RESOLUTION NO. 16-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF MAJOR VESTING TENTATIVE MAP NO. MT14-0006, CONDITIONAL USE PERMIT NO. UP15-0003, AND SITE DEVELOPMENT PERMIT NO. SD14-0025 FOR THE CONSTRUCTION OF A 12-STORY TOWER CONTAINING 210 APARTMENTS AND 2,937 SQUARE FEET OF COMMERCIAL SPACE, AND 98 TOWNHOME UNITS AND ASSOCIATED SITE IMPROVEMENTS ON 5.72 ACRES LOCATED AT 1256 PIPER DRIVE (PIPER DRIVE RESIDENTIAL)

WHEREAS, on January 12, 2015, an application was submitted by Erika Salum, KB Home, to construct a 12-story tower containing 210 apartments and 2,937 square feet of commercial space, and 98 townhome units and associated site improvements on 5.72 acres located at 1256 Piper Drive (the "Project"). The property is located within the Multi-Family Residential Very-High Density/Transit Oriented Development (R4/TOD) Zoning District (APN: 086-32-042, -043); and

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

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

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is covered under the program of activities identified in the Transit Area Specific Plan EIR, SCH#2006032091, certified by the City Council on June 3, 2008 based on the CEQA finding included in this Resolution; and

WHEREAS, on March 9, 2016, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

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

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

CEQA Finding

The proposed Project is covered under the scope of activities approved under the Transit Area Specific Plan (EIR), SCH#2006032091, which was certified by the Milpitas City Council on June 3, 2008. The EIR included a program of activities including construction of up to 7,109 residential units within the Transit Area Specific Plan (TASP) area. The proposed 308 residential units fall within this scope of development activity since the TASP area has not reached its full build out. The TASP area has been approved with approximately one-quarter of the amount of development studied in the EIR development threshold. Further, the Project applicant has submitted an air quality assessment, greenhouse gas emissions analysis, a Phase I and II Environmental Site Assessment, a noise and vibration assessment and a traffic operations analysis to further show consistency with the TASP. Copies of these documents are on file with the Planning Division and are fully incorporated herein by reference. These aforementioned studies do not indicate any Project impacts other than those already analyzed in the EIR. Project design features required of projects covered under the EIR are included as Conditions of Approval. Given that (1) this project proposes no substantial changes from the project studied in the 2008 TASP EIR that will require major revisions to the TASP EIR due to new significant environmental effects or a substantial increase in the severity of previously identified effects, (2) there have been no substantial changes in circumstances under which the project is to be undertaken that will require revisions to the TASP EIR due to a new significant environmental effect or a substantial increase in the severity of previously identified effects, and (3) there is no specified new information of substantial importance to the project that has become available, the Planning Commission recommends the City Council find that the proposed Project will not have additional environmental impacts beyond those identified in the EIR, no additional environmental review is required, and no new or additional mitigation measures are required.

Section 3: Major Vesting Tentative Map (Section XI-1-20.01) - *The Planning Commission makes the following findings based on the evidence in the administrative record in support of Major Vesting Tentative Map No. MT14-0006:*

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

The project site has a General Plan land use designation of Multi-Family Residential Very-High Density. The intent of this designation is to provide high-density housing within the Piper/Montague Subdistrict at a density range of 21-40 units per acre, with a maximum density of 60 units per acre in areas designed for Transit-Oriented Development.

The Project is consistent with this finding because the proposed Project consists of a residential project within the district with 54 dwelling units per acre. Furthermore, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

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

The proposed Project is consistent with this policy because it includes an attractive 12-story apartment tower and three-story townhome buildings with a total of 308 residential units in proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encourages pedestrian and bicycle movement throughout the Piper/Montague Subdistrict with connections to the BART and Light Rail transportation hubs. The project is also designed to provide an active interface with public spaces by facing townhome units toward the public park.

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

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

Section 4: Site Development Permit (Section XI-10-57-03(F)(1)) - ***The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD14-0025:***

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

The Project is consistent with this finding because the site is designed as a 12-story tower and 13 separate three-story buildings, consistent with other projects within the Subdistrict. The design of the buildings, including the mass, scale and height of the structures, is typical of transit-oriented development and includes additional landscaping along the streets. The buildings provide variety along with other approved and pending projects in the areas, which all contribute to a vibrant urban transit district consistent with the vision of the Transit Area Specific Plan.

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

The Project site is zoned R-4 (Multiple-Family Very-High-Density) with a Transit-Oriented Development (TOD) Overlay. The proposed residential and commercial uses are permitted in the zoning district. The Project conforms to the zoning district and meets the intent for this type of project envisioned in this area by the zoning ordinance.

The Project also conforms to the TOD Overlay by providing density of 54 units per acre, which is within the 40-60 units/acre range envisioned by the TOD Overlay when combined with the R-4 Zoning District. The height of the buildings is also within the standards of the TOD Overlay, where a height up to 75 feet is allowed, with a maximum of up to 12 stories along the Piper Drive frontage.

The project conforms to the development standards required in the R-4 and TOD Overlay Districts. The table below demonstrates how the Project is consistent with these development standards.

