

RESOLUTION NO. 16-031

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF MAJOR VESTING
TENTATIVE MAP NO. MT15-0013, CONDITIONAL USE PERMIT NO. UP15-0020,
SITE DEVELOPMENT PERMIT NO. SD15-0015 AND ENVIRONMENTAL
ASSESSMENT NO. EA16-0003 FOR THE CONSTRUCTION OF 59 TOWNHOME
UNITS AND ASSOCIATED SITE IMPROVEMENTS ON
2.81 ACRES LOCATED AT 1980 TAROB COURT**

WHEREAS, on December 22, 2015, an application was submitted by Leah Dreger of The True Life Companies, a Delaware corporation, 12647 Alcosta Blvd, San Ramon, CA 94583, to construct 59 residential units and associated site improvements on 2.81 acres located at 1980 Tarob Court (the "Project"). The property is located within the Multiple Family – High Density Transit Oriented Development (R3/TOD) Zoning District, within the borders of the Transit Area Specific Plan (APN: 086-036-040); and

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas approved the Transit Area Specific Plan to guide development in the Transit Area of the City near the future Milpitas BART Station; and

WHEREAS, Milpitas City Staff conducted a full analysis of the Project to ensure compliance with the City's General Plan, Transit Area Specific Plan, Municipal Code, Engineering Design Requirements and all other applicable laws, regulations and standards, as all further explained in detail in the City staff's report to the Planning Commission; and

WHEREAS, the Planning Division completed an environmental assessment No. EA16-0003 for the Project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this Project is covered under the program of activities identified in the Transit Area Specific Plan EIR, SCH#2006032091, certified by the City Council on June 3, 2008, based on the CEQA finding included in this Resolution; and

WHEREAS, on August 10, 2016, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The Planning Division conducted an environmental assessment No. EA16-0003 of the Project in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended, and state and local guidelines implementing CEQA. This Project is included within the area evaluated as part of the Transit Area Specific Plan Environmental Impact Report (EIR), SCH#2006032091, which was certified by the City Council June 3, 2008. The Project is covered under the scope of activities approved with that EIR. A finding is made below that this Project is within the program of the EIR and no further environmental review is required.

CEQA Finding

The proposed Project is covered under the scope of activities analyzed under the Transit Area Specific Plan (EIR), SCH#2006032091, which was certified by the Milpitas City Council on June 3, 2008. The EIR included a program of activities including construction of up to 7,109 residential units within the Transit Area Specific Plan (TASP) area. The proposed 59 residential units fall within this scope of development activity since the TASP area has not reached its full build out. The TASP area currently has housing units approved at approximately 80 percent of the amount of development assumed in the EIR development threshold.

Further, the Project applicant has submitted a Phase I Environmental Site Assessment, flood study, stormwater management plan, greenpoint checklist, an arborist report and a geotechnical report to further show consistency with the TASP. Copies of these documents are on file with the Planning Division and fully incorporated herein by reference. These aforementioned studies do not indicate any Project environmental impacts other than those already analyzed in the EIR.

An independent Environmental Assessment memorandum was prepared by LSA Associates under contract to the City of Milpitas concluding that the Project is exempt from further environmental analysis per Section 15168(c) of the California Environmental Quality Act (CEQA). Project design features required of projects covered under the EIR are included as Conditions of Approval. Based on the foregoing, the Planning Commission recommends the City Council finds that the proposed Project will not have additional environmental impacts beyond those identified in the EIR, no additional environmental review is required, and no new or additional mitigation measures are required.

Section 3: Major Vesting Tentative Map (Section XI-1-20.01) - The Planning Commission makes the following findings based on the evidence in the administrative record in support of Major Vesting Tentative Map No. MT15-0013:

1. The tentative subdivision map is consistent with the Milpitas General Plan.

The project site has a General Plan land use designation of High Density Transit Oriented Residential. The intent of this designation is to provide high-density housing within the Trade Zone/Montague Subdistrict at a minimum density range of 21 units per acre, and a maximum density of 40 units per acre.

The Project is consistent with this finding because the proposed Project meets the intent of the designation by providing a residential project within the district with 21 dwelling units per acre. Furthermore, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

- *2.a 1-31 Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.*

The proposed Project is consistent with this policy because it includes attractive three-story buildings with 59 residential units in proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encouraging pedestrian and bicycle movement throughout the Trade Zone/Montague Subdistrict with connections to the BART and Light Rail transportation hubs. The project is also designed to provide an active interface with public spaces by facing townhome units toward the future public park, which will be located directly to the west of the site, across the Tarob Court right of way.

- *2.a 1-32 Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.*

The proposed Project is consistent with this policy because it has been designed per the adopted design guidelines/requirements contained in the Transit Area Plan. The project meets all guidelines and requirements of the Transit Area Plan including building setbacks and height, floor area ratio and density, parking, open space and landscaping. It also meets the requirements for access and circulation.

2. *None of the findings set forth in Government Code Section 66474 apply to the proposed project:*

- *The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.*

The proposed map is consistent with the Milpitas General Plan and the Transit Area Specific Plan as described in finding 1 above.

- *The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.*

The design and improvement of the proposed subdivision is consistent with Milpitas General Plan and the Transit Area Specific Plan as described in finding 1 above.

