

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
APPROVING SITE DEVELOPMENT PERMIT NO. SD13-0008, TENTATIVE MAP NO. MT13-0004,
CONDITIONAL USE PERMIT NO. UP13-0005, AND ENVIRONMENTAL ASSESSMENT NO. EA13-0002 FOR
THE TRAVERSE RESIDENTIAL PROJECT TO DEVELOP A 12.51 ACRE SITE WITH 206 RESIDENTIAL
UNITS AND ASSOCIATED SITE IMPROVEMENTS LOCATED AT 569-625 TRADEZONE BOULEVARD**

WHEREAS, on November 2, 2012, a preliminary application was submitted by Warmington Residential California for a 206-unit residential subdivision consisting of 98 attached townhomes and 108 condominium units on a 12.51 acre site located with the Transit Area Trade Zone/Montague sub district; and

WHEREAS, on January 23, 2013, the Planning Commission conducted a study session to review and comment on the 206-unit residential subdivision and provided feedback on proposed deviations from the Transit Area Specific Plan development standards on density, site circulation, and reduced setbacks along Trade Zone Boulevard; and

WHEREAS, on April 1, 2013, an application was submitted by Warmington Residential California, 2400 Camino Ramon, Suite 234, San Ramon, CA 94583 for a Major Tentative Map, Site Development Permit, Conditional Use Permit, and Environmental Assessment to allow for the construction of 206 residential units and installation of associated site improvements on an 12.51 acres site located at 569-625 Trade Zone Boulevard (APN 86-36-003 thru 006); and

WHEREAS, the submitted site plan, landscape plan, and density were revised in response to the Planning Commission's previous review of the preliminary project application; and

WHEREAS, the Planning Commission recommended that the City Council determine this project exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) in that anticipated impacts do not go beyond what was previously analyzed in the Program EIR for the Transit Area Specific Plan; and

WHEREAS, on May 8, 2013 the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the owner or designee, and other interested parties.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. In accordance with the provisions of the California Environmental Quality Act, California Public Resources Code §§ 21000, *et seq.* (CEQA), an Initial Study/Mitigated Negative Declaration was prepared and properly circulated for public review wherein it was determined that the project is exempt pursuant to Section 15168(c) (2) of the CEQA Guidelines because the project is consistent with the certified EIR for the Transit Area Specific Plan adopted on June 3, 2008.
3. Pursuant to Milpitas Municipal Code Section MMC XI-10-57.03 (F), the Council finds the following regarding the Site Development Permit:
 - a. The project is consistent with the General Plan and implements the goals and objectives of the Transit Area Specific Plan Area Plan in terms locating residential near transit centers, places housing near employment centers in Milpitas and North San Jose, maintains an urban compact form, and fulfills housing goals.
 - b. As conditioned, the project conforms to the Milpitas Zoning Ordinance in that the layout of the site and design are compatible and aesthetically harmonious with adjacent and surrounding development. The project complies with the TASP development standards and that any exceptions are granted with a conditional use permit approval.

