

Attachment 18

Conditions of Approval

## CONDITIONS OF APPROVAL

In addition to complying with all applicable codes, regulations, ordinances and resolutions, the following conditions of approval are recommended to be applied to the City Place Master Community Plan (MCP). The conditions of approval and obligations cited herein may be altered as necessary and additional specific detailed conditions may be added by the Executive Project Clearance Committee (Exec PCC) to accommodate the specific development Phases provided for in individual Development Area Plans (DAPs) called for under the provisions of the Master Community Plan (MCP). Detailed requirements and conditions specific to any DAP will be applied to the Council's consideration of that DAP approval.

References herein to the term *Parcels* shall be consistent with those five identified in Exhibit 1-4 of the MCP. References herein to the term *Phases* shall be consistent with those five identified in Exhibit 2-1 or 2-2 of the MCP, as appropriate.

### GENERAL

1. The Master Developer shall submit within 45 days of Council final approvals of the PD-MC zoning an Integrated MCP with the Increased Housing Alternative and Enhanced Open Space (EOS) Variant as the Project, subject to review and approval by the of Director of Planning and Inspection; the Integrated MCP would revise the text and figures as necessary to reflect and eliminate any inconsistencies in the submitted MCP with the Increased Housing Alternative and the EOS Variant that is described in the MCP Supplement. The Integrated MCP shall include also any other changes incorporated into the MCP in accordance with Council approvals. The following specific changes shall be included in the integrated MCP:
  - (a) Change the word "should" to "shall" in both sentences of the first bullet point under Station Area Design Guidelines on page 112 and include a conceptual plan for the improvements described.
  - (b) In the second bullet point under Station Area Guidelines on page 112, include a conceptual plan for the enhanced transit plaza described and add a final sentence stating, "It is a City objective that improvements be made to the overall transit station area."
  - (c) Change "2.8.2.1" to "2.7.2.1" at the bottom of the first column of page 245.
  - (d) Correct the number "500,000" as to the minimum retail in Phase 2 in the definition of Minimum Initial Buildings on page 251.
2. All development, construction and uses shall comply with all applicable codes, regulations, ordinances and resolutions that are not otherwise altered by the specific development entitlements for the City Place Project.
3. If relocation of an existing public facility becomes necessary due to a conflict with the Developer's new improvements, then the cost of said relocation shall be borne by the Developer.
4. The project shall comply with the conditions set forth in the Development Agreement and Development and Disposition Agreement in effect between the City of Santa Clara and Related, Santa Clara, LLC.

5. The project shall comply with the mitigation measures included within the Mitigation Monitoring or Reporting Program for the Project, each of which is hereby imposed as a condition of approval.
6. Provide filtration systems for on-site residences and daycare centers as necessary to reduce operational cancer risks and exposure to particulate matter 2.5 microns in diameter or less (PM2.5). This measure only applies to on-site residences and daycare centers. The Project Developer shall implement the following measures, as necessary, to reduce cancer risks to a level less than BAAQMD project-level thresholds:
  - (a) Revised Health Risk Assessment (HRA): The Project Developer may choose to reassess the potential on-site cancer risk and PM2.5 concentrations to be experienced by on-site residential receptors and on-site daycare centers later in the design Phase, but prior to occupancy, and to prepare a revised HRA using updated receptor location information and more detailed assessment of risks associated with existing and project operational sources, and submit to the City for review. If the revised HRA demonstrates, to the satisfaction of the City, that the cancer risk and exposure to PM2.5 for all potentially exposed on-site receptors will be less than BAAQMD project-level thresholds, then no additional measures are necessary. If the revised HRA demonstrates, to the satisfaction of the City, that the cancer risk or exposure to PM2.5 for on-site sensitive receptors will be less than presented in the EIR but still over BAAQMD threshold, then the control effort may be less.
  - (b) Install filtration systems on ventilation and recirculation systems. Filtration systems shall be installed on ventilation and recirculation systems within on-site residences and the heating, cooling, and ventilation systems that serve daycare centers that are exposed to risks above BAAQMD thresholds due to individual existing sources. All filters must be rated MERV 13 or higher. The Project Developer shall submit a plan for installation and maintenance of all filters in accordance with the manufacturer's recommendations to the City prior to approval of the first building permits.
7. Prepare and implement a noise control plan to reduce interior noise at sensitive land uses. The Project Developer shall conduct a design-level acoustic study that identifies exterior noise levels for residential and commercial uses on the project site. This study shall take into account existing, project, and reasonably foreseeable future noise sources (such as proposed increases in passenger rail service along the Lafayette Street corridor). Where this study finds that the exterior noise level would exceed the residential compatibility standard of 55 dBA Ldn or the commercial incompatibility standard of 65 dBA Ldn, the Project Developer shall prepare a design-level operational noise control plan to provide acceptable interior noise levels. This plan shall identify all project features and treatments that will be implemented to ensure that the project is in compliance with the interior noise standards listed in the City's General Plan and City Code as well as the standards specified for new construction within the Comprehensive Land Use Plan (CLUP) for Mineta San Jose International Airport (SJC). The study and plan shall be developed by an acoustical design professional. Design features and treatments will be identified to ensure that interior noise levels at new proposed uses are in compliance with the noise standards. The

