree to improve, in accordance with the Subdivision Ordinance, all streets, thoroughfares, public ways, utilities, and easements, in the subdivision and adjacent thereto as required to serve said lot.
39. The final map and subdivision improvement plans shall be submitted to the Engineering Division for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
40. The developer shall dedicate right-of-way and install complete street improvements for Castillejo Way and Street "A," as shown on the Vesting Tentative Map. All required dedications and street improvements are subject to review and approval of the City Engineer prior to Final Map approval. The following are the minimum dedication and street improvement requirements for these public streets.
 - a. Castillejo Way shall extend from the existing terminus to Via Orinda as a minor residential street with a right-of-way of 56 feet and pavement width of 34 feet. Along Parcel C, right-of-way width shall be reduced to 40 feet with a pavement width of 24 feet and five-foot wide monolithic sidewalk on both sides. Street improvements shall include, but are not limited to: installation of pavement, curb, gutter, sidewalk, driveways, landscape, irrigation, street lights, fire hydrant and utility mains and services.
 - b. Street "A" is a residential hill area cul-de-sac street with right-of-way width of 40 feet, a pavement width of 32 feet, and sidewalk only on one side of the street. Street improvements shall include, but are not limited to: installation of pavement, curb, gutter, sidewalk, driveways, landscape, irrigation, street lights, fire hydrant; utility mains and services.
41. A minimum six-foot wide public service easement shall be dedicated all the public street frontage of the subdivision. Project entry and monument signs and walls shall not be located within the public service easement.
42. All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within an appropriate utility easement or public service easement.
43. Prior to demolition, excavation and grading on any portion of the project site, all underground obstructions (i.e., debris, septic tanks, fuel tanks, barrels, chemical waste) shall be identified and removed pursuant to federal, state and local regulations and subject to the review and approval by the City's Hazardous Materials Division. Excavations shall be properly backfilled using structural fill, subject to the review and approval of the City Engineer.
44. The subdivider shall provide a Mylar copy and an electronic copy (in PDF format) of the map after the map is recorded. The subdivider shall provide a Mylar copy and an electronic copy (in PDF format) of the subdivision improvement plan record drawings prior to City Engineer approval and acceptance of the constructed subdivision improvements.

45. The subdivision improvement plans shall include storm water treatment plans and calculations that comply with Planned District P-2012-197 and that identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff.
46. The provided Storm Water Control Plan is approved in concept only. Final approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with the Municipal Regional Municipal Stormwater Permit, subject to City Engineer approval prior to recording the final map.
47. An Operations and Maintenance (O&M) Agreement for Stormwater Treatment shall be submitted to the Environmental Services Division for review and acceptance during the tract map improvement plan review process:
48. Common area subdivision improvements and all other subdivision improvements owned or maintained by the property owners association shall be subject to review and approval by the City Engineer prior to final map approval. Such improvements shall include, but are not limited to: 42-inch RCP underground piped storage hydro-modification facility within Castillejo Way, site retaining walls, graded slopes, trees, landscaping, irrigation, bioretention planters, storm drain pipes and appurtenances, concrete interceptor ditch and generally all proposed improvements within Parcel A and B. The developer shall bond for these common area improvements in accordance with FMC Section 8-1426.
49. All existing buildings within the proposed subdivision shall be demolished prior to recording the final map.
50. The area between the exposed face of the uppermost retaining wall along Lots 22 through 28, and Lots 32 and 33 and the northern lot line of Parcel A, and the area within Parcel A, shall be reserved as an open space easement. Said lot owners shall relinquish their right forever to construct buildings, structures, or formal landscape improvements within this open space easement. The developer shall install landscaping in this area that shall be maintained in a naturalistic manner consistent with the aesthetic of a natural slope.
51. The subdivider shall prepare the plat and legal description for the roadway easement over City of Fremont property in the vicinity of the Via Orinda terminus (portion of APNs 513-0709-006-00 and 525-0425-032-01). The roadway easement shall be recorded prior to the final map.
52. The subdivider shall prepare the plat and legal description for the vacation of an existing 15-foot wide roadway easement for temporary turnaround purposes along the western side of the Castillejo Way terminus. The resolution of vacation shall be recorded prior to the final map.
53. The subdivider shall prepare a plat and legal description for the vacation of a portion of the existing 20-foot-wide easement (EVAE, PUE, and WLE) within City property near the Via Orinda terminus. The subdivider shall also prepare the plat and legal description for the new realigned easement, based upon the final design of the parking lot on Lot C.

