

**RESOLUTION NO. 15-014**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD14-0004 AND CONDITIONAL USE PERMIT NO. UP14-0007 TO ALLOW THE DEMOLITION OF NINE EXISTING PUBLIC STORAGE BUILDINGS AND PARTIAL DEMOLITION OF FIVE EXISTING PUBLIC STORAGE BUILDINGS IN ORDER TO CONSTRUCT TWO NEW THREE-STORY STORAGE BUILDINGS AND A TWO-STORY MINI-STORAGE BUILDING AND A CONDITIONAL USE PERMIT TO ALLOW MINI-STORAGE USE IN THE HEAVY INDUSTRIAL ZONING DISTRICT AND AN INCREASE IN THE FLOOR AREA RATIO AT 1600 AND 1601 WATSON COURT AND 1080 PECTEN COURT (APN 092-08-093; -042; -051) FOR WHICH, AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, on April 1, 2014, an application was submitted by Scott Mommer with Lars Andersen and Associates, Inc., 4694 W. Jacquelyn Avenue, Fresno, CA 93722 for a Site Development Permit and Conditional Use Permit to allow the demolition of nine existing public storage buildings and the partial demolition of five existing public storage buildings in order to construct two new three-story storage buildings and a two-story mini storage building, each located on separate parcels, and a Conditional Use Permit to allow a mini-storage use in the Heavy Industrial Zoning District and an increase in the Floor Area Ratio at 1600 and 1601 Watson Court and 1080 Pecten Court (APN 092-08-093; -042; -051) (the “Project”).

**WHEREAS**, the Planning Division completed an environmental impact assessment for the project in accordance with the California Environmental Quality Act (CEQA) and prepared an Initial Study and Mitigated Negative Declaration for the Project in accordance with CEQA, and state and local guidelines implementing CEQA.

**WHEREAS**, the Initial Study/Mitigated Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce the significant effects to a less than significant level.

**WHEREAS**, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to less than significant level.

**WHEREAS**, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during the project implementation.

**WHEREAS**, the City of Milpitas is the lead agency and the Milpitas Planning Commission is the decision-making body for the proposed Project; and

**WHEREAS**, the Milpitas Planning Commission has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take action on the Project in compliance with CEQA and state and local guidelines implementing CEQA.

**WHEREAS**, the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Project are, by this reference, incorporated into this Resolution as if fully set forth herein.

**WHEREAS**, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

**WHEREAS**, on March 25, 2015, 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 Commission does hereby make the following findings: (1) it has reviewed and exercised its independent judgment on the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project; (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA, and State and local guidelines implementing CEQA; (3) the Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project. The Planning Commission hereby designates the Director of Planning and Neighborhood Services at the Planning Division's Office at 455 East Calaveras Blvd., Milpitas, CA 95035, as the custodian of documents and records of proceedings on which this decision is based.

The Planning Commission does hereby approve construction of the Project and adopt the Mitigation Monitoring and Reporting Program prepared for the Project. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: 91) online as an attachment to this agenda item; (2) on file in the Planning Division's Office at 455 East Calaveras Blvd., Milpitas, CA 95035; and (3) available for inspection by an interested person.

**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 approving Site Development Permit No. SD14-0004:

- 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 it reflects the design and landscaping elements found in surrounding development which creates an aesthetically harmonious environment. The proposed personal storage buildings are surrounded by existing personal storage structures and industrial buildings. The buildings’ design and landscaping reflect similar attributes of other buildings and landscaping in the vicinity. The buildings consist of tilt up concrete masonry unit walls. Along street frontages, the facades are articulated with columns, metal panels, glass, and trim cap elements. These features and materials are found in other building surrounding the Project site. The layout of the site is also compatible with the surrounding development. The buildings are setback from the street frontages, which diminishes their visual dominance, and views of the building proposed for 1080 Pecten Court are obscured from rights-of-way by existing industrial buildings of similar size. Landscaping and street frontage improvements are planned to reflect landscaping and street frontage improvements planned for and implemented along Montague Expressway, west of the Project site. Given these characteristics, the Project’s site design, layout, architecture, massing of the building, and landscaping is compatible and appropriate with the surrounding buildings and uses.

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

As discussed in detail in the staff report and herein, the proposed Project is consistent with the Milpitas Zoning Ordinance based on the following:

1. With respect with land use, the proposed personal storage building and FAR increase are conditionally permitted in the Heavy Industrial (M2) Zoning District. The Project is consistent with this designation in that the Project adds a complementary land use that provides personal storage space that caters to both local citizens and regional individuals.
2. With respect to development standards, the proposed Project complies with setback, height, parking, and landscaping as described in the Table 1 below:

**Table 1:**  
**Summary of Development Standards**

	<b>Standard</b>	<b>Proposed</b>	<b>Complies?</b>
Setbacks (Minimum)			
Front	Along major street: 35 ft. from face of curb; Along non-major street: 25 ft. from	1601 Watson Ct. Building I: 41.5 feet from face of curb	Yes

