

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS,  
APPROVING SITE DEVELOPMENT PERMIT SZ2007-2, MAJOR TENTATIVE MAP  
MT08-0003, CONDITIONAL USE PERMIT UP08-0041 AND WATER ASSESSMENT  
FOR A PROJECT LOCATED AT 600 BARBER LANE, LANDMARK TOWER**

**WHEREAS**, on August 15, 2006, the applicant submitted an application to request a change of the land use and zoning designations of the approximately three-acre project site at 600 Barber Lane in Milpitas, California, and the redevelopment of the site with an 18-story mixed-use building and an attached 8-level parking garage; and

**WHEREAS**, on October 22, 2008 the Planning Commission held a noticed public hearing on the Project at which time the Commission considered a written staff report, the Draft EIR, written and oral comments on the Draft EIR, the Final EIR, and all other oral and written comments presented to them. Based on this evidence, the Planning Commission recommended that the City Council certify the EIR, General Plan amendments, and Zoning Ordinance amendments (Resolution No. 08-043, incorporated herein by reference); and

**WHEREAS**, in accordance with the provisions of Water Code Section 10910 et seq., City Staff has prepared a water supply assessment that demonstrates that water supplies will meet the projected water demand of the Project and now seeks to have such assessment approved by the Milpitas City Council; and

**WHEREAS**, pursuant to Milpitas Municipal Code Section XI-1-9.09 et seq. and Government Code section 66577(e), the City Council may determine whether common interest developments such as those presented by the applicant should receive a credit for the amount of park in lieu fees to be provided by a project applicant and set a reduced park in lieu fee amount as a condition of approval; and

**WHEREAS**, although the project site is not within the Midtown Specific Plan or Transit Area Specific Plan Areas, its characteristics, including but not limited to its high density and infill nature and proximity to transit, are consistent with the development planned in those areas and therefore make appropriate the granting of a credit-reduced in lieu fee payment that uses the 3.5 acres of park land for every 1,000 residents calculation methodology used in the Midtown Specific Plan and Transit Area Specific Plan Areas, rather than a higher 5.0 acres of park land for every 1,000 residents calculation methodology. Such an approach would reduce total in lieu payments from approximately \$8,855,220 to approximately \$5,459,174; and

**WHEREAS**, on November 18, 2008, the City Council held a duly notice public hearing on the Project and considered evidence presented by City staff and other affected parties, including but not limited to the materials and evidence presented to the Planning Commission below.

**NOW, THEREFORE, BE IT RESOLVED** the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The Project is in the public interest.

**Section 3:** The City Council makes the following findings as required for approval of a Site Development Permit:

- 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.
- B) The project is consistent with the Milpitas Zoning Ordinance.
- C) The project is consistent with the Milpitas General Plan.

**Section 4:** The City Council makes the following findings as required for approval of a Conditional Use Permit:

- A) The proposed use, at the proposed location will not be detrimental or injurious to property of improvements in the vicinity nor to the health, safety and general welfare.
- B) The project is consistent with the Milpitas Zoning Ordinance.
- C) The project is consistent with the Milpitas General Plan.
- D) The exceptions meet the design intent identified within the Zoning District and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
- E) The exceptions all for a public benefit not otherwise obtainable through the strict application of the specified standard.

**Section 5:** The City Council makes the following findings as required for approval of a tentative map:

- A) The proposed subdivision (one lot tentative map), its design and improvements are consistent with the General Plan of the City of Milpitas.

**Section 6:** Pursuant to Water Code Section 10910 et. seq., the Milpitas City Council approves the water supply assessment submitted by City Staff entitled “Landmark Tower Mixed-Use Project: Water Supply Assessment,” (Exhibit B) and adopts the findings therein and incorporates them by reference into this resolution.

**Section 7:** The City Council approves the applications SZ2007-2, MT08-0003 and UP08-0041, subject to the attached conditions of approval (Exhibit A). As to park in lieu fees, the City Council specifically determines that based upon the unique factors of the project, including but not limited to its density, infill nature, proximity to transit, and pedestrian orientation, the project is eligible to receive a reduced, credited park in lieu fee amount, as set forth in the attached conditions of approval.

Planning Commission Resolution No. 08-043

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**EXHIBIT A**

**CONDITIONS OF APPROVAL**

**General Plan Amendment No. GP2007-6, Zone Change No. ZC2007-3, Environmental Assessment No. EA2007-1, Site Development Permit No. SZ2007-2, Major Tentative Map No. MT08-0003, Conditional Use Permit UP08-0041**

A request to change the land use and zoning designations of the approximately three-acre project site located at 600 Barber Lane (formerly Billings Chevrolet). The proposed project also involves the redevelopment of the site with an 18-story mixed-use building with an attached 8-level parking garage.

**SPECIAL CONDITIONS OF APPROVAL: PLANNING**

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials board approved by the Planning Commission on August 27, 2008, in accordance with these Conditions of Approval. (P)
2. Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (P)
3. The project approval shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued. (P)
4. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of the project if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
5. ENVIRONMENTAL: The project is subject to the Mitigation, Monitoring and Reporting Program (attached) dated August 2008.
6. PARK IN-LIEU FEE: Prior to building permit issuance, the applicant shall pay a park-in-lieu fee in accordance with the applicable sections of the Milpitas Municipal Code and State Subdivision Map Act. This fee is estimated to be \$\$5,459,174 and will be calculated at the time of recordation of Final Map.
7. PJ ACCOUNT: If at the time of application for *building permit*, there is a past due project job account balance owed to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)

8. PJ ACCOUNT: If at the time of application for *certificate of occupancy*, there is a project job account balance due to the City for recover of review fees, review of permits will not be initiated until the balance is paid in full. (P)
9. ARCHITECTURE: Prior to submittal of any building permit additional building elevations with alternative rooftop design shall be submitted to the Planning Division for review and approval. (P)
10. NOISE: Prior to building permit issuance, a detailed noise analysis will be required to determine the measures necessary to keep the interior noise levels below 45 dB Ldn. The analysis shall include, noise sources between residential units as well as between mechanical/utility rooms. (P)
11. LIGHTING: Prior to building permit issuance, the applicant shall submit details and elevations of all site lighting fixtures to the Planning Division for review and approval. (P)
12. SIGNAGE: Prior to approval of any signage for the development, proper applications, depending on signage type will need to be submitted to the Planning Division. (P)
13. LANDSCAPE: All planter areas (including containerized planters) shall be serviced by a sprinkler or drip system. (P)
14. LANDSCAPE: All required landscaping, as approved on the final landscape plan, shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
15. LANDSCAPE: Prior to certificate of occupancy permit issuance, all required landscaping shall be planted in place. (P)
16. LANDSCAPE: All landscape planters adjacent to vehicle parking areas or travel lanes shall be contained by a full depth (6" above AC to bottom of structural section of adjacent paving) concrete curb. Where landscape planters abut a public street, a 24-inch deep water barrier shall be installed behind the curb. (P)
17. MECHANICAL EQUIPMENT: All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts. (P)
18. ROOFTOP EQUIPMENT: Rooftop mechanical equipment shall be concealed from street level views through roof design that is architecturally integrated with the building, such as equipment wells and parapets. (P)

**SPECIAL CONDITIONS OF APPROVAL: DEPARTMENT OF PUBLIC WORKS**

19. 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. Prior to any building permit issuance, Council's approval of the water Supply Assessment is required.

20. Prior to issuance of any building permits, the developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer.
21. Prior to final map recordation, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study.
22. Prior to any building permit issuance, the developer shall submit an executed petition to annex the subject property into the CFD 2005-1, and agree to pay the special taxes levied by Community Facility District (CFD 2005-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The developer 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.
23. The final map shall be recorded prior to issuance of any building permit.
24. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements.
25. Prior to final map approval, the developer shall establish necessary homeowner association (HOA). Membership of the HOA shall include all owners of the residential, commercial and office spaces. 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 the onsite water and sewer system and implement the Solid Waste handling plan. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer.
26. Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the flows and protect all buildings.
27. Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3.
28. The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes.

29. Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along Barber Lane, including but not limited to, curb, gutter, new sidewalk installation, new median installation, signage and striping, street lights, fire hydrants, bus stop, traffic signal installation at Barber Lane and northerly project entry, Barber Lane reconfiguration from Bellew to the projects southern boundary including restriping and median island configuration to manage traffic, water line relocation, storm drain, sewer and water services. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer 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. All improvements must be in accordance with the City of Milpitas standard and specification, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to building occupancy permit issuance of the first production unit.
30. Developer shall construct a concrete bus pad at southbound Barber Lane on the far-side of the new traffic signal. Developer shall acquire sufficient right of way for the proposed bus duk-out.
31. No parking along the northbound Barber Lane frontage will be allowed.
32. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
- a) Storm water connection fee of **\$64,686** based on 3.0 acres @ \$21,562per acre. The water, sewer and treatment plant fee will be calculated at the time of building plan check submittal.
  - b) Water Service Agreement(s) for water meter(s) and detector check(s).
  - c) Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
- Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s).
33. Prior to building permit issuance, the developer shall pay its fair share cost of purchasing adequate public system sewage capacity for the development. Fees shall consist of treatment plant fees up to the Master Plan level and connection fees. Impact fees for discharges above master plan levels for sewage collection system infrastructure improvements, and regional plant capacity needs (above the master plan capacities), as determined by the City Engineer. This amount is estimated to be **\$812,485**, as of January 2008, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee.

34. Prior to any building permit issuance, the developer shall provide for adequate sewage pumping capacity at the Milpitas Main Sewage Pump Station for the respective developments. The developer can fulfill this obligation by payment of **\$246,995** to the City for this purpose. This amount is as of January 2008, and to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee.
35. Prior to building permit issuance; the developer shall pay its fair share cost of purchasing adequate public system water for the respective developments, including costs for capacity and storage needs above master plan capacities, as determined by the City Engineer. This amount is estimated to be **\$239,183**, as of January 2008, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee.
36. Prior to any building permit issuance, the developer shall pay a Montague Expressway Traffic Impact fee of **\$186,018**.
37. Prior to any building permit issuance, the developer shall pay a Calaveras Boulevard Traffic Impact fee.
38. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), treatment plant fee, plan check and inspection deposit, and 2.5% building permit automation fee. These fees are collected as part of the 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.
39. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires and remove the related poles within the proposed development, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state the wire voltage.
40. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
41. 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 shrub are permitted within City utility easements, where the easement is located within landscape areas.
42. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division.

43. If necessary, the developer shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755.
44. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The developer shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3345 for further information.
45. Prior to any building permit issuance, developer shall incorporate the following solid waste services requirements to the satisfaction of the City Engineer, including revisions to project plans:
  - a) This development is limited to the use of self contained roll off compactors for trash and recycling services. All roll off compactors equipments shall be enclosed and accessed on grade by City franchise hauler, in accordance with City's solid waste guidelines.
  - b) Commercial and residential trash is allowed to share a roll off compactor service. Provide one 30 yard self-contained compactor to be serviced twice a week for trash.
  - c) Commercial and residential recycling is allowed to share a roll off compactor service. Provide one 30 yard self-contained compactor to be serviced once a week for recycling.
  - d) The proposed solid waste enclosure shall be designed per the Development Guidelines for Solid Waste Services to house self-contained compactor equipment and tallow bin service. The project plans must demonstrate that the location of the enclosure will not interfere with any public or private services including, but not limited to, utilities, and vehicular and pedestrian access. In accordance with State law, the enclosure shall be adequately sized to allow storage and direct access to all trash, recycling, tallow, and any other solid waste containers needed for this development. The location shall also provide the waste hauler adequate access to the containers and shall take into consideration the needed space and layout for collection vehicles to enter the enclosure, turn around, and operate collection lift machinery. The enclosure drains must discharge to the sanitary sewer line. Storm drain inlets must 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.
  - e) Provide two sets of chutes (recycling and trash) to the residential area at opposite end of the residential floors. Provide sufficient space for the necessary conveyance equipment to move residential trash and recycling from the chutes to the compactors. Provide access to remove blockages through out all building levels.
  - f) Provide sufficient space for the necessary conveyance equipment to collect non-residential trash and recycling from the point of generation to the compactors.
  - g) The Property Management shall be responsible for solid waste management, including transfer of material to the compactors. Developer shall submit to the City (for review and approval) a written Solid Waste Handling Plan including detailed step-by-step instructions to manage solid waste from generation to disposal. The Plan shall state how the residential waste will be conveyed to the collection areas in the garage level and how

the waste will be transported to the compactor area for disposal. Show the path of travel for refuse from commercial spaces. Demonstrate how recycling shall have a separately maintained process from garbage handling. State how the food establishments will handle tallow (food grease); access design for food establishments shall show adequate accommodation for tallow handling and collection. Include housekeeping requirements, such as managing trash chute blockages and odors, and cleaning up spilled waste and tallow anywhere on the property.

- h) Prior to occupancy permit issuance, the Property Management shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Allied Waste Services. After the applicant has started its business, the developer shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the developer shall increase the service to the level determined by the evaluation. For general information, contact Allied Waste Services at (408) 432-1234. In addition, the Property Management shall provide evidence that a tallow account will be maintained and the tallow bins will be kept clean.

46. The developer shall comply with Regional Water Quality Control Board's C.3 requirements and implement the following:

- a) At the time of building permit plan check submittal, the developer shall submit a "final" Stormwater Control Plan and Report. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan. The Plan and Report shall be prepared by a licensed Civil Engineer and certified that measures specified in the report meet the C.3 requirements of the Regional Water Quality Control Board (RWQCB) Order, and shall be implemented as part of the site improvements.
- b) Prior to building permit issuance, the developer shall submit an Operation and Maintenance (O&M) Plan for the long-term operation and maintenance of C-3 treatment facilities.
- c) Prior to Final occupancy, the developer shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.

47. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the developer's approved Stormwater Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants. Any changes to the approved Stormwater Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.

48. Prior to issuance of Certificate of Occupancy, the developer shall submit a Stormwater Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment BMPs and other stormwater control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The stormwater control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
49. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acres or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the developer, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329.
50. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:
- a) Provide separate water meters for domestic water service & irrigation service. Developer is also required to provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
  - b) Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to 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.
55. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240), the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. To meet the recycle water guideline the developer shall:
- A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape adjacent to existing or future recycled water distribution lines (except for rehabilitated landscape less than 2500 square feet along the future alignment).

- B. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the Department of Health Services (DOHS) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and Department of Health Services approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
  - C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas.
56. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, CALTRAN, Santa Clara Valley Transportation Agency, and City of Milpitas Engineering Division. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division.
57. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms.
58. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities.
59. Prior to start of any construction, the developer 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, construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. The developer shall coordinate their construction activities with other construction activities in the vicinity of this project. The developer'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.
60. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone "X".
61. The developer shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.
62. The developer shall obtain information from the Milpitas Unified School District (MUSD) regarding providing services.

63. Prior to submittal for building permit issuance, the developer shall submit plans to CALTRAN for review and approval. Provide their comments to the City.
64. The site is located in Local Improvement District #9R and 12R.
65. 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 immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off 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.
66. Prior to demolition permit issuance, the Applicant, or Contracted Designee, 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/Solid Waste Section prior to demolition permit issuance. The report shall describe these 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.
- Applicant/Contractor shall make every effort to salvage materials for reuse and recycling.
67. Prior to building permit issuance, applicant shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section, that confirms items 1 – 4 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/or 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 Engineering/Solid Waste Section prior to inspection by the Building Division.
68. All demolished materials including, but not limited to broken concrete and paving materials, pipe, vegetation, and other unsuitable materials, excess earth, building debris, etc., shall be removed from the job site for recycling and/or disposal by the Applicant/Contractor, all to the satisfaction of the City Engineer or designee. The Applicant/Contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The Applicant/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. The Applicant/Contractor shall perform all recycling and/or disposal by removal from the job site.