- *The site is physically suitable for the type of development.*

The site is physically suitable for the proposed residential development because it is located within walking distance of both the new BART Station and the VTA Light Rail Station, it is across the street from the future Traverse Park and will be removed from the special flood hazard area.

- *The site is physically suitable for the proposed density of development.*

The site is physically suitable for the proposed density of development because of its proximity to transit and recreation facilities.

- *The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

The proposed subdivision and improvements have been evaluated for environmental impacts as discussed in the LSA Associates, *California Environmental Quality Act (CEQA) Exemption Memo for the 1980 Tarob Court Project, Milpitas, California*, May 13, 2016 with a finding that no environmental impacts not already identified for the project, which is part of the City's Transit Area Specific Plan (TASP) and the TASP Final Environmental Impact Report (FEIR), would result.

- *The design of the subdivision or type of improvements is not likely to cause serious public health problems.*

As described in the CEQA Exemption Memo above, the design of the subdivision or type of improvements is not likely to cause serious public health problems.

- *The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.*

Access easements, including Tarob Court cul-de-sac bulb, which are proposed to be modified to accommodate the design of this subdivision will not conflict with access through or use of property within the proposed subdivision.

Section 4: Site Development Permit (Section XI-10-57.03(F)(1)) - *The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD15-0015:*

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

The Project is consistent with this finding because the site is designed as nine separate three-story buildings, consistent with other projects within the Subdistrict. The design of the buildings, including the mass, scale and height of the structures, is typical of transit-oriented development and includes additional landscaping along the streets. The buildings complement other approved and pending projects in the area, which all contribute to a vibrant urban transit district consistent with the vision of the Transit Area Specific Plan.

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

The Project site is zoned R-3 (Multiple Family - High Density) with a Transit Oriented Development (TOD) Overlay. The proposed residential uses are permitted in the zoning district. The Project conforms to the zoning district and meets the intent for this type of project envisioned in this area.

The Project also conforms to the TOD Overlay by providing density of 21 units per acre, which is within the 21-40 units/acre range envisioned by the TOD Overlay when combined with the R-3 Zoning District. The three-story height of the buildings is also within the standards of the TOD Overlay, where a height up to 75 feet is allowed.

The project conforms to the development standards required in the R-3 and TOD Overlay Districts, with modest exceptions requested to the parking requirements, as permitted by TASP through approval of a CUP. The tables below and supporting text demonstrate how the Project is consistent with these development standards.

Table 1:
Summary of Development Standards

R-3-TOD	Standard	Proposed	Complies?
<u>Setbacks (Minimum)</u>			
Front	8'-15'	8'-15'	Yes
Side and Rear	8'-15'	15' to 40' (varies)	Yes
<u>Density (Units/Acre)</u>	21-40 du/ac	21.0 du/ac	Yes
<u>Building Height (Maximum)</u>	75'	38'-5"±	Yes

Table 2:
Summary of Parking Standards

Unit Type	Number of Units	Minimum/Maximum Parking Permitted	Minimum Spaces Required	Maximum Spaces Allowed	Spaces Provided	Conforms (Y/N)
RESIDENTIAL						
3 BR (plans 1 & 2)	22	1.6/2.0 per unit	35	44	44	--
3 BR (plans 3 & 4)	17	1.6/2.0 per unit	27	34	34	
4 BR (plans 3 & 4)	20	2.6 + 1 addl for each bedroom over 4	52	40	40	
<i>SUB-TOTAL:</i>			114	118	118	Y
Guest	--	20% of required residential spaces	23	--	19	Y (via CUP)
<i>RESIDENTIAL PARKING TOTAL:</i>			137	--	137	Y (via CUP)

The proposed resident and guest parking substantially complies with the TASP standards, with a minor variation requested to the guest parking standards.

Per TASP Section 5-2: *Zoning Regulations*, “Exceptions to the standards may be approved by the Planning Commission upon review of a use permit, in accordance with the requirements of Chapter 57 of the Zoning Code”. The applicant is requesting a CUP to allow for a reduction in the net amount of guest spaces, as well as for the use of compact and tandem spaces. These requests are outlined in further detail, below.

Guest Parking Reduction

TASP specifies that guest parking is to be provided equal to 20% of the minimum required resident spaces. For this project 23 guest spaces are required. The project is providing 19 guest spaces, creating a shortage of four (4) guest spaces. The applicant proposes to compensate for these missing spaces by providing more than the required spaces in the garages of their three-bedroom units. These units require a total of 62 spaces, however the applicant is providing 78 spaces, a difference of 16 spaces.

Compact/Tandem Spaces

Per TASP Table 5-1: *Development Standards*, the use of tandem and compact parking may also be allowed through the approval of a CUP. Tandem parking is proposed in eleven of the units, representing 19% of the required residential parking. Three (3) of the guest spaces are proposed as compact spaces, representing 16% of the total guest spaces.

TASP Section 5-2 also requires deviations from the Plan to provide a public/community benefit to offset said deviations. As their public/community benefit the applicant has agreed to provide a payment of \$622,839 in order to offset their parking exception requests.

