

RESOLUTION NO. 11-050

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING MAJOR TENTATIVE MAP NO. MT11-0003, SITE DEVELOPMENT PERMIT NO. SD11-0012 AND CONDITIONAL USE PERMIT NO. UP11-0033, CONTOUR PROJECT, A REQUEST TO REDEVELOP AN 8.3 ACRE SITE WITH 134 RESIDENTIAL UNITS AND INSTALLATION OF ASSOCIATED SITE IMPROVEMENTS LOCATED AT 300, 324-368 MONTAGUE EXPRESSWAY.

WHEREAS, on August 17, 2011, an application was submitted by Chris Davenport with Trumark Companies, 4185 Blackhawk Plaza Circle, Suite 200, Danville, CA 94506, a request for a Major Tentative Map and Site Development Permit to allow for the construction 134 residential units and associated site improvements on an 8.3 acres site at the southeast corner of Montague Expressway and Trade Zone Intersection. The project is located at 300, 324-368 Montague Expressway (APN 86-36-043).

WHEREAS, Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission recommend that the City Council determine this project exempt; and

WHEREAS, on October 12, 2011, 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: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is exempt pursuant to Section 15168(c) (2) of the CEQA Guidelines because staff determined that the project is consistent with the certified EIR for the Transit Area Specific Plan adopted on June 3, 2008 by the City Council and Environmental Impact Assessment No. EA11-0001.

Section 3: The recommendation of project approval contained herein is contingent upon City Council approval of a General Plan Amendment, Specific Plan Amendment, and Zoning Amendment that rezones the project site from Very High Density Mixed Use to Multi-family Residential, Very High Density.

Section 4: As conditioned and subject to the rezone contingency stated herein, the project is consistent with the General Plan and implements the goals and objectives of the Transit Area Specific Plan Area Plan in terms locating residential near transit centers, places housing near employment centers in Milpitas and North San Jose, maintains an urban compact form, and fulfills housing goals.

Section 4: As conditioned and subject to the rezone contingency stated herein, the project conforms to the Milpitas Zoning Ordinance in that the layout of the site and design are compatible and aesthetically harmonious with adjacent and surrounding development. The project complies with the TASP development standards and that any exceptions are granted with a conditional use permit approval.

Section 5: With respect to the Site Development Permit:

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 in that the project follows the design guidelines and the street sections identified in the Transit Area Specific Plan. The project allows for the movement of pedestrians throughout the site.

Section 6: With respect to the Major Tentative Map, Site Development Permit, and Conditional Use Permit:

1. The project is consistent with the Milpitas Subdivision Ordinance in that the project meets the standards for a Tentative Map.

2. As conditioned and subject to the rezone contingency stated herein, the project shall be consistent with the Milpitas Zoning Ordinance in that the project meets the density allowed for the zoning district.

3. As conditioned and subject to the rezone contingency stated herein, the project shall be consistent with the Milpitas General Plan in that the project meets the General Plan designation density.

4. As conditioned, the project consistent with the Transit Area Specific Plan in that the project meets the allowable density and follows the design guidelines and street sections prescribed in the plan.

Section 7: With respect to the Conditional Use Permit 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 in that those applicable standards for development will be followed.

Section 7: The Planning Commission authorizes staff to make minor technical changes as needed to the Conditions of Approval recommended to the City Council to accommodate engineering and regulatory requirements.

Section 8: The Planning Commission of the City of Milpitas hereby recommends approval of **MT11-0003, SD11-0012, UP11-0033, Contour Residential Project**, to the City Council, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1, and contingent upon the City Council's approval of the General Plan Amendment, Specific Plan

Amendment, and Zoning Amendment that rezones the project site from Very High Density Mixed Use to Multi-family Residential, Very High Density.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on October 12, 2011.