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69. At the time of building plan check submittal, the developer shall incorporate the changes shown on Engineering Services Exhibit "S"(dated 8/20/2008) in their design plan, and also make changes as noted on Engineering Services Exhibit "T"(dated 9/5/2008) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the parcel map or improvement plans will be accepted until this condition is satisfied.

**Condition of Approval #5**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

**LANDMARK TOWER MIXED-USE DEVELOPMENT**  
**(SCH# 2007062074)**

**August 2008**

## **PREFACE**

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the Mitigation Monitoring and Reporting Program is to ensure compliance with the mitigation measures during project implementation.

On September 16, 2008, the Environmental Impact Report was adopted for the Landmark Tower Mixed-Use Development project. The Environmental Impact Report concluded that the implementation of the project could result in significant effects on the environment; therefore, mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program outlines these measures and how, when, and by whom they shall be implemented.

**MITIGATION MONITORING AND REPORTING PROGRAM  
LANDMARK TOWER MIXED-USE DEVELOPMENT**

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<b>LAND USE</b>				
The proposed project conflicts with the regulations adopted for the purpose of avoiding or mitigating an environmental effect.	Construct a helicopter pad meeting the requirements of the Milpitas Fire Department.	Prior to issuance of an occupancy permit, the developer shall ensure this measure mitigation is implemented	This measure shall be printed on all construction documents, contracts, and project plans.	Milpitas Fire Department
<b>TRANSPORTATION</b>				
<i>McCarthy Boulevard/Bellew Drive</i> – Intersection operations degrade from LOS D- to LOS E during the PM peak.	Modify or pay a fair share contribution towards the modifying the existing eastbound approach (i.e., one left turn, one through, and one right turn lane) to provide two left turn lanes and one shared through/right turn lane, which would provide acceptable (LOS D) operations.	Prior to issuance of a building permit, the development shall ensure this measure is implemented.	This measure shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>SR 237/I-880 NB Ramps</i> – Traffic from the proposed project exacerbates LOS F operations during the PM peak hour.	Convert the northbound center left-turn lane to a shared left- and right-turn lane, which would provide acceptable (LOS D) operations. Coordination with Caltrans will be required to implement this improvement. Coordination with Caltrans will be required to implement this improvement, which may require traffic signal and/or median island modifications.	Prior to issuance of a building permit, the developer shall ensure this measure is implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>Alder Drive/Tasman Drive</i> – Traffic from the proposed project exacerbates LOS F	Provide all funding necessary for the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections (i.e. Tasman Drive/I-880 SB Ramps and Great Mall Parkway/I-880 NB Ramps).	Prior to issuance of a building permit, the developer shall ensure this measure	The measure shall be printed on all construction documents,	Director of Planning and Neighborhood Services

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operations during the PM peak hour.		is implemented.	contracts, and project plans.	
<i>Tasman Drive/I-880 SB Ramps</i> – Traffic from the proposed project exacerbates LOS E operations during the PM peak hour.	Provide all funding necessary for the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections (i.e., Tasman Drive/Alder Drive and Great Mall Parkway/I-880 NB Ramps).	Prior to issuance of a building permit, the developer shall ensure this measure is implemented.	The measure shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>Great Mall Parkway/I-880 NB Ramps</i> – Traffic from the proposed project exacerbates LOS F operations during the AM peak hour.	Provide all funding necessary for the design and implementation of the signal coordination with adjacent intersections (i.e., Tasman Drive/I-880 SB Ramps and Tasman Drive/Alder Drive).	Prior to issuance of a building permit, the developer shall ensure this measure is implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>Bellew Drive/Barber Lane</i> – The addition of project traffic causes this intersection to degrade from LOS B- to LOS E during the PM peak hour.	Add a northbound left turn lane.	Prior to issuance of a building permit, the developer shall ensure this measure is implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>McCarthy Boulevard-O'Toole Avenue/Montague Expressway</i> – Traffic	There are three options that would mitigate the project's impact at the intersection of McCarthy Boulevard-O'Toole Avenue /Montague Expressway to a less than significant level.	Prior to issuance of a building permit, the developer shall ensure this measure	All measures shall be printed on all construction documents, contracts, and	Director of Planning and Neighborhood Services

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<p>from the proposed project exacerbates LOS F operations during the PM peak hour.</p>	<p><b>Option 1</b></p> <p>Widen the northbound approach approximately three feet to provide a dedicated right turn lane from northbound O’Toole Avenue to eastbound Montague Expressway. With this improvement, the intersection would operate at LOS D during the AM peak hour and LOS E during the PM peak hour. The dedicated right turn lane would extend from Rincon Avenue to Montague Expressway, approximately 250 feet. Preliminary engineering drawings indicate that this mitigation can be implemented within the existing right-of-way. This would be accomplished by shifting the existing lanes on the south leg of this intersection approximately three feet to the west. The south half of the intersection is within the jurisdiction of the City of San Jose and, therefore, the above-described mitigation is outside the control of the City of Milpitas to implement.</p> <p><b>Option 2</b></p> <p>If subsequent evaluation of the mitigation proposed in Option 1 determines that the proposed lane shift is not feasible, then right-of-way acquisition along the east side of the north approach would be necessary. The south half of the intersection is within the jurisdiction of the City of San Jose and, therefore, the above-described mitigation is outside the control of the City of Milpitas to implement. Mitigation that reduces sidewalk widths below the City standard is not allowed under City of San Jose Transportation Impact Policy 5-3. The standard sidewalk width in North San Jose is five feet. The existing sidewalk is five and one-half feet wide. Therefore, in order to</p>	<p>is implemented.</p>	<p>project plans.</p>	

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	<p>implement this mitigation consistent with adopted policy, approximately two and one-half feet of right-of-way behind the sidewalk would need to be acquired from the adjacent private property for the length of the dedicated right turn lane. This equates to the acquisition of approximately 513 square feet of right-of-way (i.e., 2.5 square feet x 250 feet = 625 square feet). The mitigation would also require relocating existing utilities (e.g., a light pole). The landscape reduction and utility relocation would not result in a significant impact. <b>Option 3</b></p> <p>A square-loop interchange is planned to be constructed at the intersection of McCarthy Boulevard-O'Toole Avenue /Montague Expressway under Phase 3 of the North San Jose Area Development Policy (NSJADP). With this planned roadway improvement, the intersection will operate at LOS and project's impact at this intersection will be less than significant. The City of San Jose has stated that payment of an in-lieu fee towards the planned square-loop interchange is acceptable and is the preferred mitigation for the project impact at this intersection. The dollar amount of the in-lieu fee would be equal to the cost to implement the lane shift (Option 1) or the appraised value of the right-of-way needed to construct the dedicated right turn lane (625 square feet, described in Option 2, above). The NSJADP is the adopted program that would allow for a fair-share contribution to this mitigation. The NSJADP does not establish a timeline for the development phases. The amount of development and its timing will be determined by the economy, markets, and the decisions made by private sector property owners and developers. Therefore, if the City of Milpitas accepts the City of</p>			

