

RESOLUTION NO. 14-018**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
APPROVING SITE DEVELOPMENT PERMIT NO. SD-14-0001 FOR A NEW
FREESTANDING SIGN OVER 6 FEET IN HEIGHT LOCATED AT 74-82 RANCH
DRIVE**

WHEREAS, on March 14, 2014, an application was submitted by Gregory Graves, 711 Independent Road, Oakland, CA 94621 on behalf of the property owner, First Creekside Associates, for a new freestanding sign over 6 feet in height at 74-82 Ranch Drive. The property is located within the General Commercial Zoning District with a Site and Architectural Overlay and a Recreation and Entertainment Overlay (APN: 22-540-02).

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt under CEQA per Section 15303 (New Construction or Conversion of Small Structures).

WHEREAS, on April 23, 2014, 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 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 Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The project is categorically exempt from further CEQA review under Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines because the proposed freestanding sign is considered a small structure.

Section 3: **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 support of Site Development Permit No. SD14-0001:***

- a) *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 because the proposed freestanding sign is similar in design and placement to existing freestanding signs located along Ranch Drive. The proposed freestanding sign is constructed of a similar material, height, and architectural style to existing

freestanding signs located in McCarthy Ranch along Ranch Drive. The sign will be internally illuminated and constructed of aluminum and Lexan plastic with vinyl letters.

b) The project is consistent with the Milpitas General Plan, specifically Policies 2.a-1-3 and 2.a-1-7:

The project is consistent with this finding because it provides better on-street visibility to encourage economic pursuits for consumers and assists with business retention from the possibility of drawing in more consumers.

c) The project is consistent with the Milpitas Zoning Ordinance:

The project is consistent with the Sign Ordinance because it meets the regulations and design standards of the Sign Ordinance. The Sign Ordinance specifies that the maximum permissible sign area in non-residential zones is either 1 square foot of sign for each 2 lineal feet of building perimeter or 2 square feet of sign for each 1 lineal foot of public street frontage. Therefore, the maximum allowed signage is 162.63 square feet or 262.38 square feet. Since this project is proposing 24.39 square feet of signage, it is well within the limit. Also, 1 freestanding sign is allowed for each parcel’s public street frontage, and an additional freestanding sign is allowed for parcels that have more than 300 feet of public street frontage. The public street frontage 131.19 feet, so the 1 proposed freestanding sign meets this requirement. The height of the sign allowed is 1 foot of height for every 8 lineal feet of public street frontage, making the maximum sign height to be 16.40 feet. The proposed freestanding sign stands at 7’-6” so it is well within the parameters of this requirement. Lastly, the materials for the sign are of high-quality material and the location of the sign in relation to the height and location of the building are appropriate.

Section 4: The Planning Commission of the City of Milpitas hereby adopts **Resolution No. 14-018 approving Site Development Permit No. SD-14-0001 based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein.**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on April 23, 2014.

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 April 23, 2014 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
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COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Demetress Morris				
Gurdev Sandhu				
Garry Barbadillo				
Hon Lien (alternate)				

EXHIBIT 1

**CONDITIONS OF APPROVAL
SITE DEVELOPMENT PERMIT NO. SD-14-0001**

General Conditions

1. General Compliance. The applicant, including all successors in interest (collectively "Permittee) shall comply with each and every condition set forth in this permit. This Site Development Permit No. SD14-00001 ("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.
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 decision-making body 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, Permittee shall have the right to request an extension of this Permit if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(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 private 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 twenty-five percent (25%) of the initial deposit.

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 applicant 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.
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 Permittee is operating the project under the permits and approvals in this Resolution.
10. Compliance with Laws. The construction and use shall comply with all local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
12. 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, business or use 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 applicant, 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. 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.

13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning 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. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on April 23, 2014, 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 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 Code. **(P)**

Special Conditions

16. The sign foundation shall maintain a minimum of 5' separation from all existing utilities. **(E)**
17. All unpermitted signs and banners located on the site or building and not approved by the City of Milpitas in accordance to the Milpitas Municipal Code shall be removed prior to any building permit issuance. **(P)**

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