

RESOLUTION NO.

RESOLUTION RECOMMENDING THAT THE CITY COUNCIL  
OF CITY OF NEWARK APPROVE TTM-18-35, VESTING  
TENTATIVE TRACT MAP 8494

WHEREAS, GoldSilverIsland Homes LLC has submitted TTM-18-35, Vesting Tentative Tract Map 8498, to the City of Newark with subdivision and zoning variances covered by P-18-34, a Planned Development (PD) Overlay District and PD Plan, to allow a 10-lot subdivision for the construction on ten single-family homes at 37256 Magnolia Street, 37280 Magnolia Street and 6849 Baine Avenue; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Newark does hereby recommend that the City Council of City of Newark approve TTM-18-35, Tentative Tract Map 8494 covered by PD Overlay District and a PD Plan, P-18-34, as shown on Exhibit A, pages 1 through 21 and made part hereof by reference, subject to the following conditions:

Planning Division

- a. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- b. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- c. Measures to respond to and track complaints pertaining to construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).
- d. AC units shall not be placed in front or street side yard and if placed in any other location that makes it visible to public view, shall be properly screened with solid material.
- e. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site cleanup shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti

free.

- f. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.
- g. Prior to the issuance of a building permit, any change to the elevations submitted by the applicant as part of this application shall be reviewed and approved by the Community Development Director. Any minor changes shall be submitted for the review and approval of the Community Development Director to assure consistency with the approved project.
- h. Prior to the issuance of a building permit, any change to the floor plans as submitted by the applicant as part of this application shall be reviewed and approved by the Community Development Director. Any minor changes shall be submitted for the review and approval of the Community Development Director to assure consistency with the approved project.
- i. Prior to the issuance of a building permit, the roof material as submitted by the applicant as part of this application shall be reviewed and approved by the Community Development Director. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.
- j. Prior to the issuance of a building permit, the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The appropriate garbage, refuse and recycling service shall be approved prior to the issuance of a Certificate of Occupancy, as required by the Community Development Director. No refuse, garbage or recycling shall be stored outdoors except within the approved trash and recycling containers.
- k. Prior to the issuance of a building permit, a screening design shall be submitted to and approved by the Community Development Director. Roof equipment shall not be visible from public streets. All equipment shall be fully screened within the context of the building's architecture, as approved by the Community Development Director. Said screening design shall be maintained to the satisfaction of the Community Development Director. The building owner shall paint the roof equipment and the inside of its screening wall within the context of the building's color scheme and maintain the painted areas to the Community Development Director's satisfaction.
- l. The applicant shall carry out mitigation measures as outlined in the "Environmental Noise and Ground-Borne Rail Vibration Assessment" related to building improvements.
- m. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the

significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.

- n. There shall be no Accessory Dwelling Units (including Standard Accessory Dwelling Units or Junior Accessory Dwelling Units) allowed, unless specifically approved by the City Council.
- o. There shall be no short term rentals allowed.
- p. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster, in that order. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.
- q. The garages shall only be used for automobile parking and not for storage.
- r. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- s. Prior to final inspection and utility release for each unit, the applicant shall pre-wire each unit for satellite and cable television connections, as required by the Community Development Director. The exterior connections for the pre-wire shall be made to the roof and not on the side elevation walls of the units.
- t. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.
- u. Prior to the issuance of a building permit, any proposed fence details shall be submitted for the review and approval of the Community Development Director.
- v. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 7:00 p.m. and 7:00 a.m.
- w. Prior to the issuance of a Building Permit, the developer shall pay the following fees, in the amount in effect at the time, Park impact fee (currently \$25,700 per unit); Public Safety impact fee (currently \$3,548 per unit); Community Services/Facilities impact fee (currently \$2,376 per unit); Transportation impact fee (currently \$5,113 per unit) ; Housing impact fee (currently \$20.60 per sq.ft. for the first 1,000 sq. ft. and \$8.25 per sq.ft. above 1,000 sq.ft.); Art in Public Places and Private Development (currently \$270 per unit) and

Community Development Maintenance fee (currently 0.5% construction value).

- x. Prior to the submittal for building permit review, all conditions of approval for this project, as approved by the City Council, shall be printed on the plans.