Chair

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 October 12, 2011, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
John Luk				

EXHIBIT 1

**CONDITIONS OF APPROVAL
MAJOR TENTATIVE MAP NO. MT11-0003, SITE DEVELOPMENT PERMIT NO.
SD11-0012, AND CONDITIONAL USE PERMIT
NO. UP11-0033, CONTROUR PROJECT**

134 Unit Residential Project 300, 324-368 Montague Expwy. (APN 86-36-043)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on October 12, 2011, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee 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, in accordance with the Zoning Ordinance. (P)

2. Major Tentative Map No. MT11-0003, Site Development Permit No. SD11-0012, and Conditional Use Permit No. UP11-0033 shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:
 - 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.
3. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Major Tentative Map No. MT11-0003, Site Development Permit No. SD11-0012, and Conditional Use Permit No. UP11-0033 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
4. The project approval shall be contingent upon City Council approval of a General Plan Amendment, Specific Plan Amendment, and Zoning Amendment that changes the land use classification and zoning of the project site from Very High Density Mixed Use to Multi-family Residential, Very High Density. (P)

5. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. (P)
6. PJ ACCOUNT: If at the time of application for *certificate of occupancy*, there is a project job account balance due to the City for recover of review fees, review of permits will not be initiated until the balance is paid in full. (P)
7. The only credit that will apply to the park-in-lieu fee component of the Transit Area Impact Fee will be qualifying public landscape buffers as provided for in the TASP. (P)
8. To the fullest extent permitted by law, applicant 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 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. 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 applicant, City, and/or the parties initiating or bringing such proceeding. The applicant 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. The applicant 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. City shall promptly notify the project applicant of any claim, action, or proceeding. If City fails to so promptly notify the project applicant, then the applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The applicant shall not be required to pay or perform any settlement unless the settlement is approved by the applicant.

Site Development Permit

9. Internal crosswalks shall utilize decorative paving such as but not limited to stamped colored concrete, textured paving stones, or other material to the approval of the Planning Division. (P)
10. The applicant shall submit a Tree Protection Plan and incorporate tree measure as recommended by the Arborist Report dated October 2011. Furthermore, the project shall be conditioned to comply with the Transit Area Specific Plan Policies No. 5.26 and 5.27 and incorporate mitigation measures to address potential impacts to nesting habitats for burrowing owls and/or non-listed special status nesting raptors and other nesting birds. The applicant shall obtain a tree removal permit prior to any tree removal.

11. Prior to building permit issuance, the applicant shall submit a revised landscaping plan that substitutes 15 and/or 24-inch box trees with 36-inch box size trees at various locations to help blend new plantings with the existing size and canopy spans of mature trees that are to be preserve on Trade Zone and Montague.
12. The applicant shall Increase the size of the 15 gallon Ginkgo trees to a 24-inch boxes tree size in private park area to provide shading over the picnic areas. (P)
13. Prior to building permits, the applicant shall submit a gateway concept at the corner of the Montague/Trade Zone Intersection for Planning Division review and approval. (P)
14. Prior to building permit issuance, the applicant shall submit a lighting and iso-illumination plan that shall demonstrate 1) safe and adequate lighting of the project site and 2) lighting is contained and does not spill over onto adjacent properties or create unwanted glares. The applicant shall provide detail, elevations and manufacturer's specifications on propose light fixture for ground lighting, light bollards, light standards, and wall scones. (P)
15. Prior to building permit issuance, the applicant shall incorporate a third style for each product type that would be consistent and harmonious with the contemporary architectural theme. (P)
16. All garage doors shall be designed to include ornamental windows to allow for visual inspection to ensure garages are not used solely storage as they are intended for parking of cars. All garage doors style should vary between unit to unit but also match or complement the style of the building architecture.
17. Prior to building permit issuance, the applicant shall submit details and elevations of proposed trash enclosure. The final design of the trash enclosure shall be to approval of the Planning Division. (P)

ENGINEERING CONDITIONS:

18. Proposed development is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to final map approval, the developer shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain. The developer shall also obtain a Letter of Map Revision (LOMR) prior to building permit issuance, and provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the tentative map shall comply with the established BFE as determined in the final flood study report. Developer agrees to make a good faith effort to work cooperatively with the City and outside agencies in evaluating options to assist in flood plain mitigation improvements deemed feasible in dealing with cumulative impacts.