	Standard	Proposed	Complies?
	face of curb.	1600 Watson Ct. Building S: 40 feet from face of curb	
		1080 Pecten Ct. Build N-N: Greater than 100 feet	
Street Side	Along major street: 35 ft. from face of curb; Along non-major street: 25 ft. from face of curb.	1601 Watson Ct. Building I: 110 Feet	Yes
		1600 Watson Ct. Building S: 49 feet	
		1080 Pecten Ct. Build N-N: N/A	
Interior	None		Not applicable
Rear	None		Not applicable
<u>Floor Area Ratio (Maximum)</u>	0.40	1601 Watson Ct.: 0.44	A Conditional Use Permit is requested for the additional square footage proposed.
		1600 Watson Ct.: 0.60	
		1080 Pecten Ct.: 0.70	
<u>Building Height (Maximum)</u>	Prior to construction of any structure that exceeds three (3) stories or thirty-five (35) feet in height, the Planning Commission must make the following finding: That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated; and the project exhibits exceptional architecture and aesthetic merit to warrant excess height .	1601 Watson Ct.: Building I – 30 ft.	Yes, with findings.
		1600 Watson Ct.: Building S – 39.5 ft.	
		1080 Pecten Ct.: Building N-N – 35 ft.	
<u>Parking</u>	72 spaces required: one space for every 5,000 sq. ft.	90 spaces	Yes
<u>Landscaping</u>	Required front yard area and Required street side yard area.	Frontage improvements along Montague match planned improvements and existing landscaping	Yes

	Standard	Proposed	Complies?
		along Watson Court and Pecten Court will remain.	

The Zoning Code permits a height above the 35 foot requirement if the Planning Commission determines that the increased height will not be detrimental to the to the light, air, or privacy of any other structure or use existing or anticipated. The proposed building S, located at 1600 Watson Court, has one portion of the building exceed the 35 foot height requirement, and it measures 39.5 feet. This portion of the building is located at the southwest corner of the project site. This portion of the project site is one of the most isolated parts of the project. It is set back approximately 49 feet from Watson Court, and over 110 feet from the adjacent 1601 Watson Court property. The difference in height between the tower element and the separation between parcels eliminates impacts to light, air and privacy. Based on this finding, the project is consistent with the development standards contained in the Zoning Code.

The project also exhibits exceptional architecture and aesthetic merit to justify the additional height. Along street frontages, the facades are articulated with columns, metal panels, glass, and trim cap elements. The roofline of the buildings provide visual interest and movement by incorporating parapet walls and tower features with varied heights. The tower elements of the roofline are a key element of the exceptional design. While portions of the structures reflect the other industrial buildings in the area, the tower element that exceeds the height limit define the project site and provide identity to the building. Therefore, the project employs exceptional architecture and has aesthetic merit that warrants the excess height.

With respect to compliance with parking requirements, the proposed Project complies with the parking requirements as described in Table 2 below:

**Table 2:**  
**Summary of Parking Requirements**

Land Use	Square Footage	Parking Ratio	Required
Personal Storage Facility	369,010 square feet	One space for every 5,000 sq. ft.	72
<b>Total number of parking spaces required</b>			72
<b>Total number of parking spaces provided</b>			90

c) *The project is consistent with the Milpitas General Plan.*

The General Plan designation is Manufacturing and Warehousing which allows various industrial and professional office uses permitted uses as well as personal storage facilities as conditionally permitted uses. The Project is consistent with this designation in that the project adds a complementary land use that provides personal storage space that serves both local and regional individuals within the vicinity of the project site. The Project also converts older, obsolete buildings to a higher and better use. The Project also fosters

beautification, new economic, business and employment opportunities. The Project is consistent with the following General Plan Policies:

- 1) (2.a-I-3) Encourage economic pursuits which will strengthen and promote development through stability and balance.

The Project replaces underperforming and unaesthetic buildings with new personal storage facilities along the I-680 corridor. The Project also fosters other economic opportunities and development in other sectors of the economy such as residential projects where new residents require storage space for personal belongings.

- 2) (2.a-I-7) Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.

The Project would provide employment opportunities at the storage facility and helps balance jobs with housing.

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

The Project includes the demolition of an older industrial site and the construction of a contemporary designed personal storage facility.

**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 approving of Conditional Use Permit No. UP14-0016:

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

The Project will not be detrimental or injurious to property, improvement, public health, safety and general welfare based on the following:

1. With respect to the land use, the personal storage facility is consistent with the purpose and intent of the Heavy Industrial Zoning District in that it is an industrial establishment that provides storage and warehousing type services. The proposed personal storage facility is a complementary use given the proximity to residential uses located west of the project site and to the east of I-680, and is designed to be harmonious to the surrounding industrial buildings.
2. With respect to the environment, the Project incorporates best management practice and construction measures to ensure environmental impacts are minimized to a level of less than significant such as but not limited to implementing best management

practice measures to control dust and emissions during construction, pre-construction survey for special status plants, animals and nesting birds.

