RENEWAL NO. 17-027


WHEREAS, on May 26, 2016, an application was submitted by Mr. Dan Sell, Director of Architecture, Barry Swenson Builder (“Applicant”), 777 N First Street, San José, CA 94112 for a development proposal to allow the development of 27 for-sale residential units and a 1,787 square foot commercial condominium located on a 1.09 acre site within the Midtown Specific Plan (“MMSP”) area at 808 South Main Street (APN: 086-25-020 & 086-025-021); and

WHEREAS, the Planning Division commissioned Lamphier-Gregory to completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), which determined that in accordance with CEQA Guidelines Sections 15183, 15332, and 15168, the proposed Project is exempt from further CEQA review; and

WHEREAS, on October 11, 2017, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the Applicant, and other interested parties; and a continuation was requested by the Applicant at that hearing; and

WHEREAS, on November 08, 2017, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the Applicant, and other interested parties

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1: Recitals. The recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2: Record. The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission.

SECTION 3: CEQA. As set forth in the California Environmental Quality Act (CEQA) Analysis for 808 South Main Street, Milpitas, California, prepared by Lamphier-Gregory and dated August 2017 (which is hereby adopted and incorporated herein as if restated in full), the project is exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15168 (Program EIR), 15183 (Project Consistent with a Community Plan or Zoning) and 15332 (Urban Infill) of the CEQA Guidelines. The environmental impacts for this project were previously analyzed in an Environmental Impact Report (SCH #2000092027) certified by the City Council of the City of Milpitas in March of 2002. Given that the project is
consistent with an approved Specific Plan for which an EIR was previously prepared, the project is exempt from further CEQA review pursuant to Public Resources Section 21083.3. Furthermore, no further CEQA review would otherwise have been required, pursuant to State CEQA Guidelines Section 15168(c), insofar as the Program EIR covers the scope of the project's impacts and none of the criteria for subsequent environmental review under State CEQA Guidelines Section 15162 have been fulfilled. There is no new information or changed circumstances sufficient to justify an amendment to this EIR.

SECTION 4: Vesting Tentative Subdivision Map (Section XI-1-4.03 and XI-1-30.05)
The Planning Commission makes the following findings based on the evidence in the public record in support of the Vesting Tentative Subdivision Map No. MT16-0001:

1. The tentative subdivision map is consistent with the Milpitas General Plan
   The project is an approved use in the Mixed Use land use designation found in the Milpitas General Plan. Additionally, the project furthers the goals and policies of the land use element, as outlined in Table 1, below:

<table>
<thead>
<tr>
<th>General Plan Guiding Principles and Implementing Policies</th>
<th>Consistency Finding</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.a-G-2: Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.</td>
<td>Consistent. The project is a mixed-use development which will provide commercial space along with residential development and increase job opportunities within the compact development of Main Street.</td>
</tr>
<tr>
<td>2.a-G-6: Implement the Midtown Specific Plan goals, policies and development standards and guidelines to create a mixed-use community that includes high-density, transit-oriented housing and a central community ‘gathering place’ while maintaining needed industrial, service and commercial uses.</td>
<td>Consistent. The project implements the Midtown Specific Plan goals, policies. If approved, the project will offer a mixed-use, high-density community within proximity to transit and with commercial space.</td>
</tr>
<tr>
<td>2.a-I-2: Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.</td>
<td>Consistent. The project is an infill development, located on Main Street within the existing urban fabric of the City of Milpitas.</td>
</tr>
<tr>
<td>2.a-I-29: Develop the Midtown area, as shown on the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian/bicycle linkages.</td>
<td>Consistent. The proposed project provides both housing and commercial space. The commercial space will provide employment and the proposed development will have a positive impact on the aesthetics of Main Street.</td>
</tr>
</tbody>
</table>
2. None of the findings set forth in Government Code Section 66474 apply to the proposed project.
   - The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.
     The proposed map is consistent with the Milpitas General Plan and the MMSP as described in finding 1 above.
   - The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
     The design and improvement of the proposed subdivision is consistent with Milpitas General Plan and the MMSP, as described in finding 1 above.
   - The site is physically suitable for the type of development.
     The site is physically suitable for the proposed residential and commercial development because the project site is a 1.09 acre site which is a relatively flat and has direct access from Main Street. The Midtown Specific Plan analyzed this site, which is zoned for mixed use development and determined that it is suitable for both residential and commercial uses.
   - The site is physically suitable for the proposed density of development.
     The site is physically suitable for the proposed density of development because the project site is a 1.09 acre flat site, has adequate access, and the development standards of the Midtown Specific Plan authorizes 21-30 dwelling units per acre and the proposed project is consistent.
   - The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
     The proposed subdivision and improvements have been evaluated for environmental impacts as discussed in the California Environmental Quality Act (CEQA) Analysis for 808 South Main Street, Milpitas, California, prepared by Lamphier-Gregory and dated August 2017. This memorandum includes a determination, which the Planning Commission has adopted as its own finding that no environmental impacts not already identified for the project, which is part of the City’s Midtown Specific Plan and the Midtown Specific Plan Final Environmental Impact Report (FEIR), would result.
   - The design of the subdivision or type of improvements is not likely to cause serious public health problems.
Per the completed CEQA analysis for this project, the design of the subdivision or type of improvements is not likely to cause public health problems.

- **The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.**  
  Nothing in the proposed design of the subdivision or the type of improvements planned will conflict with any easements, publicly or privately held, for access through or use of the property within the subdivision.

3. **All of the requirements of Vesting Tentative Maps set forth in Section XI-1-30.05 have been met:**
   - At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words, "Vesting Tentative Map."  
     The map submitted by the applicant is entitled ‘Vesting Tentative Map.’
   - The land for which said map is filed shall have been zoned for, and that all discretionary land use approvals (including, but not limited to, conditional use permits) under Title XI of the Milpitas Municipal Code shall have obtained for the use of the land for which the vesting tentative map is filed.  
     The land for which the proposed subdivision map is filed is zoned MXD and thus is zoned for development of the type of project proposed.  The conditional use permit and site development permit necessary for the project are being sought concurrently with the subdivision map approval.
   - All fees required in connection with the use or development of the land for which the vesting tentative map is filed (including, but not limited to, those required by any provision of Title XI of the Milpitas Municipal Code) shall have first been paid, provided, however, that, in lieu of payment at the time of approval, the City may, in the exercise of a reasonable discretion, approve the map upon condition that the amount of the fee or fees is to be determined and paid at the time of application for a final map or building permit.  
     Payment of fees in accordance with these requirements is mandated by the Conditions of Approval set forth in Exhibit 1 hereto.
   - All environmental assessments required by statutes of the State of California or ordinance of the City of Milpitas shall have been completed and finally acted upon by the City with respect to the land and project for which the vesting tentative map is filed.  
     In accordance with the requirements of CEQA, Lamphier-Gregory has completed an environmental assessment of the project, including the proposed subdivision map.  As this assessment has determined that the project is exempt from further CEQA review under CEQA Guidelines Sections 15183, 15332, and 15168, no additional

**SECTION 5: Site Development Permit (Section XI-10-57-03(F))** - The Planning Commission makes the following findings based on the evidence in the public record in approving Site Development Permit No. SD16-0002:

1. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.
The project is consistent with this finding as it complies with the development standards contained within the MMSP for the Mixed Use District and the Municipal Code, with the exception of a modest change to the setback requirements and a request for a tandem parking configuration, which are addressed herein via a request for a Conditional Use Permit. The proposed buildings contain a variety of finish materials and articulations and will be of high quality design on all sides. The perimeter landscaping and street improvements will provide a benefit to the neighborhood and pedestrian environment.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

The development is compatible and consistent with the surrounding uses and has been found to conform to the zoning district, with the exception of a modest change to the setback requirements and a request for a tandem parking configuration, which are addressed herein via a request for a Conditional Use Permit. The project is consistent with MXD, Multi-Family Residential zoning requirements and other Municipal Code requirements, as illustrated below.