Engineering Division

- y. The development will require approval of a final tract map filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The final map must be approved prior to the issuance of any building permits.
- z. The developer shall abandon 8-feet of public right-of-way along the Magnolia Street, Baine Avenue, and Olive Street rights-of-way with the filing of the required final map. The abandonment shall create a full street right-of-way width of 72 feet along the Magnolia Street, Baine Avenue, and Olive Street frontages. Any plats or legal descriptions required for the abandonment shall be provided by the project land surveyor or civil engineer at the request of the City Engineer.
- aa. The final map shall dedicate a 8-foot wide public utility easement adjacent to the new Magnolia Street, Baine Avenue, and Olive Street rights-of-way line as required by the City Engineer.
- bb. Prior to approval of the final map, the developer shall guarantee all necessary street improvements adjoining the development in accordance with tract improvement plans to be approved by the City Engineer. Tract improvement plans shall be submitted to the City Engineer to ensure that such improvements are designed and constructed to City Standards. These plans must be prepared by a qualified person licensed by the State of California to do such work. Street improvements shall include, but may not be limited to driveway access, public sidewalks, curb and gutter removal and replacement, frontage landscaping, pavement removal and replacement, pavement slurry seal, pavement 2-inch grind and overlay, replacement or repair of existing damaged public improvements, street lighting, undergrounding existing overhead utilities, relocation of existing signage, pavement striping, accessible curb ramp upgrades/removals, and other related improvements.
- cc. Prior to the issuance of the initial grading or any building permits for this project, the developer shall submit a Storm Water Pollution Prevention Plan for the review and approval of the City Engineer. The plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The construction phase plan shall include Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into storm water runoff from this site including, but not limited to, trash capture device maintenance, trash

and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with a permanent thermoplastic stencil with the wording “No Dumping - Drains to Bay,” and other applicable practices.

- dd. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2015-0049, revised November 19, 2015, issued to the City of Newark by the Regional Water Quality Control Board, San Francisco Bay Region. Examples of source control and site design requirements include but are not limited to: properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. A properly engineered and maintained biotreatment system will only be allowed if it is infeasible to implement other LID measures such as harvesting and re-use, infiltration, or evapotranspiration. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The design is subject to review by the Regional Water Quality Control Board. The developer shall modify the site design to satisfy all elements of Provision C.3 of the MRP. The use of treatment controls for runoff requires the submittal of a Stormwater Treatment Measures Maintenance Agreement prior to the issuance of any Certificates of Occupancy.
- ee. The project shall be designed to comply with all requirements under Provision C.3.f. of the NPDES permit for limitations on increases of peak storm water runoff discharge rates. The developer shall be responsible for providing sufficient data and calculations to show that any increase in storm water runoff from the development will not result in increased potential for erosion or other significant adverse impacts of earthen channels downstream of the project site. The required analysis for such findings shall be completed by the developer to the satisfaction of the City Engineer and the Regional Water Quality Control Board.
- ff. All stormwater inlets on the project site and in the public right-of-way along the project frontage shall be equipped by full trash capture devices approved by the Regional Water Quality Control Board.
- gg. The developer shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District. These plans must be based upon a City benchmark and need to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.

Hydrology and hydraulic calculations shall be submitted for review and approval by the City Engineer and the Alameda County Flood Control District prior to approval of the final map(s). The calculations shall show that the City and County freeboard requirements will be satisfied.

- hh. Where a grade differential of more than a 1-foot is created along the boundary lot lines between the proposed development and adjacent property, the developer shall install a masonry retaining wall unless a slope easement is approved by the City Engineer. Said retaining wall shall be subject to review and approval of the City Engineer. A grading permit is required by the Building Inspection Division prior to starting site grading work.
- ii. The applicant shall submit a detailed soils report prepared by a qualified engineer, registered with the State of California. The report shall address in-situ and import soils in accordance with the City of Newark Grading and Excavation Ordinance, Chapter 15.50. The report shall include recommendations regarding pavement sections for all public and private streets. Grading operations shall be in accordance with recommendations contained in the soils report and shall be completed under the supervision of an engineer registered in the State of California to do such work.
- jj. Prior to approval of the final map, the developer's engineer shall submit a pavement maintenance program for the drive aisles and parking areas for the review and approval of the City Engineer. The developer shall incorporate the program into the required Storm Water Pollution Prevention Plan and Storm Water Treatment Measures Maintenance Agreement.
- kk. Prior to issuance of a Certificate of Occupancy or release of utilities for any building, vehicle access ways and parking facilities serving said building shall be paved in accordance with the recommendation of a licensed engineer based on a Traffic Index of 5.0 and striped as shown on the approved site plan.
- ll. Prior to issuance of a Certificate of Occupancy or release of utilities for each dwelling unit, the on-site drive aisles and uncovered parking facilities shall be installed and striped as shown on the approved site plan. All on-site uncovered parking facilities and drive aisles shall be drained at a minimum slope of 1.0% for asphalt surfaces and 0.3% for Portland cement concrete surfaces.
- mm. The developer shall incorporate a Homeowner's Association consisting of all property owners of lands in the development at the time of incorporation and in the future for the purpose of maintaining the association's property, common drive aisles, parking facilities, stormwater treatment facilities, and landscaping, including landscaping in adjacent public rights-of-way, and for paying for security lighting, any common garbage collection services, any security patrol services, if provided, and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member

of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first.