Table 1:
Summary of Development Standards

R-4-TOD	Standard	Proposed	Complies?
Setbacks (Minimum) Piper Drive Garden Street	 21' 10'	 21' 10'	 Yes Yes
Density (Units/Acre)	41-60 du/ac	54 du/ac	Yes
Building Height (Maximum)	12 stories (w/ Piper Drive frontage) / 75 feet elsewhere	12 stories along Piper Drive / 35'9" elsewhere (townhomes)	Yes

Automobile Parking
The Project requires a total of 450 parking spaces based on the table below:

Table 2:

Summary of Parking Standards

	Number of Units	Minimum Parking Required (including Retail)	Spaces Provided
Tower	210	262	264
Townhomes	98	188	232
	Total required		***450***
	Total provided		***496***

Bicycle Parking
For residential uses within the Transit Area Specific Plan area, bicycle parking is required to be provided at a rate of one space for every four housing units – exempting units that have a private garage. Since the townhomes include private garages, no separate bicycle parking is required; the tower apartments require 53 spaces.

For guests, the TASP requires short-term bicycle parking spaces equivalent to 5% of the automobile spaces required. The project would thus be required to accommodate 13 short-term bicycle spaces for the tower, and nine spaces for the townhomes. The tower provides for 66 resident bicycle parking spaces; the townhomes will provide XX. A condition of approval requires the short-term (guest) spaces to be located and provided for during building permit plan review.

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

The project site has a General Plan land use designation of Multi-Family Very-High-Density. The intent of this designation is to provide high-density housing within the Piper/Montague Subdistrict at a minimum density range of 21 units per acre, and a maximum density of 60 units per acre. The Project is consistent with the Milpitas General Plan because the proposed Project meets the intent of the designation by providing a residential project within the district with 54 dwelling units per acre. Furthermore, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

- ***2.a 1-31*** *Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that*

residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.

The proposed Project is consistent with this policy because it includes an attractive contemporary 12-story tower building with 210 residential units, and 98 similarly-designed townhome units, in proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encouraging pedestrian and bicycle movement throughout the Piper/Montague Subdistrict with connections to the BART and Light Rail transportation hubs. The project is also designed to provide an active interface with public spaces by facing townhome units toward the project perimeter.

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

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

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

The project is consistent with this finding in that the project, as proposed and conditioned, conforms to the street layout, street section, density and land use envisioned by the Piper-Montague subdistrict of the Plan.

Section 5: With respect to the Conditional Use Permit (UP15-0003), 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 in that the applicable standards for development of tandem parking spaces will be followed, and the use of tandem parking allows the development of this project type in accordance with General Plan and Specific Plan density ranges.

Section 6: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 16-008 recommending to the City Council approval of Major Vesting Tentative Map No. MT14-0006, Site Development Permit No. SD14-0025 and Conditional Use Permit No. UP15-0003, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on March 9, 2016.

Sudhir Mandal
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 March 9, 2016, and carried by the following roll call vote:

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

EXHIBIT 1

CONDITIONS OF APPROVAL
Major Vesting Tentative Tract Map No. MT14-0006, Site Development Permit No. SD14-0025, Conditional Use Permit No. UP15-0003
Piper Drive Residential, 1256 Piper Drive (APN: 86-32-042, -043)

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. Major Vesting Tentative Map No. MT14-0006, Site Development Permit No. SD14-0025 and Conditional Use Permit No. UP15-0003 (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.

2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the City Council approved this Permit.

3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:

   a. Acceptance of this Permit by Permittee; and
   b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.

4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the Project:

   a. Completes a foundation associated with the Project; or
   b. Dedicates any land or easement as required from the zoning action; or
   c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time

extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**

6. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's project job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the Project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit.

7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).

8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition.

9. Conditions. Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Permittee is operating the Project under the permits and approvals in this Resolution.

10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state and federal laws, rules, regulations, guidelines, requirements and policies. **(CA/P)**

11. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including, but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Permittee, City and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the

RESOLUTION NO. 16-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF MAJOR VESTING TENTATIVE MAP NO. MT14-0006, CONDITIONAL USE PERMIT NO. UP15-0003, AND SITE DEVELOPMENT PERMIT NO. SD14-0025 FOR THE CONSTRUCTION OF A 12-STORY TOWER CONTAINING 210 APARTMENTS AND 2,937 SQUARE FEET OF COMMERCIAL SPACE, AND 98 TOWNHOME UNITS AND ASSOCIATED SITE IMPROVEMENTS ON 5.72 ACRES LOCATED AT 1256 PIPER DRIVE (PIPER DRIVE RESIDENTIAL)

WHEREAS, on January 12, 2015, an application was submitted by Erika Salum, KB Home, to construct a 12-story tower containing 210 apartments and 2,937 square feet of commercial space, and 98 townhome units and associated site improvements on 5.72 acres located at 1256 Piper Drive (the "Project"). The property is located within the Multi-Family Residential Very-High Density/Transit Oriented Development (R4/TOD) Zoning District (APN: 086-32-042, -043); and

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

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

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is covered under the program of activities identified in the Transit Area Specific Plan EIR, SCH#2006032091, certified by the City Council on June 3, 2008 based on the CEQA finding included in this Resolution; and

WHEREAS, on March 9, 2016, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

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

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

CEQA Finding

The proposed Project is covered under the scope of activities approved under the Transit Area Specific Plan (EIR), SCH#2006032091, which was certified by the Milpitas City Council on June 3, 2008. The EIR included a program of activities including construction of up to 7,109 residential units within the Transit Area Specific Plan (TASP) area. The proposed 308 residential units fall within this scope of development activity since the TASP area has not reached its full build out. The TASP area has been approved with approximately one-quarter of the amount of development studied in the EIR development threshold. Further, the Project applicant has submitted an air quality assessment, greenhouse gas emissions analysis, a Phase I and II Environmental Site Assessment, a noise and vibration assessment and a traffic operations analysis to further show consistency with the TASP. Copies of these documents are on file with the Planning Division and are fully incorporated herein by reference. These aforementioned studies do not indicate any Project impacts other than those already analyzed in the EIR. Project design features required of projects covered under the EIR are included as Conditions of Approval. Given that (1) this project proposes no substantial changes from the project studied in the 2008 TASP EIR that will require major revisions to the TASP EIR due to new significant environmental effects or a substantial increase in the severity of previously identified effects, (2) there have been no substantial changes in circumstances under which the project is to be undertaken that will require revisions to the TASP EIR due to a new significant environmental effect or a substantial increase in the severity of previously identified effects, and (3) there is no specified new information of substantial importance to the project that has become available, the Planning Commission recommends the City Council find that the proposed Project will not have additional environmental impacts beyond those identified in the EIR, no additional environmental review is required, and no new or additional mitigation measures are required.