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

The project is consistent with the Milpitas General Plan in that the project, as proposed and conditioned, conforms to the density and land use envisioned by the Plan. In addition, see the general plan consistency findings set forth in Section 3 above in support of issuance of the Major Vesting Tentative Map.

4. The project is consistent with the Transit Area Specific Plan.

The project is consistent with the Transit Area Specific Plan in that the project, as proposed and conditioned, conforms to the street layout, street section, density and land use envisioned by the Trade Zone/Montague Subdistrict of the Plan.

Section 5: Conditional Use Permit (Section XI-10-57.04(F)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP15-0020:

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

The project is consistent with this finding because the reduction in guest parking spaces and the allowance of tandem and compact parking will not be detrimental or injurious to property or improvements in the vicinity, nor to the health, safety or welfare the general public. Rather, such parking designs allow the project type to be of an appropriate density within the TASP sub-district while promoting the TASP vision of encouraging residents and visitors to walk, bike and take transit (TASP Vision Statement, Page 1-4)

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

The use of tandem and compact parking and a reduction in guest parking are permitted by the Zoning Ordinance, subject to a Conditional Use Permit in order to analyze potential impacts to the public. Further, Per TASP Section 5-2: *Zoning Regulations*, “Exceptions to the standards may be approved by the Planning Commission upon review of a use permit, in accordance with the requirements of Chapter 57 of the Zoning Code”.

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

The reduction in guest parking spaces and the allowance of tandem and compact parking, allows this project to meet General Plan Land Use criteria because it allows the project to attain a higher density as envisioned by the General Plan Land Use Element.

4. *The project is consistent with the Transit Area Specific Plan.*

The project is consistent with this finding because the land use, density and street designs are within the parameters set forth in the Transit Area Specific Plan (TASP). The use of tandem and compact parking, as well as a reduction in guest parking, are permitted by the TASP subject to a Conditional Use Permit in order to analyze potential impacts to the public.

The TASP also requires that the following two findings be made as a part of the CUP approval process:

1. *The deviation from the Transit Area Specific Plan Standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development.*

Reduction of guest parking and the use of compact and tandem spaces has no negative impact on site architecture, landscaping or site planning integrity, as permitting these uses actually has the beneficial impact of creating more space on-site for open space with landscaping that would otherwise be deleted in order to create additional guest parking spaces. Permitting these revised parking standards also adheres to the TASP vision of encouraging residents and visitors to walk, bike and take transit (TASP Vision Statement, Page 1-4)

2. *The deviation from the Transit Area Specific Plan Standard allows for a public benefit not otherwise obtainable through the strict application of the Zoning Standard.*

The project is consistent with this finding because the reduction in guest parking spaces and use of tandem and compact parking, in this instance, will be offset by a contribution from the applicant of \$622,839, intended to offset their parking exception requests.

Section 6: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 16-031 recommending to the City Council approval of Major Vesting Tentative Map No. MT15-0013, Site Development Permit No. SD15-0015, Conditional Use Permit No. UP15-0020, and Environmental Assessment No. EA16-0003, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on August 10, 2016.

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 August 10, 2016 and carried by the following roll call vote:

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

EXHIBIT 1

CONDITIONS OF APPROVAL

**Major Vesting Tentative Tract Map No. MT15-0013,
Site Development Permit No. SD15-0015,
Conditional Use Permit No. UP15-0020 and
Environmental Assessment No. EA16-0003
1980 Tarob Court Project (APN: 086-036-040)**

General Conditions

1. General Compliance. The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. Major Vesting Tentative Map No. MT15-0013, Conditional Use Permit No. UP15-0020, Site Development Permit No. SD15-0015 and Environmental Assessment No. EA16-0003 (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. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.
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 City Council 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 project 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. **(P/E)**
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 Permittee may file a protest has begun under California Government Code Section 66020(d)(1).
8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition.
9. Conditions. Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Permittee is operating the Project under the permits and approvals in this Resolution.
10. Compliance with Laws. The construction, 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/E/B)**
11. 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 Permittee, 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. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT15-0013, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.

12. Certificate of Insurance. Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies.
13. Revocation, Suspension, Modification. This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal 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. Compliance with Fire Department and California Fire Code. The project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and approval by the Fire Department. **(F)**
16. Permittee shall develop the approved Project in conformance with the approved plans approved by the City Council, 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)**

Site Development Permit Conditions

17. Landscape. All approved landscaping shall be permanently maintained and replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance. **(P)**
18. Parking. Parking shall be provided as depicted on the Site Plan approved by the City Council and shall consist of two garage spaces per townhome unit. Tandem spaces are permitted in 11 of the townhome units. Nineteen (19) guest parking spaces, including one van accessible handicap space and 4 compact spaces, shall be provided onsite. **(P)**

