

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
June 11, 2015**

Planning Application 2015-7015

1160 Mathilda Avenue (includes multiple parcels)

Tentative Parcel Map to create one new parcel around the footprint of Building 5 for a total of two parcels (1 building footprint parcel and one common parcel).

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

<p>GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</p>

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. MAP REQUIRED: This project is subject to, and contingent upon, the recordation of a Parcel Map. The submittal, approval and recordation of the Parcel Map shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title

18 Subdivision requirements. Pay all required fees for Parcel Map review and recordation. [SDR] [PUBLIC WORKS]

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. CONDITIONS OF APPROVAL: All Public Works Conditions of Approval (COA) associated with Planning Application 2012-7854 apply to this tentative map application. [COA] [PUBLIC WORKS]

GC-5. PUBLIC IMPROVEMENTS: In conjunction with Planning Application 2012-7854 COA GC-15, 2014-7050 and not contrary to the subject COA, the developer shall install all public improvements around the perimeter of Lot 3 (Site 3) under Planning Application 2012-7854. That is, all public improvements fronting parcel 3 shall be implemented with one phase, prior to occupancy of the building located on the corresponding lots, unless otherwise approved by the Director of Public Works with approved construction phasing plan(s). [COA] [PUBLIC WORKS]

GC-6. INDEMNITY: The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-7. CONFORMANCE WITH PREVIOUS PLANNING PERMIT: The subject site shall comply with all conditions of approval, requirements and mitigation measures of planning application 2012-7854. [COA] [PLANNING]

TM: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE APPROVAL OF THE FINAL MAP OR PARCEL MAP.

- TM-1. RESERVATION/ABANDONMENT OF EASEMENTS: In conjunction with the planning application 2012-7854 COA's PM-1, 2, 4, 5 and 7, 2014-7050, and not contrary to those subject COA's, reservation of new cross-lot reciprocal rights and maintenance responsibility for ingress/egress, emergency vehicle access, parking, utilities and surface drainage shall be identified either on the parcel map, in the CC&R's, or as a separately recorded Covenant for Easement document. [COA] [PUBLIC WORKS]
- TM-2. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS) (DRAFT REVIEW): Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. Four (4) sets of the CC&Rs including all information required below shall be submitted to the Engineering Division of the Public Works Department for routing. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- a) Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
 - b) The owners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
 - c) The developer shall create Owner's Associations which comport with the state law requirements for Common Interest Developments. Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded to address issues of common use and maintenance for the development.
 - d) The Standard Development Requirements and Conditions of Approval included as part of the approved Planning Application, Permit #2012-7854, and associated map shall be incorporated into the CC&Rs as an exhibit or attachment. The included map shall clearly indicate all public/private easements as disclosure for property owners. The CC&Rs shall include a list of all attachments and/or exhibits.
 - e) The CC&Rs shall contain language for Best Management Practices "Agreement to Maintain" pursuant to Sunnyvale Municipal Code 12.60.200.
 - f) The CC&Rs recorded for the campus as a whole shall state that the amenities building must be maintained in common by all buildings in the campus and cannot be sold for separate ownership.
 - g) The CC&Rs shall contain the following language:
 - i) "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer,

substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each lot in the Project.

- i) It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
- ii) It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
- iii) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
- iv) No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
- v) Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and

all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property." [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]