

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD18-0016 TO DEVELOP A NEW 5,807 SQUARE FOOT, ONE-STORY, SINGLE-FAMILY RESIDENCE, WITH AN ORNAMENTAL METAL FENCE AT THE FRONT OF THE PROPERTY AND A DETACHED 1,195-SQUARE FOOT ACCESSORY STRUCTURE (ADU), CABANA, AND AN OPEN WOOD DECK PLATFORM IN THE REAR YARD; AND MINOR SITE DEVELOPMENT PERMIT NO. P-MS19-0174 TO ALLOW A PORTION OF THE ADU TO BE LOCATED WITHIN THE FRONT HALF OF THE PROJECT SITE, A VACANT 1.27-ACRE HILLSIDE LOT LOCATED WITHIN PLANNED UNIT DEVELOPMENT NO. 23.5 AND ZONED R1-H SINGLE-FAMILY RESIDENTIAL HILLSIDE COMBINING DISTRICT WITH A SITE AND ARCHITECTURAL (-S) OVERLAY, AT 898 CALAVERAS RIDGE ROAD, AND MAKING FINDINGS OF CEQA EXEMPTION**

**WHEREAS**, on September 1, 1981, the Milpitas City Council approved Planned Unit Development No. 23.5 (Calaveras Ridge) to allow the development of Residential PUD No. 23.5 and the Tentative Map for a 17-lot hillside residential subdivision; and

**WHEREAS**, on November 9, 2018, Kevin Chiang submitted an application to develop a new 5,807-square foot, one-story, single-family residence, with an ornamental metal fence at the front of the property and a detached 1, 195-square foot accessory dwelling unit (ADU), cabana, and an open wood deck platform in the rear yard; and a Minor Site Development Permit to allow a portion of the accessory dwelling unit to be situated within the front half of the project site, on a vacant 1.27-acre hillside lot located within Planned Unit Development No. 23.5 at 898 Calaveras Ridge Road (APN: 029-06-038) The Project site is zoned R1-H Single Family Residential Hillside Combining District with a Site and Architectural (-S) Overlay; and

**WHEREAS**, Planned Unit Development No. 23.5 (“PUD No. 23.5”) is located within the Single-Family Residential (R1-H) Hillside Combining District; and

**WHEREAS**, a Site Development Permit (Permit No. P-SD18-0016) and a Minor Site Development Permit (Permit No. P-MS19-0174) are required to develop a new 5,807-square foot, one-story, single-family residence, with an ornamental metal fence at the front of the property, and to allow a portion of the accessory dwelling unit to be situated within the front half of the property (“Project”); and

**WHEREAS**, the Planning Department determined that the Project is categorically exempt from further environmental review under the California Environmental Quality Act (“CEQA”) in accordance with CEQA Guidelines Section 15303 (New Construction and Conversion of Small Structures) and; on a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning); and

**WHEREAS**, on October 9, 2019, the Planning Commission held a duly-noticed public hearing to consider the Project, and a motion to recommend approval of Site Development Permit (P-SD18-0016) and Minor Site Development Permit (P-MS19-0174) to the City Council resulted in a tie vote (3-3, Mandal absent), and the Project moved forward to the City Council with no recommendation from the Planing Commission; and

**WHEREAS**, on November 19, 2019, the City Council held a duly-noticed public hearing, at which time all those in attendance were given the opportunity to speak on the Project; and

**WHEREAS**, the City Council considered all of the written and oral testimony presented at the public hearing in making its decision.

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

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

**SECTION 2. Record.** The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is within the Planning Department, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035.

**SECTION 3. CEQA.** The Project is categorically exempt from further environmental review under the California Environmental Quality Act (“CEQA”) in accordance with CEQA Guidelines Section 15303 (New Construction and Conversion of Small Structures) and; on a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

**SECTION 4. FINDINGS.** In accordance with Section XI-10-57.03(F)(1) of the Zoning Code, the City Council makes the following required findings based on the evidence in the public record in support of Site Development Permit No. SD18-0016:

- 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.*

As described within the staff report, the architectural design and site planning of the proposed home is aesthetically compatible with the neighboring homes with an emphasis of minimizing changes to the natural topography. The proposed single-family residence and accessory dwelling unit incorporate earth-tone colors and are sited and designed in a manner that does not draw attention when viewed from the valley floor.

- 2. The project is consistent with the Milpitas Zoning Ordinance in that:*

As described within the staff report, the proposed home meets the development standards in the R1-H Single-Family Residential-Hillside Zoning District and PUD No. 23.5 (Calaveras Ridge) for setbacks, height requirements, and landscaping. Staff supports the applicant’s request for a Minor Site Development Permit to allow a portion of the accessory dwelling unit to be located within the front half of the property to minimize grading.

