

RESOLUTION NO. 15-034

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD14-0019 AND CONDITIONAL USE PERMIT NO. UP14-0020 AND EA15-0004 TO ALLOW DEMOLITION OF AN EXISTING INDUSTRIAL SITE AND CONSTRUCTION OF A 98,390 SQUARE FOOT SELF-STORAGE FACILITY WITH A 2,360 SQUARE FOOT OFFICE AND MANAGER'S UNIT, ASSOCIATED SITE IMPROVEMENTS, A FUTURE 35,500 SQUARE FOOT EXPANSION AND INCREASED FLOOR AREA RATIO AT 1 HANSON COURT (22-31-020) FOR WHICH AN INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTION OF A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, on October 27, 2014, an application was submitted by Bertrand Irissou with One Hanson LLC, 1484 Prince Edward Way, Sunnyvale, CA 94087 for a Site Development Permit to allow the demolition of an existing industrial site and construction of a 98,390 square foot self-storage facility, 2,360 square office and manager's unit and associated site improvements; 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 1 Hanson Court (APN 22-31-020) (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 October 28, 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: (1) 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. SD14-0019:

- a) *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The Project is consistent with this finding because the building setbacks, height, roof forms and layout are similar with neighboring industrial properties. The contemporary architecture incorporates colors, materials, and styles compatible with the surrounding buildings thus providing high quality design elements along the Hanson Court street frontage. The project will also establish a new streetscape consisting of a six-foot public sidewalk and 24-inch box London Plane street trees. Given these characteristics, the Project’s site design, layout, architecture, massing of the building, and landscaping are 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 self-storage facility 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

	Standard	Proposed	Complies?
Setbacks_(Minimum)			
Front	Non-Major street: 25 ft.	28’	Yes
Interior	None	1 ft. and 5ft.	Yes
Rear	None	2 ft.	Yes
Floor Area Ratio (Maximum)	0.40	Phase 1 = 0.54 Phase 2 = 0.73	Yes; with CUP approval.

	Standard	Proposed	Complies?
<u>Building Height</u> (Maximum)	None, However 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.	Two stories; 34-foot	Yes.
<u>Parking</u>	One space for every 5,000 sq. ft.	28	Yes
<u>Landscaping</u>	Required front yard area and Required street side yard area.	Front setback and street frontage improvements along Hanson Court.	Yes

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 as permitted uses, and 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 vacant and underutilized property 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 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 self-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. UP14-0020:

- 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 self-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 and commercial uses and 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 surveying 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.
 - Comply with the NPDES General Permit, SWPPP, NPDES C.3 requirements and NPDES Best Management Practices for construction and post construction water quality.
 - Dedication of all necessary easements and installation of public improvements as specific in Condition No. 21.
 - Comply with all local, state and federal regulations.

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. UP14-0020 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 by TJKM Transportation Consultants, the project generates approximately 19 AM trips and 36 PM trips for Phase 1 and 2. Among the 19 a.m. trips, 10 trips are expected to enter the facility and 9 trips are expected to exit the during the a.m. peak hour. Similarly, during the p.m. peak hour, 18 trips are expected to enter and 18 trips are expected to exit the facility respectively. The trip generation for the proposed self-storage facility will not exceed the threshold for traffic impacts which is 100 peak hour 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 Zoning Code permits a height above the 35-foot requirement if the Planning Commission determines that the increased height will not be detrimental to light, air, or privacy of any other structure or use existing or anticipated. The proposed buildings do not exceed the 35-foot height limit. The tallest building is the two-story manager's building, which measures 34-feet from adjacent grade. Furthermore, the future second-story addition over Building C measures 21-feet 3-inches. The proposed building height is consistent with the heights and roof forms with other buildings in the area. As such, the proposed height will not create visual prominence or impair light, air or privacy on adjacent properties. Based on this finding, the project is consistent with the development standards contained in the Zoning Code.

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. 15-034 approving Site Development Permit No. SD14-0019 and Conditional Use Permit No. UP14-0020 and Environmental Impact Assessment EA15-0004 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 October 28, 2015.

