

RESOLUTION NO. 15-007

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING APPROVAL TO THE CITY COUNCIL FOR SITE
DEVELOPMENT PERMIT NO. SD14-0015 AND CONDITIONAL USE PERMIT NO.
UP14-0016 TO ALLOW FOR A PARTIAL DEMOLITION OF AN EXISTING
INDUSTRIAL BUILDING AND CONSTRUCTION OF A 124-ROOM, FIVE STORY
HOTEL, SITE IMPROVEMENTS, SALE OF ALL TYPES OF ALCOHOL IN
CONJUNCTION WITH HOTEL BAR, AND TO INCREASE THE MAXIMUM FLOOR
AREA RATIO FROM 0.50 (50%) to 0.61 (61%) LOCATED AT
1201 CADILLAC COURT**

WHEREAS, on August 27, 2014, an application was submitted by Joey Blagg with Prime Group Construction, Inc., 3045 Wilson Rd., Bakersfield, CA 93304 for a Site Development Permit and Conditional Use Permit to allow for demolition of the one story portion of the existing industrial building to accommodate an outdoor recreational area which includes a heated pool and spa and an outdoor patio area. The existing two story building will be expanded vertically into a five-story hotel with a total building area of 79,726 square feet of floor space. The proposed 124 room hotel includes a business center, meeting space, breakfast dining area, indoor/outdoor bar, lobby/lounge area, Wi-Fi lounge, fitness room, vending area, sundry shop, and guest laundry facilities. The applicant proposes various site improvements including installation of new landscaping, a seven (7) foot tall internally illuminated monument sign, parking restriping, concrete masonry trash enclosure with trellis and public frontage improvements including replacement of existing public sidewalk at 1201 Cadillac Court (APN 22-38-009). The property is located within the Industrial Park Zoning District.

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is exempt under CEQA pursuant to CEQA Guidelines Section 15311 (Infill Development).

WHEREAS, on February 11, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

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

Section 2: The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is

categorically exempt from further CEQA review under Section 15311 of the CEQA Guidelines, Infill Development. The project proposes a five-story, 124-room hotel with outdoor pool and spa amenities on a 3-acre site and meets the following criteria for the above Infill Development exemption:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. The project site is zoned and designated as Industrial Park which allows hotel, the alcohol sales and Floor Area Ratio (FAR) increase with a conditional use permit.
- b) The proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounding by urban uses. The project is located on an existing 3-acre industrial site within an urban area developed with other industrial and commercial buildings as well as residential homes.
- c) The project site has no value as habitat for endangered, rare or threatened species. The project is located on an existing developed site and does not contain habitat for endangered, rare or threatened species. As conditioned, a pre-construction survey will be required to ensure there are no nesting raptors that will be affected by the proposed construction activities. Furthermore, the applicant will be installing a total of 132 replacement trees consisting of 24-inch to 48-inch box.
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality based on the following studies submitted as part of the project review:
 1. Tree Inventory and Pre-Construction Survey prepared by Ray Morneau, Certified Arborist dated August 7, 2014.
 2. Flood Study prepared by Caitlyn Gilmore, Schaaf & Wheeler Consulting Civil Engineers dated January 12, 2015.
 3. Air Quality and GHG Emissions Assessment prepared by Joshua Carman, Illingworth & Rocklin, Inc. dated December 4, 2014.
 4. Storm Water Control Plan prepared by Chris Hayes, Kier & Wright Civil Engineers and Surveyors dated January 26, 2015.
 5. Phase 1 Environmental Site Assessment prepared by Jordan Vida, AEI Consultants Environmental and Engineering Consultants dated December 9, 2014.
 6. Geotechnical Report prepared by David Jarosz, Krazan & associates, Inc. dated December 2, 2014
- e) The site can be adequately served by all required utilities and public services. The project is already connected to the City's water, sewer, and storm water systems. The project is serviceable for solid waste and recycling collection. The project is located with the City limits and receives police and fire protection services.