<table>
<thead>
<tr>
<th>Table 2: Summary of Development Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard</strong></td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td><strong>Height</strong></td>
</tr>
</tbody>
</table>
| **Setbacks** | Front Yard: 0 feet
Street Side Yard: 0 feet
Interior Side Yard: 10 feet
Rear Yard: 10 Feet | Front Yard: 0 feet
Street Side Yard: 0 feet
**Interior Side Yard: 0 feet**
**Rear Yard: 0 feet** | Y (via a CUP) |
| **Building Orientation** | Buildings must face street | Buildings face street | Y |
| **Density** | 21-30 du/ac | 25 du/ac | Y |
| **FAR** | 0.75 maximum | 0.042 | Y |
| **Private Balconies/Patios** | Ground level units: 100 s.f.
Above ground units: 60 s.f. | Ground level units: 100 s.f.
Above ground units: 100 s.f. | Y |
Parking for the 26 townhome-style condominiums will be provided in private garages adjacent to each individual unit, for a total of 52 spaces. One garage requires a Conditional Use Permit for a requested tandem parking configuration (two spaces total). Covered parking for the flat will be provided onsite (two spaces), and eight (8) guest parking spaces will be on site as well, for a total of 62 parking spaces.

Per MMSP Section 8.4b, *Off Street Parking Standards: Mixed Use Development* (page 8-10): “On-street parking adjacent to the building’s street frontage may be counted toward a development’s overall parking requirement.” Further, pursuant to Section XI-10-53.13-A(1)(b) of the City’s Zoning Ordinance, “Commercial service and retail uses may meet its parking requirements with on-street parking if the project satisfies all of the following conditions: (i) the project site is located within the Transit or Midtown Specific Plan Areas; (ii) the on-street parking space is located along the project site frontage directly serving and adjacent to the use; (iii) no more than 50 percent of the required parking spaces shall be allocated on-street unless the commercial or retail use requires ten or less parking spaces; (iv) the on-street parking space is located less than 300 feet away from the use it serves; and (v) the on-street parking space shall be designated as limited time parking in accordance with the California Vehicle Code.”

While all 62 of the residential and related guest spaces are provided on site, the applicant proposes that the required six (6) commercial spaces be located as follows: four (4) along South Main Street, and two (2) along East Curtis Avenue, directly adjacent to the proposed commercial space, as permitted by the MMSP.

**Table 3: Project Compliance with Parking**

<table>
<thead>
<tr>
<th>Number of Units/Type/ Sq. Ft.</th>
<th>Number of Bedrooms/ Unit</th>
<th>Development Standard</th>
<th>Minimum # of Spaces Required</th>
<th>Maximum # Spaces Allowed</th>
<th>Total Spaces Provided</th>
<th>Conforms (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESIDENTIAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>2-3</td>
<td>2.0 per unit</td>
<td>54</td>
<td>--</td>
<td>54</td>
<td>Y (via CUP)</td>
</tr>
<tr>
<td>Guest</td>
<td>--</td>
<td>15% of total residential spaces required</td>
<td>8</td>
<td>--</td>
<td>8</td>
<td>Y</td>
</tr>
<tr>
<td><strong>SUB-TOTAL:</strong></td>
<td></td>
<td></td>
<td><strong>62</strong></td>
<td>--</td>
<td><strong>62</strong></td>
<td><strong>Y</strong></td>
</tr>
<tr>
<td><strong>COMMERCIAL/OFFICE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1,787 sq. ft.</td>
<td>--</td>
<td>3.3 per 1,000 sq. ft.</td>
<td>6</td>
<td>--</td>
<td>6</td>
<td>Y</td>
</tr>
<tr>
<td><strong>PARKING TOTAL:</strong></td>
<td></td>
<td></td>
<td><strong>68</strong></td>
<td>--</td>
<td><strong>68</strong></td>
<td><strong>Y</strong> (via CUP)</td>
</tr>
</tbody>
</table>
3. The project is consistent with the Milpitas General Plan. The project is an approved use in the Mixed Used land use designation found in the Milpitas General Plan. Additionally, the project furthers the goals and policies of the land use element, as outlined in Section 4.1, above.

4. The proposed project conforms to the intent and the specific requirements of the Midtown Specific Plan, including the Development Standards and Design Guidelines.

The proposed project addresses the purpose and intent of the Midtown Specific Plan, with a minor exception to setback requirements and a request for a tandem parking configuration which has been addressed through the conditional use permit process outlined herein. Table 4 outlines the project’s consistency with applicable MMSP Mixed Use Policies:

**Table 4: Midtown Specific Plan Policy Consistency**

<table>
<thead>
<tr>
<th>Mixed Use Policies</th>
<th>Consistency Finding</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Policy 3.10:</strong> Designate parcels along the Main Street and Abel Street corridor mixed-use and allow a mixture of retail, office, housing, service, and public/quasi-public uses in this area.</td>
<td>Consistent. The proposed project is a mixed-use development and provides residential units and ground floor commercial space.</td>
</tr>
<tr>
<td><strong>Policy 3.11:</strong> Encourage vertical as well as horizontal mixing of uses along Main Street. Require ground-level commercial space along Main Street between Carlo Street and Sinott Lane.</td>
<td>Consistent. The proposed project is a mixed-use development and provides ground floor commercial space as well as ground floor and upper floor residential space. As the project is not located between Carlo Street and Sinott Lane, ground-level commercial space is not required for the entirety of the ground-floor frontage and a mix of uses is encouraged.</td>
</tr>
<tr>
<td><strong>Policy 3.12:</strong> Encourage housing as the principal upper-level use along Main Street.</td>
<td>Consistent. The proposed project provides condominium units on the upper level along Main Street.</td>
</tr>
<tr>
<td><strong>Policy 3.14:</strong> Limit the establishment of new quasi-public uses within the mixed-use designation in order to create a more active street environment.</td>
<td>Consistent. The proposed project consists of commercial and residential uses only.</td>
</tr>
<tr>
<td><strong>Policy 3.24:</strong> Require new residential development to provide public parks at a ratio of 3.5 acres per 1,000 persons, of which up to 1.5 acres per 1,000 persons can be developed as private or common open space.</td>
<td>Consistent. The developer of the project will pay a park-in-lieu fee at a rate of 3.5 acres per 1,000 persons, as conditioned in the Conditions of Approval.</td>
</tr>
<tr>
<td><strong>Policy 4.17:</strong> Ensure that new development complies with City of Milpitas Zoning Ordinance requirements for off-street parking. Consider reductions on a case-by-case basis.</td>
<td>Consistent. The project is consistent with the requirements for off-street parking as required by the City of Milpitas Zoning Ordinance, via approval of a CUP for tandem parking configuration.</td>
</tr>
</tbody>
</table>
As the site is not located in the section of Main Street located between Carlo Street and Sinnott Lane, ground-level commercial space is not a requirement for the entirety of the ground-floor frontage at this location (MMSP Policy 3.11, page 3-10). Residential units are permitted on the ground floor, and residential uses are encouraged in this area as a means to activate the street and support transit.

The project has been reviewed against the MMSP design guidelines and the project is consistent. Key guidelines and how the project conforms is outlined in Table 5:

<table>
<thead>
<tr>
<th>Midtown Specific Plan Design Guideline</th>
<th>How Project Conforms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guideline A(2)(c): Building facades should include street facing entries, windows, special corner treatment, and other articulation.</td>
<td><strong>Consistent.</strong> The building fronts to the street, holding the street corner at South Main Street and Curtis Avenue with a special architectural corner treatment which extends the roofline an additional 5 feet (approximately) from the balance of the building. All residential and commercial spaces have street facing windows and entries and varying degrees of articulation to create visual interest.</td>
</tr>
<tr>
<td>Guideline B(2)(c): Buildings should be well articulated by changes in roof heights and vertical planes to reduce the appearance of bulk and create interesting building silhouettes.</td>
<td><strong>Consistent.</strong> The building has varying roof heights, windows are set into walls to create reveals, and windows and doors have height greater than width, creating interesting fenestrations which help to create a distinct building silhouette.</td>
</tr>
<tr>
<td>Guideline B(2)(d): All building facades should have a base consisting of, but not limited to: thicker walls; richly textured materials (i.e. tile or masonry treatments); and a recognizable “top” consisting of but not be limited to” cornice treatments; roof overhangs with brackets; stepped parapets; richly textured materials (i.e tile or masonry treatments); and/or differently-colored materials</td>
<td><strong>Consistent.</strong> The project includes textured stucco and concrete materials for the building façade. All rooflines, windows and doors have “topper” treatments including corbels, headers, banding, trim and brackets, and the roofline has a series of stepped parapets. The color palette for the building includes a variety of different warm earth tones.</td>
</tr>
<tr>
<td>Guideline B(4)(e): Woodboard siding, wood shingles, tile, stucco, and/or masonry should be used. Scored plywood, such as T-III, vinyl, and aluminum siding are not allowed. If other simulated materials are used, they should be of a quality, color, and application that demonstrate a convincing realism.</td>
<td><strong>Consistent.</strong> The project includes textured stucco and concrete materials for the building façade. No scored plywood, vinyl or aluminum siding is proposed. While metal is proposed for window shutters and for a portion of the commercial façade, they are of a realistic color quality and application, as required.</td>
</tr>
<tr>
<td>Midtown Specific Plan Design Guideline</td>
<td>How Project Conforms</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td><strong>Guideline B(4)(g):</strong> Glass curtain walls and other highly reflective building materials are considered inappropriate for building walls.</td>
<td><strong>Consistent.</strong> The project does not include glass curtain walls or highly reflective building materials.</td>
</tr>
<tr>
<td><strong>B(5)(a):</strong> The body of the building or field colors should generally be more muted and light in tone. Accents, window frames, details of cornice lines, etc., should be richer tones.</td>
<td><strong>Consistent.</strong> Per the colors and materials board received September 29, 2017 and presented at the Planning Commission hearing, the primary building colors incorporate light earth tones, with richer earth tone colors used for doors and trim, including corbels, headers, banding and brackets.</td>
</tr>
</tbody>
</table>

**SECTION 6: Conditional Use Permit (Section XI-10-57.04)** The Planning Commission makes the following findings based on the evidence in the public record in approving Conditional Use Permit No. UP16-0013:

1. **The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.**

   The use is consistent with this finding because the reduction in setbacks and approval of a tandem parking configuration will not be detrimental or injurious to property or improvements in the vicinity, nor to the health, safety or welfare the general public. Rather, such modifications allow the project type to be of an appropriate density as dictated by the MMSP while promoting the MMSP policy of encouraging mixing of uses along Main Street (MMSP Policy 3.11).

2. **The proposed use is consistent with the Milpitas General Plan.**

   The use is consistent with the requirements for the MXD land use designation, as outlined in the Milpitas General Plan. Please refer to Section 5.3 above for further detail.

3. **The proposed use is consistent with the Milpitas Zoning Ordinance.**

   The use is consistent with the requirements for the MXD land use designation, as outlined in the Milpitas Zoning Ordinance. Please refer to Section 5.2 above for further detail.

4. **The proposed use is consistent with the Milpitas Midtown Specific Plan.**

   The use is consistent with the requirements of the Milpitas Midtown Specific Plan, per Section 5.4 above.

   In addition, per the MMSP Section 8 (page 8-4: **Review Process**), the following findings must also be made:

   a. **The deviation from the Midtown Specific Plan Standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development.**
Per MMSP Section 8.2, “[t]he front yard setback may be reduced for mixed-use developments where it can be demonstrated that such a change is compatible with adjacent properties and would enhance the streetscape environment.” (MMSP, page 8-8). As this project is proposed on an underdeveloped lot to be combined with an undeveloped corner lot, this development will be creating a new sense of place. Reduced setbacks in this corner location would actually be quite beneficial to the area, as the building would aid in the development of a new identity, which is currently lacking in this section of Midtown through a best practice that is known as “holding the corner” or building to the lot line on a prominent corner lot. The fact that this lot is currently vacant reemphasizes that this deviation would only serve to enhance the overall integrity of the development and the site.

The tandem parking configuration for two of the required 54 residential parking spaces makes up only 3.7% of the total number of required spaces. The Milpitas Zoning Ordinance permits up to 50% of the spaces in this development to utilize a tandem configuration via approval of a Conditional Use Permit (XI-10-53.07-D(1) and XI-10-53.07-D(2)(a)), and this request falls far below the accepted City benchmark. Further, the approval of the tandem configuration frees up valuable square footage on the modestly-sized site, allowing it to be fully developed within the density range envisioned for the MMSP area, and with the commercial component desired.

Approval of these deviations will make way for the development of this project, which is expected to have a positive and catalyzing effect for the MMSP district.

b. The deviation from the Midtown Specific Plan Standard allows for a public benefit not otherwise obtainable through the strict application of the Design Standard.

The MMSP Section 8 requires exceptions to the Plan to provide a public/community benefit to offset said exceptions. The applicant will make a one-time payment of $75,000, payable at the time of Building Permit issuance, as a community benefit to offset the setback exceptions and the request for a tandem parking configuration referenced in this report. The community benefit contribution will be applied to the City’s Affordable Housing Fund. Without approval of these two modest exception requests, the City would not have the nexus to attain this additional benefit from this project.

SECTION 7: The Planning Commission of the City of Milpitas hereby adopts Adopt Resolution No. 17-027 recommending the City Council approve Vesting Tentative Subdivision Map No. MT16-0002, Site Development Permit No. SD16-0002, Conditional Use Permit No. 16-0013 and Environmental Assessment No. EA17-0006, based on the above findings and subject to the Conditions of Approval attached hereto as Exhibit 1 incorporated herein.
PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on November 8, 2017.

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on November 8, 2017, and carried by the following roll call vote:

<table>
<thead>
<tr>
<th>COMMISSIONER</th>
<th>AYES</th>
<th>NOES</th>
<th>ABSENT</th>
<th>ABSTAIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawrence Ciardella</td>
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<tr>
<td>Ray Maglalang</td>
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<tr>
<td>Rajeev Madnawat</td>
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<tr>
<td>Sudhir Mandal</td>
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<tr>
<td>Demetress Morris</td>
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<tr>
<td>Gurdev Sandhu</td>
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<tr>
<td>Zeya Mohsin</td>
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<tr>
<td>Evelyn Chua (Alternate)</td>
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</tbody>
</table>
EXHIBIT 1

CONDITIONS OF APPROVAL
808 SOUTH MAIN STREET

VESTING TENTATIVE SUBDIVISION MAP NO. MT16-001
SITE DEVELOPMENT PERMIT NO. SD16-0002
CONDITIONAL USE PERMIT NO. 16-0003 AND
ENVIRONMENTAL ASSESSMENT NO. EA17-0006

1. **General Compliance**: The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. VESTING TENTATIVE SUBDIVISION MAP NO. MT16-001, SITE DEVELOPMENT PERMIT NO. SD16-0002 and CONDITIONAL USE PERMIT NO. 16-0003 (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.

2. **Effective Date**: Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the City Council approved this Permit.

3. **Acceptance of Permit**: Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
   a. Acceptance of this Permit by Permittee; and
   b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.

4. **Permit Expiration**: Pursuant to Section XI-10-64.06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the Project:
   a. Completes a foundation associated with the Project; or
   b. Dedicates any land or easement as required from the zoning action; or
   c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

5. **Time Extension**: Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. (P)
6. **Project Job Account**: If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's project job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit as applicable, Permittee shall pay in full the Project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. (P/E)

7. **Notice**: Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).

8. **Cost and Approval**: Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. (ALL)

9. **Conditions**: Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Project is operating under the permits and approvals in this Resolution. (ALL)

10. **Compliance with Laws**: The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state and federal laws, rules, regulations, guidelines, requirements and policies. (CAO/P/E/B)

11. **Indemnification**: To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including, but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Permittee, City and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT16-0004, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.
12. **Certificate of Insurance**: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies.

13. **Revocation, Suspension, Modification**: This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal Code.

14. **Severability**: If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding and fully enforceable.

15. **Compliance with Fire Department and California Fire Code**: The project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and approval by the Fire Department. (F)

16. **Development in Conformance with Approved Plans**: Permittee shall develop the approved Project in conformance with the plans dated May 26, 2017 and approved by the City Council on ______________, 2017, in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review, and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. (P)

**PLANNING DEPARTMENT CONDITIONS**

17. **Railway Noise Mitigation**: Per the project’s CEQA analysis, railway noise shall be mitigated at both the interior and exterior areas of the project site. The project shall adhere to the following General Plan Policies:
   a. **GP Policy 6-I-5**: All new residential development (single family and multifamily) and lodging facilities must have interior noise levels of 45 dB DNL or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB DNL interior noise levels.
   b. **GP Policy 6-I-4**: Where actual or projected rear yard and exterior common open space noise exposure exceeds the “normally acceptable” levels for new single family and multi-family residential projects, use mitigation measures to reduce sound levels in those areas to acceptable levels.