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 28, 2015 and carried by the following roll call vote:

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

EXHIBIT 1

**CONDITIONS OF APPROVAL
WATSON COURT PERSONAL STORAGE PROJECT
SD14-0019 AND UP14-0020 AND EA15-0004
1 HANSON COURT
(APN 22-31-020)**

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. SD14-0019 and Conditional Use Permit No. UP14-0020 (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 detail, and construction specification of all signage for review and approval by the Planning Division. Sign plans shall demonstrate compliance with the Milpitas Sign Ordinance and design guidelines. (P)
17. Above Ground Utilities. The Permittee shall underground the electrical distribution lines along Hanson Court fronting the project site, consistent with Pacific Gas and Electric standards. Any modifications shall be subject to the review and approval of the Planning Director. (P)
18. 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)

19. Prior to building permit issuance, the Permittee shall provide the following:
 - a. Provide an appropriate roof cornice to the approval of the Planning Director.
 - b. Final building color selection shall consist of muted earth tone and submitted for Planning Director review and approval.
 - c. Provide details and elevations for all architectural elements, finishes and site fixtures such as but not limited to metal awnings, sun shade, metal lattice, materials and finishes, fences, gates, and exterior lighting fixtures for Planning Director review and approval.
20. Fire Department Requirements. The Project plans submitted and received on June 1, 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.

Fire Department Access

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

Fire Protection Water Supply (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. Water supply shall meet the Fire Code and the City Engineering Division water supply guidelines. CFC 507, Appendix B and Appendix C
- b. The required water supply for “fire flow” shall be not less than 3,000 gpm for commercial areas. The minimum flow is required at the most remote hydrant within the private property. (City Engineering Land Development Water Design guidelines XIV)
- c. Water System Calculations. Private fire service mains and appurtenances shall be designed and installed in accordance with the City of Milpitas Engineering design guideline requirements and the NFPA 24. Provide calculations and all the necessary design information for the water system to meet the domestic and fire flow requirements as per the City Engineer water design requirements. CFC Section 507
- d. Water line system isolation valves. Isolation valves shall be provided to cut-off sections and/or devices that may become impaired. CFC Section 102.9
- e. The location and quantify of hydrants will be evaluation during construction permit process. This applies to the on-site private as well as to the public streets. CFC Section 507.5

- f. Private hydrants shall have the bottom 6 inches of the hydrant painted, with a weather resistive paint, white in color. CFC Section 507.5.7, added by MMC Section V-300-2.54
- g. No parking is permitted in front of fire hydrants. Hydrants located on streets (public or private streets, public or private driveways) shall have an unobstructed clearance of not less than 30 feet per CA Vehicle Code 22514. Provide striping per CA Vehicle Code 22500.1. CFC Section 507.5.4.

Fire service water laterals for sprinkler systems.

- a. Each building shall be provided with a fire sprinkler service water lateral for the automatic fire sprinkler system. The fire service water laterals for the automatic fire sprinkler system shall meet the California Fire Code requirements Chapter 9 and the NFPA applicable Standards. Note, the utilities drawings provided are not reviewed nor approved for construction. CFC 912.1
- b. Each fire service water lateral shall have a FDC/PIV (fire department connection/post indicator valve). The location of the FDC's/PIV's shall be at a readily accessible location and approved by the Fire Code Official. FDC's/PIV's shall not be located behind parking stalls nor behind any other obstruction. CFC Section 912.3
- c. The fire department connection (FDC) shall be within 50' from a hydrant. Additional onsite hydrants may be required. CFC (California Fire Code) Section 507.5.1.1, amended by MMC (Milpitas Municipal Code Section V-300-2.53
- d. The location of the fire sprinkler riser system shall be within a mechanical closet. 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
- e. Weather exposed fire risers may not be acceptable. CFC Section 102.9
- f. FDC/PIV Signage. A metal sign with raised letters at least 1 inch in size shall be mounted on all fire department connections. Signage shall be approved by the Fire Code Official. CFC Section 912.4
- g. Backflow Protection. Potable water supply to automatic sprinkler and standpipe systems shall be protected against backflow as required by the Health and Safety Code section 13114.7 and the City of Milpitas Utilities Engineering Division. CFC Section 912.5
- h. All new installations of sprinkler systems shall preclude sprinkler test and system drain water from discharging into the storm drain; provisions to direct water to the sanitary sewer or landscape or other approved means shall be provided. Sprinkler system design shall include the proposed method for drainage of sprinkler system discharge. Storm Water Pollution Regulations

Access Control Devices.