Section 3: Site Development Permit (Section XI-10-57-03(F)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD14-0015:

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

The project proposes a modern contemporary building that includes floating wall panels to provide varying wall depths at the guestroom windows. Large scale openings at the public areas are provided to maximize the indoor/outdoor connection, natural light, and views. Exterior walls will have a combination stucco walls with sand finish, polished granite panels, and decorative metal reveals. As conditioned, the project ensures for high quality materials and design consistency with the proposed architecture. The project’s site design, layout, architecture, massing of the building, and landscaping is compatible and appropriate with the surrounding buildings and uses.

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

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

1. With respect with land use, the proposed hotel, sale of all types of alcohol and FAR increase are conditionally permitted in the Industrial Park Zoning District. The project is consistent with this designation in that the project adds a complementary land use that provides travel and business accommodations as well as meeting and conference space that caters to both local and regional employment centers and recreational destinations within the vicinity.
2. With respect to development standards, the proposed Project complies with setback, height, floor area ratio as described in the Table 1 below:

Table 1:
Summary of Development Standards

	Standard	Proposed	Complies?
<u>Setbacks (Minimum)</u>			
Front	35 feet	99'-10"	Yes
Interior	10 feet	61'-7" and 15'-11"	Yes
Rear	20 feet	296'	Yes
<u>Floor Area Ratio (Maximum)</u>	.50	.61	Yes with CUP Approval
<u>Building Height (Maximum)</u>	3 stories or 35-feet	67'-10" feet	Yes with PC Approval

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

Table 2:
Summary of Parking Requirements

Land Use	# of Rooms/ # of Seats/Sq. Ft.	Parking Ratio	Required Parking
Hotel	124 rooms	1 space per room	124
Meeting/Conference Space	Seats = 120	1 space per 4 seats	30
Office	957	1 space per 240 s. f.	4
Employee	8	1 per employee	8
Total number of parking spaces required			162
Total number of parking spaces provided			162

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

The General Plan designation is Industrial Park which allows various industrial and professional office uses permitted uses as well as hotels and restaurants as conditionally permitted uses. The project is consistent with this designation in that the project adds a complementary land use that provides travel and business accommodations as well as meeting and conference space that serves both local and regional employment centers and recreational destinations within the vicinity. The project also converts an older, obsolete building to a higher and better use that generates revenue for the City in terms of Transit Occupancy Tax. The project also fosters beautification, new economic, business and employment opportunities. The project is consistent with the following General Plan Policies:

- 1) (2.a-I-3) Encourage economic pursuits which will strengthen and promote development through stability and balance. The project replaces an underperforming industrial site with a new commercial development along the I-880 corridor. The project also fosters other economic opportunities and development in other sectors of the economy such as commercial shops and restaurants that also caters to the out-of-town guests.
- 2) (2.a-I-7) Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention. The project would provide employment opportunities at the hotel and helps balance jobs with housing. The project would generate approximately twenty (20) new jobs.
- 3) (2.a-I-17) Foster community pride and growth through beautification of existing and future development. The project includes the demolition of an older industrial site and the construction of a contemporary designed commercial hotel facility.

Signs

- a. *All elements of the sign, including design, lighting, scale, length and materials, are consistent with the intent of the General Plan, the Sign Ordinance and any applicable Specific Plan.*

The project's proposed signs are in conformance with the design guidelines of the Sign Ordinance. The signs include a combination of wall mounted, channel letters and a freestanding monument sign.

- b. *The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves.*

The proposed signage includes metal fabricated that will be wall mounted channel letters and internally illuminated as well as a new seven-foot tall internally illuminated freestanding wall sign constructed with a concrete base and polished granite tiles. As conditioned, the proposed signage will complement the architecture, style, color and materials.

- c. *The design and scale of the sign is appropriate to the distance from which the sign is normally viewed.*

The proposed signs as shown on the project plans provide visibility and legibility as well as provide the appropriate relationship of scale and height to the building.