19. Prior to final map approval or building permit submittal, Developer/Subdivider shall submit the project Flood Study, demonstrating to the satisfaction of the City Engineer that the proposed development has NO adverse impact to the surrounding flood plain within the Special Flood Hazard Area and flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments (Integral, DR Horton @ McCandless, Montague/Piper TASP sub-district, and the BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one-tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS.
20. Prior to final map approval, the developer shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer, consistent with the approved CLOMR. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study.
21. The developer shall comply with Municipal Regional Permit (MRP) Order R2-2009-0074 for post construction C3 provisions for new development and redevelopment regulated projects storm water treatment requirements, and National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009—0009 NPDES No. CAS000002 or as required by the Regional Board at the time Developer submits the NOI for the project for pre construction storm water treatment requirements.
22. Prior to final map approval, or building permit submittal, developer shall submit a Storm Water Control plan that incorporates best management practices (BMPs) for treatments of stormwater run off from all parcels. The Storm Water Control plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs such as the use of bio-treatment areas into the landscape design elements and the use of permeable pavement BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer.
 - A. Developer shall submit a final Storm Water Control Plan package for review and approval with the building permit submittal.
 - B. The Plan shall be prepared by a licensed Civil Engineer qualified and trained professional with storm water treatment process and certifies that measures specified in the report meet the MRP requirements.
 - C. Prior to issuance of Certificate of Occupancy, the developer shall submit a Storm water Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure 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). The treatment BMPs shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
- D. Developer shall include in the approved CC&R, language in regard to providing the City with an annual inspection report of the Storm Water Control Plan post construction compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. If the City does receive the report, City will conduct the field inspection and report, and the developer and its successor shall be responsible to pay all associated costs.
 - E. Prior to Final occupancy, the developer shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
 - F. Developer shall comply with all "Model Conditions of Approval for Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval.
 - G. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the developer's final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Any changes to the final Storm Water Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.
23. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acres or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the developer, and accepted by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329.
24. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the

issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval.

25. Prior to final map recordation, the developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies to serve this project. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer.
26. Prior to final map approval or building permit issuance unless otherwise noted the Owner or designee shall comply with the following solid waste requirements as a condition of project approval:
 - A. Applicant is proposing roll-off service. Owner or designee shall provide sufficient facilities for on-site storage and collection of solid waste and recyclables in accordance with City guidelines. Applicant shall procure sufficient service frequency.
 - B. The Owner or designee shall estimate the weekly volume of trash and recyclables, determine container sizes, provide sufficient enclosure space, and include utility hook-ups. Based upon preliminary staff estimates for material generation, the proposed enclosure is unlikely to have sufficient gate opening, width and length.
 - C. Provide a Solid Waste Handling Plan showing how materials will be transferred from each dwelling unit to the trash enclosure, address property management responsibility for residential container deployment and collection, and litter management. The plan shall demonstrate that the site plan provides sufficient space for the solid waste vehicle to perform collection and make any site plan modifications to address this issue.
 - D. Prior to building final inspection or building permit occupancy of any units, applicant/property owner shall construct a new trash enclosure to serve the project. The enclosure shall accommodate the required two self contained compactors at minimum to serve this development. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. The enclosure will be subject to the City's review/approval prior to construction of the enclosure. The enclosure shall be designed such that the drains must discharge to the sanitary sewer line. All storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains. Enclosures are not permitted within public utility easements.
 - E. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, applicant / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered.
 - F. The property management shall be responsible for solid waste management, including transfer of material to the compactors. **Prior to final map approval**, developer shall