3. With respects to improvement, property, public health and safety, the project will not result in any negative impacts based on the following conditions:
  - Contribute to City impact fees for the Calaveras Boulevard Widening Project fee.
  - Confirmed that the base elevation of the project site is acceptable and implement floodproofing to comply with current flood hazards requirements.
  - Comply with the NPDES General Permit, SWPPP, NPDES C.3 requirements and NPDES Best Management Practices for construction and post construction water quality.

**Section 5:** Increases above the Maximum Permitted Floor Area Ratio Findings (Section XI-10-2.03) - The Planning Commission makes the following findings based on the evidence in the public record in approving Conditional Use Permit No. UP14-0016 to exceed the maximum Floor Area Ration of 0.40:

- a) *The proposed development will generate low peak-hour traffic.*

Based on the Trip Generation Analysis conducted, the Project generates approximately 51 AM trips and 89 PM trips. The trip generation for the proposed personal storage project is less than the number of new trips generated that would cause an impact to the circulation system, which is 100 trips. Therefore, the project will generate low peak-hour traffic and will not impact the City's circulation network.

- b) *The proposed development will not create a visual prominence.*

The Project will not create a dominating visual presence. The building at 1601 Watson Court is a two story building that is setback from Montague Expressway over 40 feet. It is obscured from views from Montague Expressway by trees and other landscaping. Further, it is setback from Watson Court by approximately 110 feet. This distance reduces the perception of bulk and size of the structure. Similar conditions apply to the building located at 1600 Watson Court. It is set back from Montague Expressway by 40 feet and from Watson Court by approximately 59 feet. Further, trees are placed in front of the building that provide vertical relief to the elevations. Building N-N at 1080 Pecten Court is within the height limits established by the M2 Zone and is located behind other industrial buildings which obscure views of the structure. These design features minimize the bulk and massing of the buildings and they do not create a dominating visual presence.

**Section 6:** Increases above the Maximum Building Height Findings (Section XI-10-57.04-2) - The Planning Commission makes the following findings based on the evidence in the

public record in approving Conditional Use Permit No. UP14-0016 to exceed the maximum height:

- a) *That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated;*

The Zoning Code permits a height above the 35 foot requirement if the Planning Commission determines that the increased height will not be detrimental to the light, air, or privacy of any other structure or use existing or anticipated. The proposed building S, located at 1600 Watson Court, has one portion of the building exceed the 35 foot height requirement, and it measures 39.5 feet. This portion of the building is located at the southwest corner of the project site. This portion of the project site is one of the most isolated parts of the project. It is set back approximately 49 feet from Watson Court, and over 110 feet from the adjacent 1601 Watson Court property. The difference in height between the tower element and the separation between parcels eliminates impacts to light, air and privacy. Based on this finding, the project is consistent with the development standards contained in the Zoning Code.

- b) *the project exhibits exceptional architecture and aesthetic merit to warrant excess height .*

The project also exhibits exceptional architecture and aesthetic merit to justify the additional height. Along street frontages, the facades are articulated with columns, metal panels, glass, and trim cap elements. The roofline of the buildings provide visual interest and movement by incorporating parapet walls and tower features with varied heights. The tower elements of the roofline are a key element of the exceptional design. While portions of the structures reflect the other industrial buildings in the area, the tower element that exceeds the height limit define the project site and provide identity to the building. Therefore, the project employs exceptional architecture and has aesthetic merit that warrants the excess height.

**Section 7:** This Resolution shall supersede and replace any prior permits and approval related to the subject properties.

**Section 8:** The Planning Commission of the City of Milpitas hereby adopts **Resolution No. 15-014 approving Site Development Permit No. SD14-0004 and Conditional Use Permit No. UP14-0007 and Environmental Impact Assessment EA14-0001 based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and the Mitigation Monitoring and Reporting Program attached hereto as Exhibit 2 incorporated herein.**

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on March 25, 2015.

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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 March 25, 2015 and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Sudhir Mandal				
Lawrence Ciardella				
Hon Lien				
Rajeev Madnawat				
Ray Maglalang				
Zeya Mohsin (Alternate)				
Demetress Morris				
Gurdev Sandhu				

## EXHIBIT 1

**CONDITIONS OF APPROVAL  
WATSON COURT PERSONAL STORAGE PROJECT  
SD14-0004 AND UP14-0007 AND EA14-0001  
1600 AND 1601 WATSON COURT AND 1080 PECTEN COURT  
(APN 092-08-093; -042; -051)**

**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 Site Development Permit No. SD14-0004 and Conditional Use Permit No. UP14-0007 (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 Division.
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 the 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 the 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 March 25, 2015, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. (P)