- d. *The design and materials of the sign provide a contrast between the background and letters.*

The proposed design and materials of the signs as depicted in the project plans provide contrast between the background and letters. The signs are also internally illuminated which also provides further contrast with the background.

Section 4: Conditional Use Permit (Section XI-10-57.04(F)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP14-0016:

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

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

1. With respect to the land use, the hotel use is consistent with the purpose and intent of the Industrial Park Zoning District in that it is a commercial service establishment that provides for accommodations for a certain demographic of travelers. The

proposed hotel is a complementary use given the proximity to nearby employment centers, restaurants and regional attractions like Levi Stadium, Great America Theme Park, and Great Mall Outlets.

2. The proposed on-site consumption of all types of alcohol is incidental and appurtenant to hotel service and customer experience. The proposed alcohol sales is not located in a high crime rate area or in an undue concentration area. As conditioned, hotel employees shall receive responsible alcohol training and comply with all Department of Alcoholic Beverage Control (ABC) regulations.
3. With respect to the environment, the project incorporates best management practice and construction measures to ensure environmental impacts are minimized to a level of less than significant such as but not limited to implementing best management practice measures to control dust and emissions during construction, pre-construction survey for special status plants, animals and nesting birds to protect, a tree protection and replacement plan to mitigate the removal of existing trees to name a few.
4. With respects to improvement, property, public health and safety, the project will not result in any negative impacts based on the following conditions:
 - Contribute to City impact fees for the Calaveras Boulevard Widening Project fee.
 - Raise the base elevation of the project site and implement floodproofing to comply with current flood hazards requirements.
 - Comply with the NPDES General Permit, SWPPP, NPDES C.3 requirements and NPDES Best Management Practices for construction and post construction water quality.
 - Improve repair the damaged roadway consisting of a wedge grind of the pavement and replace one and a half foot (1-6") with new AC overlay on the full street width from California Circle to Fairview Way.
 - Provide responsible alcohol training for employees and comply with State laws applicable to the sale of alcohol including any California Department of Alcoholic Beverage Control licensing requirements for the sale of alcohol.
 - Implement standards procedures and process for guest screening and check in.

Section 4: For buildings that exceed three (3) stories or thirty-five (35) feet within the MP and TC districts (Section XI-10-57.04-2 and Section XI-10-7.03-1) - The Planning Commission makes the following additional findings based on the evidence in the public record in support of Conditional Use Permit No. UP14-0016:

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

The project is consistent with this finding because the project would replace an outdated, obsolete industrial building with a new contemporary modern hotel building that emphasize high quality design and materials that include polished granite cladding, sand

finish stucco, decorative paving stone, colored pavers, and enhanced landscaping throughout the site. As conditioned, the project will incorporate additional design elements such as enhanced entry portico, recessed windows and bold roof line. The project will also include public and off-site improvements that include replacement of the existing public sidewalk with a new six-foot linear sidewalk with twenty-four inch box Brisbane Box street trees and repairing the full width of Cadillac Court from California Circle to Fairview Way/Cadillac Court Intersection.

- b) *Any excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated.*

The excess height of the proposed hotel will not be detrimental to the light, air or privacy of another structure currently existing or anticipated. The proposed hotel is 5-stories and measures approximately 68 feet in height. One and two story industrial buildings exist to the north, east and south. A freeway exists to the west and another 4-story hotel is proposed to the southeast. Despite the differences in height between the proposed hotel and the industrial buildings, the hotel provides adequate setbacks (approximately 130-feet to the neighbor building to the north, 274-feet to the east, and approximately 80-feet to the south) to ensure privacy and air are not impaired. Because of the northern setback of approximately 130 feet, the hotel would cast a shadow of only 85-feet on the building to the north. The building orientation also minimizes the amount of shadowing on the property to the north. During the worst case scenario (winter months), the hotel would cast a shadow covering one fourth of the (1/4) of the neighboring site to the north. Given the industrial uses to the north, the impact would not be detrimental.