report shall be submitted to the City for review and approval prior to the issuance of building permits for the project. Depending on the noise exposure for a particular site, such treatments may include, but are not limited to, those listed below, as recommended by the acoustical design professional.

- (a) Construction of enclosures around noise-generating mechanical equipment at commercial uses.
- (b) Use of setbacks from noise sources to maximum attenuation of noise over distance.
- (c) Installation of noise-reducing treatments in new buildings, including:
  - High-performance, sound-rated double-glazed windows,
  - Sound-rated doors,
  - Sound-rated exterior wall construction,
  - Special acoustical details for vents,
  - Acoustical caulking at all exterior façade penetrations,
  - Sound-rated roof and ceiling constructions, and
  - Adequate mechanical ventilation so that windows and doors may be kept closed at the discretion of the building occupants to control environmental noise intrusion.

8. Prepare and implement a vibration control plan to reduce vibration from the Union Pacific Railroad (UPRR) for sensitive land uses. The Project Developer shall prepare a design-level operational vibration control plan that identifies all project features and treatments that would be implemented to ensure that the project is in compliance with the vibration standards recommended by the Federal Transportation Administration (FTA) relative to railway operational vibration associated with UPRR operations. The plan shall be prepared when new uses would be located within the following screening distances, as recommended by FTA (FTA 2006):

- (a) Category 1: Buildings where vibration would interfere with interior operations (600 feet).
  - (b) Category 2: Residences and buildings where people normally sleep (200 feet).
  - (c) Category 3: Institutional land uses with primarily daytime use (120 feet).
- The plan shall take into account current and future expected passenger and freight rail service levels adjacent to the project site. The plan shall be developed by an acoustical design professional and shall include a detailed investigation of ground-borne train vibration that considers site-specific train vibration source and propagation conditions and the actual building designs. The design features and treatments shall be identified to ensure that vibration levels at new proposed uses are in compliance with FTA standards. The report shall be submitted to the City for review and approval prior to the issuance of building permits for the project. Depending on the vibration exposure for a particular site, such treatments may include, but are not limited to, those listed below, as recommended by the acoustical design professional.
- (d) Increased setbacks of noise-sensitive uses from the train track.
  - (e) Foundation isolation systems to reduce the transmission of vibration into buildings with noise-sensitive uses that are near the tracks.

9. Incorporate flood warnings for the Lick Mill Boulevard extension and other access roads for areas vulnerable to flooding. The Project Developer and the City shall coordinate to provide flood warnings for new and existing roadways that provide access to the site and are vulnerable to 100-year flood levels. The Project Developer shall review the City's flood warning and emergency response plan and submit a brief plan for the project that is consistent with the City's plan. The plan shall be submitted to the City's Emergency Services Coordinator in the City's Fire Department for review and approval. The specific frequency of expected flooding on-site access roads shall be determined by the Project Developer and reviewed by the City. Flood warnings may be temporary or permanent, depending on the frequency of expected flooding, as determined by the City. Information about alternative access/egress routes, based on flooding potential and other factors, shall also be provided by the Project Developer to the City's Emergency Services Coordinator in the City's Fire Department for review and approval. If other flood improvements are implemented that remove the flooding risk at the Lick Mill Boulevard extension or other site access roads, then this condition of approval shall no longer be required.

### **ENGINEERING**

- E1. Developer is responsible for cost of relocation or modification of any public facility necessary to accommodate subject development, unless the cost of relocation or modification of a utility is the responsibility of a franchisee under a franchise agreement. Planned changes to existing facilities shall be included with and described in proposed infrastructure plans required at the time of DAPs.
- E.2. Following approval of Tentative Maps and/or Vesting Tentative Maps by Council, the Developer shall file Final Maps for approval and recordation to the satisfaction of the Director of Public Works prior to the issuance of building permits for the DAP.
- E.3 Infrastructure plans that are submitted with the DAP application shall address infrastructure needs for the entire phase where the DAP infrastructure needs must rely on, may be affected by, or may affect any future phase(s) of development. The submitted DAP infrastructure plans in that case shall provide not less than conceptual plans for or a description of the design of the infrastructure in the future phase(s), to the satisfaction of the Director of Public Works. Plans shall be prepared by a Registered Civil Engineer and approved by the City Engineer prior to approval and recordation of Final Map and/or issuance of building permits.
- E4. The Sanitary sewer (SS) laterals from Parcel 1 and Parcel 2 shall connect to the westernmost 42" SS main in Lafayette Street. The SS laterals from Parcel 3 and Parcel 4 shall connect to the 42" SS main running between the two parcels from Great America Parkway to Lafayette Street. Parcel 5 shall be connected to the 12" SS main in Stars and Stripes Drive. The City shall determine available SS capacity for each main as of the time of project entitlements, including each DAP or DAP Amendment, and the Developer shall construct facility improvements to accommodate the maximum MCP development. The Developer may be reimbursed for design and construction costs above its fair share costs.