Section 3: Major Vesting Tentative Map (Section XI-1-20.01) - *The Planning Commission makes the following findings based on the evidence in the administrative record in support of Major Vesting Tentative Map No. MT14-0006:*

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

The project site has a General Plan land use designation of Multi-Family Residential Very-High Density. The intent of this designation is to provide high-density housing within the Piper/Montague Subdistrict at a density range of 21-40 units per acre, with a maximum density of 60 units per acre in areas designed for Transit-Oriented Development.

The Project is consistent with this finding because the proposed Project consists of a residential project within the district with 54 dwelling units per acre. Furthermore, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

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

The proposed Project is consistent with this policy because it includes an attractive 12-story apartment tower and three-story townhome buildings with a total of 308 residential units in proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encourages pedestrian and bicycle movement throughout the Piper/Montague Subdistrict with connections to the BART and Light Rail transportation hubs. The project is also designed to provide an active interface with public spaces by facing townhome units toward the public park.

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

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

<u>Section 4:</u> Site Development Permit (Section XI-10-57-03(F)(1)) - ***The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD14-0025:***

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

The Project is consistent with this finding because the site is designed as a 12-story tower and 13 separate three-story buildings, consistent with other projects within the Subdistrict. The design of the buildings, including the mass, scale and height of the structures, is typical of transit-oriented development and includes additional landscaping along the streets. The buildings provide variety along with other approved and pending projects in the areas, which all contribute to a vibrant urban transit district consistent with the vision of the Transit Area Specific Plan.

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

The Project site is zoned R-4 (Multiple-Family Very-High-Density) with a Transit-Oriented Development (TOD) Overlay. The proposed residential and commercial uses are permitted in the zoning district. The Project conforms to the zoning district and meets the intent for this type of project envisioned in this area by the zoning ordinance.

The Project also conforms to the TOD Overlay by providing density of 54 units per acre, which is within the 40-60 units/acre range envisioned by the TOD Overlay when combined with the R-4 Zoning District. The height of the buildings is also within the standards of the TOD Overlay, where a height up to 75 feet is allowed, with a maximum of up to 12 stories along the Piper Drive frontage.

The project conforms to the development standards required in the R-4 and TOD Overlay Districts. The table below demonstrates how the Project is consistent with these development standards.

Table 1:
Summary of Development Standards

R-4-TOD	Standard	Proposed	Complies?
Setbacks (Minimum) Piper Drive Garden Street	 21' 10'	 21' 10'	 Yes Yes
Density (Units/Acre)	41-60 du/ac	54 du/ac	Yes
Building Height (Maximum)	12 stories (w/ Piper Drive frontage) / 75 feet elsewhere	12 stories along Piper Drive / 35'9" elsewhere (townhomes)	Yes

Automobile Parking
The Project requires a total of 450 parking spaces based on the table below:

Table 2:

Summary of Parking Standards

	Number of Units	Minimum Parking Required (including Retail)	Spaces Provided
Tower	210	262	264
Townhomes	98	188	232
	Total required		***450***
	Total provided		***496***

Bicycle Parking
For residential uses within the Transit Area Specific Plan area, bicycle parking is required to be provided at a rate of one space for every four housing units – exempting units that have a private garage. Since the townhomes include private garages, no separate bicycle parking is required; the tower apartments require 53 spaces.

For guests, the TASP requires short-term bicycle parking spaces equivalent to 5% of the automobile spaces required. The project would thus be required to accommodate 13 short-term bicycle spaces for the tower, and nine spaces for the townhomes. The tower provides for 66 resident bicycle parking spaces; the townhomes will provide XX. A condition of approval requires the short-term (guest) spaces to be located and provided for during building permit plan review.

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

The project site has a General Plan land use designation of Multi-Family Very-High-Density. The intent of this designation is to provide high-density housing within the Piper/Montague Subdistrict at a minimum density range of 21 units per acre, and a maximum density of 60 units per acre. The Project is consistent with the Milpitas General Plan because the proposed Project meets the intent of the designation by providing a residential project within the district with 54 dwelling units per acre. Furthermore, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

- ***2.a 1-31*** *Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that*

residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.

The proposed Project is consistent with this policy because it includes an attractive contemporary 12-story tower building with 210 residential units, and 98 similarly-designed townhome units, in proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encouraging pedestrian and bicycle movement throughout the Piper/Montague Subdistrict with connections to the BART and Light Rail transportation hubs. The project is also designed to provide an active interface with public spaces by facing townhome units toward the project perimeter.

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

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

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

The project is consistent with this finding in that the project, as proposed and conditioned, conforms to the street layout, street section, density and land use envisioned by the Piper-Montague subdistrict of the Plan.

Section 5: With respect to the Conditional Use Permit (UP15-0003), 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 in that the applicable standards for development of tandem parking spaces will be followed, and the use of tandem parking allows the development of this project type in accordance with General Plan and Specific Plan density ranges.

