

RESOLUTION NO. 14-034

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. UA14-0004 AND
SITE DEVELOPMENT PERMIT NO. SD14-0010 FOR THE CONSTRUCTION OF THE
NEW 8,300 SQUARE FOOT MINISTRY BUILDING (ST. ELIZABETH CHURCH)
LOCATED AT 750 SEQUOIA DRIVE**

WHEREAS, in April 1968, Conditional Use Permit No. UP 0138 was approved for a new church with a parking lot on an 11.5 acre site at 750 Sequoia Drive with the condition to return with site plans and elevations for the architectural review of the new structures.

WHEREAS, in June 1969, the Planning Commission approved the site plans and elevations for the new 14,600 square foot church, 5,910 square foot rectory with offices and living/visiting quarters, and associated parking lot. The church sold the southeastern corner of the property for the development of three residential properties and kept the remaining 5.3 acres for church use.

WHEREAS, in 1983, the existing church with rectory and associated parking lot and landscaping was constructed on 3.82 acres of the 5.3 acre parcel and the remaining 1.5 acre was undeveloped.

WHEREAS, on September 11, 2013, the Planning Commission approved Conditional Use Permit Amendment No. UA13-0004 and Site Development Permit No. SD13-0017 to allow the expansion of the existing parking lot for Saint Elizabeth Church.

WHEREAS, on June, 13, 2014, Christopher Clancy representing Christopher Clancy AIA Architecture submitted an application on behalf of The Roman Catholic Bishop of San Jose pursuant to Section 57 of the Milpitas Zoning Ordinance for Conditional Use Permit Amendment No. UA14-0004 and a Site Development Permit No. SD14-0010 for construction of a 8,300 square foot ministry building and related site improvement, including removal of existing trash enclosure, construction of the new trash enclosure, expansion of masonry wall along the northern property line, and new landscaping and lighting around the new building. The property is located within the Single Family Zoning District (R1-6) (APN: 88-25-041).

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 15301 (Existing Facilities).

WHEREAS, on October 22, 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 Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further environmental review pursuant to Section 15301 Class 1 (e)(2) (Existing Facilities) of the California Environmental Quality Act (CEQA). The project is exempt under Section 15301 since the addition will not result in an increase of more than 10,000 square feet and all public services and facilities are available to allow for maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive.

Section 3: Any provision of Conditional Use Permit No. 0138 approved by the City of Milpitas in April 1968 and Conditional Use Permit Amendment No. UA13-0004 and Site Development Permit No. SD13-0017 approved by the Planning Commission on September 11, 2013 not amended by this Conditional Use Permit Amendment No. UA13-0004 and Site Development Permit No. SD14-0010 shall remain in full force and effect. Additionally, Conditional Use Permit Amendment No. UA14-0004 and Site Development Permit No. SD14-0010 shall govern and control in the event there are any conflicts or discrepancies between the documents or any other documents or approvals.

Section 4: *Conditional Use Permit (Section XI-10-57.04(F)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP14-0004:*

- 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.*

As conditioned, the proposed project is consistent with this finding because the project is on an existing developed property with an approved Conditional Use Permit to allow church operation since 1983. The new multi-use ministry building will meet the needs of the church operation with a newly constructed parking lot. The project also includes removal of existing trash enclosure, construction of the new trash enclosure, expansion of masonry wall along the northern property line, and new landscaping and lighting around the new building. The proposed project meet all development standards including parking. The new building will be compatible with the existing church facility in terms of colors, materials and textures. and will not be detrimental or injurious to the property or improvements in the vicinity nor to the public health, safety, and general welfare.

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

As conditioned, the proposed project is consistent with the Milpitas Zoning Ordinance. As discussed in detail above, the proposed project meets all current development standards in terms setbacks, height, and parking standards. The church may expand with approval of a Conditional Use Permit Amendment.

3. The project is consistent with the Milpitas General Plan.

The project is consistent with this finding because the proposed use supports the following General Plan policy:

- Policy 2.a-I-17 Foster community pride and growth through beautification of existing and future development.

