1. Applicant has an erosion control plan approved by the Town,
2. A letter from the project geotechnical engineer or certified engineering geologist stating that such grading is acceptable and will not create a hazard to life, limb, property and public welfare,
3. Wet weather best management practices (BMPs) for grading operations in conformance with approved plans and SWPPP have been placed and approved by the Town and installed and are kept continuously in place,
4. Security has been provided equal to of the Town approved estimate to provide and implement the erosion control measures for the site or $30,000, whichever is greater;
C. On weekends and town of Moraga holidays and outside the hours of eight a.m. to five p.m. Monday through Friday except where required to abate an emergency situation;
D. No grading shall occur on predevelopment average slopes steeper than twenty-five (25) percent (four horizontal to one vertical) unless grading is required for landslide repair, slope stabilization or other emergencies, and at the specific direction of the town council;
E. Blasting or other use of explosives shall not be permitted.

If grading continues beyond October 1, a cash bond or Certificate of Deposit for $20,000 shall be provided to the Town guaranteeing maintenance of the erosion control measures and to provide assurance to the Town for payment of any fines imposed by the Regional Water Quality Control Board due to the Applicant's failure to control erosion on the site.

E.VII.5. Prior to issuance of a grading permit, the Applicant shall file a Notice of Intent and Storm Water Pollution Prevention Plan to the California State Water Resources Control Board a General Construction Activity Storm Water Permit under the National Pollutant Discharge Elimination System (NPDES) and comply with all requirements of the permit to minimize pollution of storm water discharges during construction activities. (Mitigation Measure for IMPACT 4.3-3, part (a))

E.VII.4. Terrace drains shall have a minimum flow line gradient of 6 percent to make them self cleaning. They shall also be fitted with down drains every 150 linear feet of terrace to allow for quick drainage. (Mitigation Measure for IMPACT 4.1-4, part (b)) *Compliance with this condition will be confirmed prior to issuance of a grading permit and during grading and construction.*

E.VIII.7 The Applicant shall receive a tree removal permit prior to removing any trees with a diameter greater than six (6) inches, or in the case of multiple trunks, a total perimeter of forty (40) inches or more measure three (3) feet above the natural grade, in accordance with the Moraga Tree Ordinance (Chapter 12-20). Additional conditions of approval, to reduce tree loss may be incorporated at the Precise Development Plan stage.

E.VII.6-R-VTM Prior to issuance of a grading permit, the project Applicant shall submit to the Town of Moraga for review and approval a Stormwater Pollution Prevention Plan (SWPPP) for the entire Project site which indicates that proper control of siltation, sedimentation and other pollutants will be implemented per NPDES permit requirements. The erosion control plan shall include the use of sediment basins, sediment traps, silt fences, hay bale dikes, gravel construction entrances, maintenance programs, and hydroseeding, and shall be implemented concurrently with grading. Invasive non-native species shall not be used for revegetation. Suggested plants include bicolored lupine, crimson clover, purple needle grass, and annual rat-tail grass. (Mitigation Measure for IMPACT 4.3-3, part (b)), (Mitigation Measure for IMPACT 4.4-12, part (e)) *Compliance with this condition will be confirmed prior to issuance of a grading permit and during grading and construction.*

E. VI.14-R-VTM. Access routes between the Town and Highway 24 shall be surveyed prior to start of construction equipment using access routes and existing conditions documented. Upon completion of site grading and completion of the subdivision improvements, the project Applicant shall repair all roads, including striping and legends, damaged by construction vehicles to the conditions existing prior to project construction. The Town of Moraga, in consultation with surrounding jurisdictions, will determine which roads were damaged and require repair. The Applicant shall post a cash bond of $50,000 for emergency clean-up and repair. (Mitigation Measure for IMPACT 4.8-3, part (b)) *Compliance with this condition will be confirmed prior to issuance of a grading permit and throughout grading and construction*

Section F. Conditions to be confirmed during grading:

F.VIII.2 In areas that will be unavoidably affected by construction, re-vegetation shall be accomplished on all graded and cut-and-fill areas where structures or improvements are not planned. These areas shall be re-vegetated with native and naturalized plants. (Mitigation Measure for IMPACT 4.4-2, part (b)) *Compliance with this condition shall be confirmed during grading and at the conclusion of grading activities.*