Section 6: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 16-008 recommending to the City Council approval of Major Vesting Tentative Map No. MT14-0006, Site Development Permit No. SD14-0025 and Conditional Use Permit No. UP15-0003, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on March 9, 2016.

Sudhir Mandal
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 March 9, 2016, and carried by the following roll call vote:

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

EXHIBIT 1

CONDITIONS OF APPROVAL
Major Vesting Tentative Tract Map No. MT14-0006, Site Development Permit No. SD14-0025, Conditional Use Permit No. UP15-0003
Piper Drive Residential, 1256 Piper Drive (APN: 86-32-042, -043)

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. Major Vesting Tentative Map No. MT14-0006, Site Development Permit No. SD14-0025 and Conditional Use Permit No. UP15-0003 (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.

2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the City Council approved this Permit.

3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:

   a. Acceptance of this Permit by Permittee; and
   b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.

4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the Project:

   a. Completes a foundation associated with the Project; or
   b. Dedicates any land or easement as required from the zoning action; or
   c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time

extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**

6. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's project job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the Project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit.

7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).

8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition.

9. Conditions. Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Permittee is operating the Project under the permits and approvals in this Resolution.

10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state and federal laws, rules, regulations, guidelines, requirements and policies. **(CA/P)**

11. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including, but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Permittee, City and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the

indemnification requirements prescribed in this condition. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT14-0006, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.

12. Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies.

13. Revocation, Suspension, Modification. This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas 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. Compliance with Fire Department and California Fire Code. The project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and approval by the Fire Department. **(F)**

16. Permittee shall develop the approved Project in conformance with the approved plans approved by the City Council on (_____), in accordance with these Conditions of Approval.

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

Site Development Permit Conditions

17. Landscape. All approved landscaping shall be permanently maintained and replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance. **(P)**

18. Landscape. No gasoline fueled leaf blowers, string trimmers or hedge trimmers are permitted to be used for maintenance of landscaping. Gasoline lawn mowers are discouraged for use for maintenance of any natural turf areas. **(P)**

19. Landscape. Prior to issuance of any building permit, Permittee shall demonstrate complete consistency with the Transit Area Specific Plan with respect to landscaping features and streetscape furniture elements, including lighting, benches, trash receptacles and bike racks. **(P)**

20. Landscape. Prior to issuance of any building permit, a detailed landscape plan shall be submitted and approved by the Planning Director or designee that includes the following:

    a. Locations and screening of all transformers, fire service connections and utility devices including backflow preventers.

    b. Location and type of trees, shrubs and ground cover, including sizes and quantities. The legend shall also show tree canopy diameter at planting, at five years and at 10 years.

    c. Plan details for all fence and wall structures. These shall be compatible in style and material with the proposed buildings.

    d. Details of all exterior Project lighting with details of fixture types and design. A photometric plan shall also be included. Illumination of the site shall not exceed IESNA standards for the type of use proposed. **(P)**

21. Bicycle Racks. A minimum of nine (9) short-term bicycle parking spaces consistent with the TASP Streetscape Elements shall be installed within the townhomes portion of the Project. **(P)**

22. Ground Equipment and Device Screening. Prior to issuance of any building permit, Permittee shall demonstrate that all backflow preventers, meter boxes, pedestals, and similar equipment and improvements are screened appropriately to the satisfaction of the Planning Division. Backflow preventers are to be painted black. **(P)**

23. Garages. Prior to issuance of any building permit, Permittee shall demonstrate that the required minimum interior dimensions have been achieved; such minimum area shall be used for the parking of automobiles only. The required bicycle parking area, HVAC and water-heating equipment, solid waste containers, and accessory storage shall be accommodated outside of the required minimum garage area. **(P)**

24. Trees. In conformance with the Milpitas Municipal Code, all trees removed from the site that measure 37 inches or greater in circumference (12 inches in diameter) at 48 inches above the ground surface will be replaced at a 3:1 ratio within the Project site. The species and size of the replacement trees shall be determined by City staff. **(P)**

25. Street Lights. Street lighting shall be provided along all street frontages consistent with current Transit Area Specific Plan standards subject to the review and approval of the Planning Division. Pedestrian scale lights shall be installed along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans.

26. Park In-Lieu Fee: Prior to building permit issuance, the applicant shall pay a park-in-lieu fee in accordance with the applicable sections of the Milpitas Municipal Code and State Subdivision Map Act. This fee will be calculated, and confirmed at the time of Final Map approval.

REQUIRED PROJECT DESIGN FEATURES

Biological Resources (TASP Policy 5.26)

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

Noise (TASP Policy 5.10)

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

29. Noise. Prior to issuance of any building permit, Permittee shall demonstrate that all residential units will require mechanical ventilation to allow the windows to remain closed at the residents' option as the interior noise standards would not be met with open windows. If interior noise levels are met by requiring that windows remain unable to open or closed, the design for the structure must also specify a ventilation system to provide a habitable interior environment. The ventilation system must not compromise the dwelling unit noise reduction.