The existing church has been operating since 1983 with an approved Conditional Use Permit. The proposed multi-use ministry building is to expand the church facility and provide adequate service to its patrons. The site improvements will upgrade the existing parking lot, landscaping, and promote the beauty of the community.

Section 4: Site Development Permit (Section XI-10-57-03-1(F)- The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD14-0010:

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.

As conditioned, the proposed project is consistent with this finding because the proposed multi-use ministry building is compatible with the existing church in terms of materials, texture, and colors. Although the new building will not be visible from Sequoia Drive, the front of the building will be facing Grand Teton Drive. The site improvements include removal of existing trash enclosure, construction of the new trash enclosure, expansion of masonry wall along the northern property line, and new landscaping and lighting around the new building. The proposed project will be compatible and aesthetically harmonious with the site and the surrounding neighborhood.

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

As discussed in detail below, the proposed project meets the applicable development standards and may expand with approval of a conditional use permit amendment.

The table below demonstrates how the proposed project is consistent with the development standards of the residential zoning district (R1-6).

Table 1:

Summary of Development Standards

	Standard	Proposed	Compliance
<u>Setbacks</u> (Minimum)			
Front	20 feet	Existing church facing Sequoia Drive	N/A
Street Side	10 feet	Approximately 200 feet	Yes
Rear	25 feet	Approximately 400 feet	Yes
<u>Building Height</u> (Maximum)	30 feet	24'8"	Yes
<u>Lighting</u>	All lights used to illuminate a parking area shall be designed, located and arranged so as to reflect the light away from any street and any adjacent premises. XI-10-53.13. E.	Yes	Yes
<u>Fencing</u>	A solid masonry wall a minimum height of six feet shall be required on all common property lines when any parking area is established abutting residentially zoned property or property shown on the adopted General plan s being residential. XI-10-53.13.G.	Yes	Yes
<u>Parking</u>	1 per 5 seats in the main area of assembly plus parking for classrooms and offices in this table. Where there are no seats, then 1 seat equals 7 square feet: 238 parking spaces. Table XI-10-53.09-1.	279 parking spaces	Yes

The proposed new multi-use ministry building is located on the existing parking lot behind the main church from Sequoia Drive. The new building will be in accordance with the existing church facility in terms of colors, materials and textures. The project also consists of site improvements, including removal of existing trash enclosure, construction of the new trash enclosure, expansion of masonry wall along the northern property line, and new landscaping and lighting around the new building. Although the new building will be noticeable from Sequoia Drive, it will be visible from Grand Teton Drive. The project will improve the existing parking lot site.

Landscaping & Open Space Design

New landscaping area will be provided around the new building with a variety of ground cover, shrubs, and trees. As conditioned, the new irrigation will be incorporated to all planter areas.

Parking

The table above represents the parking analysis per Table XI-10-53.09(G) of the Municipal Code. The proposed project meet the current parking requirements. The number of required parking spaces is 238 where 279 spaces are provided.

Table 2:
Parking Analysis

Uses	Parking Ratio	Parking Required	Parking Provided
Existing Church			
Assembly Area 6,980 sq ft	1 per 5 seats in the main area of assembly plus parking for classrooms and offices in this table. Where there are no seats, then 1 seat equals 7 sq. ft.	199 spaces	
Meeting Office Rooms		13 spaces	
Existing Rectory			
7 Bedrooms	3 per unit, plus 1 per each additional bedroom	6 spaces	
Meeting/ Office Area 832 sq ft	1 per 240 sq. ft.	3 spaces	
Proposed Multi-Use Building			
Meeting Rooms/Offices 3,480 sq ft	1 per 240 sq. ft.	15 spaces	
Music Rooms	1 per classroom or 1	2 spaces	

1,240 sq ft	per 500 sq. ft., whichever is greater.		
		238 spaces	279 spaces (3 spaces in the garage and 3 spaces on the driveway)

3. *The project is consistent with the Milpitas General Plan.*

The project is consistent with this finding because the proposed use supports the following General Plan policy:

- Policy 2.a-I-17 Foster community pride and growth through beautification of existing and future development.

The new multi-use ministry building supports the existing cultural center (church and rectory) for existing and use growth of the existing establishment. The new building is conveniently located behind the main building. The building is designed for neighborhood compatibility with the site improvements that enhance the community beauty.