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	San Jose’s timeline for implementation of the mitigation (i.e., unknown), then payment of the in-lieu fee would mitigate the project’s traffic impact at the intersection.			
<i>E. Calaveras Boulevard/S. Milpitas Boulevard</i> – Traffic from the proposed project exacerbates LOS F operations during the AM peak hour.	Add a third westbound through lane, which requires converting the separate right-turn lane to a shared through/right-turn lane and striping a third receiving lane past the intersection.	Prior to issuance of a building permit, the developer shall ensure this measure is implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>Great Mall Parkway-Capitol Ave/Montague Expressway</i> – Traffic from the proposed project will degrade the intersection operations from LOS E- to LOS F during the AM peak hour and exacerbate LOS F conditions during the PM peak hour.	Pay traffic impact fees, including the Montague Expressway Fee.	Prior to issuance of a building permit, the developer shall ensure this measure is implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
<i>Eastbound SR 237, McCarthy Boulevard to I-880</i> – Traffic from the proposed	The City of Milpitas is currently preparing a Citywide Deficiency Plan (CDP) to identify local and regional transportation improvements. The CDP will include the “Immediate Actions” list in Appendix D of the Transportation Impact Analysis Guidelines.	Prior to issuance of a building permit, the developer shall ensure this measure	All measures shall be printed on all construction documents, contracts, and	Director of Planning and Neighborhood Services

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<p>project causes the freeway segment to degrade from LOS E to LOS F during the PM peak hour.</p> <p><i>Westbound SR 237, I-880 to McCarthy Boulevard</i> – Traffic from the proposed project exacerbates LOS F operations during the AM peak hour.</p> <p><i>Westbound SR 237, McCarthy Boulevard to Zanker Road</i> – Traffic from the proposed project exacerbates LOS F operations during the PM peak hour.</p>	<p>Pending final approval of the CDP, the City of Milpitas will require the project applicant to implement, the “Immediate Actions” list in Appendix D of the Transportation Impact Analysis Guidelines (May 1998), as part of the project’s approval. These actions include measures to encourage alternative modes of transportation and site design guidelines for new development. Measures from the “Immediate Actions” list (refer to Appendix A of this EIR for the full list) that are appropriate for this project include:</p> <ul style="list-style-type: none"> <li>• Improve Pedestrian Facilities (A-4)</li> <li>• Shuttle (B-3)</li> <li>• Bus Stop Improvements (B-8)</li> <li>• Traffic signal timing and synchronization program (F-3)</li> <li>• HOV parking preference program (G-1)</li> <li>• Bike facilities (G-2)</li> <li>• Pedestrian circulation system (G-4)</li> </ul>	<p>is implemented.</p>	<p>project plans.</p>	
<b>NOISE</b>				
<p>During project construction, businesses in the vicinity of the site would be</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>• Construction equipment shall be well maintained and used judiciously to be as quiet as practical.</li> <li>• Utilize ‘quiet’ models of air compressors and other stationary</li> </ul>	<p>During construction, the developer shall ensure these measures are</p>	<p>All measures shall be printed on all construction documents, contracts, and</p>	<p>Director of Planning and Neighborhood Services</p>

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intermittently exposed to high noise levels.	<p>noise sources where technology exists.</p> <ul style="list-style-type: none"> <li>• Prohibit all unnecessary idling of internal combustion engines and equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.</li> <li>• Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from businesses or noise-sensitive land uses.</li> <li>• Notify all adjacent land uses of the construction schedule in writing.</li> <li>• Designate a disturbance coordinator, responsible for responding to complaints about construction noise. The name and telephone number of the disturbance coordinator shall be posted at the construction site and made available to businesses, residences or noise-sensitive land uses adjacent to the construction site.</li> <li>• If pile driving is necessary, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.</li> <li>• If pile driving is necessary, when possible the project shall work with the owners and managers of adjacent commercial uses to select days and times to conduct pile-driving activities that would minimize the impact on these uses.</li> </ul>	implemented.	project plans.	
Commercial uses north and south of the project site would be exposed to vibration during construction of the project foundation,	<p>Implement the following measures, which in addition to those measures listed above for short-term construction noise impacts, would reduce short-term construction vibration impacts to a less than significant level:</p> <ul style="list-style-type: none"> <li>• Avoid impact pile driving where possible. Drilled piles or construction of slab mat foundation cause lower vibration levels</li> </ul>	During construction, the developer shall ensure these measures are implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services

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<p>particularly if pile driving is used as a construction method.</p>	<p>where geological conditions permit their use.</p> <ul style="list-style-type: none"> <li>• Identify any highly vibration sensitive uses located on the adjoining properties to the north and south of the site.</li> <li>• If impact pile driving is proposed within 50 feet of adjacent structures or within 200 feet of any highly sensitive uses identified in the adjoining buildings, a construction vibration-monitoring plan would need to be implemented to document conditions prior to, during and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and in accordance with industry accepted standard methods. The construction vibration monitoring plan would include the following tasks: <ul style="list-style-type: none"> <li>▪ Schedule pile driving so that piles furthest from adjacent structures are driven first, and only after vibration levels are found to be within the limits is pile driving be allowed at closer distances.</li> <li>▪ Performance of a photo survey, elevation survey, and crack monitoring survey for each impacted structure. Surveys shall be performed prior to any construction activity, in regular interval during construction and after project completion and shall include internal and external crack monitoring in structures, settlement, distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of the structures.</li> <li>▪ Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be completed, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need</li> </ul> </li> </ul>			

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	<p>to complete photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies would be identified for when vibration levels approached the limits.</p> <ul style="list-style-type: none"> <li>▪ At a minimum, vibration monitoring shall be completed during pavement demolition, excavation, and pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.</li> <li>▪ If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.</li> <li>▪ Designate a person responsible for registering and investigating claims of excessive vibration. The contact information for this person shall be clearly posted on the construction site.</li> <li>▪ Complete a post-construction survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.</li> <li>▪ The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates and any required graphics to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper supporting documentation.</li> </ul>			

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<p>Without the provision of forced-air mechanical ventilation systems and/or implementation of sound-rated construction methods, the interior noise levels of the proposed residential units would be above the City and State standard of 45 dBA DNL.</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>• Building design and treatments will be incorporated in to the project to ensure compliance with State and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that interior noise levels will be reduced to 45 dBA DNL or lower. Building sound insulation requirements would include the provision of forced-air mechanical ventilation for all outer facing residential units, courtyard facing units on the 10th floor and higher, and the clubhouse proposed atop the parking garage, so that windows could be kept closed at the occupant’s discretion to control noise. Special building construction techniques may be required for outer northwest, northeast, and southeast facing facades, courtyard units on the 13th floor and above, and the clubhouse atop the parking garage. These treatments could include sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The analysis be submitted to the City of Milpitas for review and approval along with the building plans, prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower.</li> <li>• A qualified acoustical consultant shall review final site plans, building elevations, and floor plans prior to the issuance of a building permit to calculate expected interior and exterior noise levels and ensure compliance with City policies and State noise regulations.</li> </ul>	<p>Prior to issuance of a building permit, the developer shall ensure these measures are implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>
<b>AIR QUALITY</b>				
<p>Construction</p>	<p>Implement the following measures during demolition:</p>	<p>During demolition/</p>	<p>All measures shall</p>	<p>Director of</p>

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<p>activities on the project site could result in PM10 levels downwind of the project site that exceed State standards.</p>	<ul style="list-style-type: none"> <li>• Watering will be used to control dust generation during demolition of structures and break-up of pavement.</li> <li>• All trucks hauling demolition debris from the site will be covered.</li> <li>• Dust-proof chutes to load debris into trucks will be used whenever feasible.</li> </ul> <p>Implement the following measures during construction:</p> <ul style="list-style-type: none"> <li>• Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non toxic stabilizers or dust palliatives.</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.</li> <li>• Pave, apply water three times daily, or apply (non toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.</li> <li>• Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff related impacts to water quality.</li> <li>• Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.</li> <li>• Hydroseed or apply non toxic soil stabilizers to inactive construction areas.</li> <li>• Enclose, cover, water twice daily, or apply non toxic soil binders</li> </ul>	<p>construction, the developer shall ensure these measures are implemented.</p>	<p>be printed on all construction documents, contracts, and project plans.</p>	<p>Planning and Neighborhood Services</p>