- c. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development in that the project follows the design guidelines and the street sections identified in the Transit Area Specific Plan. The proposed project provides for contemporary Italianate architecture the complements surrounding architectural elements and styles as well as the safe and efficient movement of pedestrians throughout the site.
4. Pursuant to Milpitas Municipal Code Section MMC XI-1.20.1, the Council finds the following regarding the Major Vesting Tentative Map:
- a. The project is consistent with the Milpitas Subdivision Ordinance in that the project meets the standards for a Tentative Map.
 - b. The project shall be consistent with the Milpitas Zoning Ordinance in that the project meets the minimum density required for the zoning district with the utilization of density averaging.
 - c. The project design and improvement are consistent with the General Plan of the City of Milpitas.
 - d. As conditioned, the project is consistent with the Transit Area Specific Plan in that the project meets the allowable density and follows the design guidelines and street sections prescribed in the plan.
5. Pursuant to Milpitas Municipal Code Section MMC XI-10-57.04-1 (F), the Council finds the following regarding the Conditional Use Permit:
- a. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity or to the public health, safety and general welfare in that applicable standards for development will be followed.
 - b. The proposed use is consistent with the General Plan in that residential subdivision and its proposed site layout and improvements maintains a relatively compact urban form and provides attractive streets and public spaces including bike and pedestrian connectivity which are significant contributions to civic and recreational areas.
 - c. The proposed use is consistent with the Milpitas Zoning Ordinance in terms of land use and is generally consistent with the Zoning Ordinance in that it meets all of the intended development criteria such as lot coverage, density with the approval of a density transfer, building height and type, setbacks, parking for (vehicle and bicycle), and open space and landscape requirements.
 - d. The deviation from the Transit Area Specific Plan Standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development. The proposed reduced setbacks on Trade Zone would still allow for a wide landscape setback and greater density. Similarly, the additional parking on Momentum drive will also allow for the project to have a greater density as desired by the Planning Commission.
 - e. The deviation from the Transit Area Specific Plan Standard allows for a public benefit not otherwise obtainable through the strict application of the Zoning Standard in that the project will provide a Park Master Plan for the 5.1 acre multi-use park that will provide recreational amenities for Milpitas residents.
6. Therefore, Site Development Permit SD13-0008, Tentative Map No. MT13-0004, Conditional Use Permit No. UP13-0005 and EA13-0002 for the Traverse Residential Project are approved, subject to the above Findings and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED this _____ day of _____ 2013, 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 1

CONDITIONS OF APPROVAL

SITE DEVELOPMENT PERMIT NO. SD13-0008, TENTATIVE MAP NO. MT13-0004, CONDITIONAL USE PERMIT NO. UP13-0005, AND ENVIRONMENTAL ASSESSMENT NO EA13-0002, TRAVERSE RESIDENTIAL, TRAVERSE RESIDENTIAL PROJECT, 204-Unit Residential Project AT 569-625 Trade Zone Boulevard (APN 86-36-003 thru 006)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on May 8, 2013, in accordance with these Conditions of Approval. 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)
2. Site Development Permit No. SD13-0008, Conditional Use Permit No. UP13-0005, and Major Tentative Map No. MT13-0004, shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
3. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Site Development Permit No. SD13-0008, Conditional Use Permit No. UP13-0005, Major Tentative Map No. MT13-0004, and Environmental Assessment No. EA13-0002 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
4. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. (P)
5. 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)
6. Indemnification: To the fullest extent permitted by law, the owner or designee or designee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by owner or designee, City, and/or the parties initiating or bringing such proceeding. The owner or designee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the

indemnification provisions set forth in this condition. The owner or designee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. City shall promptly notify the owner or designee of any claim, action, or proceeding. If City fails to so promptly notify the owner or designee, then the owner or designee's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The owner or designee shall not be required to pay or perform any settlement unless the settlement is approved by the owner or designee.

Site Development Permit

7. Crosswalk Treatment. Internal crosswalks and all three driveway entries shall utilize decorative paving such as but not limited to stamped colored concrete, textured paving stones, or other material to the approval of the Planning Division. (P)
8. Lighting Plan. Prior to building permit issuance, the owner or designee shall submit a lighting and iso-illumination plan that shall demonstrate 1) safe and adequate lighting of the project site and 2) lighting is contained and does not spill over onto adjacent properties or create unwanted glares. The owner or designee shall provide detail, elevations and manufacturer's specifications on propose light fixture for ground lighting, light bollards, light standards, and wall scones subject to Planning Division approval. Proposed light fixture shall complement the architectural style of the homes. (P)
9. Additional Architectural Style. Prior to building permit issuance, the owner or designee shall incorporate a third architectural style and/or provide additional architectural elements for each product type that would add variation and architectural interest with the contemporary Italianate architectural theme. (P)
10. Garage Doors. All garage doors shall include clear glass windows to allow for visual inspection to ensure garages are not used solely storage as they are intended for parking of cars. All garage doors style should vary between elevation types but also be consistent with the proposed architecture.
11. Trash Enclosure. Prior to building permit issuance, the owner or designee shall submit details and elevations of proposed trash enclosure. The proposed trash enclosure shall be constructed of CMU masonry walls finished to match the stucco finish on the adjacent buildings and include durable metal decorative gates, trellis, and/or other architectural detailing subject to the approval of the Planning Division. (P)
12. Specialty Paving: Decorative stamped concrete shall be used for the decorative paving and parking bay on Momentum Drive and Journey Street to be consistent with TASP standards. (P)
13. Architectural Elevations: Prior to building permit issuance the owner or designee shall revise building elevations to incorporate the following subject to Planning Division approval:

Contemporary Tuscan Style Multifamily Townhome Buildings:

- a. Weathered clay colored concrete S-tile roof and add decorative Tuscan style brackets under eaves, or classical Tuscan fascia trim with enclosed eve soffit, on first and second floor rooflines.
- b. Iron railings shall be painted black and have heavy-gauge crafted wrought iron appearance.
- c. The stucco shall be a medium-dash finish on the body of the building with smooth stucco finish on all window, door, and other trims. The owner or designee or designee shall provide a sample mock up of the stucco finish for the body and trim prior its application on the first building for staff approval.
- d. All metal awnings shall be designed consistent with the architectural style of the building.
- e. Window frames and mullions shall be a color that complements the architecture of the home, and not be white.
- f. Exterior lighting fixtures shall be black or dark bronze that compliments the iron railing and architectural style o the buildings.
- g. All roof gutters, scuppers, and down spouts shall decorative and consistent architectural style of the home.
- h. Stone veneer shall have a textured profile, random in size and proportion with an assortment of rich earthy hues that help recreate the aesthetic qualities of the original Tuscan stone veneer. The use of the stone veneer shall provide a visual order and visual rhythm of materials (heavy, visual solid foundation

materials that transition upward with lighter wall cladding and roof materials). Transition of materials shall occur on the inside corners.

- i. The owner or designee shall remove the stone veneer treatment on the Plan 3 cheek wall and add a stone veneer wainscot on Plan 1, Elevation B and on the arcade porch on the Plan 4, Elevation A.
- j. Provide decorative element to the gable ends on Elevation B.
- k. All materials, colors, and finishes shall be subject to Planning Division approval during building permits.
- l. Revise rear elevations to include architectural elements such as but not limit to window treatments, decorative corbels and/or brackets.
- m. Increase the thickness of the coping on the flat to provide a decorative roof cap.
- n. Increase the coping on the flat roof to an appropriate thickness that provides a decorative roof cap.
- o. Patio walls and column features shall utilize a decorative precast concrete cap that matches and compliments the architectural style of the building.

Contemporary Roman Style Multifamily Condominium Buildings:

- p. All metal awnings shall be designed consistent with the architectural style of the building.
- q. Window frames and mullions shall be a color that complements the architecture of the home, and not be white.
- r. Exterior lighting fixtures shall be black or dark bronze that compliments the iron railing and architectural style of the buildings.
- s. All roof gutters, scuppers, and down spouts shall decorative and consistent architectural style of the home.
- t. Stone veneer shall have a textured profile, random in size and proportion with an assortment of rich earthy hues that help recreate the aesthetic qualities of the original Italian stone veneer. The use of the stone veneer shall provide a visual order and visual rhythm of materials (heavy, visual solid foundation materials that transition upward with lighter wall cladding and roof materials). Transition of materials shall occur on the inside corners.
- u. All materials, colors, and finishes shall be subject to Planning Division approval during building permits.
- v. The Owner or designee shall provide enhance conditions for end units along a street edge. The elevations shall be designed to include elements and details that add architectural interest that is consistent with the Italianate architectural theme.
- w. Revise rear elevations to include architectural elements such as but not limit to window treatments, decorative corbels and/or brackets.
- x. Increase the coping on the flat roof to an appropriate thickness that provides a decorative roof cap.
- y. The stucco walls on the main body of the building shall consist of smooth sand finish.
- z. Patio walls and column features shall utilize a wall finish and decorative precast concrete caps to match and compliment the architectural style of the adjacent building.