Prior to issuance of building permit, Permittee shall demonstrate adherence to the above noise standards to the satisfaction of the Director of Planning or his/her designee.

18. **Railway Air Quality Mitigation**: Per the project’s CEQA analysis, railway air quality impacts shall be mitigated at the project site. High efficiency filters shall be used in the project’s HVAC system at the minimum efficiency rating of MERV-13. Prior to issuance
of building permit, Permittee shall demonstrate adherence to the above air quality standards, to the satisfaction of the Director of Planning or his/her designee.

19. **Railway Hazardous Materials Mitigation**: Per the project’s CEQA analysis, prior to the issuance of any building permit, Permittee shall conduct a Phase II Environmental Site Assessment (ESA) to determine if residual contamination exists in the subsurface soils at the site. Should any contamination be found, permittee shall adhere to all federal, state and local regulations, guidelines and policies for treatment, remediation and disposal of contaminated soil and groundwater. Prior to issuance of building permit, Permittee shall demonstrate adherence to this condition, to the satisfaction of the Director of Planning or his/her designee.

20. **Demolition Hazardous Materials Mitigation**: Per the project’s Phase I ESA, prior to demolition Permittee shall conduct the following investigations:
   a. Sampling for asbestos-containing materials and lead-based paints
   b. Identification and proper disposal of all paint can, kerosene bottles/cans, diesel containers, and propane cylinders on-site, under a manifest.
Prior to issuance of any demolition permit or building permit, Permittee shall demonstrate adherence to this condition, to the satisfaction of the Director of Planning or his/her designee.

21. **Mechanical Venting and Exterior Wall Penetrations**: No mechanical venting or exterior wall penetrations of any type shall protrude through exterior walls or roofs which are visible from the public right of way without prior, written approval from the Director of Planning or Planning or his/her designee. All efforts shall be made to eliminate the visibility of any and all exterior venting and protrusions.

22. **Exterior Wall Penetration Plan Submittal**: An exterior wall penetration plan shall be submitted with the first building plan submittal. Plan sheets shall include building elevations that identify the locations of any and all exterior wall penetrations, describe the associated use (e.g. water heater, dryer vent, fans, etc.) and show venting/piping/protrusion details and dimensions. No building permit shall be approved by the Planning Department without submittal and approval of this plan.

23. **Exterior Mechanical Equipment**: All exterior mechanical equipment such as air conditioning units shall be located and/or screened such that they are not visible from the public right of way. Exterior mechanical equipment shall not be located on private porches or balconies, or vented in such a way as to blow exhaust onto private porches or balconies. Proposed locations of and screening materials for said equipment shall be clearly identified on all building plan submittals. Screening materials must match the colors and materials for the development as a whole and as approved by the City Council, to the satisfaction of the Director of Planning or his/her designee.

24. **Landscape**: All approved landscaping shall be permanently maintained by the Home Owner’s Association (“HOA”). This may be accomplished by including this provision within the covenants, conditions, and restrictions (“CC&Rs”) adopted for the Project, which CC&Rs shall be subject to review and approval by the City Attorney prior to recordation. Failing landscaping shall be replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance.
25. **Parking:** Parking shall be provided as depicted on the plans dated May 26, 2017 and approved by the City Council. Parking shall consist of the following:

   a. **RESIDENT:** Two (2) private garage spaces per townhome unit for a maximum total of 52 parking spaces within 26 individual garages. An additional two (2) covered spaces shall be provided for the one (1) second-floor loft unit. These loft spaces shall be indicated as such through signage and “RESERVED” pavement markings (or similar markings) for both stalls. Neither space shall include compact spaces without written approval from the Director of Planning or his/her designee.

   b. **GUEST:** A total of eight (8) guest spaces shall be installed on site. None of the guest spaces shall be compact spaces without written approval from the Director of Planning or his/her designee. All guest spaces shall be identified as such through signage and “GUEST” pavement markings at each stall.

   c. **COMMERCIAL:** Four (4) striped parking spaces shall be provided on the South Main Street right-of-way frontage and two (2) striped parking spaces shall be provided on the East Curtis Avenue right-of-way frontage directly adjacent to the proposed commercial space, satisfying the project’s Commercial parking requirement.

   d. **TANDEM:** Two (2) tandem spaces are permitted on site, adjacent to the rear of the commercial space.

   e. **ADA:** ADA Accessible spaces and ADA Van Accessible Spaces shall be provided as required in the California Building Code (CBC). Refer to Building Department Accessibility Conditions for further detail.

26. **Tandem Parking:** Permittee shall insure that tandem spaces referenced in Condition 25 are maintained so as to allow the parking of two (2) vehicles at all times. This may be accomplished by including this provision within the CC&Rs adopted for the Project.

27. **Bicycle Racks:** A minimum of three (3) short-term bicycle parking spaces shall be installed and maintained within the Project.

28. **Architecture:** Project Architecture shall be as depicted on the plans dated May 26, 2017 and as approved by the City Council on ____________, 2017. Any deviations from approved Project Architecture shall be approved at the sole discretion of the Director of Planning or his/her approved designee.

29. **Street Lights:** Permittee shall provide street lighting along all street frontages consistent with current Milpitas Midtown Specific Plan standards and to the satisfaction of the City, subject to the review and approval of the Planning Division. Permittee shall likewise install pedestrian scale lights along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans.
30. **Public Art Requirement**: Permittee shall comply with the City’s Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. The fee shall be no less than one-half of one percent of building development costs and shall be payable at time of building permit issuance.

31. **Affordable Housing/Inclusionary/Impact Fee**: In recognition of the need for affordable housing within the City and as further described in Resolution No. 8491 adopted by the City Council on June 16, 2015, Permittee shall participate in an inclusionary affordable housing plan, or similar fair and appropriate mechanism to support affordable housing, if established by the City Council in the future, by: (1) providing five percent (5%) of all newly constructed dwelling units in the residential development as very low- income or low-income (as defined in the California Health & Safety Code) to be developed, offered, and maintained as affordable housing to very low- income and low-income households; or (2) prior to building permit issuance, pay a fee in- lieu of all or some of the inclusionary units, should an inclusionary housing plan, or similar fair and appropriate mechanism, be established by City Council. The amount of in-lieu fee to be paid shall be the lesser the amount of (i) the amount in effect pursuant to the implementing City Council ordinance or resolution at the time full payment is made to the City at the time of building permit issuance, or (ii) the amount equivalent to five percent (5%) of the construction value as determined by the Building Department. In the event the nexus study initiated by the City supports less than five percent (5%) levels of affordable housing, this condition shall only require affordable housing commitment at rates supported by the nexus study on and after such time as that study is completed and adopted by City Council.

32. **Community Benefit Required for Land Use Exceptions Granted (CUP)**: MMSP Section 8 requires exceptions to the Plan to provide a public/community benefit to offset exceptions to development standards. Permittee has agreed to provide a one-time payment of $75,000, payable at the time of Building Permit issuance, as a Community Benefit to offset the requested entitlements referenced above. Community Benefit contribution is to be applied to the City’s Affordable Housing Fund.

**ENGINEERING DEPARTMENT AND UTILITY CONDITIONS**

**PRIOR TO CONSTRUCTION PLAN SUBMITTALS**

The following conditions shall be met prior to any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. (E)

33. **Modifications**: The Vesting Tentative Map dated May 8 and May 9, 2017 is subject to change during the plan check stage based upon City’s previous comments and conditions stated herein.

34. **Stormwater Control Plan**: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City’s review and approval by the Engineering Department.
35. **Photometric Analysis**: Permittee shall submit streetlight photometric analysis for City’s review and approval by the Engineering Department along South Main Street and Curtis Avenue that meet the Illuminating Engineering Society of North America (IESNA) RP8, for roadway and sidewalk lighting standards and City standard design guidelines.