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	<p>to exposed stockpiles (dirt, sand, etc.).</p> <ul style="list-style-type: none"> <li>• Limit speeds on unpaved roads to 15 mph.</li> <li>• Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>• Replant vegetation in disturbed areas as quickly as possible.</li> <li>• Suspend construction activities that cause visible dust plumes to extend beyond the project site.</li> <li>• Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;</li> <li>• Install wind breaks, or plant trees/ vegetative wind breaks at windward side(s) of construction areas.</li> <li>• Suspend excavation and grading activities when wind gusts exceed 25 mph; and</li> <li>• Limit the area subject to excavation grading, and other construction activity at any one time</li> </ul>			
<p>Sensitive receptors could be exposed to elevated levels of diesel particulate during project construction.</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>• Prohibit use of “dirty” equipment. Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately.</li> <li>• The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g. compressors).</li> <li>• Diesel equipment standing idle for more than two minutes shall</li> </ul>	<p>During demolition/ construction, the developer shall ensure these measures are implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>

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	<p>be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite and staged away from residential areas.</p> <ul style="list-style-type: none"> <li>• Properly tune and maintain equipment for low emissions.</li> </ul>			

**CULTURAL RESOURCES**

<p>Archaeological resources could be encountered and damaged during construction of the proposed project.</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>• Prior to issuance of a grading permit, the developer shall retain a qualified archaeologist to complete mechanical subsurface presence/absence testing for the project site after the building, pavement, and landscaping have been cleared from the project site or the developer shall retain a qualified archaeologist to monitor all excavation activities on the project site that are associated with the proposed project. Testing shall consist of backhoe trenching for prehistoric deposits, combined with selected stripping of soils to search for the smaller, more discrete archaeological resources.</li> <li>• In the event that any archaeological deposits are discovered during presence/absence testing or during monitoring of the excavation activities on the project site, activity in the vicinity of the “find” shall cease and a program for evaluation of the deposits through hand excavation of the suspected resource shall be submitted to the Director of Planning for approval. If evaluation demonstrates that the resource is eligible for inclusion on the California Register of Historic Resources, a plan for mitigation of impacts shall be prepared by a qualified archaeologist and submitted to the Director of Planning for</li> </ul>	<p>Prior to issuance of a grading permit, the developer shall ensure these measures are implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>
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	<p>approval.</p> <ul style="list-style-type: none"> <li>In those cases where avoidance is not possible, mitigation can take the form of additional hand excavation to retrieve a representative sample of the archaeological resource for analysis.</li> <li>If human remains are encountered, activity in the vicinity of the “find” shall cease, and the “find” shall be handled in accordance with State law and any applicable Native American agreements. All human remains and burial-associated artifacts shall be repatriated in a location that will not be subject to further disturbance. Using professionally-accepted methods, all archaeological resources shall be catalogued and analyzed and a report summarizing such work shall be prepared and provided to the Director of Planning.</li> </ul>			

**BIOLOGICAL RESOURCES**

<p>The proposed project will result in the removal of four ordinance-size palm trees.</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>In conformance with the City of Milpitas Zoning Ordinance, all trees removed from the site that measure 37 inches or greater in circumference (12-inches in diameter) at four feet six inches above the ground surface will be replaced in-kind at a 3:1 ratio within the project site.</li> <li>Trees that are removed but cannot be mitigated for on-site, due to lack of available planting area, will be mitigated by fees paid to the City. The funds will be deposited in the City’s Tree Replacement Fund and will be used to plant trees within the City of Milpitas.</li> </ul>	<p>Prior to receiving an occupancy permit, the developer shall ensure these measures are implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>
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**GEOLOGY AND SOILS**

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<p>Soil conditions known to exist in the vicinity of the project site could result in the development proposed by the project to become structurally unsound and/or expose future occupants to harm.</p> <p>If not designed properly to account for the hydrostatic pressure, the proposed development could become structurally unsound and/or expose future occupants to harm.</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>• A design-level geotechnical investigation shall be completed by a qualified geologist once site development plans are complete. The design-level geotechnical investigation shall address the following issues: <ul style="list-style-type: none"> <li>▪ compressible soils,</li> <li>▪ liquefaction,</li> <li>▪ expansive soils,</li> <li>▪ loose surficial soils,</li> <li>▪ shallow groundwater, and</li> <li>▪ sulfates in soil.</li> </ul> </li> <li>• The design-level geotechnical investigation shall be reviewed and approved by the City Geologist, prior to approval of a Grading Permit for the project. All recommendations in the design-level geotechnical investigation shall be incorporated into the project design.</li> <li>• Final construction plans and specifications shall be reviewed by a qualified geologist to verify they are consistent with the recommendations in the design-level geotechnical investigation.</li> <li>• A qualified geologist will observe earthwork and foundation installation to verify they are completed according to the recommendations in the design-level geotechnical investigation.</li> </ul>	<p>Prior to issuance of a grading permit, the developer shall ensure these measures are implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>

**HYDROLOGY, DRAINAGE, AND WATER QUALITY**

<p>Construction activities will increase the potential for wind and water</p>	<p>Implement the following construction measures, based on Regional Water Quality Control Board Best Management Practices, and be compliant with all applicable requirements of the City's NPDES permit in place when the project application is deemed complete:</p>	<p>All measures shall be implemented by the developer prior to the start of</p>	<p>All measures shall be printed on all construction documents,</p>	<p>Director of Planning and Neighborhood Services</p>
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LANDMARK TOWER MIXED-USE DEVELOPMENT**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
<p>erosion, which could cause the degradation of water quality within Coyote Creek and San Francisco Bay.</p>	<ul style="list-style-type: none"> <li>• Burlap bags filled with drain rock will be installed around storm drains to route sediment and debris away from the drains.</li> <li>• Earthmoving or other dust-producing activities would be suspended during periods of high winds.</li> <li>• All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.</li> <li>• Stockpiles of soil or other materials that can be blown by the wind will be watered or covered.</li> <li>• All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.</li> <li>• All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers). In addition, a tire wash system may be required.</li> <li>• Vegetation in disturbed areas would be replanted as quickly as possible.</li> <li>• All unpaved entrances to the site would be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.</li> <li>• A Storm Water Permit will be administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the project proponent will file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) that includes measures to be implemented by the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB</li> </ul>	<p>earthmoving activities on-site and will continue until construction is complete.</p>	<p>contracts, and project plans.</p>	

**MITIGATION MONITORING AND REPORTING PROGRAM  
LANDMARK TOWER MIXED-USE DEVELOPMENT**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>mitigation.</p> <ul style="list-style-type: none"> <li>• The project proponent will submit a copy of the draft SWPPP to the City of Milpitas for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.</li> <li>• When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the Regional Water Quality Control Board 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 storm water management plan is in place as described in the SWPPP for the site.</li> </ul> <p>Implement the following post-construction measures, based on Regional Water Quality Control Board Best Management Practices, and be compliant with all applicable requirements of the City's NPDES permit in place when the project application is deemed complete:</p> <ul style="list-style-type: none"> <li>• As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, litter control, and other activities as specified by the City) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping.</li> <li>• In compliance with Section XI-16-6 of the Milpitas Municipal</li> </ul>			

**MITIGATION MONITORING AND REPORTING PROGRAM  
LANDMARK TOWER MIXED-USE DEVELOPMENT**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>Code, the project shall include Permanent Stormwater Pollution Prevention Measures in order to reduce water quality impacts of urban runoff from the entire project site for the life of the project. These measures will include:</p> <ul style="list-style-type: none"> <li>▪ Landscape designs for stormwater treatments that meet the requirements of Provision C.3. of the City’s NPDES permit will be submitted with the Site Development Plans and must be approved by the Planning Department prior to issuance of building permits.</li> </ul> <p>The proposed project will be required to sign an Operation &amp; Management (O&amp;M) agreement with the City to insure continued maintenance and performance of post-construction measures.</p>			
<p>Dewatering during project construction and, if needed, after construction, could pollute surface water with sediment or hazardous materials.</p>	<p>Implement the following measures and also be compliant with all applicable requirements of the City’s NPDES permit in place when the project application is deemed complete:</p> <ul style="list-style-type: none"> <li>• Groundwater below the project site shall be sampled and tested for contaminants. <ul style="list-style-type: none"> <li>▪ If groundwater contaminant levels are below RWQCB discharge thresholds, the project shall obtain a permit from the City of Milpitas to discharge the groundwater into the City’s stormdrain system. This permit will specify the sediment removal measures to be implemented during dewatering (e.g., settling tank, particulate filters, etc.) and the frequency of ongoing water quality testing.</li> <li>▪ If groundwater contaminant levels are above RWQCB discharge thresholds, the project shall obtain an NPDES</li> </ul> </li> </ul>	<p>All mitigation shall be implemented prior to the start of earthmoving activities on-site and shall continue until dewatering is complete (i.e., during project construction and, if necessary, during the life of the project).</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>