Table 1: Summary of Development Standards

<b>Standards</b>	<b>Hillside &amp; PUD 23.5 Requirements</b>	<b>Proposed</b>	<b>Complies</b>
Front Setback	25 ft.-40 ft. / 40 ft.	40+ ft. from the property line	Yes
Side Yard Setback	40 ft. / 40 ft.	40 ft. on west, and 40 ft. on east	Yes
Rear Yard Setback	40 ft. / 40 ft.	40+ ft.	Yes
Size of Primary Residence	6,000 sq. ft. max./ 6,000 sq. ft. max.	5,807 sq. ft.	Yes

<b>Standards</b>	<b>Hillside &amp; PUD 23.5 Requirements</b>	<b>Proposed</b>	<b>Complies</b>
Size of Accessory Dwelling unit (max.)	1,200 sq. ft.	1,195 sq. ft.	Yes
Impervious Surfaces (maximum area)	8,000 sq. ft.	7,994 sq. ft.	Yes

Due to the location of the subject property, the project is also required to comply with the development standards in the City’s Hillside Combining District. Per Section XI-10-45.09-7 of the Zoning Ordinance, the City Council has determined that the home is consistent with the Hillside Architectural Guidelines as demonstrated in Table 2 below.

Table 2: Hillside Zoning Ordinance Compliance

<b>Site and Architectural Guidelines</b> <i>Section 45.09-7</i>	<b>Consistency Finding</b>
(a) Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.	<u>Consistent.</u> The home is located west of the crestline and is subject to a maximum height of 17 feet, as noted in the Conditions of Approval no. 22 in Resolution No. 19-030. Additionally, the home is on a 1.274-acre parcel set back from all property lines and will not interfere with privacy.
(b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.	<u>Consistent.</u> The project site is currently undeveloped with few trees. No trees will be removed from the site, and the applicant will plant 24 trees, shrubs and ground cover on the lot. Proposed structures are designed to minimize grading.
(c) Minimize Perception of Excessive Bulk. The design of the proposed main and /or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.	<u>Consistent.</u> The footprints of the home and ADU are orientated at an angle to the front property line. The design of the home, ADU and gazebo are designed to mitigate the perception of excessive bulk.
(d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.	<u>Consistent.</u> The project will not exceed 17 feet in height as is permitted for homes located in PUD 23.5 and meets or exceeds all minimum setbacks as required by the City Code. The project is sited to minimize the impairment of natural light and airflow for the adjacent properties and will not impair their utilization of solar energy.
(e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.	<u>Consistent.</u> As proposed, the main dwelling and ADU are located where the parcel is relatively flat to minimize grading. The proposed grading plan shows that 565 cubic yards aggregate grading will be required for the construction of the home, ADU and other accessory structures.

Site and Architectural Guidelines <i>Section 45.09-7</i>	Consistency Finding
	The impact will be minimal since the new contours will be designed to blend with the natural contours as demonstrated in the civil drawings and therefore meets the grading ordinance criteria.

**Site & Architectural Design**

The project is designed in a contemporary style, which adds to the diversity of the neighborhood. The exterior materials are composed of stucco and a concrete tile roof. The articulation of the architectural forms blending with a variety of finishes creates an attractive front elevation, and an integrated driveway pattern enhances the house and the neighborhood. All exterior materials and finishes work together as a palette of earth tone colors to be harmonious with the surroundings. The colors used and materials are complementary to the neighboring residences.

**Grading and Landscaping**

Due to the sloped lot and vehicular access requirements, the applicant has requested that the site be graded in order to make the site feasible for residential development. In an effort to limit the amount of soil to be removed, the applicant has proposed a site plan which locates the proposed home on the flattest portion of the site which will result in 565 cubic yards of cut and fill for the construction of the new home and the accessory dwelling unit and the required grade of the driveway for firetruck access. The proposed landscape plan includes a variety of indigenous flowers, shrubs and trees. As demonstrated in the Project Plans, which are attached to the City Agenda Report dated November 19, 2019 (the “Agenda Report”) as Attachment C these plans are consistent with the grading/landscaping requirements within the Hillside Ordinance.