- E5. Execute Covenant(s) Running with the Land to assume maintenance responsibility for non-standard street improvements within public rights-of-way prior to the City's acceptance of said improvements. Non-standard street improvements include, but are not limited to, curb return type driveway(s).
- E6. Obtain site clearance through the Engineering Department prior to issuance of building permits. Site clearance will require payment of applicable development fees prior to issuance of the building permit. Other requirements may be identified for compliance during the site clearance process.

### **ELECTRIC**

- EL1. DAP infrastructure plans and documents that address the electrical distribution system shall specify on-site private electric facilities and off-site public electric facilities to address the needs of the particular DAP and, conceptually, the needs of the overall phase which contains that DAP. To the extent that development of any particular DAP or phase may affect service to other phases, a conceptual plan or description of those needs shall be included in the application.
- EL2. On-site infrastructure is the Developer's responsibility. The Developer shall install the substructures required to meet Silicon Valley Power (SVP) design requirements. SVP will install all cable and equipment facilities. The Developer will be assessed development fees to cover the costs associated with installation of these facilities. Any costs associated with non-SVP standard equipment, including design reviews, will be the responsibility of the Developer.
- EL3. Easements for electric facilities and access will be required for all facilities located on private streets or within structure boundaries.
- EL4. Prior to the approval of the DAP for Phase 1, Developer shall enter into a separate agreement with the City to address the rights and obligations of the parties with respect to providing interim electrical capacity and service at full build-out. The agreement will address such matters as the construction obligations of the City for additional substation and off-site distribution facilities, electrical service requirements to be provided by the City, construction and payment obligations of Developer, the granting of easements or other property rights and mutual cooperation as reasonably necessary to accommodate the electric service needs of the Project.

### **WATER**

- W1. Each DAP submittal shall indicate all service connections and facilities for potable and recycled water and sanitary sewer facilities to serve the development area. To the extent necessary, plans shall include conceptual plans to serve the remainder of the Phase or future Phases that will rely on these facilities, to the satisfaction of the Director of the Water and Sewer Utilities.
- W2. Prior to issuance of Building Permits, the Developer shall submit plans for water service to each individual building parcel, site and/or building to be connected to a public main in the public right-of-way to the satisfaction of the Director of Water & Sewer Utilities. Additionally, different types of water use (domestic, irrigation, fire) shall be served by separate water services. Plans shall also indicate locations of proposed fire hydrants.

### **FIRE DEPARTMENT**

- FD1. When in the opinion of the fire code official, a new structure obstructs emergency radio communications to existing buildings or to any other locations the Developer shall resolve the deficiency to the satisfaction of the Fire Department, which may include requirements to provide and install radio retransmission equipment necessary to restore communications capabilities. Any required equipment shall be located in a space or area within a new structure approved by the Fire Department.
- FD2. Each DAP application shall include proposed access routes for emergency service vehicles. Plans may be required to include the entire Phase in which the DAP is included and may necessitate conceptual plans for access through or to future Phases to the extent that may be necessary to the satisfaction of the Fire Chief.
- FD3. Construction and final development in each Phase and DAP shall comply with applicable fire standards, codes, and policies, including emergency access requirements.
- FD4. The Developer shall provide a replacement Fire Station in accordance with the Development and Disposition Agreement.

### **POLICE**

- PD1. The Developer shall include, for each building, design specifications that meet the City of Santa Clara's guidelines established for radio signal penetration, as detailed in the Communications Department's Public Safety Radio System Building Penetration Guidelines. The intended use of telecommunications sites/equipment shall be clearly and accurately stated in the building documentation. The signal, of whatever nature, of any communications facility or system, shall in no way whatsoever interfere with or affect any police communication or police communication system.

### **PARKS AND RECREATION**

- PR1. The Developer shall comply with the City's Park and Recreational Land Ordinance (SCCC Ch. 17.35), subject to conformance with and as otherwise satisfied by the provisions of the MCP, DA and Development and Disposition Agreement, to the satisfaction of the City Manager.