**MITIGATION MONITORING AND REPORTING PROGRAM  
LANDMARK TOWER MIXED-USE DEVELOPMENT**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>permit from the RWQCB prior to discharging the water into the stormdrain system. This permit will specify the groundwater treatment measures and the water quality treatment standards that shall be achieved prior to discharge into the stormdrain system, the sediment removal measures to be implemented during dewatering (e.g., settling tank, particulate filters, etc.), and the frequency of ongoing water quality testing.</p>			

**HAZARDS AND HAZARDOUS MATERIALS**

<p>If onsite soils are contaminated with agricultural chemicals, construction personnel working on the proposed project would be exposed to these chemicals.</p> <p>If onsite soils are contaminated with agricultural chemicals, improper disposal of soil could contaminate the environment.</p>	<p>Implement the following measures:</p> <ul style="list-style-type: none"> <li>• Soil on the site will be sampled and tested for organochloride pesticides and associated heavy metals.</li> <li>• If the results of the soil sampling/testing indicate that the soil on the project site is contaminated with agricultural pesticides and/or heavy metals above regulatory agency thresholds, a Soil Management Plan (SMP) will be prepared for the proposed project. The SMP would detail the handling/ disposal of the contaminated soil in a manner that ensures workers, adjacent uses, and the environment are protected. The main objective of the SMP is to establish protocols for the contractor in handling on-site soil during redevelopment of the site (e.g., preparation of a Health and Safety Plan).</li> <li>• If the results of the soil sampling/testing indicate that the soil on the project site is contaminated with agricultural pesticides and/or heavy metals above regulatory agency thresholds, all soil off-hauled from the project site will be disposed at an appropriate facility that is designed and operated to accept and dispose of</li> </ul>	<p>Prior to the issuance of a Grading Permit, the developer shall ensure these measures are implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Planning and Neighborhood Services</p>
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**MITIGATION MONITORING AND REPORTING PROGRAM  
LANDMARK TOWER MIXED-USE DEVELOPMENT**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	hazardous materials safely.			
<b>UTILITIES AND SERVICE SYSTEMS</b>				
The proposed project would substantially increase water demand compared to the existing use.	Implement the following measures: <ul style="list-style-type: none"> <li>• The developer shall design and install all water lines necessary to serve the development (including fire flow), sized in accordance with the City’s Water Master Plan and Guidelines.</li> <li>• The developer shall purchase adequate public system water capacities for the project, including costs for capacity and storage needs above the master plan capacities, as determined by the City.</li> <li>• Prior to receiving recycled water, the site shall be permitted by South Bay Water Recycling (SBWR). In general, a permit will be granted after the following steps have been completed:               <ul style="list-style-type: none"> <li>▪ Plan Submittal and Approval</li> <li>▪ Inspection</li> <li>▪ Retailer Service Meter</li> <li>▪ Customer Training</li> </ul> </li> </ul>	Prior to issuance of an occupancy permit, the developer shall ensure these measures are implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services
The project will reduce the available limited capacity at the WPCP.	Implement the following measures: <ul style="list-style-type: none"> <li>• The developer shall purchase adequate public system sewage capacities for the respective development. Fees shall consist of connection fees, treatment plant fees up to the build-out master plan levels, plus additional fees for costs of sewage collection and regional plant capacity needs above the build-out master plan capacities, and proportional replacement costs for a new Main sewage pump station above the existing 2001 Master Plan</li> </ul>	Prior to issuance of an occupancy permit, the developer shall ensure these measures are implemented.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Planning and Neighborhood Services

**MITIGATION MONITORING AND REPORTING PROGRAM  
LANDMARK TOWER MIXED-USE DEVELOPMENT**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	capacities, as determined by the City.			

**SOURCE:** City of Milpitas, *Landmark Tower Mixed-Use Development Draft EIR*, April 2008.

**EXHIBIT B**

**LANDMARK TOWER  
MIXED-USE PROJECT**

*Water Supply Assessment*  
(for compliance with SB 610 of 2001)

Approved

September 16, 2008

**Milpitas City Council**

# LANDMARK TOWER MIXED-USE PROJECT WATER SUPPLY ASSESSMENT

## Summary

The City of Milpitas (City) completed this Water Supply Assessment (WSA) in compliance with California Senate Bill 610 (SB 610), which requires a WSA to be included in any environmental documentation for projects subject to the California Environmental Quality Act (CEQA). The WSA was completed using the City's 2005 Urban Water Management Plan (UWMP), the Santa Clara Valley Water District (SCVWD) 2005 UWMP and the City's 2002 Water Master Plan. The finding is that sufficient water supply is available for the proposed development.

## Introduction

The Landmark Tower Mixed-Use Project (Project), proposed by TP Pham LLC, consists of an 18-story mixed-use residential building and attached eight-story parking garage on a three-acre site. The building will contain 148,805 square feet of retail space, 48,960 square feet of office space and 375 residential condominium units. The Project site is located between Bellew Drive and Tasman Drive, includes Assessor Parcel Number 86-01-034 and is bounded by Barber Lane to the west and I-880 to the east. The site was previously occupied as a car dealership.

The WSA shall include:

- 1. Identification and documentation of water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project.**
- 2. A discussion with regard to whether the public water system's total projected water supplies available during normal, single-dry and multiple-dry water years during a 20-year projection will meet the projected water demand associated with the project, in addition to the public water system's existing and planned future uses.**

As lead agency and water service supplier for the Project, the City prepared this WSA in compliance with SB 610 and CEQA. The findings of the WSA shall be submitted to City Council for approval and included in the environmental review process.

The City's most current UWMP, adopted in 2005, did not fully account for water use associated with this project as the parcel in question was anticipated to have a commercial land use. The proposed project would result in a net increase of 0.12 million gallons per day (mgd). The increase in water demand was based upon the number of proposed residential dwelling units, as well as proposed retail and office square footages multiplied by water use factors identified in the City's 2002 Water Master Plan. Unaccounted water was also factored in at 6.1% of the calculated increase.

## Water Supply Assessment

This section includes an evaluation of the City’s ability to provide water for the Project. In accordance with SB 610, the WSA consists of the following:

- (1) Water Supplies
  - a. Wholesale Sources,
  - b. Wholesale Supplies;
- (2) Demand Analysis
  - a. City’s UWMP Projected Demand,
  - b. Project Demand,
  - c. Net Increase due to Project;
- (3) Supply and Demand Comparison under Normal, Single-Dry, and Multiple-Dry Year Conditions; and
- (4) Determination of Sufficient or Insufficient Water Supply.

### 1. WATER SUPPLIES

**Wholesale Sources:** The City purchases potable water from two wholesalers: the San Francisco Public Utilities Commission (SFPUC) and SCVWD. About 65% of the City’s potable water is from SFPUC; the remaining is from SCVWD. The City also purchases recycled water through the South Bay Water Recycling Program for irrigation and other appropriate uses.