- nn. Prior to City Council approval of the final map(s), the bylaws governing the property owners' association(s) and any declaration of covenants, conditions and restrictions (CC&Rs) filed for this development shall be reviewed and approved by the City Council at its discretion after mandatory review and recommendations by the City Attorney. Said covenants, conditions and restrictions shall be prominently displayed in the project sales office at all times. Approval of the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project. The CC&Rs shall include a pavement maintenance program for on-site pavement.
- oo. The Homeowner's Association CC&Rs shall prohibit the on-site parking of non-self-propelled recreational vehicles, including boats, and any self-propelled recreational vehicles not used for transportation unless separate storage facilities are provided. The CC&Rs shall regulate the provision of any on-site parking of self-propelled recreational vehicles used for transportation.
- pp. The developer shall also assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible to prepare a written report with recommendations to the association for managing the association's obligations and setting initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The developer shall pay all costs of incorporation and initial management review and reports.
- qq. The Homeowner's Association shall be responsible for trash and litter control and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.
- rr. The Homeowner's Association shall be required to contract with a professional management firm to handle all necessary maintenance operations. Documentation of such contract shall be submitted to the City of Newark. All commonly owned facilities shall be properly maintained in a manner consistent with the CC&Rs and project requirements.
- ss. All existing overhead utilities within the development and along the fronting Magnolia Street, Baine Avenue, and Olive Street shall be undergrounded to the nearest riser beyond the development's limits in accordance with the City of Newark Subdivision Standards.

Undergrounding shall include all existing and proposed service drops.

- tt. All new utilities including, but not limited to, electric, telephone and cable television services shall be provided underground for all buildings in the development in accordance with the City of Newark Subdivision Standards. Electrical transformers shall be installed in underground vaults with an appropriate public utility easement or within the public right-of-way.
- uu. The joint trench plan shall be submitted by the applicant with the first tract improvement plan check and approved prior to final map approval.
- vv. Any proposed utility connections and/or underground work within structurally sound street pavement must be bored or jacked. Open street cuts will not be permitted on Magnolia Street, Baine Avenue, and Olive Street unless the affected area is scheduled for a pavement overlay concurrent with site development.
- ww. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development immediately following approval of the tentative map.
- xx. The developer shall repair and/or replace any damaged public improvements along the Magnolia Street, Baine Avenue, and Olive Street rights-of-way and private improvements along the exterior boundary of the site to the satisfaction of the City Engineer.
- yy. Prior to the issuance of a building permit, the applicant shall submit a photometric plan to determine the need for a street light on Baine Avenue at the midpoint between Magnolia Street and Olive Street.
- zz. The developer shall comply with the recommendations and requirements of the sound study required by the City of Newark Planning Division.
- aaa. The developer shall upgrade the existing curb ramp at the corner of Olive Street and Baine Avenue in accordance with Curb Ramp Detail No. A88A from the Caltrans standard Plans, dated May 2016 and remove the existing curb ramp at the corner of Magnolia Street and Baine Avenue.
- bbb. The applicant shall obtain approval of the project geotechnical report from the City of Newark selected peer review consultant prior to the first submittal of the tract improvement plans and final map. The tract improvement plans must reflect the all recommendations in the approved project geotechnical report.
- ccc. The developer shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to removed tracked dirt and debris from adjacent streets.



ddd. The developer shall implement the following measures for the duration of all construction activity to minimize air quality impacts:

1. Watering should be used to control dust generation during demolition of structures and break-up of pavement.
2. All trucks hauling demolition debris from the site shall be covered.
3. Dust-proof chutes shall be used to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.
4. All active construction areas shall be watered at least twice daily and more often during windy periods; active areas adjacent to the existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
5. All trucks hauling soil, sand, and other loose materials shall be covered or require all trucks to maintain at least 2 feet of freeboard.
6. All unpaved access roads, parking areas, and staging areas at construction sites shall be paved, watered three times daily, or treated with (non-toxic) soil stabilizers.
7. All paved access roads, parking areas, and staging areas at construction sites shall be swept daily with water sweepers; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
8. Limit traffic speeds on unpaved roads to 15 mph.
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
10. Replant vegetation in disturbed areas as quickly as possible.
11. Minimize idling time (5 minutes maximum).
12. Maintain properly tuned equipment.