Air Quality (TASP Policy 5.16)

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

    i. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.

    ii. All haul trucks transporting soil, sand or other loose material off the site shall be covered.

    iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more often if determined necessary by City Engineer or designee. The use of dry power sweeping is prohibited.

iv. All vehicle speeds on unpaved roads shall be limited to 15 MPH.

v. All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

viii. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **(P)**

31. ROG Emissions. Prior to issuance of any building permit, Permittee shall develop, submit and obtain approval from the City of a plan to reduce ROG emissions by 17 percent or greater during the architectural coating phase of the construction. Acceptable measures to achieve this goal include, but are not limited to, using paint that contains 125 grams per liter of VOC or less, the use of pre-fabricated building materials, or a combination of both. The plan shall be implemented as approved by the City. **(P)**

Cultural Resources (TASP Policies 5.34 and 5.35)

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

33. All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Division shall be notified immediately, a qualified paleontologist shall

evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted. **(P)**

Major Vesting Tentative Tract Map Conditions

34. Transit Area Specific Plan (TASP) Fees. Prior to any building permit issuance, Permittee shall pay the applicable Transit Area Specific Plan Development Impact fee as determined by the City Council at the time of project approval.

35. Building Permit Automation Fee. Prior to any building permit issuance, Permittee shall a 2.5% building permit automation fee as approved by City Council Resolution. No. 7590.

36. Water Supply and Force Majeure. The City currently has adequate water supply and sewerage treatment plan capacity allocation for this land development project. The City reserves the right to suspend the issuance of building permits to implement this land use development, 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. Although a vesting tentative map has been approved within the Site Development Permit which provides vested rights as defined in Government Code Section 66498.1, no vested right to the issuance of a building permit is acquired by the approval of this land development in the event of the City's inability to deliver water and sewer treatment is affected by force majeure pursuant to the criteria set forth above. This condition of approval applies in case of an emergency declaration of water supply assurance in the case of a major catastrophic event that restricts City's assurance to provide water supply, or allocated treatment plant capacity. Pursuant to Government Code Section 66452.6, in the event the issuance of building permits is suspended due to lack of water supplies, the period of time set forth as the term for the vesting tentative map in Government Code Section 66452.6(a)(1) shall be tolled for up to five years until said suspension is terminated.

37. Mailboxes. Permittee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may be required as a result of the Building, Engineering and Planning Divisions review. (P)

Conditional Use Permit Conditions

38. Tandem Parking Spaces. Permittee shall insure that all future residents are aware that space in garages must be maintained to as to allow the parking of two (2) vehicles at all times. This may be accomplished by including this provision within the covenants, conditions and restrictions (CC&R's).

SPECIAL CONDITIONS OF APPROVAL: DEPARTMENT OF ENGINEERING

The project entitlement submittal plans dated 10/23/2015 and 1/4/16 may be subject to revision and/or redesign in order to comply with applicable statutory requirements and engineering design standards.

39. 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. The Water Supply Assessment was approved by City Council on November 18, 2008, Resolution 7799.

40. Prior to issuance of the first building permit (B-BPYR-XXXX), the Permittee 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, the Permittee shall mitigate the overflow or shortage by construction of a parallel line, upsize the existing line or pay a mitigation charge, if acceptable to the City Engineer.

41. Hydraulic modeling is required to determine the points of connection to the sanitary sewer system. Permittee shall authorize City to proceed with hydraulic modeling at Permittee's sole expense as reimbursed to City through Permittee's PJ account.

42. Hydraulic modeling is required to determine the points of connection to the domestic water system. Permittee shall authorize City to proceed with hydraulic modeling at Permittee's sole expense as reimbursed to City through Permittee's PJ account.

43. Permittee is advised that per these Conditions of Approval, references to State regulations and City Ordinances and other documents and requirements shall mean the rules in effect at the time of Encroachment or Building Permit issuance.

44. Prior to final map approval by City Council, the Permittee shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the Permittee shall satisfy the conclusions and recommendations of the approved drainage study.

45. Prior to final map approval by City Council, the Permittee 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 Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents.

46. Prior to issuance of the first building permit (B-BPYR-XXXX), the final map shall be recorded with the County Recorder of Santa Clara County. The final map submittal shall meet the following requirements:
    a) Provide a current title report with the final map submittal, not more than 90 days old.
    b) The final maps shall designate all common lots and easements as lettered lots or lettered easements.
    c) Provide complete closure calculations of all blocks, lots, easements and rights-of-way.
    d) Provide all back-up documentation including deeds to establish property boundaries.

47. Prior to final map approval by City Council, the Permittee shall establish the 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 streetlights, common area and private streets and shall have assessment power. The HOA shall own and manage the onsite water, recycled water, sanitary sewer system, storm drain system, storm water control system, and implement the Solid Waste handling plan. This information shall be clearly included in the CC&R's and recorded documents. The CC&R's shall be submitted for review and approval by the City Engineer.

48. Drainage facilities out-letting sump conditions shall be designed to convey the flows and protect all buildings.

49. Prior to final map approval by City Council, the Permittee shall submit to the City a digital format of the final map (AutoCAD format). All final maps and improvement plans shall be tied to the California Coordinate of 1983, zone 3 and the vertical datum shall be NGVD 1988.

50. Prior to final map approval by City Council, the Permittee shall dedicate on the final map all necessary public service utility easements, street easements and easements for domestic water, recycled water, storm sewer, sanitary sewer and dry utilities. Any existing easements in conflict with the project shall be abandoned or quitclaimed as part of the final map approval or as a separate instrument recorded concurrently with the final map, unless otherwise approved by the City Engineer. Permittee is responsible to ensure that the adjacent property to the east has appropriate sanitary sewer discharge connection prior to abandoning the existing sanitary sewer easement.

51. Prior to final map approval, the Permittee shall obtain design approval and bond for all necessary public improvements along Garden Street and Piper Drive, including but not limited to, all mitigation measures, all requirements of the four-party Cost Sharing and Reimbursement Agreement for the sub-district (Recorded Document 20427520), curb,

gutter, new sidewalk installation, street resurfacing as required under the four-party agreement, signage and striping, street lights, fire hydrants, bus stop, traffic signal installation at Garden Street and South Milpitas Blvd. as a portion of the four-party agreement. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and Permittee shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The 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 (privately owned and maintained), sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Milpitas standard details and specifications and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to building occupancy permit issuance of the first production unit. Street parking shall not be allowed along Piper Drive or Garden Street frontages.