F.VIII.20. All wetlands within 100 feet of grading or other disturbance which have not been approved by ACOE for grading disturbance, shall be fenced off before construction activities begin on the site. This fencing shall remain in-place until construction within 100 feet of the wetlands area is complete. Construction equipment and debris shall not enter these areas. (Mitigation Measure for IMPACT 4.4-12, part (d)) *Compliance with this condition shall be determined during grading.*

Section G. Conditions to be confirmed throughout grading and construction:

G. VIII.1 All areas not proposed for development shall be protected from construction disturbance and left in the existing state. Where EIR-identified high value native wildlife habitats occur within 100 feet of graded areas, protective fencing shall be temporarily placed at the edge of the protected habitat during construction. The protective fencing characteristics shall be specified to the satisfaction of the Town's consulting biologist. (Mitigation Measure for IMPACT 4.4-2, part (a))

G.VIII.4 R-VTM Prior to the installation of any lighting, the Applicant shall obtain approval from the Town and ensure that night lights (street lamps, park lighting, etc.) associated with the proposed project shall be directed "inward", away from off-site and open space areas, to minimize disruption to nocturnal wildlife activity. Night lighting shall not be used to spotlight natural features within designated open space areas. (Mitigation Measure for IMPACT 4.4-2, part (d))

G.VI.9. The Applicant shall ensure that the driving speed of construction vehicles used on-site shall be no more than a posted 15 mph (40 to 70 percent emission reduction efficiency). (Mitigation Measure for IMPACT 4.2-3, part (c))

G.VTM.4 All construction equipment operated at the site shall be equipped with manufacturer's standard noise control devices (i.e., mufflers, intake silencers, and/or engine enclosures) and shall be inspected at periodic intervals to ensure proper maintenance and lower noise levels. Newer equipment shall be used whenever possible. Equipment and trucks used for project construction shall utilize the best available noise control techniques to maintain noise levels

within the Federal Government established noise control requirements shown in the following table.

RECOMMENDED NOISE LIMITS FOR CONSTRUCTION EQUIPMENT

Equipment Type	Leq at 50 Ft.	Equipment Type	Leq at 50 Ft.
Air Compressor	75 dBA	Loader	75 dBA
Backhoe	75 dBA	Pneumatic Tool	80 dBA
Concrete Mixer	75 dBA	Pump	75 dBA
Crane, Derrick	75 dBA	Rock Drill	80 dBA
Crane, Mobile	75 dBA	Saw	75 dBA
Dozer	75 dBA	Scraper	80 dBA
Generator	75 dBA	Shovel	75 dBA
Grader	75 dBA	Truck	75 dBA
Jack Hammer	75 dBA	N/A	N/A

Equipment idling shall be kept to a minimum when equipment is not in use. No piece of equipment shall idle in one place for more than 5 minutes unless best industry practice dictates otherwise.

G.VTM.59 Upon application for any permit, the Applicant shall submit an arborist's report identifying appropriate measures to protect existing trees that are to remain during construction. The report shall be reviewed and approved by the Town.

G.VII.3. The Applicant shall ensure that project stormwater control facilities include measures to minimize on-site and offsite stream channel erosion, including measures to reduce on-site stream velocities below 5 feet per second where feasible in areas where they currently exceed this level. (Mitigation Measure for IMPACT 4.3-2, part (b)) *Compliance with this condition will be confirmed throughout grading and construction.*

G.VI.11. The Applicant shall ensure that if human skeleton remains are encountered during construction or grading operations, all work within 65 feet of the discovery shall be stopped immediately and the County Coroner notified. If the remains are Native American, the Coroner has 24 hours to notify the Native American Heritage Commission. (Mitigation Measure for IMPACT 4.10-1, part (a)) *Compliance with this condition will be confirmed throughout grading and construction.*

G.VI.12. The Applicant shall ensure that if any buried cultural remains are encountered during construction or grading operations, all work within 65 feet of the discovery shall be stopped until a professional archeologist is retained to determine the significance of the find, and to recommend appropriate remedial measures. (Mitigation Measure for IMPACT 4.10-1, part (b)) *Compliance with this condition will be confirmed throughout grading and construction.*

G.VI.13. This Applicant shall ensure that any cultural resources found on the project site shall be recorded or described in a professional report and submitted to the Northwest Information Center at Sonoma State University by the Applicant's consultants. (Mitigation Measure for IMPACT 4.10-1, part (c)) *Compliance with this condition will be confirmed throughout grading and construction.*

Section I. Conditions to be incorporated in all design review resolutions:

I.VTM.60 The Applicant's landscape architect shall require imported suitable material as necessary for lots where the depth of topsoil is not sufficient to provide a suitable environment for landscaping.