Section 6: The Planning Commission of the City of Milpitas hereby adopts **Resolution NO. 14-34 approving St Elizabeth Church Expansion Conditional Use Permit Amendment No. UA14-0004 and Site Development Permit No. SD14-0010 for the construction of the new 8,300 square foot ministry building 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 October 22, 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 October 22, 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
ST ELIZABETH CHURCH EXPANSION CONDITIONAL USE PERMIT
AMENDMENT NO. UA14-0004 AND SITE DEVELOPMENT PERMIT NO. SD14-0010**

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. This St Elizabeth Church Expansion Conditional Use Permit Amendment No. UA14-0004 and Site Development Permit No. SD14-0010 (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 and this Resolution has been recorded by the Permittee with the Santa Clara County's Recorder Office and a copy shall be provided to the Planning Department.
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, 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 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 at least twenty-five percent (25%) of the required 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. Permittee shall pay all required fees and charges to City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to City. There is no vesting of any fees or charges with the adoption of this Resolution.
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, 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. **(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, 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 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. 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.

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 October 22, 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 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, Permittee 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)**

Project Specific Conditions

17. The noise generated from any activities at the Church site shall be in compliance with the City's Noise Abatement Ordinance. Additionally, the egress doors shall be closed all the times to alleviate noise disturbance to neighboring residential properties. **(P)**
18. The new masonry wall expansion shall match existing masonry wall at the parking lot in terms of material, texture, and color. **(P)**
19. The new light fixtures shall only shine downwards and not direct into the neighboring residential properties. Permittee shall include a photometric plan in the building permit submittal indicating compliance with this condition. **(P)**
20. All shrubs shall consist of a minimum of five (5) gallons. **(P)**
21. Prior to submitting an application for any Building Permit, Permittee shall obtain an approval from Land Development Division of the Public Works' Department for stormwater treatment analysis. **(P)**
22. Applicable codes shall be 2013 CBC, CMC, CEC, CPC, Green Building Code, California Energy Code and 2014 Milpitas Municipal Code. **(B)**

23. Occupant load factor for assembly and multi-use rooms without fixed seats shall be 1 occupant per 7 square feet as per 2013 CBC sec.1004.1.2 and Table 1004.1.2. **(B)**
24. Occupant load of 15sq.ft/occupant is used for dining areas or conference rooms as per 2013 CBC Table 1004.1. **(B)**
25. Any room with occupant load over 49 shall be provided with two exits as per 2013 CBC Section 1015.1, panic hardware as per Section 101008.1.10 and exit signs as per Section 1011.1. **(B)**
26. Classrooms for children up to 12th grade with an occupant load of less than 100 shall be considered A-3 occupancies as per 2013 CBC Section 305.1 and Section 303.1.4. **(B)**
27. Type of construction shall comply with 2013 CBC Section 602.1 and Table 601. **(B)**
28. Provide allowable area analysis based on building type of construction and allowable areas as per 2013 CBC Section 506.5 and Section 508. **(B)**
29. Exiting for other Group A occupancies with occupant load of 100 or more and less than 300 combined rooms 06 and 07 shall comply with 2013 CBC Section 1028.3.1. At least one exit shall front on a street or an unoccupied space of not less than 20 feet in width that adjoins a public way as per Section 1028.3.1. **(B)**
30. Provide exiting plan prior to submitting for building permit application. **(B)**
31. Roofing material shall be per 2013 CBC, Table 1505.1. **(B)**
32. Required separation in buildings with mixed occupancies shall be per 2013 CBC Section 508.
33. Number of plumbing fixtures in the restrooms shall comply with 2013 CPC Table 422.1. **(B)**
The number of water closets for females shall be at least equal to the total number of water closets and urinals required for males. **(B)**
34. Drinking fountains shall be provided at a rate of one for each 250 occupants. Drinking fountains shall be “hi-low” type as per 2013 CBC Section 11B-602.4 and Section 602.7. **(B)**
35. People with disabilities accessible parking shall be provided as per 2013 CBC, Section 11B-208.1 **(B)**
36. One in every six accessible parking spaces, but not less than one parking space shall be van accessible as per 2013 CBC Section 11B-208.2.4. **(B)**
37. If existing rectory building is served by new parking lot with accessible parking, provide accessible path of travel from parking and other building as per Section 11B-206.2.1 and Section 11B-206.2.2. **(B)**
38. Accessibility signs shall be provided at every primary public entrance, at every major junction along or leading to an accessible route of travel and at building entrance that are accessible as per 2013CBC, Section 11B-216.6. **(B)**
39. Curb ramps shall have detectable warnings extending 36 inches in the direction of travel as per 2013 CBC Section 11B-406.5.12 and Section 11B-705.1.2.2. **(B)**