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

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

The project generates less 15 less AM Peak Hour Trips and 4 less PM Peak Hour Trips than the previous R&D use. The City of Milpitas General Plan identifies level of service (LOS) E in the peak hours as the operational threshold for local intersection and recognizes regional facilities may operate at worse than LOS E. Based on the a recent Traffic Study dated July 2014 for the IStar Residential project located at 1210 California Circle, the studied intersection within the project vicinity would continue to operate at an acceptable Level of Service (LOS) D.

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

The project proposes a 5-story hotel that measures approximately 68-feet in height. Although the project is surrounded by other one and two-story industrial buildings, there are other structures that are similar in height within the vicinity that includes a digital

billboard signs, three story town houses, and a proposed four story hotel. The project is not anticipated to generate a negative dominating visual prominence in that the building’s contemporary architecture and design elements provide articulation and visual interest. The building setbacks from other buildings will not impair light, air and privacy.

Section 6: Supplemental Water Use Restrictions (Section VIII-6-5.00) – Urgency Ordinance (240.2) Exception Request relating to the use of potable water for irrigating new landscaped areas and for decorative features, swimming pools/ponds:

On August 26th 2014, the City Council adopted Emergency Ordinance 240.2, which implemented additional water use restrictions. The Ordinance states that the use of potable water for the installation for new landscaping, decorative fountains and new swimming pools is prohibited (Section 5.03-5.06). However, the Ordinance allows exceptions to be granted at the discretion of the City Council (Section 5.08). Staff is in support of this exception request because the area is not served by reclaimed water and therefore must use potable water for all irrigation, decorative water features, and swimming pool.

Section 7: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 15-007 recommending that the City Council approve Site Development Permit No. SD14-0015 and Conditional Use Permit No. UP14-0016 based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on February 11, 2015.


Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on February 11, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal	✓			
Lawrence Ciardella	✓			
Hon Lien	✓			

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Rajeev Madnawat	✓			
Ray Maglalang	✓			
Zeya Mohsin (Alternate)				
Demetress Morris	✓			
Gurdev Sandhu	✓			

EXHIBIT 1

CONDITIONS OF APPROVAL
SPRINGHILL SUITES HOTEL - SD14-0015 AND UP14-0016 – 1201 CADILLAC CT

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. This Site Development Permit No. SD14-0015 and Conditional Use Permit No. UP14-0016 (collectively “Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County’s Recorder Office and a copy shall be provided to the Planning Division.
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit.
3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**

6. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit.
7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1).
8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the adoption of this Resolution.
9. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution.
10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with

such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition.

13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
14. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.
15. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on February 11, 2015, in accordance with these Conditions of Approval.

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

Project Specific Conditions

Site Development Permit

16. Monument Sign. Prior to any building permit issuance, the Permittee shall revise the details and elevations for the proposed monument to specify the materials, sign type, and proposed illumination. The monument sign shall incorporate the following design elements:
 - Utilize colors and materials that match or complement the building architecture and style such as but not limited to polished granite, metal reveal and or stucco finish.
 - Incorporate interesting plantings at the base of the sign to visually “ground” the sign in its place.
 - Replace illuminated cabinet sign with individual channel letters or routed out push thru lettering to add interest and texture to the sign.
17. Lighting Plan. Prior to issuance of any building permit, Permittee 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 glare. Permittee shall provide detail, elevations and manufacturer's specifications

on proposed light fixture for ground lighting, pedestrian scaled lighting (light bollards), light standards, and wall sconces subject to Planning Director approval. Proposed light fixtures shall be high quality and complement the architectural style of the building. (P)