I.V.7. The PDP plans, Design Review Plans and building plans shall show that all housing will be constructed with fire retardant roofing (Class A or Class B) and interior sprinklers. Landscaping around the residence by homeowners shall be designed to minimize the interface between grassland areas and residences (i.e., fire resistant vegetation). Compliance shall be subject to the review of plans and periodic site inspection by the Moraga Fire Protection District (or successor District thereto). (Mitigation Measure for IMPACT 4.7-3, part (c)) *This condition of approval will be incorporated in all design review decisions.*

I.V.13. All landscape plans shall include drip irrigation and drought-tolerant landscaping for all houses within the proposed project. This action shall be taken regardless of any relaxation of EBMUD requirements. (Mitigation Measure for IMPACT 4.7-9, part (b)) *This condition of approval will be incorporated in all design review decisions.*

I.V.14. All plans for Design Review and building permit shall call for low-flow toilets, low-flow shower heads, drip irrigation and other water-saving devices. Other features that should be included if feasible include kitchen/bath hot water recirculating systems and faucet aerators. *This condition of approval will be incorporated in all design review decisions.*

Section J. Conditions to be incorporated prior to/through issuance of first/building permit:

J.VTM.61 Prior to construction with combustible materials, the Applicant shall provide the required fire flow of 1000 gallons per minute from a single hydrant and 2250 gallons per minute from three adjacent hydrants.

J.VI.1. Plans for buildings shall provide a seismic design of all structures consistent with the California Building Code. (Mitigation Measure for IMPACT 4.1-8) *Compliance with this condition will be achieved through the building permit process.*

J.VI.3. Consistent with the Applicant's request that the Town of Moraga form a Geologic Hazard Abatement District (GHAD) to ensure the long-term mitigation of geologic hazards in conjunction with the submittal of the General Development Plan application, the Applicant shall fund the formation of the GHAD. The District will be the responsibility of the property owners. The GHAD will have the primary responsibility of ensuring site slope stability, on-site storm water, and erosion control, through yearly maintenance and remediation efforts, and providing emergency landslide repairs, as necessary. Sufficient fees shall be collected from the Applicant and homeowners to pay for primary responsibilities of the District. A Town-approved C.E.G. shall be hired by the District to determine appropriate remediation efforts and to supervise necessary maintenance activities. (Mitigation Measure for IMPACT 4.1-1, part (b))

J. XI.1. Prior to the issuance of a building permit, for those lots within the flood zone, the Applicant shall submit hydrologic analyses as required by the Federal Emergency Management Agency (FEMA) in order to amend panel 2 of the Town's Flood Insurance Rate Map (FIRM) to show the 100 year flood hazard areas within the project. The total cost of the amendment to panel 2 of the FIRM shall by borne by the developer and any application fees required by FEMA

shall be paid by the developer. *Compliance with this condition will be confirmed prior to the issuance of the first building permit.*

J.V.11. The Applicant shall pay school district developer fees prior to issuance of a building permit. The fees shall be the amount in effect at the time building permits are issued consistent with Government Code Sections 65995 and 65996, as interpreted by California case law. (Mitigation Measure for IMPACT 4.7-6) *Compliance with this condition will be required prior to the issuance of each building permit.*

J.V.12. The Applicant shall work with the EBMUD to provide the funding necessary to provide adequate water services to the project site. Funds shall be used for engineering design and construction of distribution system improvements to the Fayhill pumping station. Necessary pump station improvements shall be completed prior to issuance of project building permits. (Mitigation Measure for IMPACT 4.7-9, part (a)) *Compliance with this condition is required prior to the issuance of the first building permit for the project.*

J.PDP.1 Prior to issuance of a building permit for lot 106, the applicant shall demonstrate that the proposed construction is not visible from the Lafayette BART station. A photosimulation of the proposed construction and the essential screening landscaping shall be submitted to the Town of Moraga and City of Lafayette for review and comment. The photosimulations shall represent actual landscaping conditions and proposed construction. A landscape maintenance agreement and/or deed restriction may be required as a condition of issuance of the building permit.