- a. When access control devices including bars, grates, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the fire code official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. CFC Section 504.5, added by MMC Section V-300-2.51

Fire Dept. Emergency Key Boxes or Key Switches (Knox Systems).

- a. The Fire Code Official is authorized to require a key box(es) and/or key switches to be installed in an approved location(s) if necessary for life-saving or fire-fighting purposed. CFC Section 506

Building/Structure Requirements:

- a. The buildings shall be provided with an automatic fire sprinkler system in conformance with the NFPA 13 Standards. California Fire Code Section 903.3
- b. All valves controlling the water supply for the automatic sprinkler system shall be electrically supervised by a listed fire alarm control unit. CFC 904.3
- c. One exterior approved audible device shall be connected to every automatic sprinkler system in an approved (approved by the Fire Dept.) location. CFC 903.4.2
- d. Portable fire extinguishers shall be selected, installed and maintained in accordance with CFC Section 906.
- e. Fire alarm panel (or fire alarm annunciator panel) shall be located in a readily accessible location and shall be provided with necessary access and working clearance as required by the CA Electrical Code.
- f. Fire alarm monitoring (Approved supervising station - UL, or FM approved). Fire alarm systems required by the Fire Code or by the California Building Code shall be monitored by an approved supervising station in accordance with the NFPA 72. CFC 907.6.5

Emergency responder radio coverage in buildings.

- a. All buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communications system of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communications system. Emergency responder radio coverage systems shall be installed in accordance with the CFC Section 510.
- b. Emergency responder radio coverage in buildings - obstruction by new building. When in the opinion of the fire code official, a new structure obstructs the line of sight emergency radio communications to existing buildings or to any other location, the developer of the new structure shall provide and install the radio retransmission equipment necessary to restore communications capabilities. The equipment shall be

located in an approved space or area within the new structure. CFC Section 510.1.1, added by MMC V-300-2.56

- c. The emergency radio system shall be supervised per the CFC Section 510.64. CFC Section added by MMC V-300-2.57.
- d. Dedicated equipment room(s) with the appropriate supporting mechanical systems, shall be provided to meet the emergency communication needs. California Fire Code Section 102.9

Standpipe Systems.

- a. Standpipes system may be required. Standpipe system shall be installed in accordance with the California Fire Code Section 905.2 and NFPA 15. When stairs are provided with intermediate landings, the standpipes shall be located at the bottom floor level, at the top floor level and at all intermediate landings. CFC Section 905.4

Premises Identification.

- a. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. CFC Section 505
- b. All required addresses shall be illuminated. CFC Section 505.3, added by MMC V-300-2.52

New or future elevators.

- a. All elevators shall be size to meet the gurney size requirements per the California Building Code Chapter 30. C FC Section 607.1.1, added by MMC Section V-300-2.59

Building Permit Plan Submittal.

- a. The proposed landscaping may be impacted by the comments above and the requirements for fire access, fire systems and devices (such as apparatus access, hydrants, fire service lines, fire department connections valves, etc.). The Fire Dept. reserves the right to relocate, delete or change the proposed planting when in conflict with fire systems and devices. CFC 507.5.4
- b. 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. Section 901.2, CFC (F)

21. Public Improvements. Prior to any building permit issuance, Permittee shall obtain design approval and bond for all necessary public improvements along Hanson Court 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 Hanson Court including removal and replacement of existing driveways, curbs, gutters, sidewalks, pavement,

street trees and streetlights and shall be prepared in accordance with City Standard Drawings and guidelines to the satisfaction of the Planning Director and the City Engineer.