### **STREET DEPARTMENT**

- ST1. Submit copy of complete landscape and automatic irrigation plans for all public rights-of-way for review and comment by City staff. The Developer is to supply and install City street trees per the MCP and City specifications. Spacing, specie, and sizes of street trees shall be subject to approval of the City Arborist.
- ST2. Special Urban Runoff Stormwater Pollution Prevention requirements apply. Provide the Street Department with information to evaluate proposed stormwater pollution prevention improvements for each Phase.
- ST3. Developer shall comply with City Development Guidelines for Solid Waste Services in each Phase, as specified by development type.

## **PLANNING AND BUILDING INSPECTION**

- P1. DAP applications for partial Phases as described in the MCP may be required to include conceptual plans and information for areas outside of the DAP boundaries that address site access for the provision of safety and service by City forces, as well as related utility facilities, and schematic or concept plans addressing such items as open space and parks that may be constructed in future Phases on abutting sites.
- P2. Tentative Subdivision Map, Vesting Tentative Subdivision Map and/or Parcel Map applications consistent with the intent and obligations of the MCP, DA and DDA, and consistent with any parcel(s) indicated in the submission of the DAP, shall be approved by City Council prior to issuance of building permits for development within any Phase, Sub Phase or DAP within the area of that map application. Maps shall define development sites and provide for the dedication or disposition of public streets, utilities and parks/open space, to the satisfaction of the City.
- P3. The Developer will be required to prepare acoustical analyses and implement noise insulation features in building construction as required by the Mitigation Monitoring and Reporting Program.
- P4. The Developer shall be required to incorporate within the residential tenant lease agreements notification of the occurrence of aircraft traffic noise over the project site.
- P5. The Developer shall convey an avigation easement to the City of San Jose on behalf of the San Jose International Airport.
- P6. Obtain required permits and inspections from the Building Official and comply with the conditions thereof, based upon approved DAPs. Submittal of plans shall be consistent with a predetermined address numbering scheme based upon Phases identified in the MCP, to the satisfaction of the Building Official.
- P7. The Developer shall file a Notice of Intent (NOI) with the State Water Resources Control Board prior to issuance of any permit for grading or construction in accordance with an approved DAP, or as otherwise permitted or required under the obligations and rights of the DDA. A copy of the NOI shall be sent to the City Building Inspection Division. A stormwater pollution prevention plan is also required with the NOI.
- P8. Along with the submission of the first DAP within any Phase, a landscape and lighting concept plan for that Phase shall be provided and agreed upon by the Developer and the City. Landscaping and lighting concepts shall address public areas and street frontage areas, as well as open space and park areas within the Phase.
- P9. The Developer shall employ green building standards and materials in the site design and construction of structures within each DAP, designed to meet USGBC LEED standards for new construction, in accordance with the approved MCP.

P10. The project will be required to comply with the City's Urban Runoff Pollution Prevention City Place Santa Clara Project

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Program, including best management practice measures for construction and post-construction activity, including reducing runoff to public storm drain facilities from rooftops and paved surfaces.

- P11. DAP applications shall include third-party certification that the conceptual stormwater control plan meets applicable post-construction stormwater control (C3) requirements. Prior to the issuance of grading or building permits, the Developer shall provide to the Planning Division third-party certification that the stormwater control plan meets applicable C3 requirements, along with an Operations and Maintenance Agreement approved by the City for post-construction maintenance of C3 devices/measures.
- P12. Trees removed shall be replaced at a ratio of two new trees for every one removed tree. Any trees not replaced at the 2:1 ratio shall be subject to in-lieu payments consistent with City policy. The developer shall be responsible for maintaining a master accounting of all tree removals, tree replacements, and in-lieu fee payments and shall provide such information with each DAP submittal and upon the City's request.
- P13. The Developer shall prepare a Construction Management Plan (CMP) for review and approval prior to the issuance of initial grading or building permits for development within any Phase, Sub Phase or DAP. To the extent that information is known, a CMP may address some or all construction within the DAP or Phase, such that a CMP may not be required for each permit as called for in the adopted Mitigation Monitoring or Reporting Program.
- P14. Construction activity not confined within an enclosed building shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays and 8:00 a.m. to 6:00 p.m. Saturdays for construction within 300 feet of a residential use. Construction activity shall not be allowed on Sundays or recognized State and Federal holidays.
- P15. The Comprehensive Sign Program required for either Parcels 4/5 or Parcels 1 and 2, as specified in the MCP shall be submitted with the initial DAP submission for each area and shall be considered concurrently with and as a part of the DAP plans for the Council's consideration.

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