19. Community Benefit for Exceptions to Parking Standards. TASP Section 5-2 requires deviations from the Plan to provide a public/community benefit to offset said deviations. As their public/community benefit the Permittee has agreed to provide a payment of \$622,839 in order to offset their parking exception requests.
20. Bicycle Racks. A minimum of seven (7) short-term bicycle parking spaces consistent with the TASP Streetscape Elements shall be installed within the Project. **(P)**
21. Architecture. Project Architecture shall be as depicted on the Building Elevations sheets as approved by the City Council. **(P)**
22. Trees. The project will remove 44 trees and replace with 146 trees, in conformance with the plans approved by City Council. No protected or heritage trees, as defined by MMC X-2-7: Tree Protection and Heritage Tree Program, will be removed. **(P)**
23. Street Lights. Permittee shall provide street lighting along all street frontages consistent with current Transit Area Specific Plan standards subject to the review and approval of the Planning Division. Permittee shall likewise install pedestrian scale lights along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans. **(P)**
24. Tandem Parking Spaces. Permittee shall insure that all future residents are aware that space in garages must be maintained so as to allow the parking of two (2) vehicles at all times. This may be accomplished by including this provision within the CC&Rs. **(P)**
25. Fourth Bedroom Option Limitation. The total number of optional fourth bedrooms that may be constructed or converted in the dwelling units within the proposed project shall be limited to twenty (20). Conversion will only be permitted upon demonstration of compliance with the provision of all parking required by the Transit Area Specific Plan. **(P)**
26. Public Art Requirement. Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. **(P)**
27. Affordable Housing/Inclusionary/Impact Fee Requirement: In recognition of the need for affordable housing within the City and as further described in Resolution No. 8491 adopted by the City Council on June 16, 2015, Permittee shall participate in an inclusionary affordable housing plan, or similar fair and appropriate mechanism to support affordable housing, if established by the City Council in the future, by: (1) providing five percent (5%) of all newly constructed dwelling units in the residential development as very low-income or low-income to be developed and offered as affordable housing to very low-income and low-income households; or (2) prior to building permit issuance, pay a fee in-lieu of all or some of the inclusionary units, should an inclusionary housing plan, or similar fair and appropriate mechanism, be established by City Council. The amount of in-lieu fee to be paid shall be the lesser the amount of (i) the amount in effect pursuant to the implementing City Council ordinance or resolution at the time full payment is made to the

City at the time of building permit issuance, or (ii) the amount equivalent to five percent (5%) of the construction value as determined by the Building Department. In the event the nexus study initiated by the City supports less than five percent (5%) levels of affordable housing, this condition shall only require affordable housing commitment at rates supported by the nexus study on and after such time as that study is completed and adopted by City Council. **(P)**

REQUIRED PROJECT DESIGN FEATURES

Biological Resources (TASP Policy 5.26)

28. Nesting Birds. To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Services (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required. **(P)**

Noise (TASP Policy 5.10)

29. Noise. Prior to issuance of any building permit, Permittee shall ensure that the Project will meet the required 45 dBA maximum interior noise standard. All noise insulation treatments identified during review of the final site plans shall be incorporated into the proposed Project to the extent required by California Building Code. **(B/P)**

30. Noise. Prior to issuance of any building permit, Permittee shall demonstrate that all residential units will require mechanical ventilation to allow the windows to remain closed at the residents' option as the interior noise standards would not be met with open windows. Typically, such a system must meet the following airflow provisions:

- i. If interior noise levels are met by requiring that windows remain unable to open or closed, the design for the structure must also specify a ventilation system to provide a habitable interior environment. The ventilation system must not compromise the dwelling unit noise reduction.

Air Quality (TASP Policy 5.16)

31. Dust Control Emissions. During the construction of the Project, Permittee shall comply with all of the following:

- i. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.
- ii. All haul trucks transporting soil, sand or other loose material off the site shall be covered.

- iii. 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 or more often if determined necessary by City Engineer or designee. The use of dry power sweeping is prohibited.
 - iv. All vehicle speeds on unpaved roads shall be limited to 15 MPH.
 - v. 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.
 - vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (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.
 - vii. 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.
 - viii. Post a publicly visible sign with the telephone number and person to contact at the City 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. **(P)**
32. ROG Emissions. Prior to issuance of any building permit, Permittee shall develop, submit and obtain approval from the City of a plan to reduce ROG emissions by 17 percent or greater during the architectural coating phase of the construction. Acceptable measures to achieve this goal include, but are not limited to, using paint that contains 125 grams per liter of VOC or less, the use of pre-fabricated building materials, or a combination of both. The plan shall be implemented as approved by the City. **(P)**

Cultural Resources (TASP Policies 5.34 and 5.35)

33. Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines §15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources (Reference CEQA §§21083.2, 2.1084.1.). In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC), which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. **(P)**

34. All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Division shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted. (P)

Engineering Department Conditions

35. PRIOR TO CONSTRUCTION PLAN SUBMITTALS

The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. (E)

- a. Modifications: The Site Development Plan dated May 11, 2016 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
- b. Solid Waste and Recycling Handling Plan: Permittee shall submit final Solid Waste and Recycling Handling Plan based upon City's previous comments for City's review and approval by the Engineering Department. The Permittee is proposing single-family style solid waste services. The following requirements must be met to be eligible for single-family style service: provide a map identifying dedicated set-out locations for all units, demonstrate minimum truck turning access is provided, and identify a service route that does not require the collection vehicles to back up. The Home Owners Association (HOA) shall be responsible for procuring and paying for the solid waste service.
- c. Stormwater Control Plan: Permittee shall submit third party certified final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
- d. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along Tarob Court and public trail area that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
- e. Recycle Water Cross-Connection Specialist: In order to comply with the California Code of Regulations Title 17 and 22, and for timely plan approval by the California State Water Resources Control Board/Division of Drinking Water as well as by the South Bay Water Recycling, Permittee must hire a certified cross-connection specialist for their consultation as to irrigation water system design and construction phasing. The name and contact information of the certified cross-connection specialist shall be provided on all submittal plans.