14. Architectural Elevations: All foam window trims that do not simulate a wood like appearance shall be of smooth stucco. (P)
15. Architectural Elevations: All roof eaves shall include decorative support brackets consistent with the Italianate style architecture.
16. Floor Plan: Prior to building permit plan check submittal, the Owner or designee shall work with staff on the design and intent of the “bonus” rooms within the multifamily condominium product to ensure on-going compliance with the zoning ordinance parking requirements. (P)
17. Public Park: Prior to the final inspection of the first unit, the owner or designee shall submit to the City a complete Park Master Plan. The Park Master Plan will include compiled existing and proposed utility information, site evaluation, preliminary engineer’s cost estimates, park phasing plan, and related studies, analysis, and conceptual design drawings to complete the preliminary design of 5.1 acre multi-use park. The Park Master Plan shall be review and approved by the Park, Recreation and Cultural Resources Commission. Final acceptance of the park shall be granted two-years after of the final occupancy of the last unit sold or completion of the entire 5.1 acre park whichever is sooner. Until final acceptance is granted, the .78-acre portion of the park shall be maintained by the owner or designee. The Park Master Plan is proposed as a public benefit, and therefore fee credits or reimbursements are not applicable.

The owner or designee is responsible to design the entire public park site as stated above and construct portion of the public park within the project site. The owner or designee will be subject to fee credit from the park in-lieu fee for the construction of the portion of the park within the project site. The fee credit for the construction of the .78-acre portion of the park shall not exceed Park-In-Lieu fee amount. Any exceedance of Park-In-Lieu credit shall be approved by City Council. (P, E)

18. Public Art: The owner or designee shall install a public art piece within the planned public park area approved by the Public Arts Commission, prior to final occupancy. The public art should be valued at a minimum of one-quarter percent (1/4) to the total project budget not to exceed \$100,000. The owner or designee shall submit a public art plan to be reviewed by the Public Art's Commission prior to the installation of public art piece.
19. Flood Zone: Portion of the proposed development is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to final map approval, the owner or designee shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain. The owner or designee shall also obtain a Letter of Map Revision (LOMR) prior to building permit issuance, and provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the tentative map shall comply with the established BFE as determined in the final flood study report.
20. Storm Water Pollution Prevention: The owner or designee shall comply with Municipal Regional Permit (MRP) Order R2-2009-0074 for post construction C3 provisions for new development and redevelopment regulated projects storm water treatment requirements, and National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009—0009 NPDES No. CAS000002 or as required by the Regional Board at the time Owner or designee submits the NOI for the project for pre construction storm water treatment requirements.
21. Storm Water Pollution Prevention: 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 owner or designee, and accepted 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.
22. Water Supply and Force Majeure. The City currently has adequate water supply and sewerage treatment plant capacity allocation for this land entitlement approval project. 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. However, this condition of approval applies in case of emergency declaration of supply assurance in the case of a major catastrophic event that restricts City's assurance to provide water supply, or allocated treatment plant capacity. (E)
23. Solid Waste: Prior to building final inspection or building permit occupancy of any units, Owner or designee owner shall construct a new trash enclosure to serve the project. The enclosure shall accommodate the required two self contained compactors at minimum to serve this development. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. The owner or designee shall demonstrate sufficient access for collection vehicles throughout the project in accordance with City Guidelines. The enclosure will be subject to the City's review/approval prior to construction of the enclosure.