18. Architectural Elevations. Prior to issuance of any building permit, Permittee shall revise building elevations to reflect high quality material, finishes, and articulation. Such revisions to the building architecture are subject to Planning Director review and approval and includes the following:
 - a. Building Color. Final color, material and finishes for the building and outdoor recreation area shall be submitted to the Planning Director for review and approval. (P)
 - b. Windows. All windows shall be designed to provide a range of 2 to 4-inch recess. All windows shall be centered and equidistant from the decorative reveals lines.
 - c. Roof Cap. Revise roof cornice on tower elements shown on front and rear elevation to match the width, thickness and style the roof cornice shown on the building roof parapet.
 - d. Entry Portico. The entry feature shall be redesigned to utilize interesting architecture or design elements that create a focal point on the building. Materials used to construct the entry portico shall consist of materials such as but not limited to glass, metal and/or stone to match or complement the building.
 - e. Outdoor Patio. The patio cover, supporting columns and patio walls shall reflect the architectural style of the building in in terms of materials, styles, and colors.
19. Landscaping. Prior to issuance of any building permit, the following modifications shall be incorporated in revised landscaping plans subject to the approval of the Planning Director:
(P)
 - a. Structural (amended) soil shall be used for all landscaping in the public right-of-way.
 - b. Incorporate landscaping strip to accommodate ornamental shrubs and/or decorative plant containers along the outside edge of the outdoor patio.
 - c. Landscaping along the north property line shall be utilize the same planting theme and materials as shown on the south property line consisting of Bright n' Tight Carolina Laurels, Dwarf Bottle Brush and Mexican Feather Grass.
 - d. Substitute 15-gallon New Gold Lantana with 15-gallon Star Jasmine plants.
20. On-Site Utilities. During building permit issuance, a detailed landscape plan shall be submitted and approved by the Planning Division that includes the following: location and screening of all transformers and utility devices including backflow preventers. Utilities shall be fully screened.
21. Above Ground Utilities. All above ground utilities shall be placed underground. Modifications shall be subject to the review and approval of the Planning Director. (P)
22. Climate Action Plan Compliance. Prior to issuance of any building permit, the Permittee shall revise the building plans to show the following:

- a. Pre-wired for solar photovoltaic systems.
- b. Provide exterior electrical outlet for gardening equipment
- c. Implement Transportation Demand Management Program for employees.

23. Public Improvements: Prior to any building permit issuance, Permittee shall obtain design approval and bond for all necessary public improvements along Cadillac Court including but not limited to the following:

- a. Utility Relocation: Underground utilities (such as joint trench conduit, utility boxes, etc.) shall be relocated and adjusted to grade to accommodate a 6' wide public sidewalk.
- b. Right of Way: The Permittee shall dedicate all necessary rights-of-way and public easements to the City for the proposed public sidewalk improvements and utilities to the satisfaction of the City Engineer. The proposed frontage (4.5' wide landscaping and 6' wide sidewalk) shall be contained within the right-of-way. The Permittee shall provide a 10 foot Public Service Utility Easement behind the right-of-way.
- c. Occupancy: All public improvements shall be installed and accepted prior to the issuance of the first Certificate of Occupancy (temporary or final).
- d. City Standards: All design and construction of public and private improvements shall be in compliance with City guidelines and standard drawings.
- e. Curb and Gutter Replacement: Permittee shall replace all damaged curbs and gutters within the project limits. **(E)**

24. Onsite Improvements.

- a. Access Easement: The Permittee shall provide an access easement to City along the northern drive aisle for access to the City's Storm Drain Easement (SDE) and facilities. The easement shall lead to a gated entrance with a concrete driveway at the edge of the existing SDE.
- b. Flooding Mitigation: The Permittee shall provide mitigation for all increases in Base Flood Elevation (BFE) greater than .4' as shown on the projects flood study by Schaaf & Wheeler dated January 12, 2015. Mitigation may include re-grading of the site, minor site flood walls or any other means to reduce the BFE impact. Prior to any building permit issuance, the Permittee shall submit an updated flood study to reflect the mitigated BFEs.
- c. Site Improvement Plan Set: Prior to any building permit issuance, the Permittee shall submit a complete site improvement plan set, including but not limited to a separate plan sheet for floodplain management, storm water control, emergency vehicle access, and solid waste handling.
- d. Utility Meter Layout: The Permittee shall include a detail in the Site Improvement plan set showing the size, dimensions, and layout of all utility meters and associated appurtenances. The layout design shall comply with all separation and access requirements.