52. The Permittee shall submit the following items with building permit application and pay the following fees at the time of building permit issuance. The exact fee amount will be calculated at the time of building permit submittal.
    53. Storm water connection fee
    54. Water Service Agreement(s) for water meter(s) and detector check(s).
    55. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
    56. Water connection fee
    57. Sewer connection fee
    58. Treatment plant fee
    59. Transit Area Specific Plan (TASP) fees for residential dwelling units.
    60. Transit Area Specific Plan (TASP) fees for retail space.
    61. Repayment to City TASP under the four-party agreement.

    Contact the Land Development Section of the Engineering Department at (408) 586-3327 to obtain the form(s).

53. Prior to issuance of the first building permit (BPXX-YYYY), Permittee shall pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), treatment plant fee, plan check and inspection deposit, and 2.5% building permit automation fee. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount equal to 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.

54. The Permittee 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.

55. Utilities near Buildings. Building foundations, and underground roofs, adjacent to public utilities shall be designed to be self-supporting such that the building weight is not required to be supported during shoring and excavation of adjacent utilities. If any project building is located next to a City easement, the City is not responsible for any foundation damage that would occur due to excavating in the event of servicing or repairs in that easement.

56. Prior to any work within public right of way or City easement, the Permittee shall obtain an encroachment permit from City of Milpitas Engineering Department.

57. Prior to issuance of first building occupancy permit, installation of a traffic signal at South Milpitas Boulevard and Garden Street shall be completed and fully operational with required railroad preemption connection to adjacent railroad tracks.

58. All offsite street improvements shall conform to TASP standards.

59. ADA pedestrian access on Piper Drive and Garden Street shall be completed prior to issuance of first building occupancy permit.

60. Piper Drive frontage improvement shall include construction of TASP compliant sidewalk that connects to the sidewalk immediately north of the UPRR track.

61. The Permittee shall underground existing above ground PG&E and communication lines on Piper Drive project frontage. The southerly underground limit shall be the first PG&E wooden pole located south of the UPRR track. The underground utility lines shall be installed in existing empty conduits constructed by the VTA BART project under the UPRR track.

62. If necessary, the Permittee shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755.

63. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the Permittee shall be accomplished to the satisfaction of the City to assure proper water supply (potable or fire services). The Permittee shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3350 for further information.

64. Prior to any first Engineering and/or Building plan check submittal, Permittee shall obtain approval from the City a Solid Waste Handling Plan that meets City design guidelines (such as access point to the tower building, turning radius and horizontal drive aisle clearance along private streets, etc.). All detailed Solid Waste and Recycling Facility designs shall be approved by the City prior to issuance of the first building permit (BPXX-YYYY). Permittee shall provide evidence to the City that a sufficient level of trash and recycling service has been secured for buildings 1-13. The proposed access for solid-waste collection is not feasible and does not meet City requirements such as the collection truck not block any street or driveway access while in the process of collecting or delivering a compactor to the building.

65. Per MMC Chapter 200, Title V, Solid Waste Management, V-200-3.10, *General Requirement,* Permittee shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating, and delivery of solid waste. In addition, according to V-200-3.20, *Owner Responsible for Solid Waste, Recyclables, and Yard Trimmings Collection Services*, Permittee shall subscribe to and pay for solid waste services rendered. Prior to any building permit issuance, Permittee shall obtain City Engineer's approval of the Solid Waste Handling Plan (Report) that incorporates the following requirements for the proposed tower building, including potential revisions to project plans:
    a. This portion of the development is limited to the use of self-contained roll off compactors for trash and recycling services. All roll off compactors equipment shall be enclosed and accessed on grade by City franchise hauler, in accordance with City's solid waste guidelines.
    b. Commercial and residential trash is allowed to share a roll off compactor service. Provide one 30-yard self-contained compactor to be serviced twice a week for trash.
    c. Commercial and residential recycling is allowed to share a roll off compactor service. Provide one 30-yard self-contained compactor to be serviced once a week for recycling.
    d. The proposed solid waste enclosure shall be designed per the Development Guidelines for Solid Waste Services to house self-contained compactor equipment and tallow bin service. The project plans must demonstrate that the location of the enclosure will not interfere with any public or private services including, but not limited to, utilities, and vehicular and pedestrian access. In accordance with State law, the enclosure shall be adequately sized to allow storage and direct access to all trash, recycling, tallow, and any other solid waste containers needed for this development. The location shall also provide the waste hauler adequate access to the containers and shall take into consideration the needed space and layout for collection vehicles to enter the enclosure, turn around, and operate collection lift machinery. The enclosure drains must discharge to the sanitary sewer line. Storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains. Enclosures are not permitted within public utility easements.
    e. Provide two sets of chutes (recycling and trash) to the residential area at opposite end of the residential floors. Provide sufficient space for the necessary conveyance equipment to move residential trash and recycling from the chutes to the compactors. Provide access to remove blockages throughout all building levels.
    f. Provide sufficient space for the necessary conveyance equipment to collect non-residential trash and recycling from the point of generation to the compactors.
    g. The Property Management shall be responsible for solid waste management, including transfer of material to the compactors. Prior to final map approval, Permittee 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. Permittee shall demonstrate: (1) how the residential waste will be conveyed to the collection areas in the garage level and how the waste will be transported to the compactor area for disposal, (2) the path of travel for refuse from commercial spaces, (3) how recycling shall have a separately maintained process from garbage handling, (4) how the food establishments will handle tallow (food grease); access design for

food establishments shall show adequate accommodation for tallow handling and collection. Permittee must include housekeeping requirements, such as managing trash chute blockages and odors, and cleaning up spilled waste and tallow anywhere on the property.

h. Prior to issuance of a certificate of occupancy, 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. After the Permittee has started its business, the Permittee shall contact Republic Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the Permittee shall increase the service to the level determined by the evaluation. For general information, contact Republic Services at (408) 432-1234. In addition, the Property Management shall provide evidence that a tallow account will be maintained and the tallow bins will be kept clean.