24. Solid Waste: Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, owner or designee / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, Owner or designee shall subscribe to and pay for solid waste services rendered. Prior to any building permit issuance, owner or designee shall incorporate following solid waste services requirements to the satisfaction of the City Engineer:
- A. Proposed solid waste enclosure shall be designed per the Development Guidelines for Solid Waste Services to house all necessary equipment. The access to the location and size of the enclosure shall be designed to the City Engineer's satisfaction and shown on the plans prior to building permit issuance. 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.
 - B. The property management shall be responsible for solid waste management, including transfer of material to the compactors. **Prior to final map approval**, owner or designee 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 area for disposal. Show the path of travel for refuse. Demonstrate how recycling shall have a separately maintained process from garbage handling.
 - C. 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 Republic Services (formally BFI). After the Owner or designee has full occupancy, the owner or designee shall contact the Republic Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the owner or designee shall increase the service to the level determined by the evaluation.
25. Connection Fees. The owner or designee 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 **\$209,805** (based on 12.51 acre @ \$16,771/acre).
 - B. Water connection fee of **\$239,784** (based on 206 units @ \$1164/U).
 - C. Sewer connection fee of **\$289,636** (based on 206 units @ \$1406/U).
 - D. Water Service Agreement(s) for water meter(s) and detector check(s).
 - E. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
- Contact the Land Development Section of the Engineering Division at (408) 586-3328 to obtain the form(s).
26. TASP Impact Fee. Prior to building permit issuance owner or designee or the Owner or designee shall pay a Transit Area Development Impact fee of **\$5,976,472** (based on \$29012 per unit). The subject fee will be finalized at the time of subdivision Improvement Agreement and will be collected prior to building permit issuance.
27. Utilities: Hydraulic modeling is required to verify capacity of the adjacent water and waste water (sewer) system piping and determine points of connection. The Owner or designee shall authorize City to proceed with hydraulic modeling as costs will be charged to Owner or designee's PJ Account.
28. Development Fees: Prior to building permit issuance, owner or designee must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees are part of the secured subdivision 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.
29. Utilities: In accordance with Milpitas Municipal Code XI-1-7.02-2, the owner or designee shall underground all existing wires and remove the related poles within the proposed development and along the street frontages, 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 line voltage.

30. Utilities: Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the owner or designee are required to assure proper water supply (potable or fire services). The owner or designee shall submit an engineering report detailing how adequate water supply pressures will be maintained.
31. Encroachment Permit: It is the responsibility of the owner or designee to obtain all necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, AT&T, Comcast, Santa Clara Valley Water District, and City of San Jose. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division.
32. Construction Schedule: Prior to start of any construction, the owner or designee 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 owner or designee shall coordinate their construction activities with other construction activities in the vicinity of this project. The owner or designee'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.
33. Utilities: All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped at main line in the street if the water meter is not to be used. The sanitary sewer shall be capped at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used.
34. Demolition: Prior to demolition permit issuance, the owner or 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.

The owner or designee/Contractor shall make every effort to salvage materials for reuse and recycling.

35. Demolition: Prior to building permit issuance, the owner or designee 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.
36. Demolition: 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 owner or designee, all to the satisfaction of the City Engineer or designee. The owner or designee shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The owner or designee/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 owner or designee shall perform all recycling and/or disposal by removal from the job site.

37. Site Distance: The owner or designee 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.
38. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
39. Prior to any work within public right of way or City easement, the owner or designee shall obtain an encroachment permit from City of Milpitas Engineering Division.
40. If necessary, the owner or designee shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755.
41. 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 owner or designee shall:
 - A. Provide separate water meters for domestic water service & irrigation service. Owner or designee 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 owner or designee 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.
42. Projects located in the TASP area are required to use recycled water for landscape irrigation. All landscaping maintained by the Home Owners Association (HOA) and the landscaping within the street frontages shall be served by recycled water. The owner or designee shall clearly delineate the potable irrigation service area and recycled water service areas on the plans and maintain separation with a permanent physical barrier such as a sidewalk or fence. 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 owner or designee shall:
 - A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
 - 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 California Department of Public Health (CDPH) 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 CDPH 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.
43. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the owner or designee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2600, to obtain the requirements and forms.
44. The owner or designee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities.

45. The owner or designee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.
46. The owner or designee shall make changes as noted on Engineering Services Exhibit "T"(dated 4/19/2013) 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 final map or improvement plans will be accepted until this condition is satisfied.

Conditional Use Permit

47. The project shall maintain a minimum of 33-feet from face of curb to building face between Trade Zone Boulevard and homes and a 15-foot minimum building setback from right of way line.
48. On-street parking shall be undesignated and reserved public parking purposes.