- e. Floodproofing. The Permittee shall provide a separate floodproofing report describing the floodproofing for all structures that are not removed from the Special Flood Hazard Area. The report shall demonstrate compliance with NFIP Regulations and technical bulletins. The report shall include the floodproofing of mechanical equipment, elevator shaft and equipment, and utilities. Floodproofing details shall also be included in the site improvement plan set and on the floodplain management sheet. **(E)**

25. Transportation & Traffic Engineering:

- a. Street Surfacing. Permittee shall wedge grind and apply 1.5" AC overlay on full width of Cadillac Court from California Circle to Fairview Way including the intersection of Cadillac Court and Fairview Way with overlay ending at southern curb return along Cadillac Court. Restripe street and reconstruct all non-compliant curb ramps at all corners of the intersection of Cadillac Court and Fairview Way to the most current ADA standard. **(E)**

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

- a. Water System. Project shall be served by SFPUC Zone 1. A Water Supply Assessment is not required.
- b. Water Service. This project shall have separate water meters for domestic, irrigation, and fire service. Permittee shall provide backflow protection on all water connections, including fire services, in accordance with City guidelines and USC Manual of Cross Connection Control. Water meters and backflow devices shall be located behind the sidewalk in the PSUE. Permittee is alerted that on-site pumping to upper floors may be required.
- c. Multi-Story Buildings: The multi-story buildings proposed require water supply pressures above that which the City can normally supply. Additional evaluations by the Permittee are required to assure proper water supply (potable or fire services). Permittee shall submit an engineering report detailing how adequate water supply pressures will be maintained.
- d. Coordination with Landscaping Plans. Coordinate utility plans with landscape and hardscape plans to insure no conflicts and provide separation between deep-rooted plantings and underground utilities.
- e. Solid Waste Handling. This site is recommended to use front-load style solid waste service. Permittee shall provide sufficient facilities for on-site storage and collection of solid waste and recyclables. Permittee shall provide a Solid Waste Handling Plan showing how materials will be transferred from the residential units to the trash enclosure/external collection point. The Solid Waste Handling Plan shall also address other requirements, such as weekly collection setout and property management responsibility for litter control. Permittee shall procure sufficient service frequency. Permittee to provide a plan showing solid waste setout locations that do not block parking spaces. All solid waste collection facilities shall comply with City guidelines. The solid waste enclosure shall be sized to include the tallow bin. **(E)**

FEES

27. Development Fees: Permittee shall submit the following items with the building permit application and pay the related estimated fees prior to building permit issuance:
- a. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire
 - b. Water Service Agreement(s) for water meter(s), detector check(s), and double check detector assembly.
 - c. Storm water connection fee of \$21,562 per acre.
 - d. Water, sewer and treatment plant fees will be calculated at the time of building plan check submittal.
 - e. Calaveras Blvd Widening Traffic Impact Fee of \$803 per thousand square feet of Retail Development (in 2009 dollars), prior to building permit issuance. Fee shall be adjusted per ENR index rate at the time of building permit issuance.

Contact the Land Development Section of the Engineering Division at (408) 586-3328 to obtain the form(s). *The above fees are preliminary estimates and subject to change.* A credit may be provided for water, sewer, and treatment plant fees based on the existing use. Credits, if any, will be calculated at the time of building plan check submittal. There is no vesting of the fees with the adoption of this Resolution. (E)

28. Building Permit Automation Fee: Prior to any building permit issuance, Permittee shall pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. (E)
29. Community Facilities District (CFD) Annexation: Prior to any building permit issuance, Permittee shall submit an executed consent to annex the subject property into CFD 2005-1 and shall agree to pay the special taxes levied by CFD 2005-1 for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized prior to any building permit issuance. Permittee shall comply with all rules, regulations, policies, and practices established by State Law and by the City with respect to the CFD including, without limitation, the requirements for notice and disclosure to future owners and residents. (E)

CONSTRUCTION

30. Improvement Plans: Prior to any building permit issuance, Permittee shall obtain design approval and bond for all necessary public improvements as shown on the entitlement approval and in compliance with City standards and regulations, including but not limited to the following:
- a. Removal and installation of new curb, gutter, and sidewalk, median modification or installation, signage and striping, street lights, street trees, fire hydrants, bus stop, and storm, water, and sewer service installation.