- f. Submittal Requirements: Permittee shall ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
- g. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the project. The amount shall be at 10% of the public improvement cost estimates as prepared by the Permittee's engineer.

36. PRIOR TO FINAL MAP APPROVAL/RECORDATION

The following conditions shall be addressed during the final map plan check process and shall be met **prior to** any final approval/recordation (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer.
(E)

- a. Dedication on the Final Map: Permittee shall dedicate necessary emergency vehicle access easements, public service utility easements, street easements, public access easement and other public easements deemed necessary for the project.
- b. Abandonment/Quitclaim Easements: Permittee shall abandon/quit claim existing easements that are in conflict with or unnecessary for the project.
- c. Easements on the Final Map: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on the final map
- d. Tarob Court Right-of-Way Abandonment: This project is subject to abandonment of a portion of the existing Tarob Court cul-de-sac bulb as part of the final map to support the ultimate development condition as illustrated on the proposed tentative map dated June 24, 2016.
- e. Street Name Approval: Permittee shall obtain recommended approval from the City's Facilities and Street Naming Subcommittee based upon City guidelines, for final approval by the City Council.
- f. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
- g. Utility Company Approval: Permittee shall obtain approval letters from utility companies (PG&E, AT&T, AT&T Broadband/Comcast) for abandonment of existing and dedication of new public service utilities easements.
- h. Demolition of Existing Buildings: Permittee shall demolish existing buildings/facilities that are in conflict with the new property lines.
- i. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (including certificate of insurance).
- j. Home Owners Association (HOA): Permittee shall submit a preliminary draft of the proposed conditions, covenants, and restrictions (CC&Rs) for City's review and approval. Membership of the HOA shall include all owners of the residential units. The HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The HOA shall manage and maintain the onsite water, recycled water, irrigation, storm, water quality treatment, and sewer systems and implement the Solid Waste Handling

Plan. This information shall be clearly included in the CC&Rs to be recorded with the Santa Clara Recorder's Office.

- k. Annexation to the Community Facilities District: Permittee shall submit an executed petition to annex the subject property to the Community Facilities District (CFD) 2008-1, and agree to pay the special taxes levied by the CFD 2008-1 for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with any building permit issuance. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 14 notwithstanding. **(E)**

37. PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. **(E)**

- a. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with current Milpitas design guidelines, (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>), standard drawings and specifications, (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/plans-maps-specifications/>) and Americans with Disabilities Act (ADA) requirements, where applicable.
- b. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design and allocation of discharge for each of the lateral.
- c. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.
- d. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. The project site shall be served by the SCVWD Zone 1.
- e. Utility Protection: All existing public utilities shall be protected in place, or 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.
- f. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below, including incidental improvements as required by the City as part of the encroachment permit.
 - i. Obtain City Engineer's approval of the new Tarob Court street alignment and

- transition from industrial street section to residential street section as required by the TASP standards [Figure 5-9] and demonstrate an interim public turnaround access within the Tarob Court project.
- ii. Recycled Water Supply Main – Permittee shall install a recycled water supply main in Tarob Court along the project frontage to a point approximately 60 feet south of the project’s south boundary. Permittee shall install recycled water service line for the project site with irrigation system connected to the new recycle water line. Permittee shall also provide an interim plan for irrigation system connection to the potable water system.
 - iii. Installation of separate water service tap and meter for each of the following services: residential, irrigation, and fire.
 - iv. Installation of Type II slurry seal along the Tarob Court frontage to the west gutter line.
- g. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City’s Abandonment Notes and to the City’s satisfaction.
 - h. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements mutually agreed between the City and the Permittee.
 - i. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
 - j. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, Permittee shall obtain an encroachment permit with insurance requirements for all public improvements, including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

38. PRIOR TO BUILDING PERMIT ISSUANCE

The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer.
(E)

- a. Final Map Recordation: Permittee shall record the final map.
- b. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).
- c. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City’s assurance to provide water supply.
- d. Recycle Water Approval: Permittee shall use recycled water for landscape irrigation purposes. Permittee shall comply with California Code of Regulations (CCR), Title 22,

Division 4, Chapter 3, titled “*Water Recycling Criteria*”; CCR, Title 17, Division 1, Chapter 5, Subchapter 1, titled “*Drinking Water Supply*”; and all other recycled water regulations as listed under the publication titled “*California Department of Public Health Regulations Related to Recycled Water June 18, 2014*”. Permittee shall obtain approval from the California State Water Resources Control Board/Division of Drinking Water, South Bay Water Recycling and the City for recycled water design, including but not limited to on-site irrigation design, based upon South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. All landscape plants shall be compatible with recycled water.

- e. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 (Water Efficient Landscapes) for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
- f. Dewatering. If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
- g. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc. Guidelines can be found at <http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>
- h. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
 - i. What materials will be salvaged.
 - ii. How materials will be processed during demolition.
 - iii. Intended locations or businesses for reuse or recycling.
 - iv. 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.

Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City’s demolition and construction debris recycling ordinance.

- i. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of “end dumps.” Actual reuse, recycling and disposal tonnage amounts (and estimates for “end dumps”) shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.
- j. Flood Plain Management: This project is in the Flood Zone “AO” with 1 foot average flood depth, therefore, Permittee shall comply with all applicable flood protection criterion required by the Federal Emergency Management Agency (FEMA) and MMC Title XI, Chapter 15.
- k. Development Fees. Permittee shall pay the following development fees. The

information listed in items “a” through “h” are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.

- i. Transit Area Specific Plan fee at \$32,781/unit for residential uses. Based on approval for development of 59 units, the estimated Transit Area Specific Plan Development Impact Fee for this project is \$1,934,079 (\$32,781/unit x 59 units).
- ii. Parkland: Per the table below and based on the proposal of 59 units at the site, the project is required to dedicate 0.51 acres of parkland, equivalent \$1,421,798 fees-in-lieu. The park portion of the TASP fee is valued at \$864,230, equivalent to 0.32 acres. This will be applied to the project parkland requirement. The applicant is also dedicating 0.12 acres of public parkland on-site, valued at \$334,541, and will receive credit for up to 0.07 acres of private recreation space on site at the discretion of the City, valued at \$223,027. When all of these contributions are considered, the project meets all parkland dedication/fee requirements, as outlined in the table below:

1980 Tarob Court Unit Count	59
1980 Tarob Court Population Estimate	147 persons
TASP Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu
PARKLAND ACREAGE DUE/FEE EQUIVALENT	0.51 acres/\$1,421,798
Amount Satisfied Through TASP Fees (Acreage/Dollars)	0.32 acres/\$864,230
REMAINING DELTA TO BE SATISFIED (Acreage/Dollars)	0.19 acres/\$557,568
Public Parkland Acreage to be Dedicated on Final Map	0.12 acres/\$334,541
Private Recreation Acreage Approved by City	0.07 acres/\$223,027
TOTAL ACREAGE/FEES PROVIDED	0.19 acres/\$557,568
REMAINING ACREAGE/FEE REQUIREMENT TO BE MET	\$0
BALANCE OF PARKLAND ACREAGE/FEES DUE	\$0

Parkland fees-in-lieu will be required for any balance of parkland requirements not met through the means outlined above, to the satisfaction of the Directors of Planning and Engineering. Credit for public parkland dedication or private recreation greater than what is required shall not be given against any other fees or payments.

- iii. Storm water connection fee at \$16,771/acre for residential.

- iv. Water connection fee at \$1,164/unit for residential, based upon increased water usage.
- v. Sewer connection fee at \$1,406/unit for residential, based upon increased average wastewater flow.
- vi. 2.5% of applicable fees in accordance with City Resolution No. 7590 as Permitting Automation Fee.
- vii. FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each.

39. DURING CONSTRUCTION

The following conditions shall be complied with at all times **during** the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. **(E)**

- a. On-site Recycle Water Coordination: Permittee's cross-connection specialist shall coordinate the phasing of the construction; facilitate the cross-connection testing in order to minimize the impact for occupied buildings during cross-connection testing; sign-off before the water meter set; coordinate on-site construction inspection; complete the site inspection; fill out required paperwork/questionnaire; and provide them to the City for forwarding to South Bay Water Recycling.
- b. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
- c. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
- d. Elevation Certificates: Permittee's civil engineer shall complete and submit all necessary FEMA Elevation Certificates to the City at different stages of the construction, if applicable.

40. PRIOR TO FIRST OCCUPANCY

The following conditions shall be met **prior to** first building occupancy on any lot, unless otherwise approved the Director of Engineering/City Engineer.

- a. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to Tarob Court, frontage improvements along Tarob Court, bicycle and pedestrian improvements and public trail, as shown on City approved plans.
- b. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department.
- c. LOMR-F: Permittee shall submit the FEMA approved LOMR-F for each unit/building associated with the requested occupancy.
- d. Elevation and/or Flood Proofing Certificate: Permittee's civil engineer shall submit Elevation and/or Flood Proofing Certificate for the lowest finished floor elevation of each building for City record.

- e. Landscape Certificate: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
- f. Certificate of Cross-Connection: Permittee shall ensure that the cross-connection specialist complete the required recycled water construction inspection checklist, cross connection test results and any special inspection checklist as required by the South Bay Recycling Program <http://www.sanjoseca.gov/index.aspx?NID=1595> and forward them to the City.
- g. Record Drawings: Permittee shall submit record drawings in pdf format for City records.
- h. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

Other Conditions

- 41. Fire Department Conditions: Permittee shall comply with all Milpitas Fire Department conditions specified in the January 15, 2016 Memorandum from Jaime Garcia, Fire Protection Engineer to Neal Martin, Planner, attached as Attachment A and made a part of this Resolution.
- 42. Santa Clara Valley Water District Conditions: Permittee shall comply with all Santa Clara Valley Water District conditions specified in the email dated January 26, 2016 from Samuel Yung to Neal Martin regarding the 1980 Tarob Court development, attached as Attachment B and made a part of this Resolution.
- 43. 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)

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

ATTACHMENTS

Attachment A: Milpitas Fire Department Memorandum from Jaime Garcia, Fire Protection Engineer to Neal Martin, *Subject: True Life Companies-Tentative Map for 61 Townhome Style Units 1980 Tarob Court*, January 15, 2016.