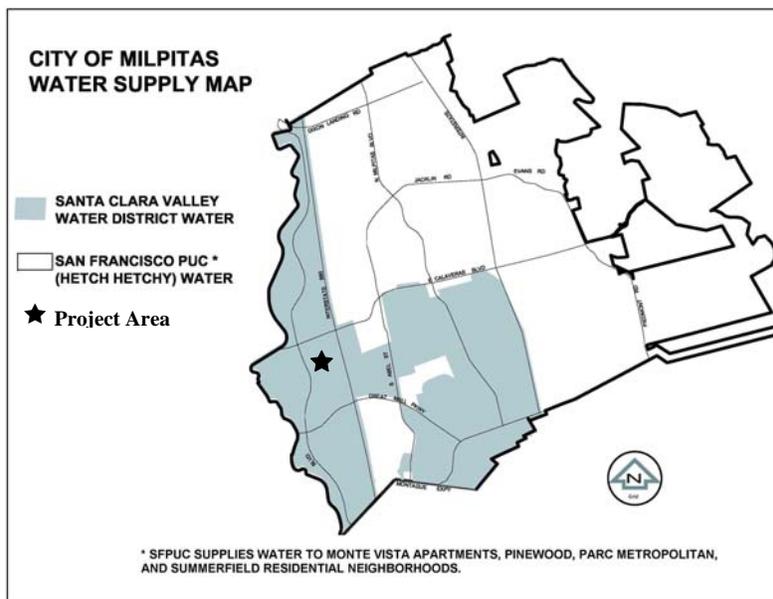
Guaranteed annual supply is established by contractual agreements between the City and the water wholesalers. SFPUC and SCVWD are expected to supply all potable water over the next 30 years, with no new water sources added. However, two wells (Pinewood Well and future Curtis well) will be available for emergency and supplemental purposes as necessary.

**Table 1 -- Wholesale Supply Sources**

Supply Source	Entitlement	Right	Contract	Ever Used	Will Supply Project
SCVWD			Yes	Yes	Yes
SFPUC			Yes	Yes	No
Recycled Water			Yes	Yes	Yes (common area landscape only)
Wells		Yes		Yes	No

*As shown in Figure 1, the City distributes SFPUC water to areas south of Calaveras Blvd. and east of I-680, as well as areas north of Calaveras Blvd. and east of I-880. The City distributes SCVWD water to all areas west of I-880 and areas south of Calaveras Blvd. and west of I-680, excluding the Monte Vista Apartments, Pinewood, Parc Metropolitan and Summerfield residential neighborhoods. These two sources are not blended under normal operating conditions; however, they can be physically interconnected to provide emergency water supply if necessary.*

Figure 1 -- Water Source Map



The Project is located west of I-880 and south of Calaveras Blvd., within the SCVWD service area. Therefore, this evaluation will assess project impacts related to water supply and demand within the SCVWD service area only.

**Wholesale Supplies:** The City began receiving SCVWD water in August 1993. SCVWD’s water supply system consists of both treatment and distribution facilities that include imported supply facilities, raw water conveyance facilities, treatment plants, local reservoirs, treated water transmission lines and the groundwater basin.

SCVWD’s water supply comes from a variety of sources, including local surface water and groundwater aquifers, as well as imported water from the Sierra Nevada through pumping stations in the Sacramento-San Joaquin River Delta. SCVWD treats both surface and imported water and sells treated water to its retailers. In addition, both local surface and imported water are recharged to the groundwater sub-basins, which SCVWD manages to the benefit of agricultural users and other independent users, as well as water retailers that pump groundwater.

Local runoff is captured in local SCVWD reservoirs, whose total storage capacity is about 170,000 acre-feet (ac-ft). Water is then diverted for either recharge into the groundwater basin or treatment at one of SCVWD’s three water treatment plants: Santa Teresa, Rinconada and Penitencia. Water is provided to the City’s SCVWD turnout via the Milpitas Pipeline from Penitencia (and Santa Teresa as necessary).

Water purchased from SCVWD is governed by contract between SCVWD and the City. The actual contract amount is adjusted periodically based on an annual delivery schedule the City submits triennially. This schedule is binding for the subsequent three-year period. The City’s annual request must be at least 95% of the maximum year in the current three-year schedule. The City’s monthly “supply guarantee” is at least 15% of the total estimated yearly amount.

Table 2 shows historical purchases from SCVWD. The downward trend is attributed to conservation efforts, conversion from potable water irrigation to recycled water irrigation and economic factors.

**Table 2 -- SCVWD Historical Water Purchases (mgd)**

96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08
5.06	4.59	4.21	4.33	4.53	4.03	3.95	3.91	3.53	3.65	3.61	3.67

**City’s UWMP Projected Supply:** The City’s UWMP evaluated current and future water supply and demand in accordance with Section 10631 of the California Water Code. Table 3 lists water supplies the City can reasonably expect to receive under “Normal Year” conditions:

**Table 3 – Quantity of Water Received in Normal Year (mgd)  
Actual and Projected <sup>(a)</sup>**

Water Supply	94/95	99/00	04/05	09/10	14/15	19/20	24/25	29/30
SCVWD	3.98	4.33	3.53	5.78	6.37	6.63	6.88	7.13

<sup>(a)</sup> Source: City of Milpitas 2005 Urban Water Management Plan Table 3-1.

## **2. DEMAND ANALYSIS**

**City’s UWMP Projected Demand:** A variety of demographic factors may affect water use. Section 2.4 of the City’s UWMP lists planning assumptions used to project future water demands. Table 4 provides the actual and projected water demands under normal conditions. Water demand includes an average unaccounted for water loss of 6.1%.

**Table 4 – Normal Year Water Demand (mgd)  
Actual and Projected <sup>(a)</sup>**

Water Supply	94/95	99/00	04/05	09/10	14/15	19/20	24/25	29/30
SCVWD	3.98	4.33	3.53	5.78	6.37	6.63	6.88	7.13

<sup>(a)</sup> Source: City of Milpitas 2005 Urban Water Management Plan Table 3-1.

The City’s UWMP assumed land use within the project area would remain consistent with the buildout scenario of the 2002 Water Master Plan, in which the assumption was made that the project area (Assessor Parcel 86-01-034) would remain commercial zoning through 2018. Water demand assigned to the project area is calculated in Table 5.

**Table 5 – Project Area Water Demand  
UWMP Demand Calculations <sup>(a)</sup>**

Assessor Parcel Number	Parcel Size (acre)	Water Use Factor (gpd/acre)	Water Demand (gpd)
86-01-034	3	2,400	7,200

<sup>a)</sup> City of Milpitas 2002 Water Master Plan Table 3-1

**Project Demand:** The Project consists of an 18-story mixed-use building (including 375 condominium dwelling units (DU), 48,960 square feet (SF) of office space and 148,805 SF of retail space) and an 8-story parking garage. Projected water demands are shown in Table 6 and are calculated assuming 2.7 residents per unit and a water demand of 90 gallons per day (gpd) per capita, as stated in the City’s 2002 Water Master Plan. As indicated in Table 7, the Project will result in a 114,080 gpd net increase in water demand (128 ac-ft per year). **Adjusting for an additional 6.1% demand due to unaccounted water, the Project will require an additional supply of 121,039 gpd (136 ac-ft per year).**

**Table 6 -- Project Water Demand**

Type of Usage	Development Density	Water Use Factor	Water Demand
Condominiums	375 DU	243 gpd/DU <sup>(a)</sup>	91,125 gpd
Retail	148,805 SF	0.150 gpd/SF	22,321 gpd
Office	48,960 SF	0.160 gpd/SF	7,834 gpd
<b>Total</b>			<b>121,280 gpd</b>

<sup>(a)</sup> Calculated based on water use factors from Table 3-1 in the 2002 Water Master Plan.