- b. All improvements plans shall be prepared using Vertical Datum of 1988 (NAVD 88). The specific city benchmark used for the project shall be indicated on the cover sheet of each improvement plan set.
 - c. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital copy of the Record Drawings AutoCAD and GIS format upon completion of improvements to the satisfaction of the City Engineer.
 - d. Permittee shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. **(E)**
31. Initial Acceptance: All improvements must be installed in accordance with the City of Milpitas standard drawing and specification, and shall be constructed to the City Engineer's satisfaction and accepted by the City prior to issuance of any final certificate of occupancy of any unit. **(E)**
32. Utility Undergrounding: Prior to issuance of the first Certificate of Occupancy (temporary or final), Permittee shall underground all existing wires and overhang utilities and remove all related poles within the proposed development and along all street frontages. All proposed utilities within the subdivision shall also be undergrounded. The improvement plans shall show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state wire voltage. All utility vaults, boxes, cabinets, and pedestals shall be identified and labeled on the improvement plans. Above ground utility facilities shall be underground (except electrical high-voltage transmission lines), relocated, or screened to the satisfaction of the City Engineer and the Planning Director. **(E)**
33. Joint Trench Relocation: The joint trench shall be relocated in the field, if necessary, to accommodate the approved street layout (sidewalks, trees, streetlights, etc.) to the satisfaction of the City Engineer and the Planning Director. All joint trench structures (vaults, boxes, cabinets, etc.) shall be adjusted to the final grade. **(E)**
34. Encroachment Permit: Prior to any work within the public right of way or City easement, Permittee shall obtain an encroachment permit from City of Milpitas Engineering Division. Prior to installing offsite improvements, Permittee shall obtain an encroachment permit from the City of Milpitas and all necessary encroachment permits from other affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District, Santa Clara County road and Airport Department, and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits shall be submitted to the City of Milpitas Engineering Division as a part of the encroachment permit review. **(E)**
35. Agency Approval: It is the responsibility of Permittee to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas

and Electric, SBC, Comcast, Santa Clara Valley Water District and Caltrans. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division, prior to building permit issuance. (E)

36. Construction Schedule: Prior to start of any construction, Permittee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, and construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. Permittee shall coordinate their construction activities with other construction activities in the vicinity of this project. Permittee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. (E)
37. Demolition: All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped at main line in the street if the water meter is not to be used. The sanitary sewer shall be capped at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. (E)
38. Maximum Slopes: All slopes adjacent to public sidewalks and streets shall be designed to a maximum grade of 4:1 slope. The grading design shall also provide a 1' flat bench at the top and bottom of the slope adjacent to the public sidewalks, streets, or pathways. (E)
39. Tree Removal Permit: In accordance with COMC Chapter 2, Title X (Ord. 201), Permittee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2600 to obtain the requirements and forms. (E)
40. Underground Service Alert (USA): Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)

FLOODPLAIN MANAGEMENT

41. Special Flood Hazard Area: The proposed development is located within the Special Flood Hazard Area (SFHA), and, therefore, shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code of Federal Regulations and the City of Milpitas (City) Flood Plain Management Regulations, City of Milpitas Code (COMC) Title XI Chapter 15. Prior to building permit issuance, Permittee shall obtain a Conditional Letter of Map Revision (CLOMR) or a Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain or the removal of the development from the SFHA. Permittee shall also obtain a Letter of Map Revision (LOMR) or a Letter of Map Revision based on Fill (LOMR-F) and shall provide all elevation certificates prior to final building inspection or issuance of certificate of occupancy for any portion of the development. The proposed grading plan shall

comply with the established BFE as determined in the final flood study report, the approved CLOMR or CLOMR-F, or the official FEMA Federal Insurance Rate Map (FIRM). (E)