J.PDP.2 Prior to the issuance of a building permit for any structure, the Town shall verify compliance with the structural setbacks for slopes as required by C.VTM.42 as follows:

For ascending slopes the setback shall be a minimum of 15 feet.
For descending slopes the minimum setbacks shall be as follows:

Slope Height (ft)	Slope Setback (ft)	Geogrid required?		Special Foundation Design Required?	
		Structure within 10 feet of top of slope?	Structure further than 10 feet from top of slope?	Structure within setback?	Structure outside setback?
10	10	Yes	No	Yes	No
20	10	Yes	No	Yes	No
30	15	Yes	No	Yes	No
40	20	Yes	No	Yes	No
50	20	Yes	No	Yes	No
60	20	Yes	No	Yes	No

J.PDP.3 Prior to the issuance of a building permit for any new residence and prior to final approval of the same permit, the Town shall verify compliance with the green building requirements of condition A.VTM.16.

J.PDP.4 Prior to the issuance of a building permit for a new residence on Lot 121, the applicant shall obtain a conditional use permit and Design Review Board approval for the construction.

J.PDP.5 Prior to the issuance of a building permit for Lots 16 through 32 and Lots 122 and 123, the applicant shall obtain approval to amend the conditional use permits to conform to the Precise Development Plan.

J.PDP.6 Prior to the issuance of a building permit for any semi-custom residence except prototype 7, the applicant shall demonstrate and the Planning Director shall confirm compliance with the site and landscape design guidelines provided in Section 3 of the Palos Colorados design guidelines dated July 30, 2008 and as amended by the January 5, 2009 memorandum from Rabben/Herman design office. For prototype 7, the Design Review Board shall approve the siting and landscaping plan prior to issuance of a building permit.

J.PDP.7 Prior to the issuance of a building permit for any semi-custom residence, the Planning Director shall verify compliance with the PDP approved prototype plotting plan and approved prototype designs.

J.PDP.9 Prior to the issuance of a building permit for any semi-custom residence, the applicant shall comply with or provide a plan for compliance with the following standard conditions of approval:

a. The applicant shall submit a waste management plan as required by MMC Section 8.156.080. The plan shall include a quantitative estimate of recyclable material(s), a list of recyclers to be used for the project, a schedule for submitting receipts to the Planning Department and a description of how the recycling will be accomplished. The applicant shall also submit a deposit in compliance with MMC Section 8.156.070 to ensure completion of the waste management plan and submittal of the receipts from disposal and recycling facilities for the project. The amount of the deposit is calculated as a percentage of the projects total cost in accordance with the table on the next page:

Project Total Cost	Percent of Total Cost	Required Deposit
10,000 – 500,000	2.00	200 – 10,000
500,001 – 1,000,000	1.75	8,750 – 17,500
1,000,001 – 2,000,000	1.50	15,000 – 30,000
2,000,001 – 5,000,000	1.25	25,000 – 62,500
Above 5,000,000	1.00	50,000 and up

The deposit may be cash, a certificate of deposit requiring both the signature of the applicant and the Town for release or a letter of credit. The applicant is responsible to make sure that contractors working on the project follow the waste management plan and submit the receipts from disposal and recycling facilities for the project, otherwise the deposit cannot be returned.