Tentative Map

49. Prior to final map approval or building permit submittal, the Owner or designee shall submit the project Flood Study, demonstrating to the satisfaction of the City Engineer that the proposed development has NO adverse impact to the surrounding flood plain within the Special Flood Hazard Area and flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one-tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS.
50. Prior to final map approval, the owner or designee shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer, consistent with the approved CLOMR. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the owner or designee shall satisfy the conclusions and recommendations of the approved drainage study.
51. Prior to final map approval, or building permit submittal, the owner or designee shall submit a Storm Water Control plan that incorporates best management practices (BMPs) for treatments of stormwater run off from all parcels. The Storm Water Control plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs such as the use of bio-treatment areas into the landscape design elements and the use of permeable pavement BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer.
 - a. Submitted Storm Water Control Plan is NOT approved for City acceptance. Prior to Final Map approval owner or designee shall have an approved third party reviewer review the plan and certify the plan to the MRP requirements and compliance. List of qualified reviewers can be found at the SCVURPPP site on the following link:
http://www.scvurppp-w2k.com/pdfs/1213/SCVURPPP_HMP_Qualified_Consultants_List_2012.pdf
 - b. The owner or designee shall submit a final Storm Water Control Plan package for review and approval with the building permit submittal.
 - c. The Plan shall be prepared by a licensed Civil Engineer qualified and trained professional with storm water treatment process and certifies that measures specified in the report meet the MRP requirements.
 - d. Prior to issuance of Certificate of Occupancy, the owner or designee shall submit a Storm water Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The storm water control operation and

maintenance plan shall include the owner or designee's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.

- e. The owner or designee shall include in the approved CC&R, language in regard to providing the City with an annual inspection report of the Storm Water Control Plan post construction compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. If the City does receive the report, City will conduct the field inspection and report, and the owner or designee and its successor shall be responsible to pay all associated costs.
 - f. Prior to Final occupancy, the owner or designee shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
 - g. The owner or designee shall comply with all "Model Conditions Of Approval For Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval.
 - h. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the owner or designee's final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. 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 storm water flow and potential storm water pollutants. Any changes to the final Storm Water Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.
52. Prior to final map recordation, the owner or designee 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 owner or designee 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.
53. Prior to final map approval, the owner or designee shall submit an executed petition to annex the subject property into the CFD 2008-1, and agree to pay the special taxes levied by Community Facility District (CFD 2008-1) 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 owner or designee 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.
54. The final map shall be recorded prior to issuance of any building permit. Provide a current title report with your final map submittal, not more than 90 days old.
55. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements.
56. Prior to final map approval, the owner or designee 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.
57. Prior to recordation of any final map, the owner or designee 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.

58. All improvements plans shall be prepared using Vertical Datum of 1988 (NAVD 88). The specific city benchmark used for the project shall be indicated on the cover sheet of each improvement plan set.
59. The Owner or designee shall dedicate on the final map necessary public service utility easements, street easements, public access easement (over private streets and walkways) and easements for water and sanitary sewer purposes.
60. Prior to final map approval, the owner or designee shall obtain design approval and bond for all necessary public improvements along Trade Zone Boulevard, existing Momentum Drive and all future public streets and facilities, including but not limited to the following:
- a. Removal and installation of new curb, gutter, and sidewalk, median modification or installation, signage and striping, street lights, street trees and tree wells, fire hydrants, bus stop, and storm water treatment amenities along Trade Zone Boulevard and existing Momentum Drive frontages.
 - b. Construction of proposed new public streets and all related amenities, underground utilities (water, sewer and storm) and their connection to the site and the future developments, and any required public storm water treatment amenities along the proposed future streets.
 - c. This project will not receive any Certificate of Occupancy until Projects 11A, B, and C as identified in the 2009 Sewer Master Plan have been completed. The City and Owner or designee will work cooperatively to develop a plan in how these improvements will be completed.
 - d. Extension of the Recycle water line to the serve the site and future developments.
 - e. Construction of a new two-way left-turn lane on trade zone blvd between existing left turn pockets at Lundy Ave and Ringwood Ave. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and owner or designee shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The owner or designee 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 Transit Area Specific Plan, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to issuance of any first certificate of occupancy for the project.*
61. Prior to final map approval, the owner or designee shall submit plans to the City of San Jose for review and approval of the proposed improvements along Trade Zone Boulevard. Provide their written comments, final approval, and copies of any permits to the City.
62. The masonry perimeter wall shall be constructed as a 10-foot decorative good neighbor fence. (P)
63. Construction Phasing: The owner or designee shall work with staff on the construction phasing of Buildings 1 through 4 to allow for opportunities for integration with future development on the north side of the project boundary. (P)
64. The applicant shall work with staff on final color selection subject to staff's review and approval.