66. Permittee shall submit a Storm Water Control Plan in accordance with the following timeline:
    a. Prior to final map approval, the Permittee shall submit a "final" Stormwater Control Plan and Report, if applicable. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan. The Plan and Report shall be prepared by a licensed Civil Engineer and certified that measures specified in the report meet the C.3 requirements of the Regional Water Quality Control Board (RWQCB) Order, and shall be implemented as part of the site improvements.
    b. Prior to issuance of the first building permit (BPXX-YYYY), the Permittee shall submit an Operation and Maintenance (O&M) Plan for the long-term operation and maintenance of C-3 treatment facilities, if applicable.
    c. Prior to issuance of the certificate of occupancy for the first unit sold and closed, the Permittee shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
    d. Prior to issuance of the certificate of occupancy for the first unit sold and closed, the Permittee shall provide to the City evidence of a separate cost sharing agreement for the ongoing maintenance and repair of Storm Water Facilities as stipulated in Section 7.6 of the four-party Cost Sharing and Reimbursement Agreement, to City's satisfaction.

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

68. Prior to issuance of a certificate of occupancy, Permittee shall submit an Operation and Maintenance Plan describing the operation and maintenance procedures needed to insure that treatment 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 Permittee's signed statement accepting responsibility for maintenance until such responsibility is legally transferred.

69. Permittee shall include in the approved CC&Rs the requirement to provide the City with an annual inspection report of the Storm Water Control Plan post-construction compliance with NPDES requirements.

70. Permittee shall comply with all "Model Conditions of Approval for Storm Water Quality" as shown in the Storm Water section of the Engineering Plans and Maps Procedures and Guidelines, dated July 15, 2010, which are hereby incorporated as conditions of project approval.

71. 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 MMC, and the City's Clean Water Program.

72. 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) 586-3325. (E)

73. <u>Construction Storm Water Quality</u>. Permittee shall comply with the requirements of the NPDES permit as administered by the California State Water Resources Control Board (State Board) and the San Francisco Bay RWQCB. 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, adopted 10/14/2009, and amended by Order No. R2-2011-0083 on 11/28/2011 (the

"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 subcontractors install and regularly maintain all construction BMPs as required by the approved erosion control plan, the Milpitas Municipal Code (MMC), and the City's Clean Water Program. (E)

74. The Permittee shall comply with the MRP, for post construction C.3 provisions for new development and redevelopment regulated projects storm water treatment requirements, and 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 Permittee submits the NOI for the project for pre-construction storm water treatment requirements.

75. Landscaping Ordinance 238: In accordance with the provisions of Chapter 5, Title VIII (Ordinance 238) of the MMC for new construction projects with an aggregate landscaping areas equaling 500 square feet or greater, the Permittee shall:
    a. Provide separate water meters for domestic water service & irrigation service.
    b. Landscape shall comply with Ordinance 238 requirements in effect at the time of building permit issuance.
    c. Submit two sets of landscape and irrigation improvement plans to the Building Division with the building permit plan check package.
    d. Prior to any building permit issuance, approval from the Land Development Section of the Engineering Department is required prior to any building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

    Contact the Land Development Section of the Engineering Department at (408) 586-3329 for information on the submittal requirements and approval process. (E).

76. Recycled Water for Irrigation: In accordance with MMC Chapter 6, Title VIII (Ord. No. 240), the landscape irrigation system shall be designed to comply with the City's recycled water guidelines, and connect to recycled water system. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for design standards to be employed. To meet the recycle water guideline the Permittee shall:
    a. The Permittee shall hire an AWWA cross-connection specialist (subject to approved by City and paid by Permittee) during the entitlement process of the project to assist with the plans for and construction of the recycled water system. The specialist shall also complete the required construction inspection checklist, cross connection test result and any special inspection checklist and forward to the City. http://www.sanjoseca.gov/index.aspx?NID=1595
    b. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape adjacent to existing or future recycled water distribution lines (except for rehabilitated landscape less than 500 square feet along the future alignment). All landscape plants that are required to use recycled water shall be compatible with recycled water.
    c. 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 Permittee shall obtain approval from the State Water Resources control Board, Division of Drinking Water, SWRCB DDW. This approval requires additional processing time. The Permittee shall be responsible for all costs of design and installation of site improvements, connection to the recycled water main, and processing City and Department of Drinking Water approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.

d. The cross-connection specialist shall be responsible to design the recycled water-phasing plan. It shall include phases showing the active construction areas, temporary staging areas and occupied building(s). Demarcation lines between areas served by potable water and recycled water must be approved in advance and complied with. All potable domestic and irrigation water services serving a site with recycled water must have at least a reduced pressure backflow preventer on each services-- it must be tested, passed and certification must be provided on annual basis.
e. Prior to recycled water meter installation, the Permittee and/or HOA shall designate a Recycled Water Site Supervisor that has been trained by SBWR. For more information on Site Supervisor Trainings, go to https://www.sanjoseca.gov/index.aspx?nid=1594
f. 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.
g. Because of drought, plantings shall be deferred until the recycled water meter is installed and the irrigation system is charged. No potable irrigation is allowed in the interim.