b. **The applicant shall pay any required Fire District design review fee and receive approval from the Moraga-Orinda Fire District prior to receiving Planning Department approval of the building permit plans.**

c. **The applicant shall apply for and pay all appropriate fees for building permits, grading permits, erosion control permits, plan checks and inspections and any other applicable fees.**

d. **Prior to the issuance of certificate of occupancy, landscaping necessary for erosion control and bio-filtration of stormwater runoff shall be installed and all the approved landscaping shall be installed within six months of completion of the home or deposit equal to 125% of the estimate for the complete cost of installation of the landscaping shall be provided to the Town and released to the applicant/contractor as work is completed.**

e. **Exterior lighting around the home shall not cause undue glare or brightness and shall be directed away from the adjacent properties. The location and design of exterior lighting fixtures shall be included on the final plans and reviewed by the planning staff prior to release of the building permit.**

f. **The exterior mechanical equipment shall not exceed 55 dB at the property line and shall be screened from view.**

g. **During project construction and grading operations, the hours of operation shall be limited to the hours from 8 a.m. to 5 p.m. Monday through Friday to minimize potential disturbance of adjacent residents. No construction shall occur on weekends or holidays unless an emergency situation develops, such as the potential collapse of a cut slope. In an emergency situation, the Planning Director or Town Engineer may authorize extended work hours on weekdays or on weekends until the situation is no longer deemed an emergency.**

Section K. Conditions to be monitored/confirmed prior to/ during construction:

K.VTM.62 Prior to the start of construction, the Applicant shall submit at least two sets of plans to the Fire district for review and approval. The Fire District shall be provided an electronic version of the final development plan prior to final approval of the construction plans. An electronic version of the Final Map shall be provided to the Fire District

K.VTM.63 On site paved parking and storage areas shall be swept daily. Adjacent streets shall be swept whenever there is visible soil material.

K.VTM.64 A plan showing the location of any temporary contractor's storage yard or construction trailer on the property, including security fencing and lighting, shall be submitted to the Design Review Board for approval prior to installation. Interim landscaping may be required by the Design Review Board to screen a storage yard.

Section L. Conditions to be confirmed prior to issuance of first certificate occupancy/prior to50th residency:

L.III.3. Prior to occupancy of the 50th residence, the Applicant shall install a signal at the Moraga Road/Project access intersection. With signalization this intersection would operate at LOS A (V/C 0.45) during both the a.m. and p.m. peak hours. Signalization would also aid northbound traffic flows on Moraga Road by providing, in conjunction with the signal at Campolindo Road, an increased number of gaps in traffic which would improve intersection operations north of the

Project, including Sky-Hy Drive. The impact would remain significant without signalization. (Mitigation Measure for IMPACT 4.8-1, Project Access (westbound)/Moraga Road). *Compliance with this condition will be required prior to occupancy of the 50th residence unless the applicant can demonstrate that installation of the signal is not required due to elimination of the golf course.*

L.III.4. Prior to the issuance of the first certificate of occupancy, the Applicant shall include on-site signage and shall provide brochure information to all new home buyers that promotes the use of public transit and the on-site park and ride lot. The number and location of signs shall be reviewed and approved by the Design Review Board. (Mitigation Measure for IMPACT 4.8-1) *Compliance with this condition will be required prior to issuance of the first certificate of occupancy.*

L.III.2. Prior to the issuance of the first certificate of occupancy, the Applicant shall install street signs encouraging motorists to admit side traffic during a.m. peak periods along Moraga Road between Buckingham Drive and Sky-Hy Drive. The number and location of signs shall be reviewed and approved by the Design Review Board. (Mitigation Measure for IMPACT 4.8-1, Moraga Road/Sky-Hy Drive/Via Granada/Buckingham Drive). *Compliance with this condition will be required prior to issuance of the first certificate of occupancy.*

L.V.3. Emergency vehicle access (EVA) routes to Woodford Drive to be functionally operational prior to the issuance of the first certificate of occupancy permit. The second EVA shall be operational on or before the issuance of the first certificate of occupancy. *This condition was modified by the Settlement Agreement. No EVA will be provided to Mildred Lane in accordance with the Settlement Agreement as shown in the General Development Plan. Compliance with this condition will be required prior to issuance of the first certificate of occupancy as only one phase is proposed.*

L.V.2. Emergency Vehicle Access (EVA) to Sky Hy Circle, shall be functionally operational prior to the issuance of the first certificate of occupancy. *Compliance with this condition will be required prior to issuance of the first certificate of occupancy.*