### **Project Specific Conditions**

#### Site Development Permit

16. Signage. Prior to any building permit issuance, the Permittee shall remove any signage not previously approved by the Planning Division. This includes any banners or temporary signs associated with the use of the site. (P)
17. Landscaping. The Permittee shall replace any landscaping damaged during project construction with like kind landscaping of a similar species, size, and cost to the Permittee. (P)
18. Landscaping. Prior to issuance of any building permit, the following modifications shall be incorporated in revised landscaping plans subject to the approval of the Planning Director: (P)

- a. The Permittee shall replace the palm trees around the 115 kV electrical transmission tower with a tree species and location acceptable to the Planning and Neighborhood Services Director and Pacific Gas and Electric.
  - b. The Permittee shall select a tree species and location acceptable to the Planning and Neighborhood Services Director and shall plant and maintain the approved trees along the eastern and western frontages of the project parcels along Watson Court.
  - c. The Permittee shall replace the crape myrtle trees along the Montague Expressway frontage of 1601 Watson Court, as shown on the plans, with red maple trees, and shall plant these trees in sidewalk grates along the 1600 Montague Expressway frontage at a spacing of 30 feet on center.
19. Above Ground Utilities. The Permittee shall underground the electrical distribution lines along Montague Expressway fronting the project site, consistent with Pacific Gas and Electric standards. Modifications shall be subject to the review and approval of the Planning Director. **(P)**
20. Trash Enclosure. Prior to any building permit issuance, Permittee shall provide detailed plans and elevations for the trash enclosure that are consistent with the standards found Section XI-10-54.16 of the Milpitas Municipal Code, for review and approval to the satisfaction of the Planning and Neighborhood Services Director. **(P)**
21. No structure may be placed within the 40 foot easement strip (Reference Parcel Map, Book 417, Page 38-39 and Agreement recorded in Book 8603, Page 465). **(P)**
22. Building I, with its 30 foot high tower may be placed adjacent to but not within the 11.5 foot tower line swing easement, as determined by PG&E. **(P)**
23. No portion of any structure, including but not limited to any overhang, eaves, porch, etc., may be placed within the 11.5 foot strip adjacent to the PG&E easements, as identified by PG&E, that exceeds 18 feet in height, except building I's nine-inch overhang into the 11.5 foot strip, as depicted is acceptable as the required electrical clearances will still be met. **(P)**
24. The Permittee shall change the orange color banding on the street facing facades of the buildings with a burnt orange color or another color acceptable to the Planning and Neighborhood Services Director prior to issuance of building permit. **(P)**
25. Fire Department access. Sheet 7A of the Project plans submitted and received on March 11, 2015 is tentatively accepted for Fire Dept. apparatus access. Fire Department apparatus and staff access shall be provided to all buildings and site, and shall meet the following requirements.
- a. 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 (centre). California Fire Code Section 503

- b. Fire apparatus access roads shall provide a minimum clear width of 26 feet. This requirement is for the use and function of a fire ladder apparatus. International Fire Code, Appendix D, Sections D103.1 and D105, adopted and amended by Milpitas Municipal Code.
  - c. Fire apparatus access shall extend to within 150 feet of all portions of exterior walls of the building/structure per the California Fire Code Section 503.1. When there is a dead-end condition, means for fire apparatus turn-around shall be provided. The Fire Department reserves the right to request site design changes as needed to meet the requirements of the CFC, and/or make the request for additional fire protection measures in conformance with the CFC Section 102.9.
  - d. Adjacent Access. No source of access from lands adjoining a property to be developed shall be considered unless there is obtained the irrevocable and unobstructed right to use same. CFC Section 508.3, added by MMC Section V-300-2.48
  - e. Fire apparatus access roads/lanes and emergency vehicle roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Design bearing criteria shall be based on the City of Milpitas' fire apparatus Sutphen S95 Aerial Platform unit and subject to Milpitas Fire Department review and approval. Please contact the Fire Prevention Division if specifications are needed. CFC Section 503.2.3
  - f. Ground structures (including landscape) and building projections shall not encroach or impede the fire apparatus access requirements. CFC Section 503.4
  - g. Emergency Vehicle Access (EVA) roads, when required, shall meet the fire department site access requirements specified herein this document. CFC Section 503
  - h. No parking in fire access roads. The required access road shall be designated and clearly marked as a fire lane. The designated fire lane shall be identified as set forth in Section 22500.1 of the Vehicle Code. The designation shall be indicated (1) by a sign posted immediately adjacent to, and visible from, the designated place clearly stating in letters not less than one inch in height that the place is a fire lane, (2) by outlining or painting the place in red and, in contrasting color, marking the place with the words "FIRE LANE", which are clearly visible from a vehicle, or (3) by a red curb or red paint on the edge of the roadway upon which is clearly marked the words "FIRE LANE". CFC Section 503.3
  - i. 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 (paved). CFC Section 501.4 (F)
26. Public Improvements. Prior to any building permit issuance, Permittee shall obtain design approval and bond for all necessary public improvements along Watson Court, Pecten Court, and Montague Expressway including but not limited to the following:
- a. Frontage Improvements. Prior to building permit issuance, Permittee shall submit improvement plans for the frontage improvements along Watson Court, Pecten Court, and Montague Expressway including removal and replacement of existing driveways,