TASP Environmental Mitigation Measures

65. **MM AIR-1**: The BAAQMD has prepared a list of feasible dust control measures that can reduce construction impacts to a less than significant level. The following measures will be implemented during all phases of construction on the project site:
- The owner or designee shall water all active construction areas at least twice daily or as often as needed to control dust emissions.
 - The owner or designee shall cover all trucks hauling soil, sand, and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - The owner or designee shall sweep daily or as often as needed with water sweepers on all paved access roads, parking areas, and staging areas at construction sites to control dust.

- The owner or designee shall sweep public streets daily or as often as needed to keep streets free of visible soil material.
 - The owner or designee shall enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
 - The owner or designee shall replant vegetation in disturbed areas as quickly as possible.
66. **MM BIO-1:** To mitigate impacts on non-listed special-status and other nesting birds, a qualified biologist shall survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forward to the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) (as appropriate) and, on a case by case basis, avoidance procedures adopted. These can include construction buffers areas (several hundred feet in the case of raptors) or seasonal avoidance. However if construction activities occurs only during the non-breeding season between August 31 and February 1, no survey will be required.
67. **MM CUL-1:** All ground disturbing activities shall be monitored by a qualified archaeologist to ensure that any discovery of significant archaeological materials and/or human remains is handled in accordance with approved guidelines.
68. **MM2 CUL-2:** All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City’s Planning Department shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo document or to recover the fossils shall be taken. If the fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted.
69. **MM GEO-1:** Buildings shall be designed and constructed in accordance with the design-level geotechnical investigation prepared for the site, which identifies specific design features that will be required for the project, including: site preparation, compaction, trench excavations, exploration, and borings and test pits of the project site. The geotechnical investigation shall be reviewed and approved by the City’s Director of Public Works prior to issuance of a building permit for the project.
70. **MM HAZ-1:** TASP Policy 5.20: Property owners shall work with the City of Milpitas Fire Department, the Santa Clara County Department of Environmental Health (SCCDEH), the California Department of Toxic Substances Control (DTSC), and/or the State Water Resources Control Board (SWRCB), whichever has jurisdiction, to resolve issues related to contamination that could potentially impact future land uses in the project area. The lateral and vertical extent of contamination shall be determined; remediation activities completed, and land use restrictions implemented, as necessary, prior to the issuance of development permits on parcels with known contamination. For parcels with known contamination, appropriate human health risk assessments (HHRAs) shall be conducted based on proposed land uses by a qualified environmental professional. The HHRAs shall compare maximum soil, soil gas, and groundwater concentrations to relevant environmental screening levels (ESLs) and evaluate all potential exposure pathways from contaminated groundwater and soil.
71. **MM HAZ-2:** Policy 5.21: The owner or designees shall submit information to the City regarding the presence of asbestos-containing building materials, PCBs, and lead-based paint in existing buildings proposed for demolition, additions, or alterations. The information shall be verified prior to the issuance of demolition permits by the City of Milpitas Building Inspection Division for any existing structures or buildings in the project area. If it is found that painted surfaces contain lead-based paint and/or the structures contain asbestos-containing building materials, measures to ensure the safe demolition of site structures shall be incorporated into the project Demolition Plan. The Demolition Plan shall address both onsite and offsite chemical and physical hazards. Prior to demolition, hazardous building materials associated with lead-based paint and asbestos containing building materials shall be removed and appropriately disposed of in accordance with all applicable guidelines, laws, and ordinances. The demolition of buildings containing asbestos would require retaining contractors who are licensed to conduct asbestos abatement work and notifying the Bay Area Air Quality Management District (BAAQMD) ten days prior to initiating construction and demolition activities. Regarding lead-based paint, Cal-OSHA regulates all worker exposure during construction activities associated with lead-based paint. The Cal-OSHA-specified method of

compliance includes respiratory protection, protective clothing, housekeeping, hygiene facilities, medical surveillance, and training.