L. V.4. Emergency Vehicle Access routes shall have gates and locks installed that restrict motor vehicle use to emergencies only. However, the EVAs shall be designed to allow access for use by bicyclists and pedestrians provided this is consistent with the safety and security requirements. Pedestrian and bicycle access may be reconsidered during the review of the General and/or Precise Development Plan. All gates, locks or other barriers shall be consistent with the Uniform Fire Code and subject to the approval by the Moraga Fire Protection District (or successor District thereto) and Police Department. *Compliance with this condition will be required prior to issuance of the first certificate of occupancy.*

L.VII.7. Prior to the issuance of the first certificate of occupancy, each developed on-site detention basin shall be constructed and maintained to receive storm water runoff from surrounding residential areas to allow capture and settling of heavier particles in stormwater runoff prior to discharge to receiving waters. (Mitigation Measure for IMPACT 4.3-4, part (a)) *Compliance with this condition will be confirmed prior to issuance of the first certificate of occupancy.*

L.VII.8. Prior to the issuance of the first certificate of occupancy, Town approved stencils shall be applied to storm drain inlets informing the public of direct connection between storm drain system and downstream creeks. This would be intended to reduce intentional spills into storm

drains. (Mitigation Measure for IMPACT 4.3-4, part (b)) *Compliance with this condition will be confirmed prior to issuance of the first certificate of occupancy.*

L.V.10. All residential street addresses shall be placed in a location where they are readily visible from the street. *Compliance with this condition will be required prior to a certificate of occupancy for each residence.*

L.VTM.62 Streetlights shall be installed and operational prior to the issuance of a Certificate of Occupancy for the first home in the Project. (11/12/01 memo from Town Engineer)

L.IX.3. Non-emergency, noise-generating project construction activities shall be limited to Monday through Friday between 8:00 a.m. and 5:00 p.m. (construction is prohibited on Saturday, Sunday and holidays). *Compliance with this condition will be confirmed during construction.*

L III.5. Construction operations that occur Monday through Friday shall be scheduled so that employees arrive at the site before 7:30 a.m. or after 8:30 a.m., and leave the site before 4:30 p.m. or after 6:00 p.m. Construction vehicles shall access the site via the main project entrance, and shall not access the project site via Buckingham Drive, Woodford Drive, Sky-Hy Circle and Mildred Lane. (Mitigation Measure for IMPACT 4.8-3, part (a)) *Compliance with this condition shall be monitored throughout construction.*

L.VIII.3 During construction, debris, waste dirt, or rubble shall not be deposited on adjacent habitats designated as open space areas. (Mitigation measure for IMPACT 4.4-2, part (c)) *Compliance with this condition shall be confirmed prior to and during construction.*

L.IX.1. All construction equipment shall be properly tuned and maintained to keep emissions of NOX to a minimum during construction. Maintenance records shall be kept on-site for all construction vehicles. (mitigation measure for IMPACT 4.2-2) *Compliance with this condition will be confirmed during construction.*

L.IX.2. Properly muffled construction equipment and trucks, in accordance with manufacturer specifications, shall be used. (Mitigation Measure for IMPACT 4.5, part (b)) *Compliance with this condition will be confirmed during construction.*

L.IX.4. Portable noise walls capable of 9 dBA noise reductions shall be placed between sensitive receptors and construction equipment during construction activities within 200 feet of any residence when activities in that area will last more than 10 days in any 30 day period. A schedule of construction activities, by location, shall be developed and submitted to the Town of Moraga. This schedule shall identify areas of the site where more than 10 days construction activity are planned, and shall be updates monthly. (Mitigation Measure for IMPACT 4.5-1, part (c)) *Compliance with this condition shall be confirmed 10 days prior to construction and during construction.*

L.IX.5. An acoustical study by a qualified acoustical engineer shall be conducted by the Applicant prior to the construction of residences on lots 1 through 3, 4 through 9, and 121 through 123 to determine actual sound levels. If the 60 dBA CNEL is exceeded, noise-attenuating wooden fences or berms, as determined by the Town of Moraga, shall be used to reduce outside noise levels to below 60 dBA CNEL. (Mitigation Measure for IMPACT 4.5-3) *This condition should be addressed prior to issuance of a building permit.*

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga at a regular meeting held on March 16, 2009 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Margaret Goglia, Chairman

Attest: _____
Lori Salamack, Planning Director