**Crestline Zone of Protection**

To protect the quality of views of the hills from the valley floor, development standards related to crestlines have been incorporated into the Zoning Code. Per Municipal Code Section XI-10-45.06, the purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes immediately below when viewed from the valley floor. To demonstrate compliance with the crestline zone of protection, the applicant installed “story poles” along the building perimeter and staff took pictures from areas recognized by the City as “vantage points. As demonstrated in Attachment D to the Agency Report, the project will not be visible from the valley floor, and therefore, is compliant with the Crestline Zone of Protection.

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

The project is consistent with the Milpitas General Plan, and particularly with Policies 2.a-I-23, which limits new development in the Hillside Area to Very Low Density Residential, open space and park uses. The project meets this finding, as part of an approved Planned Unit Development. The home is designed to fit in with the natural topographic features of the property with little or no visual impact as viewed from the valley floor.

Table 3: General Plan Consistency

Policy	Conformance
<b>2.a-G-3</b> Provide for a variety of housing types and densities that meet the needs of individuals and families.	<u>Consistent.</u> The project will allow development of one residential home in the Hillside District which is consistent with the development standards of the Hillside Area. Low density is one type of housing for

	individuals and families that differs from other residential zones within the city.
<b>2.a.I-23</b> Limit new development in the Hillside Area to only to Very Low Density Residential, open space and park uses.	<u>Consistent.</u> The project is one single-family residence on a vacant hillside lot and maintains the very low-density development standards.
<b>2.a.I-25</b> To ensure that development in the foothills is in keeping with natural character of the hillside, and that views are protected, require city review and approval of all proposed development or major alterations to existing development in the hillside. As part of the review, ensure that: <ul style="list-style-type: none"> <li>• Landscaping is of a type indigenous to the area;</li> <li>• That building designs, materials, and colors blend with the environment; and</li> <li>• Grading is minimized and contoured to preserve the natural terrain quality</li> </ul>	<u>Consistent.</u> The project’s low-profile design and earth tone materials will blend with the natural environment of the hillside area. The project proposes 565 cubic yards of cut and fill and the use of indigenous landscaping.
<b>2.a.I-26</b> Establish crestline protection areas around the ridges to ensure that no structures just east of the crestline extend above the crestline sight line.	<u>Consistent.</u> The project site is located west of the crestline and proposed structures do not visually penetrate views of the hillside from the valley floor.

The site is located in the R1-H Single-Family Residential-Hillside Combining District. The “H” Zoning District promotes and encourages the orderly development of the hillside area of the City by the application of regulations and requirements established to meet the particular constraints associated with development of hillside areas, including, but not limited to, geologic problems, slope, safe access and visibility. The proposed project meets the minimum setback requirements for the R1-H Zoning District as well as the development standards set forth in PUD No. 23.5.

**SECTION 5. FINDINGS.** In accordance with Section XI-10-45.09-7 of the Zoning Code, the City Council makes the following required findings based on the evidence in the public record in support of Site Development Permit No. SD18-0016:

1. *Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.*

The proposed home is located west of the crestline with a maximum height of 17 feet, as required in the Conditions of Approval no. 22 in Resolution No. 19-030. Additionally, the proposed home is located on a 1.274-acre parcel and will have a minimum 40-foot setback from all property lines and therefore will not interfere with privacy.

2. *Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.*

The project site is currently undeveloped with few trees. No trees will be removed from the site, and the applicant will plant 24 trees, shrubs and ground cover.

3. *Minimize Perception of Excessive Bulk. The design of the proposed main and /or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.*

The footprint of the proposed home and accessory dwelling unit is angled in its orientation to the front property line. The design of the home and other accessory structures does not create the perception of excessive bulk.

4. *Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.*

The project will not exceed 17 feet in height as required for homes located in PUD No. 23.5 and meets or exceeds all minimum setbacks as required by the City Code. The project is sited to minimize the impairment of natural light and airflow for the adjacent properties and will not impair their utilization of solar energy.

5. *Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.*

As proposed, the main dwelling and ADU shall be located where the parcel is relatively flat so that grading is minimized. The proposed grading plan shows that 565 cubic yards aggregate grading will be required for the construction of the primary residence and accessory structures. The impact will be minimal since the new contours will be designed to blend with the natural contours as demonstrated in the civil drawings and therefore meets the grading ordinance criteria.

**SECTION 6. FINDINGS.** In accordance with Section XI-10-57.03 (2)(F) of the Zoning Code, the City Council makes the following required findings based on the evidence in the public record in support of Minor Site Development Permit No. MS19-0174:

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.*

Per Section XI-10-13-08(3)(b) of the Zoning Ordinance, a detached ADU in the Hillside Combining District must be located in the rear half of the lot. Per Section XI-10-45.09.7(e) of the Site and Architectural Guidelines for the Hillside Combining District, all grading must be minimized. The architectural design and site planning of the proposed accessory family dwelling unit are aesthetically compatible with the neighboring properties, with an emphasis of minimizing changes to the natural topography by locating a portion of the proposed accessory dwelling unit within the front half of the property. Staff recommends that the proposed site design merits approval based on the goal to minimize grading and disturbance of natural topography on the site.