- b. Right of Way. The Permittee shall maintain the existing 10-foot public service utility easement (PSUE) to the satisfaction of the City Engineer.
- c. 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.
- d. 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.
- e. Occupancy. All public improvements shall be installed and accepted prior to the issuance of the first Certificate of Occupancy (temporary or final).
- f. City Standards. All design and construction of public and private improvements shall be in compliance with City guidelines and standard drawings. (E)

22. Private 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, utility locations and connection, 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. Record of Survey. Prior to any issuance of any occupancy (temporary or final), Permittee shall submit a record of survey to the City Engineer for the following:
 - i. Abandon existing 15-foot waterline easement (4942 O.R 498)
 - ii. Dedication of a new 20-foot waterline and access easement as shown on Sheet C5.0 to the City Engineer's approval.
 - iii. Grant temporary construction and access easements for the temporary and future waterline connection to be determine at the time of construction.
 - iv. 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 signed by a licensed land surveyor.

- c. 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.
- d. Final Stormwater Control Plan and Report. Permittee shall incorporate/address into the Final SWCP comments made by EOA in the memo dated August 7, 2015 as well as future comments and subsequent permit provisions.
- e. 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.

- f. 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.
- g. 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)

23. Transportation & Traffic Engineering.

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

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

- a. Contractual Water Supply. The site shall be served by SF1. 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.
- c. 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.
- d. 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.
- e. 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.

FEES

25. 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 Boulevard Widening Traffic Impact Fee of \$803 per thousand square feet of net new floor space of Retail Development 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) 586-3325 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)

26. 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)
27. 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

28. Improvement Plans. Prior to any building permit issuance, Permittee shall obtain design approval and bond for all necessary public improvements and in compliance with City standards and regulations and to the approval of the City Engineer, 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)

29. 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)
30. 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)
31. 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)
32. 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)
33. 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)
34. 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)

35. 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)
36. 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)
37. 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)
38. 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

39. 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)
40. 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)

41. 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)
42. 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)
43. 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

44. 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)**
45. 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 complete Storm Water Pollution Prevention Plan (SWPPP) with the project Waste Discharge Identification Number (WDID) displayed on the cover;
 - A copy of the approved Notice of Intent (NOI) from the State Board; and
 - 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)**
46. 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)**
47. 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

48. 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)

49. 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)

50. Landscaping Ordinance 238 and 240. New landscaping shall comply with Ordinance 238 and 240 in effect at the time of building permit issuance. For new or rehabilitated landscaping areas equaling 500 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)

51. The City shall restore surface conditions to City standards (standard pavement, sidewalk, non-paved surfaces, etc) upon completion of infrastructure repair and/or replacement in City easements.

SOLID WASTE MANAGEMENT & RECYCLING

52. Solid Waste. The Permittee shall provide sufficient facilities for on-site storage and collection of solid waste and recyclables in accordance with City Guidelines. The 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.

53. 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 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.
 - b. 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.
 - c. 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.
 - d. Permittee shall complete the construction of the new trash enclosure to serve the Project prior to issuance of the First Certificate of Occupancy. **(E)**
54. 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)**
55. 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)**

56. 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)
57. 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)
58. Permittee is notified that references to State regulations, City ordinances, and any other documents or requirements shall mean the rules in effect at the time of building permit issuance. (E)
59. The Permittee shall design public and private utilities in accordance with State and City requirements. If the minimum clearances described in the State Water Works Standards cannot be met, the Permittee shall prepare and submit a waiver request to the City. If acceptable, the City will submit the waiver request to the State Division of Drinking Water. (E)
60. Mailboxes: Permittee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may be required as a result of the Building, Engineering and Planning Divisions review. (P)

Conditional Use Permit

61. No recreation vehicle or boat storage permitted with this approval.

Environmental Mitigation Measure

62. **Air-1: Basic Construction Management Practices.** The Project shall demonstrate compliance with all applicable regulations and operating procedures prior to issuance of demolition, building or grading permits, including implementation of the following BAAQMD “Basic Construction Mitigation Measures”.
- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

- c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

63. Construction Emissions Minimization Practices. The project shall demonstrate compliance with the following Construction Emissions Minimization Practices prior to issuance of demolition, building or grading permits:

- a) All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements:
 - i. Where access to alternative sources of power are available, portable diesel engines shall be prohibited;
 - ii. All off-road equipment shall have:
 - a. Engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and
 - b. Engines that are retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy (VDECS).
 - iii. Exceptions:
 - a. Exceptions to 1(a) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the City that an alternative source of power is limited or infeasible at the project site and that the requirements of this exception provision apply.
 - b. Exceptions to 1(b)(ii) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the City that a particular piece of off-road equipment with an ARB Level 3 VDECS is: (1) technically not feasible, (2) would not produce desired emissions reductions due to expected operating modes, (3) installing the control device would create a safety hazard or impaired visibility for the operator, or (4) there is a compelling emergency need to use off-road equipment that are not retrofitted with an ARB Level 3 VDECS and the sponsor has submitted documentation to the City that the

requirements of this exception provision apply. If granted an exception to 1(b)(ii), the project sponsor must comply with the requirements of 1(c)(iii).