72. **MM HAZ-3:** Policy 5.22: At sites with known contamination issues, a Risk Management Plan (RMP) shall be prepared to protect the health and safety of construction workers and site users adjacent to construction activities. The RMP shall include engineering controls, monitoring, and security measures to prevent unauthorized entry to the construction site and to reduce hazards outside of the construction site. The RMP shall address the possibility of encountering subsurface hazards and include procedures to protect workers and the public. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. Protocols for the handling, transport, and disposal of both known and previously unidentified hazardous materials that may be encountered during project development shall be specified. If prescribed exposure levels are exceeded, personal protective equipment shall be required for workers in accordance with OSHA regulations. Finally, the RMP shall also include procedures for the use, storage, disposal, of hazardous materials used during construction activities to prevent the accidental release of these materials into the environment during construction.
73. **MM HYD-1:** The source control program for the development will incorporate the following strategies:
- *Education and Outreach.* The storm drain inlets on the project site shall be stenciled “No Dumping – Drains to Bay”. In addition, the future homeowners association will provide an orientation to new homeowners on the projects Stormwater Control Plan, non-point source pollution control measures, and secure their written commitment to participate in the plan where applicable.
 - *Storm Drain Inlet Cleaning.* The homeowners association shall perform maintenance on privately owned storm drain inlets, which includes the collection and disposal of build-up materials inside the inlets.
 - *Trash Collection Areas.* There shall be a centralized common trash collection area for this site. The runoff from this area will drain into the sanitary sewer system.
74. **MM HYD-2:** The treatment control program from the development will incorporate the following:
- *BMPs.* The project shall incorporate permanent BMP’s to provide a level of treatment that meets the C.3 requirement for runoff generated by the project improvements as recommended in the Stormwater Control Plan dated April 1, 2013. The permanent BMPs shall include be not limited to the use of bioretention facilities, infiltration, landscape treatments, and media filtration.
 - *Treatment Control Device.* In areas where storm water will not pass through some sort of surface treatment (i.e., swales) prior to entering the storm drainage system, hydrodynamic devices shall be installed to provide in-line treatment prior to discharge into the City storm drain system. In addition to providing filtration for runoff, these devices will meter storm water runoff so that it enters the storm drainage system at a consistent rate, regardless of the flow rate into the devices. The treatment control devices have been designed to accommodate peak runoff from a 10-year storm event. These devices will be maintained by the homeowners association.
75. **MM HYD-3:** The storm water treatment systems listed above will need adequate routine maintenance to function as designed. The homeowners association shall be responsible for the implementation and/or oversight of the monitoring and maintenance program for this project. To ensure proper function, drain inlets and treatment control devices will need to be cleaned a minimum of once a year and inspected a minimum of two times per year.
76. **MM HYD-4:** The following measures, based on Regional Water Quality Control Board Best Management Practices, have been included in the project to reduce construction-related and post-construction water quality impacts:
- All unpaved driveways shall be filled with rock to knock mud from truck tires prior to entering City streets. A wash tire system may be employed.
 - Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
 - Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

- All trucks hauling soil, sand, and other loose materials shall be covered and/or all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- Prior to grading of the project site, the Owner or designee shall file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Storm water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post construction runoff. The following measures would be included in the SWPPP:
 - a. Preclude non-storm water discharges to the storm water system.
 - b. Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - c. Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
 - d. Perform monitoring of discharges to the storm water system.

77. **MM NOI-1.1:** Project-specific acoustical analyses are required to insure that interior noise levels will be reduced to 45 dBA Ldn or lower. Building sound insulation requirements shall need to include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant’s discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses along the north and south project boundaries. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit.
78. **MM NOI-2:** Pursuant to the City of Milpitas Municipal Code, no person shall engage or permit others to engage in construction of any building or related road or walkway, pool or landscape improvement or in the construction operations related thereto, including delivery of construction materials, supplies, or improvements on or to a construction site except within the hours of 7:00 AM to 7:00 PM on weekdays and weekends.
79. **MM NOI-3:** The contractor shall be required to use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment.
80. **MM NOI-4:** The contractor shall be required to use noise barriers or noise control blankets to shield stationary equipment from nearby noise-sensitive receptors.
81. **MM NOI-5:** The contractor shall designate a disturbance coordinator and post the name and phone number of this person at easy reference points for the surrounding land uses. The disturbance coordinator would respond to.