- curbs, gutters, sidewalks, pavement, and streetlights, City Standard Drawings and guidelines to the satisfaction of the Planning Director and the City Engineer.
- b. Coordination with County Project. Permittee shall coordinate with the County of Santa Clara (Airport and Roads) and the Valley Transportation Authority to install the approved frontage improvements along Montague Expressway.
  - c. Montague Frontage. Permittee shall be responsible for final installation of the approved frontage improvements on Montague Expressway to the satisfaction of the Planning Director and the City Engineer.
  - d. Right of Way. The Permittee shall dedicate all necessary rights-of-way and public easements to the City and the County for the proposed frontage improvements and utilities to the satisfaction of the City Engineer. The Permittee shall provide a 10' PSUE behind the public sidewalk unless otherwise directed by the City Engineer.
  - e. Record of Survey. Prior to any issuance of any occupancy (temporary or final), Permittee shall submit a record of survey to the City Engineer showing all new and remaining property lines, rights-of-way, easements, and monuments. The record of survey shall label all property rights, easement holders, and recording information on plan view and in an easement table. The record of survey shall be prepared and approved by a licensed land surveyor.
  - f. Utility Relocation. Underground utilities (such as joint trench conduit, utility boxes, etc.) shall be relocated and adjusted to grade to accommodate the approved frontage layout to the satisfaction of the Planning Director and the City Engineer.
  - g. Frontage Slopes. Permittee shall maintain a 4:1 maximum slope and provide a 1' flat bench at the top of slope and the toe of slope for all slopes adjacent to a public sidewalk, curb, curb & gutter, or pavement edge unless otherwise approved by the City Engineer.
  - h. Occupancy. All public improvements shall be installed and accepted prior to the issuance of the first Certificate of Occupancy (temporary or final).
  - i. City Standards. All design and construction of public and private improvements shall be in compliance with City guidelines and standard drawings. (E)

#### 27. Onsite Improvements.

- a. Site Improvement Plan Set. Prior to any building permit issuance, the Permittee shall submit a complete site improvement plan set, including but not limited to a separate plan sheet for floodplain management, storm water control, emergency vehicle access, and solid waste handling. All plan set sheets shall be coordinated to resolve conflicts between trees, landscaping, storm water treatment, utility lines, utility structures, and hardscape improvements.
- b. Bioretention Design. Permittee shall revise all bioretention areas to provide an overflow inlet connected to the storm drain system and reflect this revision on all applicable sections and details.
- c. Final Stormwater Control Plan. Permittee shall incorporate/address into the Final SWCP comments made by EOA in the memo dated March 13, 2015.
- d. Design Details. Permittee shall provide construction details for all proposed improvements on the site improvement plans to the satisfaction of the City Engineer and Chief Building Official. Details shall include a plan view, dimensions, sections, construction materials, planting, and adjacent utilities when applicable.

- e. Utility Meter Layout. The Permittee shall include a detail in the Site Improvement plan set showing the size, dimensions, and layout of all utility meters and associated appurtenances. The layout design shall comply with all separation and access requirements.
- f. Floodproofing. The Permittee shall provide a separate floodproofing report describing the floodproofing for all structures that are not removed from the Special Flood Hazard Area. The report shall demonstrate compliance with NFIP Regulations and technical bulletins. The report shall include the floodproofing of mechanical equipment, elevator shaft and equipment, and utilities. Floodproofing details shall also be included in the site improvement plan set and on the floodplain management sheet. (E)

28. Transportation & Traffic Engineering.

- a. The Permittee shall pay the City impact fees for the Calaveras Boulevard Widening Project. (E)

29. Utilities. The Permittee shall comply with the following:

- a. Contractual Water Supply. The site shall be served by SCVWD Zone 2. A Water Supply Assessment is not required.
- b. Drought Emergency. The City Council has declared a water supply emergency and enacted a Water Shortage Contingency Plan. The project is required to use recycled water for construction purposes such as dust control and compaction. New landscape shall be served by recycled water.
- c. Potable Water Distribution System. The municipal water supply pipeline in Pecten Court has insufficient capacity to provide fire flow for a multi-story building. Permittee shall design and install the Pecten Court water line improvement shown in the City's 2009 Water Master Plan update. The off-site work includes approximately 150 linear feet of new 12 inch water pipeline. The new pipeline shall connect to both of the City's 8 inch and 10 inch existing water pipelines in Montague Expressway.
- d. Water Service. This project shall be served by separate water meters for domestic, irrigation, and fire uses. Permittee is alerted that on-site pumping to upper floors may be required. Permittee shall provide backflow protection on all water connections, including fire services, in accordance with City guidelines and USC Manual of Cross Connection Control. If pumping is required to provide sufficient pressure for upper floors, a reduced pressure principal detector check assembly is required at each fire service. If City pressure is sufficient and the fire system has multiple points of connection, a double check detector check assembly is required. Each parcel shall have independent services. Alternatively, Permittee shall provide documentation providing easements across the different properties allowing for an interconnected fire system between the lots. The fire service appurtenances shown at the northeast corner of proposed Building N-N must be located in the PSUE behind the City sidewalk. Relocate these facilities to property frontage along Pecten Court.
- e. Recycled Water Distribution System. Permittee is required to install approximately 1,200 linear feet of 8 inch diameter recycled water pipeline in Montague Expressway from the point of connection at the intersection with South Milpitas Boulevard extending easterly.