36. **Recycle Water Cross-Connection Specialist**: In order to comply with the California Code of Regulations Title 17 and 22, and for timely plan approval by the California State Water Resources Control Board, Division of Drinking Water, as well as by South Bay Water Recycling, Permittee must hire a certified cross-connection specialist for their consultation as to irrigation water system design and construction phasing. The name and contact information of the certified cross-connection specialist shall be provided on all landscape submittal plans.

37. **Submittal Requirements**: Permittee to ensure that all plan check submittals are in accordance with City’s submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.

38. **Project Job Account/Fee Deposit**: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department’s services for review and inspection of the project. The amount shall be at 10% of the public improvement cost estimates as prepared by the Permittee’s engineer.

**PRIOR TO FINAL MAP APPROVAL/RECORDATION**

*The following conditions shall be addressed during the final map plan check process and shall be met prior to any final map approval/recordation (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

39. **Dedication on the Final Map**: Permittee shall dedicate emergency vehicle access easements, public service utility easements, street easements, public access easement and other public easements deemed necessary for the project.

40. **Abandonment/Quitclaim Easements**: Permittee shall abandon/quit claim existing easements that are in conflict with or unnecessary for the project.

41. **Easements on the Final Map**: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on the final map.

42. **Concurrent Off-site Plan Reviews**: Permittee shall submit separate off-site improvement plans for City’s review and approval by the Engineering Department.

43. **Street Name Approval**: Permittee shall obtain approval from the City Council for all new street names based upon recommendation from the City’s Facilities and Street Naming Subcommittee and City guidelines.

44. **Utility Company Approval**: Permittee shall obtain approval letters from utility companies (PG&E, AT&T, Comcast, etc.) for abandonment of existing and dedication of new public service utilities easements.
45. **Demolition of Existing Building**: Permittee shall demolish existing buildings/facilities that are in conflict with the new property lines.

46. **Covenant, Conditions & Restrictions (CC&Rs)**: Permittee shall submit CC&Rs for City’s review and approval to ensure there are adequate provisions for maintenance of private utilities, stormwater treatment facilities and other responsibilities by the homeowners’ association.

47. **Subdivision Improvement Agreement and Securities**: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).

48. **Annexation to the Community Facilities District**: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2005-1, and agree to pay the special taxes levied by the CFD 2005-1 for the purpose of maintaining the public services. The CFD annexation process shall be completed prior to final map approval. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is non-severable from the Permit and invalidation or limitation of this condition invalidates the Permit, Condition 14 notwithstanding.

**PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE**

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met prior to encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

49. **Public Improvement Design Standards**: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including, but not limited to:
   c. Mid-town Specific Plan design guidelines: (http://www.ci.milpitas.ca.gov/planning-documents/midtown-specific-plan/); and
   d. Americans with Disabilities Act (ADA) requirements, where applicable.

50. **Sanitary Sewer Calculations**: Permittee shall submit a completed “Sewer Needs Questionnaire” form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible for any necessary improvement measures if there is any identified deficiency to the existing main as a result of the project.
51. **Storm Drain Design:** Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.

52. **Domestic Water and Fire Service Calculations:** Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible for any necessary improvement measures if there is any identified deficiency to the existing main as a result of the modeling.

53. **Specific Improvements:** In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below, including incidental improvements as required by the City as part of the encroachment permit.
   a. Underground existing overhead facilities along the frontage of South Main Street from the joint pole located at approximately 170 feet south of the northern property line to the joint pole located at approximately 100 feet north of the northern property line per MMC Title XI, Chapter 1, Section 7.02-2, and as approved by the City and PG&E.
   b. Relocate the existing 8” water main along project frontage on East Curtis Avenue. The limits and location of the newly relocated water main shall be to the City’s satisfaction and in compliance with all applicable State and City rules and regulations.
   c. Installation of separate water service tap and meter for each of the following services: residential, non-residential, irrigation, and fire.
   d. Installation of separate sanitary sewer services for residential and non-residential.
   e. Installation of full street Type II slurry seal along project’s frontages on South Main Street and Curtis Avenue.
   f. Relocation of existing traffic signal poles and appurtenances at the northeast corner of East Curtis Avenue and South Main Street as needed and to the satisfaction of the city traffic engineer.
   g. Installation of new sidewalk bulb outs along East Curtis Avenue and at the curb return of South Main Street to the satisfaction of City Traffic Engineer to accommodate on-street parking along project frontage.
   h. Installation of traffic striping for on-street parking and bike lane along South Main Street and on-street parking along East Curtis Avenue to the satisfaction of the City Traffic Engineer.
   i. Installation of City streetlights per Mid-Town Specific Plan guidelines and standards. Permittee shall coordinate with the City’s Midtown Street Light Project during the design phase to ensure consistency of new streetlight design and locations along the project frontage. Salvage of existing City streetlights.
   j. Relocation or removal of all existing public utility facilities within the existing PSUE easement to be abandoned.
   k. Installation of two curb ramps and cross walks with decorative pavers at the northeast corner of South Main Street and East Curtis Avenue per City’s Midtown Specific Plan guidelines and standards and to the satisfaction of the City Traffic Engineer.
1. Installation of a new concrete bus pad along South Main Street in accordance of VTA standards and specifications and to the satisfaction of the City Traffic Engineer.

m. Installation of new street tree wells along the project frontage. The locations, spacing of tree wells and tree species shall be in compliance with applicable City standards and details.

54. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City’s Abandonment Notes and to the City’s satisfaction.

55. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.

56. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.

57. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements, including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

58. Pothole Encroachment Permit: Due to multiple new utility service connections on major/collector streets, Permittee shall pothole and verify all potential utility crossing conflicts as part of the public improvement plan during the design stage.

PRIOR TO BUILDING PERMIT ISSUANCE
The following conditions shall be addressed during the building plan check process and shall be met prior to any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)

59. Final Map Recordation: Permittee shall record the final map.

60. Building Site Improvement Permit (B-SI Permit): Permittee shall obtain approval for the off-site improvement plans.

61. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit a Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).

62. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City’s ability to provide water supply.

63. Recycle Water Approval: Permittee shall use recycled water for landscape irrigation purposes, except for the interior courtyard/podium areas within the building footprint where potable water shall be used for irrigation. Permittee shall comply with California
Code of Regulations (CCR), Title 22, Division 4, Chapter 3, titled “Water Recycling Criteria”, CCR, Title 17, Division 1, Chapter 5, Subchapter 1 titled “Drinking Water Supply” and all other recycled water regulations as listed under the publication titled “California Department of Public Health Regulations Related to Recycled Water June 18, 2014”. Permittee shall obtain approval from the California State Water Resources Control Board, Division of Drinking Water, South Bay Water Recycling, and the City for recycled water design, including but not limited to on-site irrigation design, based upon South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. All landscape plants shall be compatible with recycled water.

64. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 (‘Water Efficient Landscapes’) for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.

65. Dewatering. If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.

66. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.

67. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
   a. What materials will be salvaged.
   b. How materials will be processed during demolition.
   c. Intended locations or businesses for reuse or recycling.
   d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins. Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City’s demolition and construction debris recycling ordinance.

68. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of “end dumps.” Actual reuse, recycling and disposal tonnage amounts (and estimates for “end dumps”) shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.

69. Grease Interceptor: Provide grease interceptors for buildings with food service. Contact San Jose/Santa Clara Water Pollution Control Plant at http://www.sanjoseca.gov/index.aspx?NID=1641 for sizing and location requirements for grease interceptor(s). No grease interceptor(s) shall be located in any public right-of-way or public easement areas.
70. **Development Fees:** Permittee shall pay the following development fees. The information listed in items “a” through “j” are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
   a. Parkland Impact fee of $655,993 (equivalent to 0.24 acres, per MMC XI-1-9)
   b. Affordable Housing Impact Fee, equal to 5% of the construction value of the development as determined by the Building Official, per Resolution No. 8491 adopted by the City Council on June 16, 2015
   c. Public Art Impact Fee, per MMC XI-10-14, equal to one-half of one percent of building development costs, as determined by the Building Official,
   d. Storm water connection fee at $16,771/acre for residential and $21,562/acre for commercial.
   e. Water connection fee at $1,164/unit for residential and $5.97/gpd for commercial, based upon increased water usage.
   f. Sewer connection fee at $1,406/unit for residential and $8.52/gpd for commercial, based upon increased average wastewater flow.
   g. Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
   h. Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
   i. 2.5% of applicable fees in accordance with City Resolution No. 7590 as Permitting Automation Fee.
   j. FEMA Flood Zone Designation Letter fee in the amount of $100.00 each.