- c. If an exception is granted pursuant to 1(c)(ii), the project sponsor shall provide the next cleanest piece of off-road equipment, including a Tier 2 engine standard and the following emissions control/alternative fuel in order of preference if available: 1) ARB Level 2 VDECS, 2) ARB Level2 VDECS, or 3) Alternative Fuel.

64. **Bio-1: Nesting Birds.** If construction occurs during the breeding season (February through August), the site and a surrounding radius of not less than 0.5 miles shall be surveyed by a qualified biologist to verify the presence or absence of nesting birds protected under the federal Migratory Bird Treaty Act and the California Fish and Wildlife Code. Pre-construction surveys shall be conducted within 15 days prior to start of work and shall be submitted to the Building Division. If the survey indicates the potential presences of nesting birds, the applicant shall comply with recommendations of the biologist regarding an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be based to a large extent on the nesting species and its sensitivity to disturbance.

65. **Haz-1: Site Management Plan and Health and Safety Plan.** As a condition of Project approval and prior to start of grading or other construction activities, the Project applicant shall prepare a Site Management Plan and Health and Safety Plan as recommended by the Phase I Environmental Site Assessment and the subsequent Soil and Ground Water Quality Evaluation, to establish appropriate management practices for handling impacted soil and ground water that may be encountered during construction activities. These materials may require special handling and disposal. Compliance with this recommendation will alleviate hazards to the public or the environment.

66. **Hydro-1: NPDES General Permit for Construction.** As a condition of Project approval and prior to start of grading or other construction activities, the Project applicant shall file a Notice of Intent (NOI) with the RWQCB for compliance with the NPDES General Construction Permit. Pursuant to that permit, the Project will be required to implement management practices of the RWQCB during all phases of construction, including but not limited to the following:

- a) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- b) Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- c) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- d) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- e) All trucks hauling soil, sand, and other loose materials shall be covered or shall maintain at least two feet of freeboard.

- f) All paved access roads, parking areas, staging areas and streets adjacent to the construction site shall be swept daily (with water sweepers).
- g) Vegetation in disturbed areas shall be replanted as quickly as possible.
- h) All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed if requested by the City.

67. **Hydro-2: Compliance with SWPPP.** The Project proponent shall prepare and file a draft Stormwater Pollution Prevention Plan (SWPPP) that addresses measures to minimize and control construction runoff. A copy of the draft SWPPP will be submitted to the City of Milpitas for review and approval prior to start of construction. When approved, the certified SWPPP will be posted at the Project site and will be updated to reflect current site conditions.

68. **Hydro-3: NPDES C.3 Requirements – Stormwater Control Plan.** Pursuant to the San Francisco Bay RWQCB's Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP), the Project applicants shall be required to design, construct and operate stormwater treatment controls to treat post-construction stormwater runoff. These controls shall be sized, designed, implemented and operated in accordance with the Provision C.3 requirements of the regional permit, and the technical requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook, dated April 2012.

69. **Hydro-4: NPDES Best Management Practices.** The following measures, based on the RWQCB Best Management Practices (BMPs) and the City requirements, are required of the Project to ensure compliance with NPDES permit requirements for post-construction operations to reduce water quality impacts. When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site. All post-construction Treatment Control Measures (TCMs) will be installed, operated, and maintained by qualified personnel. On-site inlets will be cleaned out at a minimum of once per year, prior to the wet season. The property owner will keep a maintenance and inspection schedule and record to ensure the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times. The property owner will ensure that the bio-retention/treatment areas are maintained as designed for the useful life of the project and preclude operations from diminishing the functionality of the system.

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