- f. Landscape Irrigation. Project landscape shall be served by recycled water. The recycled water meter and service shall be on Montague Expressway.
- g. Permittee shall dedicate necessary public service utility easements, street easements, public access easement (over private streets and walkways) and easements for water and sanitary sewer purposes.
- h. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the Permittee are required to assure proper water supply (potable or fire services). The Permittee shall submit an engineering report detailing how adequate water supply pressures will be maintained.
- i. 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. To meet the recycle water guideline the Permittee shall:
  - I. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
  - II. 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 California Department of Public Health (CDPH) for approval; this approval requires additional processing time. The Permittee is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and CDPH approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
  - III. 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. **(E)**
  - IV. The on-site recycled water irrigation system shall be split into several parallel systems to match the construction phasing in order to allow recycled water use at the final occupancy for each phase. **(E)**

## **FEES**

30. Development Fees. 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.
  - c. Storm water connection fee of \$21,562 per acre.
  - d. Water, sewer and treatment plant fees will be calculated at the time of building plan check submittal.
  - e. Calaveras Blvd Widening Traffic Impact Fee of \$ 803 per thousand square feet of net new floor space of Retail Development (in 2009) prior to building permit issuance. Fee shall be adjusted per ENR index rate at the time of building permit issuance.

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)

31. 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)
32. Community Facilities District (CFD) Annexation. Prior to any building permit issuance, Permittee shall submit an executed consent to annex the subject property into CFD 2005-1 and shall agree to pay the special taxes levied by CFD 2005-1 for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized prior to any building permit issuance, whichever occurs first. Permittee shall comply with all rules, regulations, policies, and practices established by State Law and by the City with respect to the CFD including, without limitation, the requirements for notice and disclosure to future owners and residents. (E)

## CONSTRUCTION

33. Improvement Plans. Prior to any building permit issuance, Permittee shall obtain design approval and bond for all necessary public improvements as shown on the entitlement approval and in compliance with City standards and regulations, 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, street trees, fire hydrants, bus stop, and storm, water, and sewer service installation.
  - b. All improvements plans shall be prepared using Vertical Datum of 1988 (NAVD 88). The specific City benchmark used for the project shall be indicated on the cover sheet of each improvement plan set.
  - c. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital copy of the Record Drawings AutoCAD and GIS format upon completion of improvements to the satisfaction of the City Engineer.
  - d. Permittee 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. (E)
34. Initial Acceptance. All improvements must be installed in accordance with the City of Milpitas standard drawing and specification, and shall be constructed to the City Engineer's

satisfaction and accepted by the City prior to issuance of any final certificate of occupancy. (E)

35. Utility Undergrounding. Prior to issuance of the first Certificate of Occupancy (temporary or final), Permittee shall underground all existing wires and overhang utilities and remove all related poles within the proposed development and along all street frontages. All proposed utilities within the subdivision shall also be undergrounded. The improvement plans shall show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state wire voltage. All utility vaults, boxes, cabinets, and pedestals shall be identified and labeled on the improvement plans. Above ground utility facilities shall be underground, relocated, or screened to the satisfaction of the City Engineer and the Planning Director. (E)
36. Joint Trench Relocation. The joint trench shall be relocated in the field, if necessary, to accommodate the approved street layout (sidewalks, trees, streetlights, etc.) to the satisfaction of the City Engineer and the Planning Director. All joint trench structures (vaults, boxes, cabinets, etc.) shall be adjusted to the final grade. (E)
37. 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)
38. 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)
39. 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)

40. 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)**
41. Maximum Slopes. All slopes adjacent to public sidewalks and streets shall be designed to a maximum grade of 4:1 slope. The grading design shall also provide a 1' flat bench at the top and bottom of the slope adjacent to the public sidewalks, streets, or pathways. **(E)**
42. 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)**
43. Underground Service Alert (USA). Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities. **(E)**