**DURING CONSTRUCTION**
*The following conditions shall be complied with at all times during the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

71. **On-site Recycle Water Coordination:** Permittee’s cross-connection specialist shall coordinate the phasing of the construction, facilitate the cross-connection testing in order to minimize the impact for occupied buildings during cross-connection testing, sign-off before the water meter set, coordinate on-site construction inspection, complete the site inspection, fill out required paperwork/questionnaire, and provide them to the City for forwarding to South Bay Water Recycling.

72. **Prohibition of Potable Water Usage:** Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.

73. **Construction Staging and Employee Parking:** Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.

74. **Water Shut-down Plan:** Permittee shall provide a water shut-down plan, coordinate with the Engineering Inspector, and notify affected property owners/tenants when cut-in tee(s) is/are required.

**PRIOR TO FIRST OCCUPANCY**
*The following conditions shall be met prior to first building occupancy, unless otherwise approved the Director of Engineering/City Engineer.*
75. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to, frontage improvements along South Main Street and Curtis Avenue, traffic signal modifications, and, as shown on City approved plans.

76. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department. The subject O&M Agreement shall be referenced in the CC&Rs, if applicable.

77. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.

78. Certificate of Cross-Connection: Permittee shall ensure that the cross-connection specialist complete the required recycled water construction inspection checklist, cross-connection test results and any special inspection checklist as required by the South Bay Recycling Program (http://www.sanjoseca.gov/index.aspx?NID=1595) and forward them to the City.

79. Record Drawings: Permittee shall submit record drawings in AutoCAD and Adobe PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the project uses recycled water, Permittee shall also submit record drawings of on-site irrigation facilities.

80. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

**FIRE DEPARTMENT CONDITIONS**

*The plans approved by the City Council are not building construction plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider the plan set approved as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2017) and are provided to assist with the building permit process. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction.*

81. Technical Assistance: To determine the acceptability of technologies, processes, products, facilities, materials, and uses attending the design, operation or use of a building or premises subject to inspection by the Fire Code Official, the Fire Code Official is authorized to require the owner or agent to provide, without charge to the jurisdiction, a technical opinion(s), plan review(s) and/or report(s). CFC Section 104.7.2.

82. Electronic documents: The Fire Code Official may require electronic base documents for all construction documents and operational permits. The Fire Code Official shall designate the software base format for the electronic documents. CFC Section 105.4.2.2, added by
83. **Fire Department Access**: Fire Department apparatus and staff access shall be provided to all buildings and site. Detailed review will be done during construction permit process. The plans submitted (sheets C1.4 and C2.4) appear to be in general conformance with the requirements. CFC Section 102.9.

   a. **Minimum Number of Fire Apparatus Access Points**: A minimum of two independent and approved (approved by the Fire Code Official) means of fire apparatus access shall be provided for the site. Buildings or facilities exceeding 30 feet (9144 mm), three stories in height or 50,000 square feet (5760 m²) shall be provided with at least two means of fire apparatus access for each structure. International Fire Code, Section D104.1, adopted and amended by MMC V-300-2.143.

   b. **Turning Radius**: Fire apparatus access roads shall meet the Milpitas Fire Department turning radii guidelines and shall provide continuous apparatus travel. Turning radii for fire apparatus access roads shall be a minimum net clearance of 48 feet 6 inches for the outside radius and 28 feet 0 inches for the inside radius. The layout for the outside and the inside radius shall be from the same reference point (center). CFC Section 503.2.4.

   c. **Fire Apparatus Clearance**: Fire apparatus access roads shall provide a minimum clear width of 26 feet. This requirement is for the use and function of a fire ladder apparatus. International Fire Code, Appendix D, Sections D103.1 and D105.2, adopted and amended by Milpitas Municipal Code. MMC V-300-2.142 and 2.145. For townhome style buildings, 22 feet in width drive is acceptable, provided the structures above provides a continuous clear finish dimension of not less than 26 feet centered on the drive and the drives meet all required fire apparatus turning movements.

   d. **Timing of Installation and Serviceability of Fire Protection Elements**: When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction. Combustible construction shall not begin until water mains and hydrants are operational and fire apparatus access roads are installed (paved). CFC Section 501.4.

   e. **Fire Apparatus Access**: Fire apparatus access shall extend to within 150 feet of all portions of exterior walls of the building/structure per the California Fire Code Section 503.1.1. When there is a dead-end condition, means for fire apparatus turnaround shall be provided.

   f. **Adjacent Access Rights**: No source of access from lands adjoining a property to be developed shall be considered fire apparatus access roads, unless there is obtained the irrevocable and unobstructed rights and recorded as an ingress/egress access easement with the Country of Santa Clara. CFC Section 503.7, added by MMC V-300-2.48.

   g. **Fire Access Road Materials and Load Bearing Requirements**: Fire access roads shall be paved (concrete and/or asphalt cement, or other concrete type pavement approved by the Fire Dept.). Fire apparatus access roads/lanes and emergency vehicle roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Design criteria shall be based on the City of Milpitas fire apparatus Sutphen S95 Aerial
Platform unit. Please contact the Fire Prevention Division for specifications. CFC Section 503.2.3.

h. **Obstruction of Fire Access:** Ground structures (including landscape) and building projections shall not encroach or impede the fire apparatus access requirements. CFC Section 503.4.

i. **Emergency Vehicle Access (EVA):** EVA roads, when required, shall meet the fire department site access requirements. CFC Section 503.

j. **Marking of Fire Access Roads:** The required access road shall be designated and clearly marked as a fire lane. The designated fire lane shall be identified as set forth in Section 22500.1 of the Vehicle Code. The designation shall be indicated (1) by a sign posted immediately adjacent to, and visible from, the designated place clearly stating in letters not less than one inch in height that the place is a fire lane, (2) by outlining or painting the place in red and, in contrasting color, marking the place with the words "FIRE LANE", which are clearly visible from a vehicle, or (3) by a red curb or red paint on the edge of the roadway upon which is clearly marked the words "FIRE LANE". CFC Section 503.3. Minimum marking shall be pole signage and red curb with “FIRE LANE” stencil. Signage and red curbs shall be done throughout and as needed to clearly identify the no parking zones.

k. **Site Design Changes:** The Fire Department reserves the right to request site design changes as needed to meet the requirements of the CFC, and/or make the request for additional fire protection measures in conformance with the CFC Section 102.9.

84. **Fire Protection Water Supply (Hydrants, On-site and Public):** An approved water supply (hydrants on-site and public) capable of supplying the required fire flow for fire protection shall be provided upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction. Water supply shall meet the Fire Code and the City of Milpitas Engineering Division water supply guidelines and the CFC Section 507, Appendix B and Appendix C. Fire flow reduction as noted in the Appendix B of the Fire Code is not permitted.

a. **Water System Calculations:** Private fire service mains and appurtenances shall be designed and installed in accordance with the City of Milpitas Engineering design guideline requirements and the NFPA 24. Design calculations and all the necessary design information for the water system to meet the domestic and fire flow requirements as per the City of Milpitas Engineer Division water design requirements shall be provided as part of the construction permit process. CFC Section 507. The minimum water flow at the worst case hydrant outlet within the private system shall be not less than 2,500 gpm.

b. **Fire Hydrant Location:** The location and quantity of hydrants will be evaluation during the construction permit process. This applies to the on-site private streets as well as to the public streets. CFC Section 507.5

c. **Hydrant for Automatic Fire Sprinkler/Standpipe Systems:** Buildings equipped with an automatic fire sprinkler system and/or a standpipe system installed in accordance with Sections 903 and or 905 shall have a fire hydrant within 50 feet of the fire department connections. CFC Section 507.1.1, amended by MMC Section V-300-2.53.

d. **Private Hydrant Requirements:** Private hydrants shall have the bottom 6 inches of the hydrant painted, with a weather resistive paint, white in color. CFC Section 507.5.7, added by MMC V-300-2.54.
e. No Parking in Front of Hydrants: No parking is permitted in front of fire hydrants. Hydrants located on streets (Public or Private Street) shall have an unobstructed clearance of not less than 30 feet per CA Vehicle Code 22514.