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

As described within the staff report, the proposed accessory family dwelling unit meets the development standards in the Single-Family Residential-Hillside Zoning District and Calaveras Ridge PUD No. 23.5 for setbacks, height requirements and landscaping.

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

The project is consistent with Policies 2.a-I-23 of the Milpitas General Plan, which limits new development in the Hillside Area to Very Low Density Residential, open space and park uses. The

project meets this finding as part of an approved Planned Unit Development. The home is designed to fit in with the natural topographic features of the property and reduces the visual impact as viewed from the valley floor.

**SECTION 7. City Council Decision and Approval**

Based on the above Findings, the City Council of the City of Milpitas hereby approves Site Development Permit No. SD18-0016 and Minor Site Development Permit No. MS19-0174, subject to the Conditions of Approval attached hereto as **Exhibit 1**.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

## EXHIBIT 1

### CONDITIONS OF APPROVAL FOR SITE DEVELOPMENT PERMIT NO. P-SD18-0016 AND MINOR SITE DEVELOPMENT PERMIT NO. P-MS19-0174 , 898 CALAVERAS RIDGE DRIVE (APN 029-06-038)

#### General Conditions

1. General Compliance. The applicant, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. Planned Unit Development Amendment Permit No. SD18-0016 and Minor Site Development Permit No. MS19-0174, (“Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County’s Recorder Office and a copy shall be provided to the Planning Department. **(P)**
2. The Permittee shall develop the approved project in conformance with the approved plans (dated September 25, 2019), sample color and materials board approved by the Planning Commission, in accordance with these Conditions of Approval. **(P)**
3. Modifications to project. Any deviation from the approved site plan, floor plans, 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 Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**
4. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
5. Conditions of Approval. As part of the issuance of building permits, the Permittee shall include within the first four pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
6. Written Response to Conditions. The Permittee shall provide a written response to the Conditions of Approval indicating how each condition has been addressed with the building permit application submittal. **(ALL)**
7. Permit Expiration. Pursuant to Section XI-10-64.06 of the Milpitas Municipal 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 Municipal 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.
8. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Municipal 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)**



9. Project Job Account. If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, the review of permits will not be initiated until the balance is paid in full. **(E)**
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. 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.
12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents (the "Indemnified Parties") from and against any and all third party claim, action, or proceeding against City and/or the Indemnified Parties to attack, review, set aside, void or annul the City's approval of SITE DEVELOPMENT PERMIT NO. SD18-0016 AND MINOR SITE DEVELOPMENT PERMIT NO. MS19-0174; including any environmental determination made therefore. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, reasonable attorneys' fees, and other reasonable expenses incurred in connection with such claim, action, causes of action, suit or proceeding. The Permittee shall pay to the City upon demand or, as applicable, on a monthly basis to counsel of City's reasonable choosing, amounts owed pursuant to the indemnification requirements prescribed in this condition, provided each such demand or monthly payment request includes reasonably detailed back-up documentation, including invoices and/or receipts, as applicable, for all amounts to be paid. Notwithstanding the foregoing, City shall have the right to redact invoices and/or receipts as necessary to preserve attorney-client privilege. City shall promptly notify the Permittee of any claim, action, or proceeding and shall engage in reasonable efforts to cooperate in the defense. If City fails to so promptly notify the Permittee, or if City fails to engage in reasonable efforts to cooperate in the defense, then the Permittee's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The Permittee shall not be required to pay or perform any settlement unless the settlement is approved by the Permittee. 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 SITE DEVELOPMENT PERMIT NO. SD18-0016 AND MINOR SITE DEVELOPMENT PERMIT NO. MS19-0174 and the balance of the Permit shall be unaffected by said Government Code section. **(CA)**
13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal Code. **(P)**
14. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.
15. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on October 9, 2019, in accordance with these Conditions of Approval. **(P)** 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, Permittee 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)**