#### **FLOODPLAIN MANAGEMENT**

44. Special Flood Hazard Area. The proposed development is located within the Special Flood Hazard Area (SFHA), and, therefore, shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code of Federal Regulations and the City of Milpitas (City) Flood Plain Management Regulations, City of Milpitas Code (COMC) Title XI Chapter 15. Prior to any building permit issuance, Permittee shall obtain a Conditional Letter of Map Revision (CLOMR) or a Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain or the removal of the development from the SFHA. Permittee shall also obtain a Letter of Map Revision (LOMR) or a Letter of Map Revision based on Fill (LOMR-F) and shall provide all elevation certificates prior to final building inspection or issuance of certificate of occupancy for any portion of the development. The proposed grading plan shall comply with the established BFE as determined in the final flood study report, the approved CLOMR or CLOMR-F, or the official FEMA Federal Insurance Rate Map (FIRM). **(E)**
45. Floodplain Management Ordinance. Per Chapter 15, Title XI of Milpitas Municipal Code (Ord. No. 209.4) the lowest floor elevation (finished floor) of each structure shall be at least one foot above the Base Flood Elevation (BFE). The structure pad(s) shall be properly designed by a registered civil engineer and compacted to meet FEMA's criterion. In addition, the pad(s) shall extend beyond the building walls before dropping below the base flood elevation, and shall have appropriate protection from erosion and scour. All electrical equipment, mechanical equipment, and utility type equipment servicing the structure shall be located above the BFE, or shall be flood proofed, and shall be constructed to prevent damage from flooding events. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Ordinance.

Permittee's civil engineer shall complete and submit several FEMA Elevation Certificates to the City at different stages of the construction. Flood insurance is required for any construction that is financed with government backed loans. (E)

46. Flood Study. Prior to any building permit issuance, Permittee shall submit a Flood Study for the project demonstrating, to the satisfaction of the City Engineer, that the proposed development has NO adverse impact to the surrounding flood plain within the SFHA and to flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one foot at any point. For the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. 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. (E)
47. Drainage Study. Prior to any building permit issuance, Permittee 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 Permittee shall satisfy the conclusions and recommendations of the approved drainage study. (E)
48. Elevation Certificates. Permittee shall submit an elevation certificate for each lot or structure that is to be removed from the SFHA:
  - a. Prior to any grading permit issuance, based on an approved grading plan. This elevation certificate shall contain all proposed grades applicable and shall be required in order to receive community acknowledgement for the CLOMR or CLOMR-F application.
  - b. Prior to building foundation pour, based on finished formwork while the building is under construction. If Permittee intends to apply for a LOMR or LOMR-F prior to finished construction, this elevation certificate shall be submitted after the foundation pour and shall be based on existing finished floor and adjacent grades. It shall be required in order to receive community acknowledgement for the LOMR or LOMR-F application.
  - c. Prior to occupancy of each building or structure, based on finished construction. This elevation certificate shall contain all required finished grades and shall be based on existing information.
  - d. Prior to final occupancy, Permittee shall submit a binder containing all the elevation certificates produced for the each phase of the project. (E)

## **CLEAN WATER**

49. 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)

50. Construction General Permit Compliance. Permittee shall comply with the requirements of the Construction General Permit as administered by the State and Regional Boards. Permittee shall obtain a Construction Activities Storm Water General Permit (State Permit) from the State Board. Prior to any construction activities and prior to the issuance of any building, demolition, or grading permit, Permittee shall submit:
- a. A complete Storm Water Pollution Prevention Plan (SWPPP) with the project Waste Discharge Identification Number (WDID) displayed on the cover;
  - b. A copy of the approved Notice of Intent (NOI) from the State Board; and
  - c. An erosion control plan and a site monitoring plan meeting the satisfaction of the City Engineer.

Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all storm water quality control measures as required by the approved SWPPP, the approved erosion control plan, the COMC, and the City's Clean Water Program.

Prior to final occupancy for any unit or any phases of units, Permittee shall submit an approved Notice of Termination (NOT). For phased occupancy, Permittee shall submit a Change of Information (COI) or an NOT approved by the State Board that removes each phase of occupancy from the boundaries of the State Permit prior to the issuance of occupancy for that phase. Contact the State and Regional Boards for questions regarding your specific project. For general information, contact the City of Milpitas Engineering Division at (408) 586-3329. (E)

51. 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)
52. 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 for any unit, 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 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 Permittee 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 Permittee'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 Development Permit 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)

## UTILITIES

53. 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)
54. Utility Capacity (Force Majeure). 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)
55. Utility Studies. Prior to building permit application, Permittee shall submit and 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)
56. Utility Modeling. Hydraulic modeling is required to verify the capacity of the adjacent water and sewer system piping and determine points of connection. Permittee shall authorize the City to proceed with hydraulic modeling and the costs of the modeling shall be charged to Permittee's PJ Account. (E)
57. 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)
58. 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 Permittee shall:
- a. Provide separate water meters for domestic water service and irrigation and fire service.
  - b. Comply with all the requirements of Ordinance 238, as amended.
  - c. 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)