40. All primary entrances and required exit doors shall be accessible to people with disabilities as per 2013 CBC, Section 11B-206.4.1. **(B)**
41. Tactile exit signs shall be provided where exit signs as per 2013 CBC Section 1011.1 are provided as per 2013 CBC Section 1011.3. **(B)**
42. Sanitary facilities shall be fully accessible to people with disabilities as per 2013 CBC, Section 11B-213.1. **(B)**
43. Provide maneuvering clearances at doors as per 2013 CBC, Section 11B-404.2.4. **(B)**
44. All new electrical services shall be underground per 2014 Milpitas Municipal Code Section II-6-2.02. **(B)**
45. Grounding system shall comply with 2014 Milpitas Municipal Code Section sec.II-6-2.04. **(B)**
46. A soil report shall be provided when applying for grading, site improvement and building permit. **(B)**
47. Paving of parking lot shall comply with 2014 MMC Section II-13-18. **(B)**
48. All non-structural concrete flat work shall be as per 2014 Milpitas Municipal Code, Section II-13-17.05. **(B)**
49. Erosion control plan shall be submitted when applying for grading permit as per 2014 Milpitas Municipal Code Section II-13-10. **(B)**
50. Prior to issuance of any building permit, all the easements including private storm drain easement through adjacent parcels shall be recorded. Permittee shall include interim erosion control provisions and schedules on the construction plans for areas, which will not have permanent erosion control features installed (such as landscaping) prior to any occupancy so that erosion and sediment control can be sustained through the rainy season as per 2014 Milpitas Municipal Code Section II-13-11. **(B)**
51. Provide complete set of structural design calculations (vertical and lateral) and five sets of construction plans and details when applying for a building permit. Plans and calculations shall be wet signed and stamped by Civil/Structural Engineer. **(B)**
52. The submitted drawings are not reviewed nor approved for fire permits and construction. These notes are a general list of the applicable code requirements, but not limited to, and are provided as part of the Planning process to assist with the subsequent Fire and Building permit construction process. Comments are based on the current 2013 edition of the California Fire and Building Codes. **(F)**
53. Fire Department apparatus access
 - a. The fire apparatus access surrounding the building(s) shall be provided to meet the requirements below and per the Site Plan sheet A-1.3 submitted as part of this review.
 - b. Fire apparatus turning requirements. Fire apparatus access 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. California Fire Code (CFC) Section 503.2.

- c. The required access road(s) 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 CA 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.
 - d. Ground structures (including landscape) and building projections shall not encroach or impede the fire apparatus access. CFC Section 503.4 **(F)**
54. Fire Protection: 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. CFC Section 501.4.**(F)**
55. Water supply for fire flow (hydrants on site and public).
- a. 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. CFC 507. **(F)**
 - b. A new public hydrant shall be installed just to the south of the north entry driveway off Sequoia Dr. CA Fire Code Section 507.5.1**(F)** The new fire hydrant shall be located within 50' from the new fire department connection (FDC) for the automatic fire sprinkler system. CFC Section 507.1.1 amended by the Milpitas Code V-300-2.53. **(F)**
 - c. The location of the FDC/PIV (fire department connection/post indicator valve) shall be at a readily accessible location and approved by the Fire Code Official. Detailed review and comments will be provided during construction permit process. California Fire Code 507, 901.2, 912.3. **(F)**
 - d. 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. CFC Section 507.2.1. **(F)**
56. Automatic fire sprinkler system. The new building shall be provided with an automatic fire sprinkler system to meet the requirements for the NFPA 13. California Fire Code Section 903. **(F)**
57. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved supervision station. CFC Section 903.4 **(F)**