Attachment B: Santa Clara Valley Water District email from Samuel Yung to Neal Martin, *Subject: 1980 Tarob Ct. Development*, January 26, 2016.

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Pursuant to Condition No. 38 contained herein, prior to any building permit issuance, Permittee shall pay the applicable Transit Area Specific Plan Development Impact Fee as determined by the City Council at the time of project approval.

AGREEMENT

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the project property on the terms and conditions set forth in this resolution.

Dated: _____

Signature

Printed Name of Permittee/Property Owner: _____



**MILPITAS FIRE DEPARTMENT
FIRE PREVENTION DIVISION**

455 E. Calaveras Blvd., Milpitas, CA 95035 (408) 586-3365, FAX (408) 586-3378

MEMORANDUM

DATE: January 15, 2016

TO: Neal Martin, Planner

FROM: Jaime Garcia, Fire Protection Engineer

Cc: Albert Zamora, Deputy Fire Chief

SUBJECT: TRUE LIFE COMPANIES – TENTATIVE MAP FOR 61 TOWNHOME STYLE UNITS
1980 TAROB COURT
P-SD15-0015, P-UP15-0020, P-MT15-0013
(PJ #: 1194) – Review based on plans CITY RECEIVED: Dec. 22, 2015

The plans for the aforementioned project have been returned to the Planning Division. The Fire Department has the following notes.

NOTES TO APPLICANT

The notes listed below will apply to ALL buildings/projects, unless specifically identify for one particular building/project.

1. Please do not consider this review an approval for construction from the Fire Department. The plans submitted are not reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). These notes are a general list of the applicable code requirements, but not limited to, and are provided to assist with the construction permit process.
2. To determine the acceptability of technologies, processes, products, facilities, materials, and uses attending the design, operation or use of a building or premises subject to inspection by the Fire Code Official, the Fire Code Official is authorized to require the owner or agent to provide, without charge to the jurisdiction, a technical opinion(s), plan review(s) and/or report(s). CFC Section 104.7.2
3. Fire Department access. Fire Department apparatus and staff access shall be provided to all buildings and site. Detailed review will be done during construction permit process. CFC Section 503
 - a. A Minimum of two independent and approved (approved by the Fire Code Official) means of fire apparatus access shall be provided for the site. Buildings or facilities exceeding 30 feet (9144 mm), or three stories in height, or 50,000 square feet (5760m²) shall be provided with at least two means of fire apparatus access for each structure. 2012 International Fire Code, Section D104.1, adopted and amended by MMC V-300-2.154

- b. For multi-family multiple-family residential projects having more than 50 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads. Section D106.1 of the 2012 International Fire Code, amended by MMC V-300-2.157
- c. 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). CFC Section 503
- d. 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. MMC V-300-2.153 and 2.156

Townhome style buildings: 22 feet in width drive is acceptable, provided the structures above provides a continuous clear finish dimension of not less than 26 feet centered on the drive. Note, fire apparatus turning and access requirements noted herein this document shall be met.

- e. 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.
- f. 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 V-300-2.48
- g. Fire access roads shall be paved (concrete and/or asphalt cement, no other material is accepted). 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 criteria shall be based on the City of Milpitas fire apparatus Sutphen S95 Aerial Platform unit. Please contact the Fire Prevention Division if specifications are needed. CFC Section 503.2.3
- h. Ground structures (including landscape) and building projections shall not encroach or impede the fire apparatus access requirements. CFC Section 503.4
- i. Emergency Vehicle Access (EVA) roads, when required, shall meet the fire department site access requirements specified herein this document. CFC Section 503

- j. 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

Minimum marking shall be pole signage and red curb with "FIRE LANE" stencil. Signage and red curbs shall be done throughout and as needed to clearly identify the no parking zones.

- k. 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
 - l. 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.
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 of Milpitas Engineering Division water supply guidelines and the CFC Section 507, Appendix B and Appendix C. Fire flow reduction as noted in the Appendix B of the Fire Code is not permitted.
 - b. Water System Calculations, sheet C5.0. 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. Design calculations and all the necessary design information for the water system to meet the domestic and fire flow requirements as per the City of Milpitas Engineer Division water design requirements shall be provided as part of the construction permit process. CFC Section 507

The minimum water flow at the worst case hydrant outlet within the private system shall be not less than 2.500 gpm.
 - c. Civil sheet C5.0. The location and quantity of hydrants will be evaluation during the construction permit process. This applies to the on-site private streets as well as to the public streets. CFC Section 507.5
 - d. 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 V-300-2.54