85. Automatic Fire Sprinkler System for Structures:
   a. Automatic Fire Sprinkler: The buildings shall be provided with an automatic fire sprinkler system in conformance with the NFPA 13 and/or NFPA 13R Standards. Note, system type will depend on building/structure “construction type” analysis. California Fire Code Section 903.3.
   b. Sprinkler Valves: All valves controlling the water supply for the automatic sprinkler system shall be electrically supervised by a listed fire alarm control unit. CFC 903.4.
   c. Fire Riser Location: The fire sprinkler system riser shall not be located within electrical rooms or storage closets and shall be provided with clear access and working clearance. California Fire Code Section 903.3.5.3, added by MMC Section V-300-2.65.
   d. Sprinkler Design: Hydraulic design for the automatic fire sprinkler system shall provide a minimum of 20% safety margin. CFC Section 903.3.5.6, MMC V-300-2.68.
   e. Requirements for Fire Service Water Laterals for Building Sprinkler Systems: Each building shall have a fire service water laterals for the automatic fire sprinkler system and shall meet the California Fire Code requirements Chapter 9 and the NFPA applicable Standards. Note that the utilities drawings provided are not reviewed nor approved for construction. CFC Section 912.1
   f. FDC/PIV (fire department connection/post indicating valve) Location(s): The location of the fire department FDC’s/PIV’s shall be at a readily visible and accessible location off the fire access road and approved by the Fire Code Official. FDC’s/PIV’s shall not be located behind parking stalls nor behind any other obstruction. Final review for location for the FDC’s/PIV’s will be conducted during the construction permit process. CFC Section 912.2.
   g. FDC/PIC Signage: A metal sign with raised letters at least 1 inch in size shall be mounted on all fire department connections. Signage shall be reflective, weather resistant and approved by the Fire Code Official. CFC Section 912.5.
   h. Backflow Protection: Potable water supply to the automatic sprinkler and/or the standpipe systems shall be protected against backflow as required by the Health and Safety Code section 13114.7 and the City of Milpitas Utilities Engineering Division. CFC Section 912.6.
   i. Water Drainage: All new installations of sprinkler systems shall preclude sprinkler test and system drain water from discharging into the storm drain; provisions to direct water to the sanitary sewer or landscape or other approved means shall be provided. Sprinkler system design shall include the proposed method for drainage of sprinkler system discharge. Storm Water Pollution Regulations.
86. Fire Alarm System:
   a. **Group R-2 and R-2.1:** Fire alarm systems and smoke alarms shall be installed in Groups R-2 and R-2.1 occupancies as required in California Fire Code Sections 907.2.9.1 and 907.2.9.4. CFC 907.2.9.
   b. **Manual Fire Alarm, R-2 and R-2.1 occupancy:** A manual fire alarm system that activated the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies as noted in Section 907.2.9.1. CFC Section 907.2.9.1. Note: exception 3 under the CFC Section 907.2.9.1 is deleted by MMC Section V-300-2.70.
   c. **Smoke Alarms, R-2 Occupancy:** Single- and multiple-station smoke alarm shall be installed in accordance with Section 907.2.11. CFC Section 907.22.8.3.
   d. **Group R-2:** A fire alarm system and smoke alarms shall be installed in Group R-2 Occupancies as required in Sections 907.2.9.1 through 907.2.9.2 - CFC Section 102.9, Manual Fire Alarm - CFC Section 907.2.9.1, Smoke Alarm (in accordance with 907.2.11) - CFC Section 907.2.9.2.
   e. **Smoke Alarm, R-2 Occupancy:** R-2 Occupancy, listed single and multiple-station smoke alarms complying with UL217 shall be installed in accordance with Sections 907.2.11.2 through 907.2.11.8 and the NFPA 72. CFC Section 907.2.11.
   f. **Visual Alarm, R-2 Occupancy:** In Group R-2 occupancies required by Section 907 and/or by Section 102.9 to have a fire alarm system, all dwelling units and sleeping units shall be provide with the capability to support visible alarm notification appliances in accordance with NFPA 72. CFC 907.5.2.3.3.
   g. **Fire Alarm Zones:** Fire alarm system(s) shall be zoned as per the requirements of the CFC Sections 907.6.3 and 907.6.4.
   h. **Fire Alarm Panel:** Fire alarm panel (or fire alarm annunciator panel) shall be located in a readily accessible location and shall be provided with the necessary access and working clearance as required by the CA Electrical Code. CFC Section 907.6.4.1.1.
   i. **Fire Alarm Monitoring:** Fire alarm monitoring (approved supervising station - UL, or FM approved). Fire alarm systems required by the Fire Code or by the California Building Code shall be monitored by an approved supervising station in accordance with the NFPA 72. CFC Section 907.6.6.
87. **Building/Structure Other Requirements:**
   a. **Access Control Devices:** When access control devices including bars, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the Fire Code Official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. CFC Section 504.6, added by MMC Section V-300-2.51.
   b. **Premises Identification:** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. CFC Section 505. The Fire Department may require the installation of address numbers at multiple building locations. CFC Section 102.9.
   c. **Address Illumination:** All required addresses shall be illuminated. CFC Section 505.3, added by MMC V-300-2.52.
   d. **Fire Department Emergency Key Box (aka: Knox Box, Knox Locks, Knox Electric Switches, etc.):** The Fire Code Official is authorized to require a key box(es) to be installed in an approved location(s) if necessary for life-saving or fire-fighting purposes. Quantity and location shall be as directed by the Fire Code Official. CFC Section 506. Locked mechanical closets, fire alarm closets, sprinkler riser closets, etc., will need a Fire Dept. approved lock or “Knox” key box.
   e. **Emergency Responder Radio:** A Fire Department approved emergency responder radio coverage system may be required. CFC Section 510, MMC V-300-2.57.
   f. **Medical Service Elevators.** All new passenger service elevators shall meet the medical service elevator requirements in the California Building Code, 2016 Edition, Chapter 30. CFC Section 607.1.1, MMC V-300-2.59.
   g. **Portable Fire Extinguishers.** Portable fire extinguishers shall be selected, installed and maintained in accordance with CFC Section 906.

88. **Fire Safety:** Fire safety during construction, alteration or demolition of the building shall meet the requirements of Chapter 33 of the California Fire Code and the Standards for Construction Site Fire Safety (un-024) by “unidocs” organization (http://www.unidocs.org). A Construction Site Fire Safety plan shall be submitted to the Milpitas Fire Prevention Division for review and approval prior to the start of combustible construction. CFC Chapter 33.

89. **Landscape Sheets:** The proposed landscaping may be impacted by the comments above and the requirements for fire access, fire systems and devices (such as apparatus access, hydrants, fire service lines, fire department connections valves, etc.). The Fire Department reserves the right to relocate, delete or change the proposed landscaping when in conflict with fire systems and devices. CFC 507.5.4.

90. **Plan Submittal:** Complete plans and specifications for all aspects of fire protection systems shall be submitted to the Fire Department for review and approval prior to system installation. CFC Section 901.2.
BUILDING DEPARTMENT CONDITIONS

General

91. **Applicable Codes:** Applicable codes shall be 2016 California Building Code (CBC), California Mechanical Code (CMC), California Electrical Code (CEC), California Plumbing Code (CPC), Green Building Standards Code (CalGreen), California Energy Code (CEnC) and the 2017 Milpitas Municipal Code (MMC).

92. **Build It Green/LEED Requirement:** Residential portion of the building shall meet Build It Green 50 Green Points or LEED for Homes Certified threshold per MMC sec. II-20-3.01.

93. **Licensed Engineer/Architect:** An Engineer or Architect licensed in the State of California shall prepare the plans. Structural design calculations and plans shall be wet signed and stamped when applying for a building permit.

94. **Application for New Building Addresses:** Applicant shall apply for new building addresses prior to submitting for a building permit.