**Table 7 -- Project Impact on Water Demand**

	<b>Water Demand</b>
Project Demand	121,280 gpd
- 2005 UWMP projected demand	- 7,200 gpd
<b>Net Increase over 2005 UWMP</b>	<b>114,080 gpd</b>

**Table 8 -- Project Impact on Water Supply**

	<b>Water Demand</b>
Project Net Increase in Demand	114,080 gpd
6.1 % Unaccounted Water	+ 6,959 gpd
<b>Net Increase over 2005 UWMP</b>	<b>121,039 gpd</b>

$$\text{Demand} = 121,039 \text{ gpd} * 365 \text{ days/year} * 1 \text{ ft}^3/7.48 \text{ gal} * 1 \text{ ac-ft}/43,560 \text{ ft}^2 = \mathbf{136 \text{ ac-ft/year}}$$

The Project is expected to be complete by 2011. The 0.12 mgd increase in water demand will apply to Fiscal Year 2011-12 and beyond. Revised water demand projections (including projected demand) are shown in Table 9.

**Table 9 – Projected Water Demand (mgd)  
(2005 UWMP plus Project Demand)<sup>(a)</sup>**

Water Supply	94/95	99/00	04/05	09/10	14/15	19/20	24/25	29/30
SCVWD	3.98	4.33	3.53	5.78	6.49	6.75	7.00	7.25

<sup>(a)</sup> Source: City of Milpitas 2005 Urban Water Management Plan Table 3-1.

Recycled water, which is not factored in the aforementioned water demands, will supply the Project's irrigation and ornamental features. As stated in the Project's Environmental Impact Report, "to reduce potable water demand, the project will incorporate water conservation practices to the maximum extent practicable in accordance with City policies and utilize recycled water to the maximum extent practicable."

### **3. SUPPLY AND DEMAND COMPARISON UNDER NORMAL, SINGLE-DRY AND MULTIPLE-DRY YEAR CONDITIONS**

*Supply Reliability:* To maintain water supply reliability and flexibility, multiple sources comprise SCVWD's water supply, including local groundwater, imported water, local surface water and recycled water. SCVWD has an active conjunctive water management program to optimize the use of groundwater and surface water, and to prevent groundwater overdraft and land subsidence.

As part of their Integrated Water Resources Planning Study (IWRP) and UWMP, SCVWD performed planning and modeling analysis, which indicated that future countywide demands can reliably be met if additional investments are made. SCVWD intends to ensure that these additional investments be undertaken in accordance with the IWRP framework, which recommends a flexible resource mix be implemented in phases over the planning horizon. This flexibility allows SCVWD to respond to changing and uncertain future conditions.

The net increase in demand of 136 ac-ft per year associated with the proposed development was not included in the analysis performed for SCVWD's UWMP. This and other incremental increases in demand, when aggregated, have the potential to change the composition and timing of required future investments. Further analysis, within the structure of SCVWD's long-term planning framework, is required to better define the specific projects and project timing in order for SCVWD to meet demands in the future. In addition, provisions of water supply to meet new growth are based upon assumptions (listed in SCVWD's UWMP) and funding for many long-term water supply projects and infrastructure projects has not been secured. However, as the primary water wholesaler in Santa Clara County, SCVWD has a commitment to ensure that the water supply is reliable to meet future demands, consistent with the County's and cities' General Plans and other appropriate regional and statewide projections.

Per Figures 6-2 through 6-4 and Tables 6-2 through 6-4 (pages 125-128) of SCVWD's UWMP, SCVWD's supply is anticipated to meet future countywide demands during normal, single-dry and multiple-dry water years. Although this analysis presents projections of future water supply, ongoing coordination with SCVWD will be necessary to ensure projections are consistent with SCVWD's long-term water management strategies. The City will continue to work with SCVWD to refine future water supply projections and ensure that long-term planning efforts are consistent. Tables 10 through 12 compare water supply and demand under normal year, single-dry year and multiple-dry year conditions.

**Table 10 -- Projected Normal Water Year SCVWD Service Area  
Supply and Demand Comparison**

Fiscal Year	Supply (mgd)	% of Projected Normal Year	Demand (mgd)	% of Year 04/05 (3.53 mgd)	Difference Supply – Demand (mgd)	Difference as % of Supply	Difference as Percent of Demand
09/10	5.78	100%	5.78	164%	0	0%	0%
14/15	6.37	100%	6.49	184%	-0.12	1.88%	1.85%
19/20	6.63	100%	6.75	191%	-0.12	1.81%	1.78%
24/25	6.88	100%	7.00	198%	-0.12	1.74%	1.71%
29/30	7.13	100%	7.25	205%	-0.12	1.68%	1.66%

**Table 11 -- Projected Single-Dry Water Year SCVWD Supply and Demand Comparison**

Fiscal Year	Supply (mgd)	% of Projected Normal Year	Demand (mgd)	% of Projected Normal Year	Difference Supply Demand (mgd)	Difference as % of Supply	Difference as % of Demand
09/10	5.78	100%	5.78	100%	0	0%	0%
14/15	6.37	100%	6.49	102%	-0.12	1.88%	1.85%
19/20	6.63	100%	6.75	102%	-0.12	1.81%	1.78%
24/25	6.88	100%	7.00	102%	-0.12	1.74%	1.71%
29/30	7.13	100%	7.25	102%	-0.12	1.68%	1.66%

**Table 12 -- Projected Multiple-Dry Water Year SCVWD Supply and Demand Comparison**

Fiscal Year	Supply (mgd)	% of Projected Normal Year	Demand (mgd)	% of Projected Normal Year	Difference Supply Demand (mgd)	Difference as % of Supply	Difference as % of Demand
05/06	3.98	100%	3.98	100%	0	0%	0%
06/07	4.43	100%	4.43	100%	0	0%	0%
07/08	4.88	100%	4.88	100%	0	0%	0%
08/09	5.33	100%	5.33	100%	0	0%	0%
09/10	5.78	100%	5.78	100%	0	0%	0%
10/11	5.90	100%	5.90	100%	0	0%	0%
11/12	6.01	100%	6.13	102%	-0.12	2.00%	1.96%
12/13	6.12	100%	6.24	102%	-0.12	1.96%	1.92%
13/14	6.24	100%	6.36	102%	-0.12	1.92%	1.89%
14/15	6.37	100%	6.49	102%	-0.12	1.88%	1.85%
15/16	6.42	100%	6.54	102%	-0.12	1.87%	1.83%
16/17	6.47	100%	6.59	102%	-0.12	1.85%	1.82%
17/18	6.53	100%	6.65	102%	-0.12	1.84%	1.80%
18/19	6.58	100%	6.70	102%	-0.12	1.82%	1.79%
19/20	6.63	100%	6.75	102%	-0.12	1.81%	1.78%
20/21	6.68	100%	6.80	102%	-0.12	1.80%	1.76%
21/22	6.73	100%	6.85	102%	-0.12	1.78%	1.75%
22/23	6.79	100%	6.91	102%	-0.12	1.77%	1.74%
23/24	6.84	100%	6.96	102%	-0.12	1.75%	1.72%
24/25	6.88	100%	7.00	102%	-0.12	1.74%	1.71%
25/26	6.93	100%	7.05	102%	-0.12	1.73%	1.70%
26/27	6.98	100%	7.10	102%	-0.12	1.72%	1.69%
27/28	7.03	100%	7.15	102%	-0.12	1.71%	1.68%
28/29	7.08	100%	7.20	102%	-0.12	1.69%	1.67%
29/30	7.13	100%	7.25	102%	-0.12	1.68%	1.66%

#### **4. DETERMINATION OF SUFFICIENT OR INSUFFICIENT WATER SUPPLY**

SCVWD has a commitment to ensure that the water supply is reliable to meet future demands. The City recognizes that funding for long-term water supply projects and infrastructure projects must be secured in order to meet this commitment.

This evaluation is based on projections from SCVWD'S 2005 UWMP and the City's 2002 Water Master Plan and 2005 UWMP. Based upon evaluation results, the minor increase in water demand is within the range of error for the estimates and is not significant. The staff of the Utility Engineering Section of the City of Milpitas has determined that there is sufficient water supply to provide service to the Project. However, to reduce potable water demand, this development will be required to incorporate water conservation practices to the maximum extent practicable in accordance with City policies.