- e. No parking is permitted in front of fire hydrants. Hydrants located on streets (Public or Private Street) 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.
5. Fire service water laterals for building sprinkler systems.
- a. Each building shall have a fire service water laterals for the automatic fire sprinkler system and 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 Section 912.1
 - b. The location of the FDC's/PIV's (fire department connection/post indicator valve) shall be at a readily accessible location off the fire access road and approved by the Fire Code Official. FDC's/PIV's shall not be located behind parking stalls nor behind any other obstruction. Final review for location for the FDC's/PIV's will be conducted during the construction permit process. CFC Section 912.3
 - c. 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 reflective, weather resistive and approved by the Fire Code Official. CFC Section 912.4
 - d. Backflow Protection. Potable water supply to the automatic sprinkler and/or the 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
 - e. Fire service water supply laterals for the sprinkler systems and the on-site fire hydrants shall be independent of each other. NFPA 13, Chapter 23
 - f. Automatic fire sprinkler riser location. The fire sprinkler system riser shall not be located within electrical rooms or storage closets and shall be provided with clear access and working clearance. California Fire Code Section 903.3.5.3, added by MMC Section V-300-2.65
6. Access Control Devices. 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
7. Premises Identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. CFC Section 505

The Fire Dept. may require the installation of address numbers at multiple building locations. CFC Section 102.9

8. All required addresses shall be illuminated. CFC Section 505.3, added by MMC V-300-2.52
9. Fire Dept. emergency Key Box (Knox Box, Knox locks, Knox electric switches, etc). The Fire Code Official is authorized to require a key box(es) to be installed in an approved location(s) if necessary for life-saving or fire-fighting purposed. Quantify and location shall be as directed by the Fire Code Official. CFC Section 506

Locked mechanical closets, fire alarm closets, sprinkler riser closets, etc. will need a Fire Dept. approved lock or “Knox” key box.

10. Building/Structure Requirements.

- a. The buildings shall be provided with an automatic fire sprinkler system in conformance with the NFPA 13 or NFPA 13R Standards. System type will depend on building/structure “construction type” analysis. 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 903.4
- c. Monitoring. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved supervising station. CFC Section 903.4.1
- d. Portable fire extinguishers shall be selected, installed and maintained in accordance with CFC Section 906.
- e. 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
- f. Group R-2. A fire alarm system and smoke alarms shall be installed in Group R-2 Occupancies as required in Sections 907.2.9.1 through 907.2.9.2. CFC Section 907.2.9
CFC Section 907.2.9.1 - Manual Fire Alarm System
CFC Section 907.2.9.2 - Smoke Alarm (in accordance with 907.2.11)
- g. R-2 Occupancy, listed single and multiple-station smoke alarms complying with UL217 shall be installed in accordance with Sections 907.2.11.2 through 907.2.11.4 and the NFPA 72. CFC Section 907.2.11
- h. In Group R-2 required by Section 907 to have a fire alarm system, all dwellings units and sleeping units shall be provide with the capability to support visible alarm notification appliances in accordance with NFPA 72. CFC 907.5.2.3.4
- i. Fire alarm system(s) shall be zoned as per the requirements of the CFC Sections 907.6.3 and 907.6.4.
- j. Fire alarm panel (or fire alarm annunciator panel) shall be located in a readily accessible location and shall be provided with the necessary access and working clearance as required by the CA

Electrical Code. CFC Section 907.6.3.1.1

- k. 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
- 11. Landscape sheets. 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 landscaping when in conflict with fire systems and devices. CFC 507.5.4
- 12. Complete plans and specifications for all aspects of fire protection systems shall be submitted to the Fire Department for review and approval prior to system installation. CFC Section 901.2

Subject: RE: City of Milpitas–1980 Tarob Ct (District File 33239)
From: Samuel Yung (SYung@valleywater.org)
To: vmartin5@pacbell.net;
Cc: sfleming@ci.milpitas.ca.gov;
Date: Tuesday, January 26, 2016 3:16 PM

Hi Neal,

The following are our comments regarding the 1980 Tarob Ct development:

The proposed development within the existing flood plain should not increase the 100-year water surface elevation on surrounding properties nor should it increase existing flooding. Due to the changes to the grades and building footprint, a flood plain analysis delineating the post development flood plain depth and lateral extent should be submitted for review by the City's Floodplain Manager and the District. The site grading must be designed to allow for the passage and storage of flood water within the site.

Sheet C4.0 Preliminary Grading Drainage Plan: Please clarify who will be responsible for the retaining wall. In general, the retaining wall should also be set back from the property line to allow for maintenance (repairs, graffiti removal, etc,...) by the HOA/City without having to enter the District's property.

Sheet L001: The canopy of any trees / shrubs along the landscape strip between the trail and retaining wall along the creek should not extend past the property line at maturity as this will inhibit the District's use of large equipment during creek maintenance.

Sheet L001: To maintain ecological compatibility and ensure genetic specificity, plant species native to the local watershed should be used in the landscape design. Alternatively, non invasive ornamentals with no potential to cross pollinate with local native species along the watershed can be used. This is more critical in the areas along the Penitencia East Channel. The site's landscaping should be designed consistent with the "Guidelines and Standards for Land Use Near Streams" (see Design Guide 2-6) developed by the Water Resources Protection Collaborative which the City of Milpitas was part to and adopted.

Sheet L001: Lighting from the development should not extend into the riparian creek corridor.

Sheet L002: Section AA shows the retaining wall within the District's right of way. The retaining wall, including its footing, must be located outside the District's property.

Thanks for the opportunity to comment on the project. If you have any questions, please feel free to call or email me.

Samuel Yung, P.E.

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