95. **Occupancy Group Designations:** Condominium building shall be classified as Group R2 Occupancy per CBC sec. 310 and private garages not exceeding 1,000 square feet as Group U Occupancy per sec. 312. Each private garage shall be separated from other private garage by 1 hr fire barriers and/or 1 hr horizontal assemblies per CBC sec. 406.3.1. Multiple private garages not separated by fire barriers shall be classified as Group S-2 Occupancy per sec. 311.

96. **Fire Rating for Multi-Story Condominium Buildings:** Condominium buildings over 2 stories high shall be one-hour fire-rated minimum (Type V-A) when allowable area increase with sprinkler is used per CBC Table 504.4.

97. **Allowable Building Area:** Allowable building area for the building shall be as per CBC Table 506.2.

98. **Exterior Wall Openings:** The maximum area of protected and unprotected openings in exterior walls shall comply with CBC sec. 705.8.

99. **Separating Units Requirements:** Wall and floor separating units in the same building and separating units from other occupancies are required to be one-hour fire resistive construction per CBC sec. 420, 708 and 711.

100. **Condominium Buildings Considered Separate and Distinct:** Condominium buildings shall be considered as separate and distinct buildings for the purpose of determining area limitations, continuity of fire walls, limitation of number of stories and type of construction where it is separated from Group S-2 garage by 3-hour fire rated horizontal assembly, unit garage is not more than one story above grade and of Type I-A construction as per CBC sec. 510.2.

101. **Required Separation in Residential Buildings:** Required separation in buildings between dwellings and private garages shall be as per CBC sec. 420.2 and 420.3.
102. **Required Separation in Mixed Use Buildings**: Required separation in buildings with mixed occupancies shall be per CBC sec. 508.

103. **Exits**: Minimum number of exits shall be provided per CBC Table 1006.3.1 and the exits provided shall comply with CBC sec. 1022 through 1027. The required number of exits from any story shall be maintained until arrival at grade or public way per CBC sec. 1006.3.1.

104. **Carbon Monoxide/Smoke Detectors Required**: In the dwelling units, provide carbon monoxide detectors and smoke detectors per CBC sec. 915 and 907.2.11.

105. **Escape Window Location**: Escape bedroom windows shall open into a public street, yard or exit court that opens to a public way as per CBC sec. 1030.1.

106. **Interior Stairway Enclosure**: Interior stairway shall be enclosed per CBC sec. 1023.2.

107. **Roofing Material**: Roofing material shall be as per CBC Table 1505.1.

108. **Exit Enclosure**: Exit enclosure in building less shall be one-hour fire-resistive construction per CBC sec. 1023.2.

109. **Exterior Opening Location**: Exterior openings required for natural light shall open directly onto a public way, yard or court as set forth in CBC sec. 1205.1.

110. **Acoustical Report**: Provide acoustical report to determine sound insulation requirements for at least exterior walls. Interior sound insulation shall be as per CBC sec. 1207 or as per acoustical report. *(Building Department: Cross reference COAs 26 & 27)*

111. **Ventilation Requirements for Dwelling Units with Non-Openable Windows**: Dwelling units which have non-openable windows as required by acoustical report shall be provided with mechanical ventilation per CBC sec. 1203.1 and CMC sec. 402.3. As per City policy BDP-ME05, City does not allow the use of exhaust only fans to achieve the fresh outside air requirement through infiltration.

112. **Electric Vehicle Charging Stations Requirement**: Where 17 or more multifamily dwelling units are constructed on a building site, 3% of the total number of parking spaces provided for all types of parking facilities, but no less than 1, shall be electric vehicle charging stations (EVCS) capable to supporting future electric vehicle supply equipment per CalGreen sec. 4.106.4.2.

113. **Electric Vehicle Charging Stations Location**: At least one EVCS shall be located in common use areas and available for use by all residents, per CalGreen sec. 4.106.4.2.1. Per City Policy No. BDP-BLG17 and CalGreen sec. 4.106.4.2.2, one in every 25 EVCS, but no less than 1, shall be accessible and located on an accessible route. Accessible EV charging parking space shall not be counted as one of the required accessible parking spaces as required by CBC, because the space is allowed to be used by non-disabled people.
114. **Solar Ready Requirement**: The buildings shall comply with solar ready requirements per CEnC 110.10.

115. **Mechanical Duct Location**: No mechanical duct shall penetrate exterior walls unless approved by Planning Division.

### Accessibility

116. **Private Garage Accessibility Requirement**: Group U private garages, which are accessory to covered multifamily dwelling units, shall be accessible as required in CBC sec. 1109A.

117. **Accessible Parking Provided**: People with disabilities accessible parking shall be provided per CBC sec. 1109A.3. Signage is not required.

118. **Accessible Parking Required**: Each type of parking shall be accessible as per CBC sec. 1009A.3 and 1009A.4.

119. **Accessible Assigned Parking Requirement**: If assigned parking spaces are provided for residents, at least 2% of the assigned parking spaces shall be accessible in each type of parking facility per CBC 1109A.4.

120. **Accessible Visitor Parking Requirement**: If unassigned or visitor parking is provided, a minimum of 5% parking stalls shall be accessible and shall be provided with signage as per CBC sec. 1009A.5.

121. **Accessible Parking Location**: Accessible parking spaces shall be dispersed and located closest to the accessible entrances and elevators per CBC per sec.1009A.7. Accessible parking spaces shall be located so that persons with disabilities are not compelled to walk or wheel behind parked cars other than their own as per sec. 1109A.7.

122. **Van Accessible Parking for Resident and Guest**: One in every eight accessible parking spaces for resident and guest parking shall be “Van accessible,” but not less than one per CBC sec. 1109A.8.6.

123. **Accessible Routes of Travel**: An accessible route of travel shall be provided to all accessible building entrances. At least one accessible route shall be provided from public transportation stop, accessible parking, and public street to building entrance, per CBC sec. 1110A.1. When more than one route is provided, all routes shall be accessible.

124. **Accessibility Signage**: Accessibility signs shall be provided at every primary public entrance and at every major junction along or leading to an accessible route of travel and at building entrances that are accessible per CBC, sec. 1110A.2.

125. **Accessible Access**: All primary entrances and required exit doors to building and facilities shall be accessible to people with disabilities per CBC sec. 1117A.2.

126. **Egress Clearance**: Exit stairways considered as an accessible means of egress shall be minimum 48” clear width between handrails and provided with the area of refuge per
CBC sec. 1009.3, unless building is provided with approved automatic fire sprinkler system.

127. **Number of Egress Points**: Each accessible portion of the space shall be served by accessible means of egress in at least the same number as required by CBC sec. 1015.1 or 1021.1 per sec. 1007.1.

128. **Accessible Bathing and Toilet Facilities**: Bathing and toilet facilities within covered multifamily dwelling units shall comply with CBC sec. 1134A.

129. **Maneuvering Clearance**: Provide maneuvering clearance at all interior doors per CBC sec. 1132A.5 and at entrance doors and exit doors per CBC sec. 1126A.3.

130. **Accessible Kitchens**: Kitchens within covered multifamily dwelling units shall comply with CBC sec. 1133A.

131. **Bread Board Clear Space**: Where bread board is provided in lieu of 30” work surface per CBC 1133A.4 exception, clear floor space shall be provided at each bread board and the clear floor space shall extend a minimum of 19” into the knee and toe space per CBC 1133A.7.

132. **Multistory Dwelling Units without Elevator**: Multistory dwelling units without elevator shall comply with CBC sec. 1102A.3.1.

133. **Public Use Area Accessibility**: Public use areas shall be accessible per CBC Ch. 11B and common-use areas for residents and their guests shall be accessible per CBC sec. 1127A.

134. **Common Area Accessibility**: Fitness center, swimming pools and all common facilities shall be fully accessible to people with disabilities per CBC sec. 1102A.4, sec.1141A and sec.1127A.

**Key:**
- (P) = Planning
- (B) = Building
- (E) = Engineering
- (F) = Fire Prevention
- (CA) = City Attorney

**NOTICE OF RIGHT TO PROTEST**
The Conditions of Project Approval set forth herein 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. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

AGREEMENT

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the project property on the terms and conditions set forth in this resolution.

Dated:_______________

______________________
Signature of Permittee