58. Fire alarm system. A fire alarm system may be required for the new building. CFC Section 907. (F)
59. Fire service water mains for the automatic fire sprinkler system shall meet the California Fire Code requirements.
- a. Automatic fire sprinkler 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-300-2.67. (F)
 - b. 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. (F)
60. 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. All address numbers shall be illuminated. California Fire Code Section 505. (F)
61. Key Box. The Fire Code Official is authorized to require a key box(es) to be installed in an approved location if necessary for life-saving or fire-fighting purpose. (Knox box location shall be at 6 feet above finished floor, or fire access walkway or road). CFC Section 506.1. (F)
62. Building use and Occupancy. The classification of the use and function of the new building shall be in conformance with Occupancy Classification as per the CA Building Code Chapter 3 building/structure. (F)
63. Portable fire extinguishers shall be selected, installed and maintained in accordance with CFC Section 906. (F)
64. Fire protection equipment shall be identified in an approved manner. Rooms containing controls for air-conditioning systems, sprinkler risers and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department. Approved signs shall be constructed of durable materials, permanently installed and readily visible. CFC Section 509. (F)
65. 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 (F)
66. Encroachment Permit: Prior to any work within the public right of way or City easement, Permittee shall obtain an encroachment permit from City of Milpitas Engineering Division. Prior to installing offsite improvements, Permittee shall obtain an encroachment permit from the City of Milpitas and all necessary encroachment permits from other affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District, Santa Clara County road and Airport Department, and Santa

Clara Valley Transportation Agency (VTA). Copies of any approvals or permits shall be submitted to the City of Milpitas Engineering Division as a part of the encroachment permit review. (E)

67. Agency Approval: It is the responsibility of the Permittee to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District and Caltrans. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)

68. Construction Schedule: Prior to start of any construction, Permittee 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, and construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. Permittee shall coordinate their construction activities with other construction activities in the vicinity of this project. Permittee'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. (E)

69. Demolition: 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 at main line in the street if the water meter is not to be used. The sanitary sewer shall be capped 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. (E)

70. Tree Removal Permit: In accordance with COMC Chapter 2, Title X (Ord. 201), Permittee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2600 to obtain the requirements and forms. (E)

71. Underground Service Alert (USA): Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)

72. Development Fees: In addition to all other applicable fees and charges, Permittee shall submit the following items with the building permit application and pay the related estimated fees prior to building permit issuance:
 - a. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire
 - b. Water Service Agreement(s) for water meter(s), detector check(s), and double check detector assembly(ies).

- c. Storm water connection fee of **\$79,563.80** (based on $(5.29\text{acre} * \$21,562/\text{acre}) = \$114,063 - \$34,499.20$ (previous payment) = $\$79,563.80$ (remaining balance)).

Contact the Land Development Section of the Engineering Division at (408) 586-3328 to obtain the form(s). *The above fees are preliminary estimates and subject to change.* There is no vesting of the fees with the adoption of this Resolution. **(E)**

73. Building Permit Automation Fee: Prior to any building permit issuance, Permittee shall pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule 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. **(E)**
71. Construction Storm Water Quality: Permittee shall comply with the requirements of the National Pollution Elimination Discharge System (NPDES) permit as administered by the California State Water Resources Control Board (State Board) and the San Francisco Bay Regional Water Quality Control Board (Regional Board). Prior to the issuance of any building, demolition, or grading permit, Permittee shall submit an Erosion and Sediment Control Plan (Erosion Control Plan) as a part of the improvement plan submittal. The erosion control plan shall show all construction best management practices (BMPs) and shall comply with the requirements of the NPDES, the Municipal Regional Permit Order R2-2009-0074 (MRP), and the City's stormwater and urban runoff pollution control standards and guidelines (City's Clean Water Program). Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all construction BMPs as required by the approved erosion control plan, the COMC, and the City's Clean Water Program. **(E)**
72. Post-Construction Storm Water Quality: Permittee shall comply with the requirements of the MRP for post-construction storm water treatment (provision C.3 regarding new development and redevelopment requirements for regulated projects) and the City's Clean Water Program. Permittee shall submit a final, certified storm water quality control plan (SWCP), a SWCP sheet, and a post-construction BMP operations and maintenance plan (O&M) in accordance with the City's Clean Water Program and meeting the satisfaction of the City Engineer. **(E)**
73. Storm Water Quality Control Plan (SWCP): Prior to any building permit issuance, Permittee shall submit a separate final or amended existing SWCP that incorporates post-construction BMPs for the treatment of storm water run off from all areas of the parcels. The SWCP shall incorporate source control, site design, and storm water treatment consistent with the MRP requirements and the City's Clean Water Program.
- a. The SWCP 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.