42. Floodplain Management Ordinance: Per Chapter 15, Title XI of Milpitas Municipal Code (Ord. No. 209.4) the lowest floor elevation (finished floor) of each structure shall be at least one foot above the Base Flood Elevation (BFE). The structure pad(s) shall be properly designed by a registered civil engineer and compacted to meet FEMA's criterion. In addition, the pad(s) shall extend beyond the building walls before dropping below the base flood elevation, and shall have appropriate protection from erosion and scour. All electrical equipment, mechanical equipment, and utility type equipment servicing the structure shall be located above the BFE, or shall be flood proofed, and shall be constructed to prevent damage from flooding events. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Ordinance. Permittee's civil engineer shall complete and submit several FEMA Elevation Certificates to the City at different stages of the construction. Flood insurance is required for any construction that is financed with government backed loans. (E)
43. Flood Study: Prior to any building permit issuance, Permittee shall submit a Flood Study for the project demonstrating, to the satisfaction of the City Engineer, that the proposed development has NO adverse impact to the surrounding flood plain within the SFHA and to flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one foot at any point. For the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. (E)
44. Drainage Study: Prior to any building permit issuance, Permittee shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer, consistent with the approved CLOMR. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and Permittee shall satisfy the conclusions and recommendations of the approved drainage study. (E)
45. Elevation Certificates: Permittee shall submit an elevation certificate for each lot or structure that is to be removed from the SFHA:
 - a. Prior to any grading permit issuance, based on an approved grading plan. This elevation certificate shall contain all proposed grades applicable and shall be required in order to receive community acknowledgement for the CLOMR or CLOMR-F application.
 - b. Prior to building foundation pour, based on finished formwork while the building is under construction. If Permittee intends to apply for a LOMR or LOMR-F prior to finished construction, this elevation certificate shall be submitted after the foundation pour and shall be based on existing finished floor and adjacent grades. It shall be required in order to receive community acknowledgement for the LOMR or LOMR-F application.

- c. Prior to occupancy of each building or structure, based on finished construction. This elevation certificate shall contain all required finished grades and shall be based on existing information.
- d. Prior to final occupancy, Permittee shall submit a binder containing all the elevation certificates produced for the each phase of the project. (E)

CLEAN WATER

46. Construction Storm Water Quality: Permittee shall comply with the requirements of the National Pollution Elimination Discharge System (NPDES) permit as administered by the California State Water Resources Control Board (State Board) and the San Francisco Bay Regional Water Quality Control Board (Regional Board). Prior to the issuance of any building, demolition, or grading permit, Permittee shall submit an Erosion and Sediment Control Plan (Erosion Control Plan) as a part of the improvement plan submittal. The erosion control plan shall show all construction best management practices (BMPs) and shall comply with the requirements of the NPDES, the Municipal Regional Permit Order R2-2009-0074 (MRP), and the City's stormwater and urban runoff pollution control standards and guidelines (City's Clean Water Program). Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all construction BMPs as required by the approved erosion control plan, the COMC, and the City's Clean Water Program. (E)
47. Construction General Permit Compliance: Permittee shall comply with the requirements of the Construction General Permit as administered by the State and Regional Boards. Permittee shall obtain a Construction Activities Storm Water General Permit (State Permit) from the State Board. Prior to any construction activities and prior to the issuance of any building, demolition, or grading permit, Permittee shall submit:
 - a. A complete Storm Water Pollution Prevention Plan (SWPPP) with the project Waste Discharge Identification Number (WDID) displayed on the cover,
 - b. A copy of the approved Notice of Intent (NOI) from the State Board, and
 - c. An erosion control plan and a site monitoring plan meeting the satisfaction of the City Engineer.

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

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

48. Post-Construction Storm Water Quality: Permittee shall comply with the requirements of the MRP for post-construction storm water treatment (provision C.3 regarding new development and redevelopment requirements for regulated projects) and the City's Clean Water Program.