77. Permittee shall obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, CALTRAN, Santa Clara Valley Transportation Agency, and City of Milpitas Engineering Department. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division.

78. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the Permittee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2601 to obtain the requirements and forms.

79. The Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities.

80. Prior to start of any construction, the 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, construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. The Permittee shall coordinate their construction activities with other construction activities in the vicinity of this project. The 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.

81. Permittee shall be responsible to remove the portions of the project currently shown in flood zone AE on the Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program from the current flood zone designation to allow the entire buildable site to be in Flood Zone "X".

82. The Permittee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.

83. The Permittee shall obtain information from the Milpitas Unified School District (MUSD) regarding providing services.

84. All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used.

85. Prior to demolition permit issuance, the Permittee, or Contracted Designee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these resource recovery activities:
    a. What materials will be salvaged.
    b. How materials will be processed during demolition.
    c. Intended locations or businesses for reuse or recycling.
    d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.
    e. Permittee/Contractor shall make every effort to salvage materials for reuse and recycling, and shall comply with all applicable City ordinances pertaining to construction and demolition debris.

86. Prior to issuance of the first building permit (BPXX-YYYY), Permittee 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.

87. 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 Permittee/Contractor, all to the satisfaction of the City Engineer or designee. The Permittee/Contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The Permittee/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 Permittee/Contractor shall perform all recycling and/or disposal by removal from the job site.

88. Permittee shall design, submit for review, and construct public water and sewer lines in accordance with state and local requirements.

89. Prior to issuance of a Grading Permit Permittee shall submit a design-level geotechnical investigation prepared by a qualified geologist and approved by a third party reviewer selected by the City Engineer. All recommendations in the approved geotechnical investigation shall be incorporated into the project design. The geotechnical investigation shall address, at a minimum, the following issues:
    a. compressible soils,
    b. liquefaction,
    c. expansive soils,
    d. loose surficial soils,
    e. shallow groundwater, and
    f. sulfates in soil.

90. Project to be served by SCVWD Zone 2. Contractual water supply with SCVWD is available.

91. Provide a separate water meter for each of the following services: residential, non-residential, irrigation, and fire. Permittee is strongly encouraged to provide a separate water meter for food service. All landscape located inside any building footprint shall be served by a separate potable irrigation meter. Permittee is alerted that on-site pumping to upper floors may be required. Permittee shall provide backflow protection on all water connections, including fire services, in accordance with City guidelines and USC Manual of Cross Connection Control. Permittee is encouraged to install 2 meters for each service, for redundancy.

92. Permittee shall own, operate and maintain all on-site **(private)** utilities. The separation between public and private shall be indicated by master meters & backflows (potable water), cleanouts (sewer), and manholes.

93. This project shall use recycled water for irrigation of street frontage landscaping and landscaping located around the building perimeter. Interior courtyards within the building footprint shall be irrigated with potable water.

94. The development shall include a phasing plan for the occupancy of the buildings considering the improvements such as streets, utilities, garbage enclosure, mailbox, including the shutdown testing of each water fixture.

95. The City Council has declared a water supply emergency and enacted a Water Shortage Contingency Plan. Potable water may not be used for construction purposes. The project is required to use recycled water for construction purposes such as dust control and compaction. Landscape planting shall be deferred for any areas designated to use potable water, such as internal podium areas. Water features, such as pools and fountains, may not be filled until the drought is over. (E)

96. City has confirmed adequate contractual sewer treatment capacity is available.

97. Permittee is advised that Milpitas has high groundwater table and shall plan accordingly for both construction and long-term occupancy.

98. Contact SJ/SC WPCP Senior Source Control Inspector, at **408-277-3897** for sizing and location requirements for grease interceptor(s).

99. 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. If building is next to a City Easement, the City is not responsible for any foundation damage that would occur due to excavating in the event of servicing or repairs in that easement. Dedicate new public easements and abandon existing public easements once public utilities are relocated, abandoned or removed. Abandonment and/or removal of existing City utilities shall be in accordance with City requirements to the satisfaction of the Director of Engineering and Director of Public Works. (E)

100. Submit plan/profile views and calculations for all relocated utilities.

101. Prior to first building occupancy, Permittee shall install a radio antenna, any repeaters or transmitters as needed and dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings. Permittee shall execute a recorded instrument providing dedicated space, access rights and dedicated power supplies to the City for operation/ maintenance/ repair/ replacement of the subject radio antenna.

102. Prior to any permit issuance, obtain approval from Santa Clara Valley Transportation Authority (VTA) due to multiple easements in favor of VTA along the Piper Drive frontage.

103. All public improvements shall be completed as part of the first final map, unless otherwise approved by the Director of Engineering.

104. The 12 story residential tower shall provide no less than 262 automobile parking spaces for use by residents, guests, and commercial users. The townhomes shall provide no less than 188 automobile parking spaces for use by residents and guests.

105. There shall be a 500-foot maximum distance between publicly accessible paths of travel on any block within the Project.

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

NOTICE OF RIGHT TO PROTEST

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

Pursuant to Condition No. 33 contained herein, prior to any building permit issuance, Permittee shall pay the applicable Transit Area Specific Plan Development Impact Fee as determined by the City Council at the time of project approval.

AGREEMENT

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

Dated: _____ _____
Signature

Printed Name of Permittee/Property Owner:_____