- b. The final SWCP shall be certified by a third party reviewer from the MRP approved list of certifiers. The third party reviewer shall certify that the SWCP complies with the MRP requirements. A list of qualified reviewers can be found at the Santa Clara Valley Urban Runoff Pollution Prevention Plan (SCVRPPP) website (<http://www.scvrppp-w2k.com/>)
- c. O&M Plan: The final SWCP shall include an Operation and Maintenance (O&M) Plan, acceptable to the City Engineer, describing the operation and maintenance procedures needed to insure that storm water treatment measures continue to work as intended and do not create a nuisance (including vector control). The plan shall include all BMP details, a location map, a maintenance schedule, and inspection and reporting templates. The treatment measures shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the Permittee's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
- d. O&M Agreement: Prior to final occupancy, Permittee shall execute and record an O&M Agreement with the City for the operation, maintenance, and annual inspection of the C.3 treatment facilities. Permittee shall submit documentation of inspection and maintenance to the City's Utility Section annually for reporting to the Regional Board.
- e. Permittee shall include language in the approved CC&R, if any, providing the City with an annual inspection report in conformance with the approved O&M plan and agreement. If the City does not receive the report, the City will conduct the field inspection and report for the site and the applicant and its successor shall be responsible to pay all associated costs.
- f. Format: The SWCP shall comply with the City's Standard SWCP formatting policy.
- g. All permit applications shall be consistent with the applicant'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. Onsite improvement plans shall show the details and methods of construction for site design features, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Site design shall limit directly connected impervious areas. Any changes to the final Storm Water Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.
- h. Storm Water Control Plan Sheet: A plan sheet shall be included in the offsite and onsite improvement plans for Storm Water Control. The sheet will show and label all drainage areas, treatment measures, drainage flow lines, high points, and low points. Each treatment measure shall have an independent drainage area which shall be designated. The sheet will provide sections and details for grading, drainage, and treatment measures. The sheet will include a table correlating the drainage areas to the treatment measures and summarizing the treatment provided.
- i. Storm Water Control Inspection: Prior to initial acceptance of public improvements or initial occupancy for private improvements, the Third Party Certifier of the SWCP shall

submit post-construction certification verifying that the post-construction BMPs have been installed correctly and are functioning properly. (E)

74. Public Utility Protection: 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. (E)
75. Utility Capacity: 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. (E)
76. Utility Studies: Prior to issuance of any building permit, Permittee shall obtain approval from the City Engineer of the water, sewer, and storm drainage studies for this development. 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 satisfaction of the City Engineer. (E)
77. Sanitary Sewer Discharge: Prior to any discharge into the sanitary sewer system, Permittee shall obtain all required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755. (E)
78. Landscaping Ordinance 238: In accordance with the provisions of Chapter 5, Title VIII (Ordinance 238) of the COMC for new or rehabilitated landscaping areas equaling 2500 square feet or greater, the applicant shall:
- a. Provide separate water meters for domestic water service & irrigation service.
 - b. Provide separate domestic meters for each type of proposed use (Residential, Food Services, Commercial/Office).
 - c. Comply with all the requirements of Ordinance 238.
 - d. Submit two sets of landscape and irrigation improvement plans to the Building Division with the building permit plan check package. Prior to any building permit issuance, Approval from the Land Development Section of the Engineering Division is required prior to any 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. (E)

(P) = Planning

(CA) = City Attorney

(B) = Building

(F) = Fire Prevention

(E) = Engineering