54. The subdivider shall revise the Private Storm Drain Easement (PSDE) alignment as it may be necessary for the final parking lot and street design over City property in the area of the connection point of the extension of Castillejo Way to the terminus of Via Orinda. The subdivider shall cause the preparation of the legal description and plat for the quitclaim and replacement of the PSDE, as it may be required.
55. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
56. The developer shall request PG&E to commence with the design of the utility underground work for the proposed development after the Planning Commission approval of Vesting Tentative Tract Map No. 8111.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

CC&Rs:

57. Each buyer shall sign an acknowledgment that he/she has read the constitution and bylaws of the required Homeowner's Association and the conditions, covenants and restrictions applying to the development.
58. Developer shall provide a complete set of construction plans to the Homeowner's Association at the time of its formation.
59. The applicant shall include language in the CC&Rs to ensure that all trees adjacent to the public street frontages shall be maintained in accordance with the Best Management Practices for Pruning (International Society of Arboriculture, 2002) and adhere to the most recent editions of the American National Standard for Tree Care Operations (Z;133.1) Pruning (A300).
60. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for earthquake induced landslides. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The disclosure statement shall also indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.

Preliminary Grading Plan:

61. The project shall conform to Exhibit "E" (Preliminary Grading Plan) and all conditions of approval set forth herein.
62. Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map No. 8111. Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Tract Map No. 8111.
63. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
64. Site grading for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
65. The applicant shall provide an erosion control plan, as part of the project plans, subject to review and approval by the City Engineer.
66. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
67. A disposal site for the export materials or source for the import materials shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer. The import source or export destination, if within the City of Fremont, may require a separate grading permit.
68. Prior to issuance of a permit for land disturbance greater than one acre, the developer shall file a Notice of Intent (NOI) with the State of California Water Resources Control Board and receive the State assigned WDID number. The developer shall provide a copy of the approved NOI to the City and maintain a copy of the Storm Water Pollution Prevention Plan (SWPPP) at the job site.
69. The applicant shall submit a detailed geotechnical report. The report shall include recommendations regarding pavement sections. The project plans shall be designed in accordance with the required geotechnical report and final recommendations of the peer review. Grading shall be supervised by an engineer registered in the State of California to do such work.
70. The Project Geotechnical Engineer shall be retained to review and approve the final grading plans and specifications prior to permit issuance.
71. All cut and fill slopes shall be constructed to a maximum of three horizontals to one vertical (3:1).
72. The minimum drainage slope in earthen swales shall be 1.5 percent.
73. All retaining walls shall be limited to a maximum exposed height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood

retaining walls (including “kicker boards”) will be allowed for retaining walls 12-inches or less in height.

74. The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. Drainage calculations shall be submitted with the grading and drainage plans for the project.
75. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
76. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission, subject to approval of the City Engineer.
77. Soil Safety Peer Review: Prior to final grading plan approval, the applicant shall pay for City-commissioned peer review of the applicant’s soil sampling, including review of sampling locations, depths, and protocol. The applicant shall comply with all City recommendations on the project following such peer review.
78. Archaeological and Paleontological Resources: Prior to issuance of a grading permit, the applicant shall provide a note on the cover sheet of the plans that adequately notifies the contractor of applicable laws related to required notifications and actions following the uncovering of archaeological and paleontological resources. The grading shall be conducted in compliance with applicable law.

During Construction Conditions:

79. The applicant shall submit a City of Fremont Waste Handling Plan for review and approval by the Environmental Services Division before building permits are issued.
80. Construction hours shall be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
 - a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed

Prior to request for final inspection:

81. Within thirty (30) days of completion of construction of the project, the developer shall file a Waste Disposal & Diversion Report documenting the actual diversion and disposal of construction and demolition debris, along with receipts and weigh tags from the project. Failure

to comply or provide documentation may result in a penalty of \$1,000 per ton not recycled.

82. Upon completion of grading, the project engineer that prepared the final approved grading plan shall submit to the City a statement that the as-built grading conditions do not deviate from the approved plan by more than one foot of vertical elevation, subject to the review and approval of the Engineering Division prior to the issuance of occupancy permits for each structure.
83. Upon completion of construction, the project architect shall submit a letter to the City certifying that the buildings have been constructed in conformance with the approved architectural plans, subject to the review and approval of the Planning Division.
84. Upon completion of all landscape work, the project landscape architect shall submit a letter to the City certifying that the on-site and streetscape (ROW) landscaping have been constructed in conformance with the approved landscape and irrigation plan, subject to the review and approval of the Landscape Architecture Division.

END OF CONDITIONS