These measures shall be incorporated into the grading specifications as well as the best management practices of the storm water pollution prevention plan, and shall be implemented to the satisfaction of the City Engineer.

eee. The developer shall provide all required paper and digital submittals of the tentative map, project final map, tract improvement plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-sized reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Two electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-sized mylar copy and one reduced copy of the recorded final map; (4) One reproducible set and four blue-line or photocopied sets of the approved tract improvement plans; (5) Two electronic copies and one mylar set of the as-built tract improvement plans. All digital copies of the final map and improvement plans shall be prepared in accordance with Southern Alameda County GIS Authority digital submittal standards. A deposit of \$5,000 shall be provided by the developer to the City to ensure submittal of all required documentation.

fff. The plans submitted for construction must be drawn to an appropriate scale as required by the City Engineer.

## Landscape Division

- ggg. Concurrent with the final map, the developer shall dedicate a minimum 5-foot wide landscape easement along the Magnolia Street, Baine Avenue, and Olive Street frontages of the project adjacent to the new right-of-way limit.
- hhh. Prior to approval of the final map, the developer shall enter into a Landscape Maintenance Agreement to ensure the perpetual maintenance of all landscaping along the property frontage and within the public right-of-way between the back of curb and sidewalk. This agreement shall be transferred to the Homeowners Association and incorporated into the project CC&Rs.
- iii. The developer shall retain a licensed landscape architect to prepare detailed landscape plans for construction in accordance to with City of Newark requirements and the State of California Model Water Efficient Landscape Ordinance. The associated Landscape Documentation Package must be approved by the City Engineer prior to final map approval.
- jjj. The developer shall retain a licensed landscape architect to prepare working drawings for landscape plans in accordance with City of Newark requirements. All landscape plans are subject to the review and approval of the City Engineer.
- kkk. Landscape construction plans shall be developed in accordance with Newark Municipal Code Section 15.44.080 related to Bay Friendly Landscaping Practices and City of Newark standard details. All landscaping materials selected for landscape-based stormwater treatment measures shall be consistent with the recommendations in the Alameda Countywide Clean Water Program C.3 Technical Guidance Manual.
- lll. Landscape and irrigation design of the project shall comply with Chapter 17.21 of the New City of Newark Zoning Ordinance dated January 25, 2018.
- mmm. This project is subject to all applicable requirements of the State of California's Model Water Efficient Landscape Ordinance. The landscape design plan package, including the design plans, shall include all applicable requirements specified in this ordinance.
- nnn. Prior to installation by the developer, plant species, location, container size, quality, and quantity of all landscaping plants and materials shall be reviewed and approved by the City Engineer. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.
- ooo. Prior to the release of utilities or issuance of any Certificate of Occupancy, all landscaping and irrigation systems shall be completed or guaranteed by a cash deposit deposited with the City in an amount to cover the remainder of the work.

- ppp. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The developer shall insure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved subject to approval of the City Engineer.

#### Fire Division

- qqq. Each house shall be provided with a NFPA 13D automatic fire sprinkler Systems.

#### Building Division

- rrr. Construction for this project, including site work and all structures, can occur only between the hours of 8:00 AM and 7:00 PM, Monday through Saturday and between the hours of 10:00 AM and 6:00 PM on Sundays and holidays. The applicant may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request the Building Official will take into consideration the nature of the construction activity which would occur during extended hours/days, the time duration of the request, the proximity to residential neighborhoods and input by affected neighbors. All approvals will be done so in writing.
- sss. Each building shall be equipped with a fully automatic fire sprinkler system.
- ttt. This project will require a demolition permit from both the City and the Bay Area Air Quality Control Board.
- uuu. This project will require the payment of school developer fees. School developer fees are assessed and collected by the Newark Unified School District

#### Police Division

- vvv. The development shall comply with Chapter 15.06, Security Code, of the Newark Municipal Code and Section 5.10 of the California Fire Code for radio reception.
- www. Housing numbers should be well placed, illuminated and easily recognizable for first responders.

#### General

- xxx. This Vesting Tentative Tract Map shall be given a public hearing before the City Council for the Council's review and approval.
- yyy. All proposed changes from approved exhibits shall be submitted to the Community

Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The applicant shall pay the prevailing fee for each additional separate submittal of project exhibits requiring Planning Commission and/or City Council review and approval.

- zzz. If any condition of this Vesting Tentative Tract Map be declared invalid or unenforceable by a court of competent jurisdiction, this Vesting Tentative Tract Map shall terminate and be of no force and effect, at the election of the City Council on motion.
- aaaa. The applicant hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- bbbb. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this application, the applicant shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with separate counsel reasonably selected by the City and reasonably approved by the applicant. Applicant's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.
- cccc. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The applicant is hereby further notified that the 90-day approval period in which the applicant may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

This Resolution was introduced at the Planning Commission's December 11, 2018 meeting by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and passed as follows:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
TERRENCE GRINDALL, Secretary

\_\_\_\_\_  
WILLIAM FITTS, Chairperson