- submit to the City (for review and approval) a written Solid Waste Handling Plan including detailed step-by-step instructions to manage solid waste from generation to disposal. The Plan shall state how the residential waste will be conveyed to the collection compactor area for disposal. Show the path of travel for refuse. Demonstrate how recycling shall have a separately maintained process from garbage handling. Owner or designee shall add this language to the deed restriction and CC&Rs and HOA shall be responsible to implement this plan.
- G. Prior to occupancy permit issuance, the property management shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Allied Waste Services (formally BFI). After the applicant has full occupancy, the developer shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the developer shall increase the service to the level determined by the evaluation. For general information, contact Allied Waste Services at (408) 432-1234.
27. Developer agrees and shall make any changes to the site and architectural plan as condition of project approval for the following items and shall be subject to the satisfaction of the City Engineer and Planning Director and developer shall comply with these conditions prior to final map approval and prior to building permit submittal:
- A. The proposed private street access to the proposed public street does not meet City standards and shall be revised to meet City of Milpitas Engineering design guideline and designed in accordance with highway design manual requirements. The intersection shall be designed as a 3-way stop “T” intersection.
 - B. All streets within the subdivision are privately owned and maintained except for the proposed public street on the easterly property line which will be reserved for dedication in future when constructed to the ultimate width and standard. This street will be privately maintained until such time full public street and right-of-way is completed. Owner/Designee shall make a good faith effort in designing and constructing the full street section for the proposed new public street if deemed feasible.
 - C. Developer shall modify proposed street sections as deemed necessary to accommodate for any modifications needed to satisfy requirements for implementing any design changes recommended in the flood study requirements, storm water control plan, geotechnical engineer requirements, fire access, utility design, solid waste handling plan, or as deemed necessary by the City Engineer to meet all City Standards.
28. Owner or designee shall design and construct traffic and pedestrian intersection improvements for Montague/Trade Zone-McCandless Drive as deemed necessary and as approved by Santa Clara County Roads and Airports, Traffic Engineering Operations Department and as agreed by the City of Milpitas City Engineer. Developer agrees to work cooperatively with the County and City in further defining a plan, and improvements to satisfy this project condition of approval and it will be further defined in the project subdivision improvement agreement prior to final map approval.

29. Prior to any building permit issuance, the developer shall submit an executed petition to annex the subject property into the CFD 2008-1, and agree to pay the special taxes levied by Community Facility District (CFD 2008-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The developer 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.
30. The final map shall be recorded prior to issuance of any building permit. Provide a current title report with your final map submittal, not more than 90 days old.
31. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements.
32. Prior to final map approval, the developer shall establish necessary homeowner association (HOA). Membership of the HOA shall include all owners of the residential, commercial and office spaces. The HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The HOA shall manage the onsite water and sewer system and implement the Solid Waste handling plan. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer. In addition to the CC&R document, developer shall record a deed restriction or other recordable document subject to the approval of the City Engineer, at its sole discretion, concurrent with the recordation of the final map that memorializes ownership, repair, replacement and access rights to private utilities within the project site.
33. Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3.
34. The developer shall dedicate on the final map necessary public service utility easements, street easements, public access easement and easements for water and sanitary sewer purposes to the satisfaction of the City Engineer.
35. Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along Trade Zone Boulevard and Montague Expressway, including but not limited to the following:
 - A. Removal and installation of new curb, gutter, and sidewalk, median modification or installation, signage and striping, street lights, fire hydrants, bus stop, traffic signal modification at Trade Zone and Montage, traffic signal at Trade Zone & Ringwood and storm, water and sewer service installation.
 - B. Owner or designee agree to work cooperatively in designing the entire public street if feasible. City acknowledges that an interim condition may only be feasible at this time, and Owner or designee will modify the proposed public street to construct the full street section and dedicate public right-of-way and

- improvements in its entirety at the time it obtains control of the adjacent property or easements is secured for these improvements.
- C. The existing sanitary sewer collection system is at full capacity. This project will not receive any Certificate of Occupancy until Projects 11A, 11B, and 11C as identified in the 2009 Sewer Master Plan have been completed. All projects being served by this collection system have all the same conditions or approvals and comments. The costs for these improvements are estimated to cost over \$3.6 Million. Some of which will be paid as TASP Impact Fees and some by City's sewer fund. The City and Developer will work cooperatively to develop a plan in how these improvements will be completed.
- i. Sewer project known as 11A, as specified in the City of Milpitas Sewer Master Plan, in its entirety includes replacement of 560 linear feet of 18 inch pipe with 21 inch pipe; replace 992 linear feet of 18 inch pipe with 27 inch pipe; and replace 369 feet of 12 inch pipe with 27 inch pipe, as identified on the sewer master plan.
 - ii. Sewer project known as 11B, as specified in the City of Milpitas Sewer Master Plan includes replacement of 360 linear feet of 15 inch diameter pipe with 18 inch diameter pipe; and replacement of 924 linear feet of 10 inch diameter pipe with 18 inch diameter pipe.
 - iii. Sewer project known as 11C, as specified in the City of Milpitas Sewer Master Plan includes replacement in its entirety.
- D. Projects located in the TASP are required to use recycled water for landscape irrigation. The existing point of connection is at the northern edge of Penitencia Creek in McCandless Boulevard. The Harmony-DR Horton project to the north may be extending the recycled water main in McCandless Boulevard to Montague Expressway. Regardless of which connection point is available, Owner or designee shall coordinate how the recycled water main along the southern and eastern boundaries of the project will be designed and constructed. The Applicant shall clearly delineate the potable water service area and recycled water service areas on the plans and maintain separation with a permanent physical barrier such as a sidewalk or fence.

Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. *All improvements must be in accordance with the City of Milpitas Transit Area Specific Plan, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to issuance of any final certificate of occupancy of any unit..*

36. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance (Note these fees are estimated fees and will be finalized along with the subdivision improvement agreement):
- A. Storm water connection fee of **\$161,343** (based on 43 units at \$1,100 per unit and 6.8 acre @ \$16,771/acre).
 - B. Water connection fee of **\$56,236** (based on 43 units at \$1910/U, 91U @ \$1164/U and \$14328/AC credit for previous use).
 - C. Sewer connection fee of **\$21,868** (based on 43 units at \$1908/U, 91U @ \$1406/U, and \$20448/AC credit for previous use).
 - D. Water Service Agreement(s) for water meter(s) and detector check(s).
 - E. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3328 to obtain the form(s).

37. Prior to building permit issuance, developer must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee scheduled adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees are part of the secured subdivision improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials.
38. Prior to building permit issuance or as directed by the Public Works Director, the developer shall pay Transit Area Development Impact fees.
39. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires and remove the related poles within the proposed development, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state the wire voltage.
40. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The developer shall submit an engineering report detailing how adequate water supply pressures will be maintained.
41. It is the responsibility of the developer to obtain any necessary approvals and encroachment permits from affected agencies and private parties, including but not limited to, City of San Jose, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division.

42. Prior to final map approval, the developer shall submit plans to Santa Clara County Road and Airport Services for review and approval of the proposed work along Montague Expressway frontages. Provide their comments to the City.
43. Prior to start of any construction, the developer shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. The developer shall coordinate their construction activities with other construction activities in the vicinity of this project. The developer's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress.
44. All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used.
45. Prior to demolition permit issuance, the Applicant, or Contracted Designee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these 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.

Owner or designee shall make every effort to salvage materials for reuse and recycling.

46. Prior to building permit issuance, applicant shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section that confirms items 1 – 4 of the Recycling Report, especially materials generated and actual quantities of recycled materials. 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 Division for approval by the Utility Engineering/Solid Waste Section prior to inspection by the Building Division.

47. All demolished materials including, but not limited to broken concrete and paving materials, pipe, vegetation, and other unsuitable materials, excess earth, building debris, etc., shall be removed from the job site for recycling and/or disposal by the Applicant/Contractor, all to the satisfaction of the City Engineer or designee. The Applicant/Contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The Applicant/Contractor shall recycle all building and paving materials including, but not limited to roofing materials, wood, drywall, metals, and miscellaneous and composite materials, aggregate base material, asphalt, and concrete. The Applicant/Contractor shall perform all recycling and/or disposal by removal from the job site.
48. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
49. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
50. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division.
51. If necessary, the developer shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755.
52. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:
 - A. Provide separate water meters for domestic water service & irrigation service. Developer is also required to provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
 - B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process.
53. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240); the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. Recycled water irrigation shall be provided for all

common areas within the in-tract parcel, and all other areas maintained by the HOA for the project. To meet the recycle water guideline the developer shall:

- A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
- B. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the Department of Health Services (DOHS) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and Department of Health Services approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
- C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas.

54. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms.

55. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities.

56. The developer shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.

57. Developer shall make changes as noted on Engineering Services Exhibit "T"(dated 9/30/2011) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the final map or improvement plans will be accepted until this condition is satisfied.

- (P) = Planning
- (B) = Building
- (E) = Engineering
- (F) = Fire Prevention