16. Prior to the issuance of a building permit, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
17. Streets shall be designed to generally follow the contours and land form in order to minimize cut and fill. Exposed walls and facing roadways and retaining walls shall be no greater than six feet in height. Crib walls fencing roadways shall be no greater than 15 feet in height. **(P)**
18. Landscaping coverage and stabilization of graded slopes shall be selected and designed to be compatible with surrounding natural vegetation or to replace removed natural vegetation and should recognize climatic, soil, and ecologic characteristic of the region. Plan materials that require excessive water after becoming established should be avoided. **(P)**
19. Trees which have a six inch or greater diameter trunk size at a point three feet above grade may not be removed without obtaining prior approval from the City. The location of all such trees shall be shown on all plans submitted for approval. The Planning Commission, upon review of an "S" Zone application approval, shall have the power to authorize removal, relocation or replacement if the Permittee can show that such requirement is unreasonable as applied to the particular property. If the removal is permitted, the replacement of any trees removed pursuant to this section shall be at a five to one (5:1) ratio. **(P)**
20. The proposed home shall be located west of the crestline and is subject to a maximum height of 17 feet.
21. Within six months, or such other period established by the Planning Commission, after the commencement of grading activities, all graded areas not covered by an impervious surface shall be stabilized in such manner as shall be approved by the Community Development Manager. **(P)**
22. Where two cut-or-fill slopes intersect, the intersection shall be horizontally rounded and blended. **(P)**
23. Where any cut-or-fill slopes intersect the natural grade, the intersection of each slope shall be vertically and/or horizontally rounded and blended. **(P)**
24. Previous Approvals. Permittee shall abide by and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
26. Compliance with Fire Department and California Fire Code. The project/development shall comply with the requirements of the Fire Department and the California Fire Code, as demonstrated in Fire Department's Memorandum, dated December 5, 2018, as may be amended by the City of Milpitas. Changes to the site plan and/or internal circulation shall be reviewed and approved by the Fire Department. **(F)**
27. Compliance with Building Department. The Project shall comply with the requirements of the 2016 CBC, CMC, CEC, CPC, Green Building Standards Code, California Energy Code and the 2016 Milpitas Municipal Code, as demonstrated in Building and Safety Department's Memorandum, dated July 26, 2019. **(B)**

28. Compliance with Engineering Department. The project/development shall comply with the requirements of the Engineering Department, as demonstrated in the Engineering Department's Memorandum, dated July 24, 2019. **(E)**

**Special Conditions:**

29. Use of the property shall be strictly limited to one single-family residence with one accessory dwelling unit. **(P)**
30. No portion of the property shall be converted or used for any purpose other than its allowed use as a single-family residence. No portion of the single-family residence shall be converted or used as a Place of Assembly, Dormitory, Commercial Education or Training Facility, Commercial Recreation, or Entertainment Use. **(P)**
31. Fences and walls located within the front yard shall not exceed fifty-four (54) inches in height. **(P)**
32. Landscaping shall include only native trees and plants as selected by a certified landscape architect or arborist. New landscaping shall not include any palm trees. **(P)**
33. An updated detailed site specific geotechnical investigation shall be performed to address the seismic slope stability issues as well as providing recommendations for foundation design and other geotechnically related parameters as recommended in the Geotechnical Peer Review letter by GEI, Inc. dated 3/24/2006. **(B)**
34. The existing trench backfill in the vicinity of the new house should be sub-excavated and properly compacted based on the recommendations in the updated geotechnical investigation report as recommended in the Geotechnical Peer Review letter by GEI, Inc. dated 3/24/2006. **(B)**
35. The Project Engineering Geologist who prepared the Fault Investigation Report by John Doyle & Associates, Inc. dated 2/3/2006 should review the final site plans to determine that the location of the proposed residential structure is within the building envelope recommended in the report. **(B)**
36. The Project Engineering Geologist who prepared the Fault Investigation Report by John Doyle & Associates, Inc. dated 2/3/2006 should observe all excavations and the Project Geotechnical Engineer who will be providing the updated geotechnical investigation report should observe all excavations and foundation operations and provide additional recommendations if necessary as recommended in the Slope Stability Screening Analysis Report by Pollak Engineering, Inc. dated 8/25/2008. **(B)**
37. The Project Geotechnical Engineer, Project Architect, Project Structural Engineer shall review the Geotechnical Peer Review letter by GEI, Inc. dated 3/24/2006 and the Slope Stability Screening Analysis by Pollak Engineering, Inc. dated 8/25/2008 and all documents as referenced in these reports to ensure that the information and recommendations contained in these documents are incorporated into the plans. **(B)**
38. The Project Geotechnical Engineer should review the final grading plans, site plans and foundation plans to determine that the design conforms with their design recommendations. **(B)**

**Key:**

- (P) = Planning  
(B) = Building  
(E) = Engineering  
(F) = Fire Prevention  
(PD) = Police Department  
(CA) = City Attorney