## **SOLID WASTE MANAGEMENT & RECYCLING**

59. Solid Waste. This site is required to use front-load style solid waste service. Permittee shall provide sufficient facilities for on-site storage and collection of solid waste and recyclables in accordance with City Guidelines. Permittee shall provide a Solid Waste Handling Plan for each parcel showing how materials will be transferred from the trash generation areas to the trash enclosure. The Solid Waste Handling Plan shall also address other requirements, such as litter control. Permittee shall demonstrate that the site plan provides sufficient space for the solid waste vehicle to perform collection and turn around on-site without obstructing traffic. Permittee shall procure sufficient service frequency. The Permittee shall provide documentation providing easements across the different properties allowing for a shared trash enclosure between the lots. (E)
60. Solid Waste Handling Plan (Report). Prior to any building permit issuance, Permittee shall submit a final Solid Waste Handling Plan that incorporates the following solid waste handling requirements and meeting the satisfaction of the City Engineer:
- a. A description of the Solid Waste Services required for the development per the Development Guidelines for Solid Waste Services (Development Guidelines). The description shall include sizing calculations, type of service (front load bins, roll-off compactors, etc.), size of bins, and level of service (e.g. number of pick-ups per week).
  - b. A description of the Solid Waste Operation at ultimate build out and for each phase of the development.
  - c. A detail of the solid waste enclosure designed per the Development Guidelines for Solid Waste Services to house all service described above and all necessary equipment. The enclosure design shall provide adequate access for the solid waste truck, and allocate enough space for the solid waste truck operation without impacting the proposed private street. The access to the location and size of the enclosure shall be designed to the City Engineer's satisfaction and shown on the plans prior to any building permit issuance.
  - d. A solid waste handling plan sheet shall be incorporated in the site improvement plan set containing the enclosure detail, a sizing table, a service table, a description of the solid waste operations, and truck turning templates for collection vehicles.
  - e. The enclosure drains shall discharge to the sanitary sewer line. Storm drain inlets shall 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.
  - f. The Property Management Association (PMA) or Permittee shall be responsible for solid waste handling. The Solid Waste Handling Plan shall include detailed, step-by-step instructions describing the management of solid waste from generation to disposal. The plan shall demonstrate how recycling and waste will be separately handled and maintained.
  - g. Permittee shall complete the construction of the new trash enclosure to serve the Project prior to issuance of the First Certificate of Occupancy. (E)

61. Solid Waste Management. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, Permittee 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*, Permittee shall subscribe to and pay for solid waste services rendered. Prior to issuance of any certificate of occupancy, Permittee shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Republic Services (formally BFI). After Permittee has full occupancy, Permittee shall contact the Republic Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, Permittee shall increase the service to the level determined by the evaluation. **(E)**
62. Recycling Report, Part I. Prior to demolition permit issuance, Permittee 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 and Solid Waste Section (Utility Section) prior to demolition permit issuance. The report shall describe the following resource recovery activities:
- a. What materials will be salvaged?
  - b. How materials will be processed during demolition?
  - c. Intended locations or businesses for reuse or recycling.
  - d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.
  - e. Permittee's contractor shall make every effort to salvage materials for reuse and recycling. **(E)**
63. Recycling Report, Part II. Prior to final approval of the demolition permit or any building permit issuance, whichever occurs first, Permittee shall submit Part II of the Recycling Report to the Building Division for forwarding to the Utility Section in order to confirm the information described on Part I 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 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 Section prior to inspection by the Building Division. **(E)**
64. Demolished Material Removal. All demolished materials including, but not limited to, broken concrete, asphalt paving, pipe, vegetation, excess earth, building debris, and other unsuitable materials, etc., shall be removed from the job site for recycling or disposal by Permittee's contractor, to the satisfaction of the City Engineer. Permittee's contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction of the site. Permittee's 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. Permittee's contractor shall perform all recycling and/or disposal by removal from the job site. **(E)**

**Environmental**

65. AIR-1: BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices shall be implemented during construction of the proposed project:
- a. Water all active construction areas at least twice daily.
  - b. Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard
  - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction site.
  - d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
  - e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
  - f. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
  - g. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
  - h. Install sandbags or other effective erosion control measures to prevent silt runoff to public roadways.
  - i. Replant vegetation in disturbed areas as quickly as possible.
66. CUL-1: As required by County ordinance, this project has incorporated the following guidelines. Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
67. HYDRO-1.1: Prior to construction of the project, the City shall require the Permittee to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the Permittee may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook (such as silt fences/straw waddles around the perimeter of the site, regular street cleaning, and inlet protection) for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:

- Soil stabilization practices,
- Sediment control practices,
- Sediment tracking control practices,
- Wind erosion control practices, and
- Non-storm water management and waste management and disposal control practices.

68. HYDRO-1.2: Prior to issuance of a grading permit, the Permittee shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the Department of Public Works. The Permittee shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.

69. HYDRO-1.3: The development shall comply with City of Milpitas ordinances, including erosion- and dust-control during site preparation and grading, and maintaining adjacent streets free of dirt and mud during construction.

70. HYDRO-1.4: The proposed development shall comply with the NPDES permit issued to the City of Milpitas. This will reduce the construction impacts to less than significant with the mitigation measures listed above.

71. NOISE-1: Project grading and construction activities shall not occur outside the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends, and shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as per the City of Milpitas Noise Ordinance.

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney