

MEMORANDUM

Planning Department



Date: January 25, 2024
To: Zoning Administrator
From: Randy Baez, Associate Planner
Kristina Phung, Associate Planner

Subject: **MISSION PEAK HOMES – 470, 480, 490, and 500 Wool Drive - P-SD23-0006, -07, -08, -09** – Four Site Development Permits to develop four new detached, 2,841-square-foot, two-story single-family residences with attached, 423-square-foot garages each on a 0.2-acre lot in the R2 (One- and Two-Family Residential) Zoning District located at 470, 480, 490, and 500 Wool Drive. The maximum height of the new residences will be up to 28 feet above grade level. The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), Section 15332 (In-fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Location: 470, 480, 490, and 500 Wool Dr. (APNs: 029-10-081, 029-10-082, 029-10-083, and 029-10-084)

Zoning/GP: One- and Two- Family Residential (R2) / Medium Density Residential (MDR)

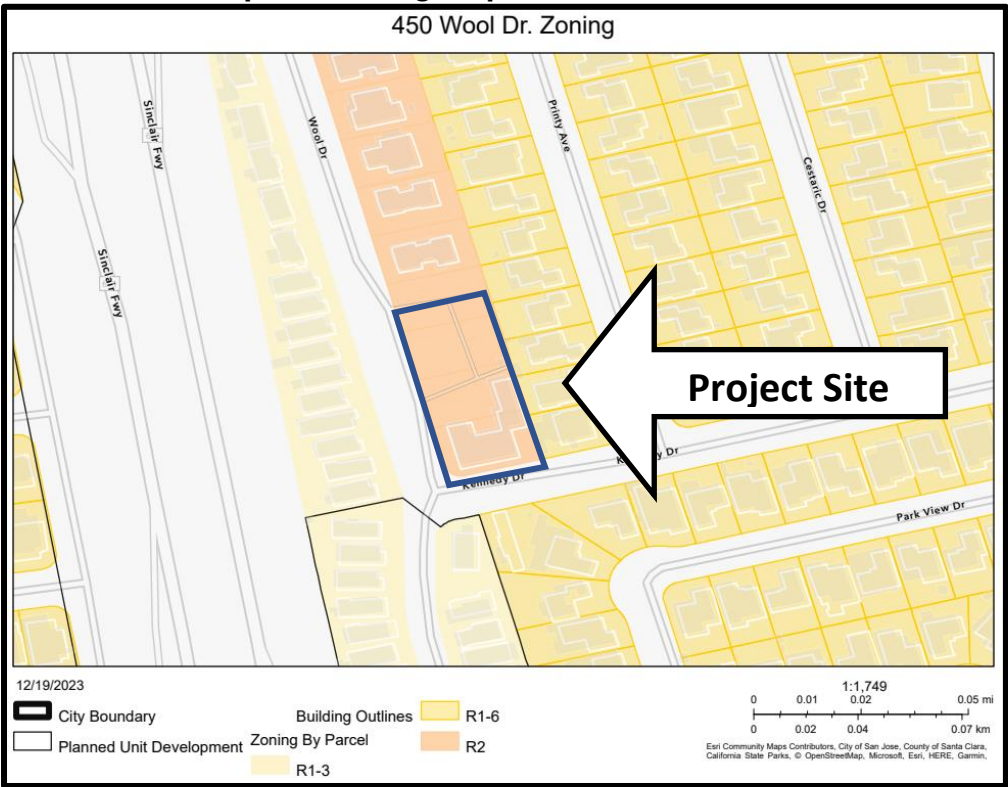
EXECUTIVE SUMMARY

On June 7, 2023, Neal Allen of Mission Peak Homes (Applicant) submitted four Site Development (SD) Permit applications to develop four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive (the “Project”). The four individual lots were subdivided as lots 177-180 of Tract Map No. 4549, which was recorded in Santa Clara County in 1969.

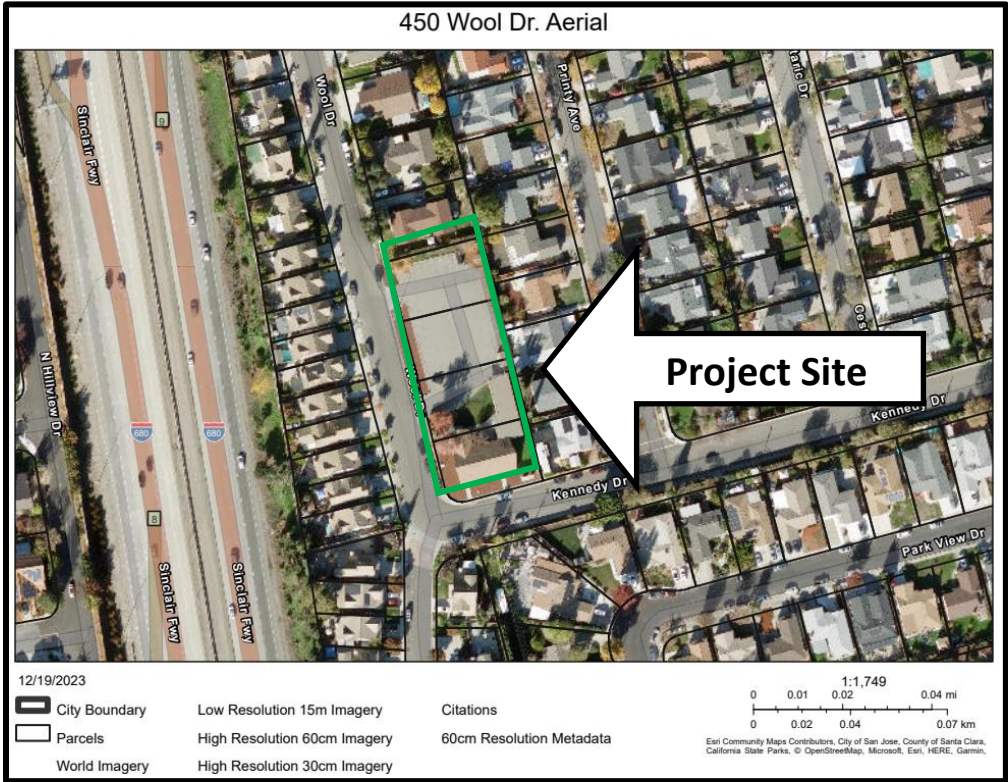
Site Development Permits are required for all new main buildings per Milpitas Municipal Code (“MMC”) Section XI-10-57.03 (C)(1)(a). Maps 1 and 2 demonstrate the Project site’s location and zoning map of the four lots in the City.



Map 1 – Zoning Map of 470-500 Wool Dr.



Map 2 – Aerial View of 470-500 Wool Dr.



BACKGROUND

History

On April 4, 1969, "Tract No. 4549," known as the "Victoria Park" subdivision, was filed for recordation in the Office of the Recorder of Santa Clara County, State of California. Tract Map No. 4549 created 192 lots, known as the Victoria Park subdivision. Lots 177-180 of this subdivision comprise the four contiguous lots of the proposed Project.

The four lots were previously owned and developed by the Church of Christ in the early 1970's as a commercial building with a church, accessory structures, and a surface parking lot. The City's historical permit records indicate the Planning Commission approved Use Permit No. 245 on January 9, 1973, to allow the development of a religious place of assembly and associated site improvements, including a surface parking lot on the Project site, originally addressed as 450 Wool Drive at the intersection of Wool Drive and Kennedy Drive. Subsequently on August 28, 1973, the Church of Christ obtained approval of Use Permit No. 258 to add a mobile trailer to be used as additional classrooms.

The Church of Christ owned and operated the site until December 2021, when all four lots were sold to the current property owner and Applicant, Mission Peak Homes. All existing structures on the site have been legally demolished by the end of 2023 by the obtainment of a demolition permit (B-DM22-0013) from the City's Building Department.

Before the Church of Christ was entitled per Use Permit No. 245, the site was comprised of the four individual lots described in the subdivision above and as shown in Attachment C. While these four parcels are contiguous, held by the same owner, and were used until recently for one unified purpose with straddling improvements, no notice of merger was ever recorded on these properties. The California Legislature in 1983 amended the Subdivision Map Act, including by repealing provisions that might otherwise allow for the merger of contiguous parcels held by a single owner. (E.g., former Gov. Code, § 66424.2.) Instead, the Legislature created a new procedure for the merger of parcels that it declared to be "the sole and exclusive authority for local agency initiated merger of contiguous parcels." (Gov. Code, § 66451.10(b).) Moreover, as pertinent here, the Legislature declared that unless a notice of merger was recorded on the property before January 1, 1984, all parcels would be deemed not to have merged unless certain criteria were met. (Gov. Code, § 66451.30.) The Legislature also provided a process whereby a property owner could apply to a local agency for a determination that parcels had not merged. (Gov. Code, § 66451.31.) On January 10, 2024, the City received from the Applicant a signed letter application for a determination of unmerger pursuant to Government Code section 66451.31. Attachment D includes a copy of this application. In that application, the Applicant declared under penalty of perjury that these four parcels were unmerged, and the Applicant disclaimed, abandoned, and waived any interest or right in the merger of these parcels. On January 18, 2024, the City issued a notice of determination that the criteria set by Government Code section 66451.30 were met and that by operation of law these four parcels were consequently deemed not to have merged. Attachment E includes a copy of this determination. Consequently, Tract Map No. 4549 shows the current subdivision of this property as four unmerged parcels.

The Application

The following is a summary of the Applicant's request:

- Four (4) Site Development Permits: To allow for the development of four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive. The application also includes landscaping and associated site improvements.

Process

The four applications must be considered for approval at a duly noticed public hearing by the Zoning Administrator and must satisfy the substantive and procedural requirements of a Site Development Permit, required for all new main buildings per Milpitas Municipal Code ("MMC") Section XI-10-57.03 (C)(1)(a).

PROJECT DESCRIPTION

Overview

The applicant is requesting four Site Development Permits to develop four new two-story single-family residences on four existing lots. All four projects have been designed to be nearly identical except for exterior architectural features in two alternating facade colors and material schemes. Each residence will include four bedrooms, three and a half bathrooms, an attached 423-square-foot two-car garage, and a detached single-story 747-square-foot Accessory Dwelling Unit (ADU). The ADUs are not part of the currently requested site development permits. The Applicant intends to subsequently submit for ministerial review of these ADUs during the Building Permit review phase pursuant to MMC Sec. XI-10-13.08(D) if the principal residences receive site development permits here. The two-story single-family residences of each lot will reach a maximum height of 28 feet, which is below the 30-foot maximum height limit as demonstrated in Table 3 below.

No other accessory structures are proposed as part of the four Site Development Permit requests, except for a 6-foot-high redwood fence along the side and rear property lines of all four lots. Additionally, all four lots feature similar landscape plans consisting of Hops Bush hedges along rear property lines, Kohuhu hedges along side property lines, and a variety of groundcover and other drought tolerant landscaping within the front yards. The Project will require the removal of existing trees to allow for landscaping improvements, but these trees are all under 30-inches in circumference and do not meet the threshold for a separate tree removal permit under the City's tree removal ordinance¹.

¹ Per the City's Tree Removal Ordinance per MMC Sec. X-2-7.01 on developed residential property, a protected tree is designated as one that has fifty-six-inch (56"), or greater circumference of its trunk measured 4 1/2 feet from the ground.

The first floor of each residence will include an attached two-car garage, a bedroom, one-and-a-half bathrooms, a dining area, kitchen, and family room. A small, 133 square-foot covered porch will include the entryway and front door. A sliding door at the rear of the first floor will provide direct access to the back yard. The second floor will contain three bedrooms, two additional bathrooms, and a laundry room. In total, each new residence will have approximately 2,841-square-feet of habitable space and identical floor plans.

Each new single-family residence will have four bedrooms, which requires three parking spaces per MMC Sec. XI-10-53 (Off-Street Parking Regulations). The Project meets this requirement by providing a two-car garage and a driveway on each lot that can safely accommodate two additional vehicles for a total of four off-street parking spaces. Other off-site improvements are also proposed as part of the Project, such as four new driveway approaches. The Applicant has been conditionally approved by the City's Engineering Department to obtain all necessary encroachment permits prior to altering the driveway approaches for each lot after the four SDP applications are entitled.

Colors and Materials

The four proposed single-family residences will feature two different alternating architectural styles (Farmhouse or Traditional) while having identical floor plans. Lots 178 and 180 (480 and 500 Wool Drive) will feature the Farmhouse architectural style with warm colored tones and a combination of taupe stucco and "antique white" siding, along with board & batten accents. Lots 177 and 179 (470 and 490 Wool Drive) will feature the Traditional architectural style with cooler colored tones and a combination of "cityscape" gray stucco and "aloof gray" siding, along with stone veneer. All four residences will feature composition shingle roofs with Lots 178 and 180 having a light brown "village blend" color mix, and Lots 177 and 179 with a gray "concord blend" color mix.

Table 1 provides a summary of the Project's Details and *Figure 1: Site Plan* shows a generalized overview of the proposed single-family residences. *Figures 2 and 3* show the proposed elevations and the two proposed architectural styles.

Table 1: Summary of Project Details

Address	Lot # of Tract Map No. 4549	SD Permit No.	Architectural Style
470 Wool Dr.	Lot 177	P-SD23-0006	Traditional
480 Wool Dr.	Lot 178	P-SD23-0007	Farmhouse
490 Wool Dr.	Lot 179	P-SD23-0008	Traditional
500 Wool Dr.	Lot 180	P-SD23-0009	Farmhouse

Figure 1: 470-500 Wool Dr. Site Plans

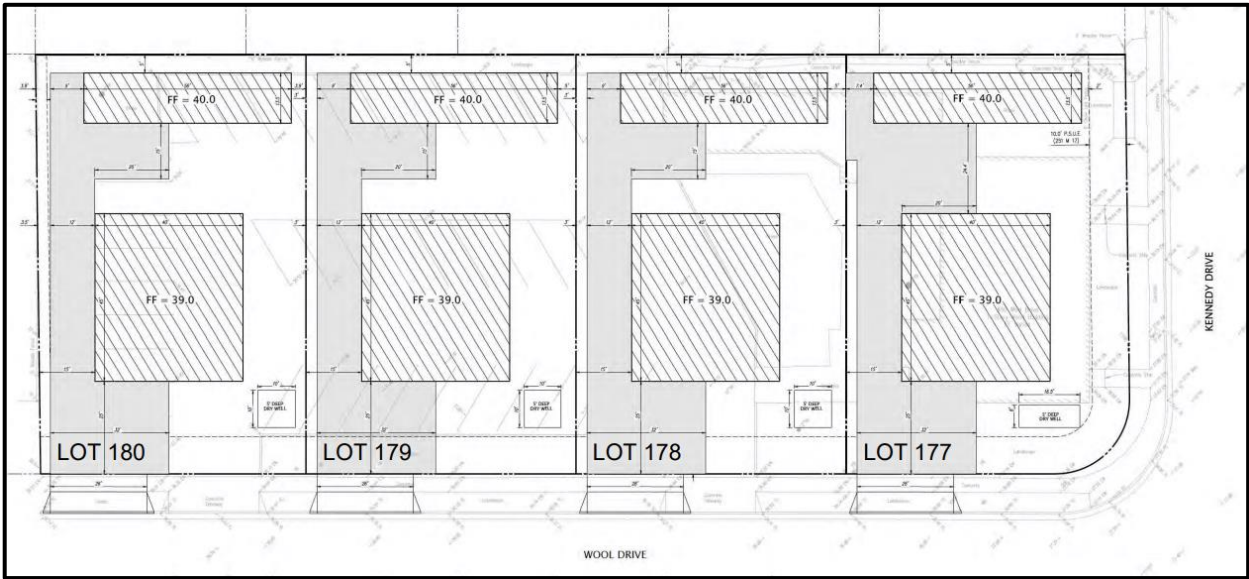


Figure 2: Front Elevation – Farmhouse Architectural Style
Lots 178 and 180 (480 and 500 Wool Dr.)



Figure 3: Front Elevation – Traditional Architectural Style
Lots 177 and 179 (470 and 490 Wool Dr.)



Location and Context

The Project site is in the upper middle portion of the City. The subject properties and surrounding properties to the north, west, and south are similarly zoned with residential uses as either Single-Family Residential (R1) or One- and Two- Family Residential (R2). Table 2 demonstrates the surrounding zoning and land uses.

Table 2: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing/Proposed Uses
Subject Site(s)	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Single-Family Residential
North	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Two-Family Residential
South	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
West	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
East	Low Density Residential (LDR)	Single Family Residential (R1-3)	Single-Family Residential

PROJECT ANALYSIS

Zoning Conformance

The Project sites are in the R2 Zoning District and comply with all applicable development standards shown in Table 3. As proposed, the Project and associated use are consistent with the purpose and intent of the One- and Two-Family Residential (R2) zoning district, which is intended to “*stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R2 District is intended for suburban family homes and the community services appurtenant thereto,*” per MMC Sec. XI-10-4.01.

Table 3: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' - 10"	Yes

Neighborhood Compatibility

The proposed Project will enhance the neighborhood compatibility of the four existing lots with the surrounding community by removing a church with its associated structures and surface parking lot and by developing four new single-family residences with four detached ADUs in an area predominantly surrounded by single-family residences and duplexes. The elimination of the conditionally permitted church in the area will reduce associated noise and traffic impacts in the neighborhood associated with the prior church operations. Furthermore, although the detached ADUs on each lot do not require separate off-street parking stalls, the Applicant designed four new driveway approaches that extend the new driveways along the western edge of each lot towards the back of each ADU as shown in Figure 1. As such, on-street parking in the immediately surrounding neighborhood will be preserved and will maintain the quality of life for residents in the area.

All 15 lots to the west of the Project sites on the opposite side of Wool Drive are also developed with two-story, single-family residences, and are similar in scale, bulk, and architectural style as the proposed Project's four new residences. The front elevations of the existing residences across the street on Wool Drive and the proposed new residences under the four subject SDP applications all have stepped back second stories of varying feet and dimensions at a similar depth and have similar architectural side elevations. The proposed Project's two neutral architectural colors and material schemes will also complement the other surrounding neighborhoods' muted, earth-toned colors and will similarly use asphalt shingle roofing material.

The Project will maintain compatibility with the R2 zoned lots primarily built with existing single-story, duplex units to the north by also providing two-units per subject lot (main residence and detached ADU). The detached ADUs will also be limited to one-story at a maximum height of 13-feet above grade. They will be a similar height, scale, and bulk to the single-story duplexes to the north and to the one-story, single-family residences to the east.

The immediate neighboring area to the south predominantly consists of other one- or two-story single-family residences and do not face the Project sites. All residences along Moretti Lane southwest of the Project site are two-story, single-family residences developed under Planned Unit Development No. 42 (PUD 42). These PUD 42 residences have a similar architectural styles and scales of development to the other two-story residences on the west side of Wool Drive and will similarly be compatible with the proposed Project's two architectural schemes and design. Additionally, the Project sites as proposed maintain appropriate setbacks from property lines and neighboring parcels, thereby maintaining a sense of openness and preserving the low-density, single-family residential and duplex character of the neighborhood.

Homes in the surrounding area are predominantly Ranch or Craftsman style, with varying rooflines, muted earth tone colors, prominent front-facing garages, and exterior walls finished with stucco, brick and/or stone. The proposed Project will incorporate a more contemporary Traditional and Farmhouse architectural style into the neighborhood, the Project but will remain compatible in terms of materials and colors as described in the above section and shown in the figures below.

The color and material boards for both the Traditional and Farmhouse architectural scheme are shown in Figures 4 and 5. The detached ADUs of each lot will also have a color and material scheme that match the new main residences.

Figure 4: Traditional Scheme Color and Material Board

470 and 490 Wool Dr (Lots 177 and 179)

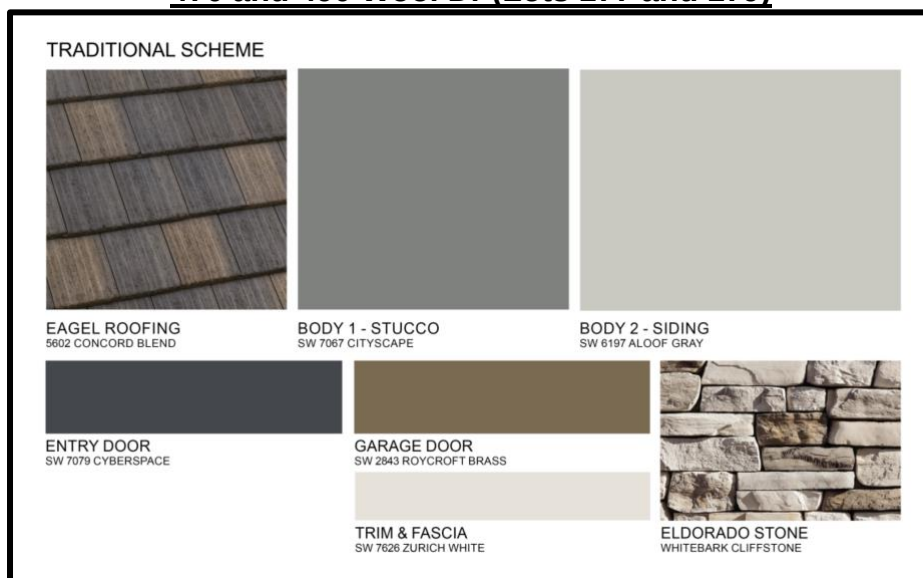


Figure 5: Farmhouse Scheme Color and Material Board

480 and 500 Wool Dr (Lots 178 and 180)



Findings for Approval:

Findings shall identify the rationale behind the decision to take a certain action. Each required finding within the Milpitas Municipal Code Section XI-10-57.03 (G) have been analyzed below:

1. The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

2. The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 3 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

3. The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

California Environmental Quality Act (CEQA):

The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New construction or conversion of small structures), Section 15332 (In-Fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Recommendation:

Staff recommends that the Zoning Administrator approve P-SD23-0006, P-SD23-0007, P-SD23-0008, and P-SD23-0009 to allow the development of four new, 2,841-square-foot, two-story, single-family residences with a 423-square-foot attached garage up to a maximum height of 28-feet on four individual 0.2-acre lots in the R2 One- and Two-Family Residential Zoning District located at 470, 480, 490, and 500 Wool Drive, subject to the findings outlined in this report and the attached Conditions of Approval.

Attachments:

- A. Resolution 24-001 for 470 Wool Dr.
- B. Project Plans for 470 Wool Dr.
- C. Tract Map. No. 4549
- D. Signed Application Letter for Determination of Unmerger
- E. Determination of Unmerger

ATTACHMENT A

RESOLUTION NO. 24-001

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE
CITY OF MILPITAS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO.
SD23-0006 TO ALLOW THE DEVELOPMENT OF AN APPROXIMATELY 2,841-
SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 423-SQUARE-
FOOT ATTACHED GARAGE UP TO A MAXIMUM HEIGHT OF 28-FEET ABOVE GRADE
LEVEL ON A 0.2-ACRE PARCEL AT 470 WOOL DRIVE
(APN 029-10-081)**

WHEREAS, on June 7, 2023, Neal Allen (“Applicant”) on behalf of Mission Peak Homes submitted a Site Development Permit (“SDP”) application to replace an existing religious place of assembly building and surface parking lot with a new two-story, single family residence (“Project”) on a 0.2-acre lot located at 470 Wool Drive (APN 029-10-081); and

WHEREAS, the property (APN 029-10-081) is located within the One- and Two-Family (R2) Zoning District; 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 Zoning Administrator determine this Project is categorically exempt; and

WHEREAS, on January 25, 2024, the Zoning Administrator 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 Zoning Administrator of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The Zoning Administrator has considered the full record before him or her, which may include but is not limited to such things as any staff report, source records, statements by staff and the public, and any other materials and evidence submitted or provided to him or her. The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Smaller Structures), Section 15332 (In-Fill Development Projects) and; as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). As proposed, the Project includes the development of a single-family residence in a residential zone, consistent with the general plan and zoning standards, located

within city limits on a site with no value to habitat for endangered species, and adequately served by all utilities.

Section 3: The Milpitas Municipal Code (MMC) requires approval of a Site Development Permit (SDP) for new main buildings (MMC Section XI-10-57.03 (C)(1)(a)). In order to approve an SDP, the Zoning Administrator must make the following findings, per MMC Section XI-10-57.03(G):

- a) *The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;*

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

- b) *The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and*

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 1 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

Table 1: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' 10"	Yes

- c) *The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.*

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street

on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

Section 4: The Zoning Administrator of the City of Milpitas hereby adopts Resolution No. 24-001 approving Site Development Permit No. SD23-0006 to allow the development of a new 2,841-square foot, two-story single-family residence with a 423-square-foot attached garage at 470 Wool Drive, subject to the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of Milpitas on January 25, 2024.

Jay Lee, AICP
Planning Director

Date: _____

EXHIBIT 1

**SITE DEVELOPMENT PERMIT NO. P-SD23-0006
470 WOOL DRIVE (APN 029-10-081)**

The City of Milpitas Zoning Administrator approves Site Development Permit No. SD23-0006 in accordance with Section XI-10-57.03 of the Milpitas Municipal Code, subject to and conditioned upon all applicable State and local laws and regulations and the Conditions of Approval outlined below. This Site Development Permit entitlement is to allow the issuance of building permits for the proposed development of a 2,841-square foot, two-story single-family residence, with a 423-square foot attached garage ("Project") on a 0.2-acre lot located within the R2 One- and Two-Family Residential Zoning District at 470 Wool Drive (APN: 029-10-081), subject to all necessary reviews, approvals, studies, and inspections for the issuance of such building permits.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

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. This Site Development Permit No. SD23-0006 ("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. **(P)**
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
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: **(P)**
 - i. Acceptance of this Permit by Permittee; and
 - ii. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all 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: **(P)**
 - i. Completes a foundation associated with the Project; or
 - ii. Dedicates any land or easement as required from the zoning action; or

- iii. 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. 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 approval of this Permit. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(CA)**
7. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Permit and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the approval of this Permit. **(P)**
8. Conditions. Each and every condition set forth in this Permit 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 Permit. **(P)**
9. 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)**
10. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(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 applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**

12. 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)**

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. **(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. **(CA)**

15. Permittee shall develop the approved Project in conformance with the approved plans (date stamped 10/09/23), approved by the Zoning Administrator on the date of the public hearing for the Project on January 25, 2024 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, the owner or designee shall be required to apply for review and obtain approval of the Zoning Administrator or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

FIRE DEPARTMENT CONDITIONS

The plans approved by the Planning Department process are not building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider this set of plans as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2022) and are provided to assist with the **building permit process**. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction as some of the requirements and notes below meets current codes.

16. Fire Department access. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Bearing capacity for the driveway and the entry drive court shall be designed to provide a minimum of 50,000 lbs bearing capacity for the fire apparatus. CFC Section 503.2.3.
 - 16.1. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of 13 feet 6 inches (4115 mm).
17. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for all structures (living space, garage, outdoor spaces attached to the home, pool cabana, ADU, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code V-300-2.82.
 - 17.1. FIRE SPRINKLERS for NEW HOMES
 - 17.1.1. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for the home (living space, garage, outdoor spaces attached to the home, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code **V-300-2.62**
 - 17.1.2. FIRE DEPARTMENT PERMIT – REQUIRED
The Milpitas Fire Department shall approve new installation and/or modifications to existing fire protection, alarm or monitoring system(s). A separate submittal is required to the Milpitas Fire Department, for review and approval, prior to the commencement of any work. CFC Section 901.2
 - 17.1.3. WATER SUPPLY SERVICE TO THE HOME
The existing water supply service to the home may need upgrading to service the automatic fire sprinkler system. All new water services shall be done as required by the City of Milpitas Engineering Division.
18. ACCESS CONTROL DEVICES. When access control devices including bars, grates, gates, or electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the fire code official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. (Knox box location shall be at 6 feet above the finish floor, or fire access walkway or road).
19. SITE ADDRESS. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. Where access is by means of a private road the building cannot be viewed by the public way, a monument,

pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

20. **KEY BOX.** The Fire Code Official is authorized to require a key box to be installed in an approved location if necessary for lifesaving or firefighting purpose. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. (Knox box location shall be at 6 feet above finish floor, or fire access walkway or road).

BUILDING DEPARTMENT CONDITIONS

21. **Compliance with California Code of Regulations.** The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department.

ENGINEERING DEPARTMENT CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

22. **Modifications:** The Site Development Plan received 10/09/2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
23. **Submittal Requirements:** Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
24. **Project Job Account/Fee Deposit:** Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the Project. The amount shall be determined based on the approved City fee schedule at the time of application submittal.
25. **Coordination with other Projects:** Permittee shall coordinate designs with the projects associated with permit numbers P-SD23-0007, P-SD23-0008, P-SD23-0009 in advance prior to any plan submittal.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

28. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
29. Demolition of Existing Building: Permittee shall demolish existing buildings/ facilities that are in conflict with the new property lines.
30. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Chapter 10, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
31. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2005-1, and agree to pay the special taxes levied by the CFD 2005-1 for the purpose of maintaining the public services. 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. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 28 notwithstanding.
32. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - b. Standard details and specifications: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - c. Americans with Disabilities Act (ADA) requirements, where applicable.
33. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
34. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as

needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the Project.

35. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a) Installation of separate water service tap and meter for the main residence and accessory dwelling unit.
 - b) Installation of separate utility service lines (domestic water, sanitary sewer) for the main residence and accessory dwelling unit.
 - c) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with 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 subject radio antenna.
 - d) Installation of pavement microsurfacing along half of the street width of the project frontage on Wool Dr. to the City Engineer's satisfaction.
 - e) Installation of new sidewalk and driveway along the project frontage.
 - f) Installation of new street trees along the project frontage. The locations, spacing of tree and tree species shall be in compliance with applicable City standards and details.
36. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
37. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
38. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements, such as landscape irrigation within the public right of way, mutually agreed between the City and the Permittee.
39. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
40. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. **(E)***

41. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
42. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
43. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
44. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following 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.Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.
45. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. 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 Department for approval by the Engineering Department prior to inspection by the Building Department.
46. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "f" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
 - a) Storm water connection fee at \$1,100/unit for residential.
 - b) Water connection fee at \$1,910/unit for residential.
 - c) Sewer connection fee at \$1,908/unit for residential.

- d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
- e) Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
- f) 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.

47. Mailboxes: The Permittee shall coordinate with US Postal Services regarding placement of required mailboxes. Mailbox location shall not be on public street frontages and shall be approved by City and US Postal Services prior to building permit issuance. Mailbox locations shall be shown on the improvement plans and Permittee shall submit a letter to the City's Land Development Engineering Section from the Postmaster approving the location of the mailbox. Structures to protect mailboxes may require Building, Engineering and Planning Department review.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the Project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

48. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
49. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
50. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
51. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector, and notify affected property owners/ tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved by the Director of Engineering/City Engineer.*

52. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements along Wool Drive as shown on City approved plans.
53. Landscape Certificate of Completion: Permittee shall submit a Certificate of Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.

54. Record Drawings: Permittee shall submit record drawings in Full size hard copy, AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements.

55. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

(P) = Planning

(F) = Fire Prevention

(B) = Building

(LD) = Land Development

(CA) = City Attorney

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.

AGREEMENT

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the subject property on the terms and conditions set forth in this Permit.

Dated: _____
Permittee/Property Owner

Signature of Permittee

MEMORANDUM

Planning Department



Date: January 25, 2024
To: Zoning Administrator
From: Randy Baez, Associate Planner
Kristina Phung, Associate Planner

Subject: **MISSION PEAK HOMES – 470, 480, 490, and 500 Wool Drive - P-SD23-0006, -07, -08, -09** – Four Site Development Permits to develop four new detached, 2,841-square-foot, two-story single-family residences with attached, 423-square-foot garages each on a 0.2-acre lot in the R2 (One- and Two-Family Residential) Zoning District located at 470, 480, 490, and 500 Wool Drive. The maximum height of the new residences will be up to 28 feet above grade level. The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), Section 15332 (In-fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Location: 470, 480, 490, and 500 Wool Dr. (APNs: 029-10-081, 029-10-082, 029-10-083, and 029-10-084)

Zoning/GP: One- and Two- Family Residential (R2) / Medium Density Residential (MDR)

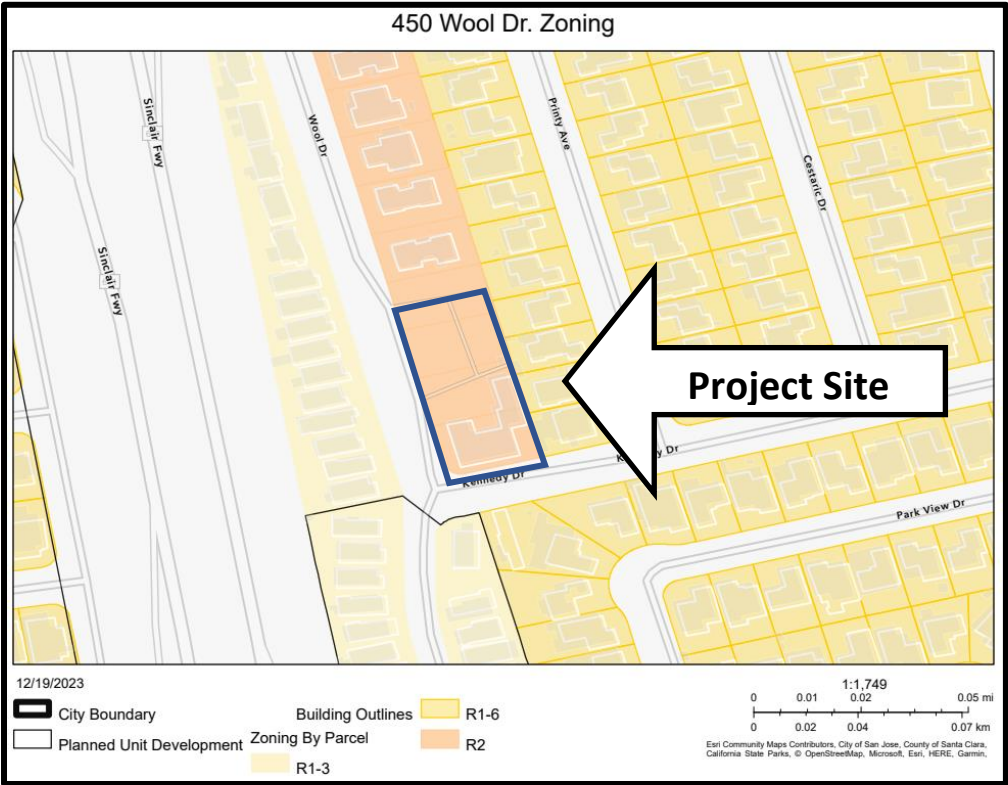
EXECUTIVE SUMMARY

On June 7, 2023, Neal Allen of Mission Peak Homes (Applicant) submitted four Site Development (SD) Permit applications to develop four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive (the "Project"). The four individual lots were subdivided as lots 177-180 of Tract Map No. 4549, which was recorded in Santa Clara County in 1969.

Site Development Permits are required for all new main buildings per Milpitas Municipal Code ("MMC") Section XI-10-57.03 (C)(1)(a). Maps 1 and 2 demonstrate the Project site's location and zoning map of the four lots in the City.



Map 1 – Zoning Map of 470-500 Wool Dr.



Map 2 – Aerial View of 470-500 Wool Dr.



BACKGROUND

History

On April 4, 1969, “Tract No. 4549,” known as the “Victoria Park” subdivision, was filed for recordation in the Office of the Recorder of Santa Clara County, State of California. Tract Map No. 4549 created 192 lots, known as the Victoria Park subdivision. Lots 177-180 of this subdivision comprise the four contiguous lots of the proposed Project.

The four lots were previously owned and developed by the Church of Christ in the early 1970’s as a commercial building with a church, accessory structures, and a surface parking lot. The City’s historical permit records indicate the Planning Commission approved Use Permit No. 245 on January 9, 1973, to allow the development of a religious place of assembly and associated site improvements, including a surface parking lot on the Project site, originally addressed as 450 Wool Drive at the intersection of Wool Drive and Kennedy Drive. Subsequently on August 28, 1973, the Church of Christ obtained approval of Use Permit No. 258 to add a mobile trailer to be used as additional classrooms.

The Church of Christ owned and operated the site until December 2021, when all four lots were sold to the current property owner and Applicant, Mission Peak Homes. All existing structures on the site have been legally demolished by the end of 2023 by the obtainment of a demolition permit (B-DM22-0013) from the City’s Building Department.

Before the Church of Christ was entitled per Use Permit No. 245, the site was comprised of the four individual lots described in the subdivision above and as shown in Attachment C. While these four parcels are contiguous, held by the same owner, and were used until recently for one unified purpose with straddling improvements, no notice of merger was ever recorded on these properties. The California Legislature in 1983 amended the Subdivision Map Act, including by repealing provisions that might otherwise allow for the merger of contiguous parcels held by a single owner. (E.g., former Gov. Code, § 66424.2.) Instead, the Legislature created a new procedure for the merger of parcels that it declared to be “the sole and exclusive authority for local agency initiated merger of contiguous parcels.” (Gov. Code, § 66451.10(b).) Moreover, as pertinent here, the Legislature declared that unless a notice of merger was recorded on the property before January 1, 1984, all parcels would be deemed not to have merged unless certain criteria were met. (Gov. Code, § 66451.30.) The Legislature also provided a process whereby a property owner could apply to a local agency for a determination that parcels had not merged. (Gov. Code, § 66451.31.) On January 10, 2024, the City received from the Applicant a signed letter application for a determination of unmerger pursuant to Government Code section 66451.31. Attachment D includes a copy of this application. In that application, the Applicant declared under penalty of perjury that these four parcels were unmerged, and the Applicant disclaimed, abandoned, and waived any interest or right in the merger of these parcels. On January 18, 2024, the City issued a notice of determination that the criteria set by Government Code section 66451.30 were met and that by operation of law these four parcels were consequently deemed not to have merged. Attachment E includes a copy of this determination. Consequently, Tract Map No. 4549 shows the current subdivision of this property as four unmerged parcels.

The Application

The following is a summary of the Applicant's request:

- Four (4) Site Development Permits: To allow for the development of four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive. The application also includes landscaping and associated site improvements.

Process

The four applications must be considered for approval at a duly noticed public hearing by the Zoning Administrator and must satisfy the substantive and procedural requirements of a Site Development Permit, required for all new main buildings per Milpitas Municipal Code ("MMC") Section XI-10-57.03 (C)(1)(a).

PROJECT DESCRIPTION

Overview

The applicant is requesting four Site Development Permits to develop four new two-story single-family residences on four existing lots. All four projects have been designed to be nearly identical except for exterior architectural features in two alternating facade colors and material schemes. Each residence will include four bedrooms, three and a half bathrooms, an attached 423-square-foot two-car garage, and a detached single-story 747-square-foot Accessory Dwelling Unit (ADU). The ADUs are not part of the currently requested site development permits. The Applicant intends to subsequently submit for ministerial review of these ADUs during the Building Permit review phase pursuant to MMC Sec. XI-10-13.08(D) if the principal residences receive site development permits here. The two-story single-family residences of each lot will reach a maximum height of 28 feet, which is below the 30-foot maximum height limit as demonstrated in Table 3 below.

No other accessory structures are proposed as part of the four Site Development Permit requests, except for a 6-foot-high redwood fence along the side and rear property lines of all four lots. Additionally, all four lots feature similar landscape plans consisting of Hops Bush hedges along rear property lines, Kohuhu hedges along side property lines, and a variety of groundcover and other drought tolerant landscaping within the front yards. The Project will require the removal of existing trees to allow for landscaping improvements, but these trees are all under 30-inches in circumference and do not meet the threshold for a separate tree removal permit under the City's tree removal ordinance¹.

¹ Per the City's Tree Removal Ordinance per MMC Sec. X-2-7.01 on developed residential property, a protected tree is designated as one that has fifty-six-inch (56"), or greater circumference of its trunk measured 4 1/2 feet from the ground.

The first floor of each residence will include an attached two-car garage, a bedroom, one-and-a-half bathrooms, a dining area, kitchen, and family room. A small, 133 square-foot covered porch will include the entryway and front door. A sliding door at the rear of the first floor will provide direct access to the back yard. The second floor will contain three bedrooms, two additional bathrooms, and a laundry room. In total, each new residence will have approximately 2,841-square-feet of habitable space and identical floor plans.

Each new single-family residence will have four bedrooms, which requires three parking spaces per MMC Sec. XI-10-53 (Off-Street Parking Regulations). The Project meets this requirement by providing a two-car garage and a driveway on each lot that can safely accommodate two additional vehicles for a total of four off-street parking spaces. Other off-site improvements are also proposed as part of the Project, such as four new driveway approaches. The Applicant has been conditionally approved by the City's Engineering Department to obtain all necessary encroachment permits prior to altering the driveway approaches for each lot after the four SDP applications are entitled.

Colors and Materials

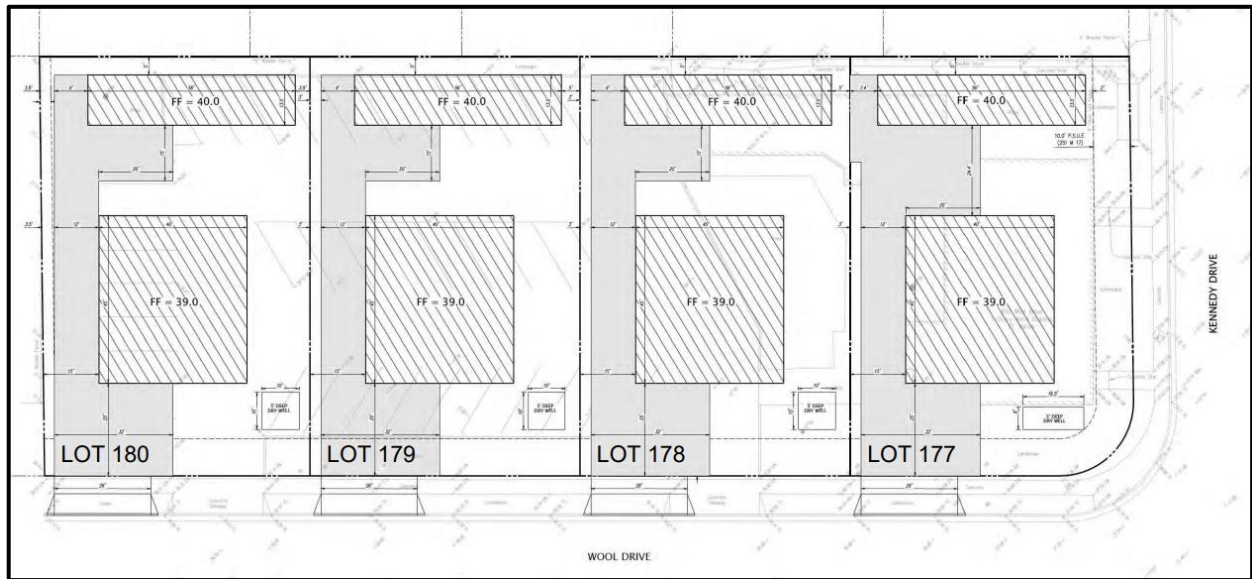
The four proposed single-family residences will feature two different alternating architectural styles (Farmhouse or Traditional) while having identical floor plans. Lots 178 and 180 (480 and 500 Wool Drive) will feature the Farmhouse architectural style with warm colored tones and a combination of taupe stucco and "antique white" siding, along with board & batten accents. Lots 177 and 179 (470 and 490 Wool Drive) will feature the Traditional architectural style with cooler colored tones and a combination of "cityscape" gray stucco and "aloof gray" siding, along with stone veneer. All four residences will feature composition shingle roofs with Lots 178 and 180 having a light brown "village blend" color mix, and Lots 177 and 179 with a gray "concord blend" color mix.

Table 1 provides a summary of the Project's Details and *Figure 1: Site Plan* shows a generalized overview of the proposed single-family residences. *Figures 2 and 3* show the proposed elevations and the two proposed architectural styles.

Table 1: Summary of Project Details

Address	Lot # of Tract Map No. 4549	SD Permit No.	Architectural Style
470 Wool Dr.	Lot 177	P-SD23-0006	Traditional
480 Wool Dr.	Lot 178	P-SD23-0007	Farmhouse
490 Wool Dr.	Lot 179	P-SD23-0008	Traditional
500 Wool Dr.	Lot 180	P-SD23-0009	Farmhouse

Figure 1: 470-500 Wool Dr. Site Plans



**Figure 2: Front Elevation – Farmhouse Architectural Style
Lots 178 and 180 (480 and 500 Wool Dr.)**



Figure 3: Front Elevation – Traditional Architectural Style
Lots 177 and 179 (470 and 490 Wool Dr.)



Location and Context

The Project site is in the upper middle portion of the City. The subject properties and surrounding properties to the north, west, and south are similarly zoned with residential uses as either Single-Family Residential (R1) or One- and Two- Family Residential (R2). Table 2 demonstrates the surrounding zoning and land uses.

Table 2: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing/Proposed Uses
Subject Site(s)	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Single-Family Residential
North	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Two-Family Residential
South	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
West	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
East	Low Density Residential (LDR)	Single Family Residential (R1-3)	Single-Family Residential

PROJECT ANALYSIS

Zoning Conformance

The Project sites are in the R2 Zoning District and comply with all applicable development standards shown in Table 3. As proposed, the Project and associated use are consistent with the purpose and intent of the One- and Two-Family Residential (R2) zoning district, which is intended to “*stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R2 District is intended for suburban family homes and the community services appurtenant thereto,*” per MMC Sec. XI-10-4.01.

Table 3: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' - 10"	Yes

Neighborhood Compatibility

The proposed Project will enhance the neighborhood compatibility of the four existing lots with the surrounding community by removing a church with its associated structures and surface parking lot and by developing four new single-family residences with four detached ADUs in an area predominantly surrounded by single-family residences and duplexes. The elimination of the conditionally permitted church in the area will reduce associated noise and traffic impacts in the neighborhood associated with the prior church operations. Furthermore, although the detached ADUs on each lot do not require separate off-street parking stalls, the Applicant designed four new driveway approaches that extend the new driveways along the western edge of each lot towards the back of each ADU as shown in Figure 1. As such, on-street parking in the immediately surrounding neighborhood will be preserved and will maintain the quality of life for residents in the area.

All 15 lots to the west of the Project sites on the opposite side of Wool Drive are also developed with two-story, single-family residences, and are similar in scale, bulk, and architectural style as the proposed Project's four new residences. The front elevations of the existing residences across the street on Wool Drive and the proposed new residences under the four subject SDP applications all have stepped back second stories of varying feet and dimensions at a similar depth and have similar architectural side elevations. The proposed Project's two neutral architectural colors and material schemes will also complement the other surrounding neighborhoods' muted, earth-toned colors and will similarly use asphalt shingle roofing material.

The Project will maintain compatibility with the R2 zoned lots primarily built with existing single-story, duplex units to the north by also providing two-units per subject lot (main residence and detached ADU). The detached ADUs will also be limited to one-story at a maximum height of 13-feet above grade. They will be a similar height, scale, and bulk to the single-story duplexes to the north and to the one-story, single-family residences to the east.

The immediate neighboring area to the south predominantly consists of other one- or two-story single-family residences and do not face the Project sites. All residences along Moretti Lane southwest of the Project site are two-story, single-family residences developed under Planned Unit Development No. 42 (PUD 42). These PUD 42 residences have a similar architectural styles and scales of development to the other two-story residences on the west side of Wool Drive and will similarly be compatible with the proposed Project's two architectural schemes and design. Additionally, the Project sites as proposed maintain appropriate setbacks from property lines and neighboring parcels, thereby maintaining a sense of openness and preserving the low-density, single-family residential and duplex character of the neighborhood.

Homes in the surrounding area are predominantly Ranch or Craftsman style, with varying rooflines, muted earth tone colors, prominent front-facing garages, and exterior walls finished with stucco, brick and/or stone. The proposed Project will incorporate a more contemporary Traditional and Farmhouse architectural style into the neighborhood, the Project but will remain compatible in terms of materials and colors as described in the above section and shown in the figures below.

The color and material boards for both the Traditional and Farmhouse architectural scheme are shown in Figures 4 and 5. The detached ADUs of each lot will also have a color and material scheme that match the new main residences.

Figure 4: Traditional Scheme Color and Material Board

470 and 490 Wool Dr (Lots 177 and 179)

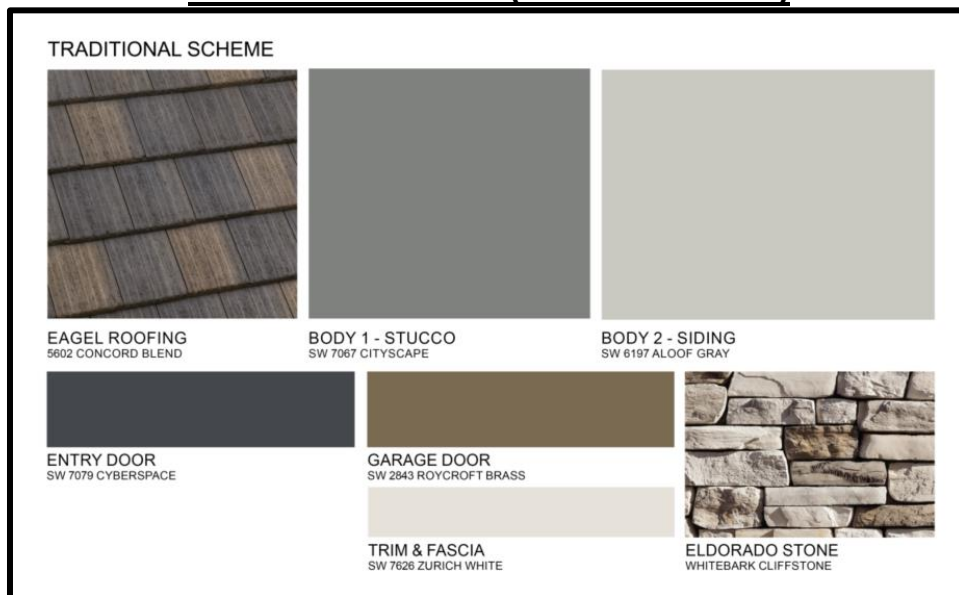


Figure 5: Farmhouse Scheme Color and Material Board

480 and 500 Wool Dr (Lots 178 and 180)



Findings for Approval:

Findings shall identify the rationale behind the decision to take a certain action. Each required finding within the Milpitas Municipal Code Section XI-10-57.03 (G) have been analyzed below:

1. The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

2. The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 3 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

3. The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

California Environmental Quality Act (CEQA):

The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New construction or conversion of small structures), Section 15332 (In-Fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Recommendation:

Staff recommends that the Zoning Administrator approve P-SD23-0006, P-SD23-0007, P-SD23-0008, and P-SD23-0009 to allow the development of four new, 2,841-square-foot, two-story, single-family residences with a 423-square-foot attached garage up to a maximum height of 28-feet on four individual 0.2-acre lots in the R2 One- and Two-Family Residential Zoning District located at 470, 480, 490, and 500 Wool Drive, subject to the findings outlined in this report and the attached Conditions of Approval.

Attachments:

- A. Resolution 24-002 for 480 Wool Dr.
- B. Project Plans for 480 Wool Dr.
- C. Tract Map. No. 4549
- D. Signed Application Letter for Determination of Unmerger
- E. Determination of Unmerger

ATTACHMENT A

RESOLUTION NO. 24-002

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE
CITY OF MILPITAS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO.
SD23-0007 TO ALLOW THE DEVELOPMENT OF AN APPROXIMATELY 2,841-
SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 423-SQUARE-
FOOT ATTACHED GARAGE UP TO A MAXIMUM HEIGHT OF 28-FEET ABOVE GRADE
LEVEL ON A 0.2-ACRE PARCEL AT 480 WOOL DRIVE
(APN 029-10-082)**

WHEREAS, on June 7, 2023, Neal Allen (“Applicant”) on behalf of Mission Peak Homes submitted a Site Development Permit (“SDP”) application to replace an existing religious place of assembly building and surface parking lot with a new two-story, single family residence (“Project”) on a 0.2-acre lot located at 480 Wool Drive (APN 029-10-082); and

WHEREAS, the property (APN 029-10-082) is located within the One- and Two-Family (R2) Zoning District; 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 Zoning Administrator determine this Project is categorically exempt; and

WHEREAS, on January 25, 2024, the Zoning Administrator 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 Zoning Administrator of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The Zoning Administrator has considered the full record before him or her, which may include but is not limited to such things as any staff report, source records, statements by staff and the public, and any other materials and evidence submitted or provided to him or her. The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Smaller Structures), Section 15332 (In-Fill Development Projects) and; as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). As proposed, the Project includes the development of a single-family residence in a residential zone, consistent with the general plan and zoning standards, located

within city limits on a site with no value to habitat for endangered species, and adequately served by all utilities.

Section 3: The Milpitas Municipal Code (MMC) requires approval of a Site Development Permit (SDP) for new main buildings (MMC Section XI-10-57.03 (C)(1)(a)). In order to approve an SDP, the Zoning Administrator must make the following findings, per MMC Section XI-10-57.03(G):

- a) *The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;*

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

- b) *The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and*

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 1 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

Table 1: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' 10"	Yes

- c) *The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.*

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street

on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

Section 4: The Zoning Administrator of the City of Milpitas hereby adopts Resolution No. 24-002 approving Site Development Permit No. SD23-0007 to allow the development of a new 2,841-square foot, two-story single-family residence with a 423-square-foot attached garage at 480 Wool Drive, subject to the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of Milpitas on January 25, 2024.

Jay Lee, AICP
Planning Director

Date: _____

EXHIBIT 1

**SITE DEVELOPMENT PERMIT NO. P-SD23-0007
480 WOOL DRIVE (APN 029-10-082)**

The City of Milpitas Zoning Administrator approves Site Development Permit No. SD23-0007 in accordance with Section XI-10-57.03 of the Milpitas Municipal Code, subject to and conditioned upon all applicable State and local laws and regulations and the Conditions of Approval outlined below. This Site Development Permit entitlement is to allow the issuance of building permits for the proposed development of a 2,841-square foot, two-story single-family residence, with a 423-square foot attached garage ("Project") on a 0.2-acre lot located within the R2 One- and Two-Family Residential Zoning District at 480 Wool Drive (APN: 029-10-082), subject to all necessary reviews, approvals, studies, and inspections for the issuance of such building permits.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

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. This Site Development Permit No. SD23-0007 ("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. **(P)**
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
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: **(P)**
 - i. Acceptance of this Permit by Permittee; and
 - ii. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all 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: **(P)**
 - i. Completes a foundation associated with the Project; or
 - ii. Dedicates any land or easement as required from the zoning action; or

- iii. 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. 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 approval of this Permit. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(CA)**
7. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Permit and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the approval of this Permit. **(P)**
8. Conditions. Each and every condition set forth in this Permit 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 Permit. **(P)**
9. 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)**
10. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(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 applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**

12. 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)**

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. **(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. **(CA)**

15. Permittee shall develop the approved Project in conformance with the approved plans (date stamped 10/09/23), approved by the Zoning Administrator on the date of the public hearing for the Project on January 25, 2024 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, the owner or designee shall be required to apply for review and obtain approval of the Zoning Administrator or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

FIRE DEPARTMENT CONDITIONS

The plans approved by the Planning Department process are not building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider this set of plans as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2022) and are provided to assist with the **building permit process**. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction as some of the requirements and notes below meets current codes.

16. Fire Department access. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Bearing capacity for the driveway and the entry drive court shall be designed to provide a minimum of 50,000 lbs bearing capacity for the fire apparatus. CFC Section 503.2.3.
 - 16.1. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of 13 feet 6 inches (4115 mm).
17. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for all structures (living space, garage, outdoor spaces attached to the home, pool cabana, ADU, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code V-300-2.82.
 - 17.1. FIRE SPRINKLERS for NEW HOMES
 - 17.1.1. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for the home (living space, garage, outdoor spaces attached to the home, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code **V-300-2.62**
 - 17.1.2. FIRE DEPARTMENT PERMIT – REQUIRED
The Milpitas Fire Department shall approve new installation and/or modifications to existing fire protection, alarm or monitoring system(s). A separate submittal is required to the Milpitas Fire Department, for review and approval, prior to the commencement of any work. CFC Section 901.2
 - 17.1.3. WATER SUPPLY SERVICE TO THE HOME
The existing water supply service to the home may need upgrading to service the automatic fire sprinkler system. All new water services shall be done as required by the City of Milpitas Engineering Division.
18. ACCESS CONTROL DEVICES. When access control devices including bars, grates, gates, or electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the fire code official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. (Knox box location shall be at 6 feet above the finish floor, or fire access walkway or road).
19. SITE ADDRESS. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. Where access is by means of a private road the building cannot be viewed by the public way, a monument,

pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

20. **KEY BOX.** The Fire Code Official is authorized to require a key box to be installed in an approved location if necessary for lifesaving or firefighting purpose. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. (Knox box location shall be at 6 feet above finish floor, or fire access walkway or road).

BUILDING DEPARTMENT CONDITIONS

21. **Compliance with California Code of Regulations.** The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department.

ENGINEERING DEPARTMENT CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

22. **Modifications:** The Site Development Plan received 10/09/2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
23. **Submittal Requirements:** Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
24. **Project Job Account/Fee Deposit:** Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the Project. The amount shall be determined based on the approved City fee schedule at the time of application submittal.
25. **Coordination with other Projects:** Permittee shall coordinate designs with the projects associated with permit numbers P-SD23-0006, P-SD23-0008, P-SD23-0009 in advance prior to any plan submittal.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

28. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
29. Demolition of Existing Building: Permittee shall demolish existing buildings/ facilities that are in conflict with the new property lines.
30. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Chapter 10, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
31. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2005-1, and agree to pay the special taxes levied by the CFD 2005-1 for the purpose of maintaining the public services. 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. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 28 notwithstanding.
32. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - b. Standard details and specifications: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - c. Americans with Disabilities Act (ADA) requirements, where applicable.
33. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
34. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as

needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the Project.

35. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a) Installation of separate water service tap and meter for the main residence and accessory dwelling unit.
 - b) Installation of separate utility service lines (domestic water, sanitary sewer) for the main residence and accessory dwelling unit.
 - c) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with 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 subject radio antenna.
 - d) Installation of pavement microsurfacing along half of the street width of the project frontage on Wool Dr. to the City Engineer's satisfaction.
 - e) Installation of new sidewalk and driveway along the project frontage.
 - f) Installation of new street trees along the project frontage. The locations, spacing of tree and tree species shall be in compliance with applicable City standards and details.
36. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
37. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
38. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements, such as landscape irrigation within the public right of way, mutually agreed between the City and the Permittee.
39. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
40. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. **(E)***

41. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
42. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
43. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
44. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following 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.Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.
45. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. 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 Department for approval by the Engineering Department prior to inspection by the Building Department.
46. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "f" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
 - a) Storm water connection fee at \$1,100/unit for residential.
 - b) Water connection fee at \$1,910/unit for residential.
 - c) Sewer connection fee at \$1,908/unit for residential.

- d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
- e) Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
- f) 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.

47. Mailboxes: The Permittee shall coordinate with US Postal Services regarding placement of required mailboxes. Mailbox location shall not be on public street frontages and shall be approved by City and US Postal Services prior to building permit issuance. Mailbox locations shall be shown on the improvement plans and Permittee shall submit a letter to the City's Land Development Engineering Section from the Postmaster approving the location of the mailbox. Structures to protect mailboxes may require Building, Engineering and Planning Department review.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the Project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

48. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
49. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
50. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
51. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector, and notify affected property owners/ tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved by the Director of Engineering/City Engineer.*

52. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements along Wool Drive as shown on City approved plans.
53. Landscape Certificate of Completion: Permittee shall submit a Certificate of Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.

54. Record Drawings: Permittee shall submit record drawings in Full size hard copy, AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements.

55. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

(P) = Planning

(F) = Fire Prevention

(B) = Building

(LD) = Land Development

(CA) = City Attorney

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.

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 subject property on the terms and conditions set forth in this Permit.

Dated: _____

Signature of Permittee

MEMORANDUM

Planning Department



Date: January 25, 2024
To: Zoning Administrator
From: Randy Baez, Associate Planner
Kristina Phung, Associate Planner

Subject: **MISSION PEAK HOMES – 470, 480, 490, and 500 Wool Drive - P-SD23-0006, -07, -08, -09** – Four Site Development Permits to develop four new detached, 2,841-square-foot, two-story single-family residences with attached, 423-square-foot garages each on a 0.2-acre lot in the R2 (One- and Two-Family Residential) Zoning District located at 470, 480, 490, and 500 Wool Drive. The maximum height of the new residences will be up to 28 feet above grade level. The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), Section 15332 (In-fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Location: 470, 480, 490, and 500 Wool Dr. (APNs: 029-10-081, 029-10-082, 029-10-083, and 029-10-084)

Zoning/GP: One- and Two- Family Residential (R2) / Medium Density Residential (MDR)

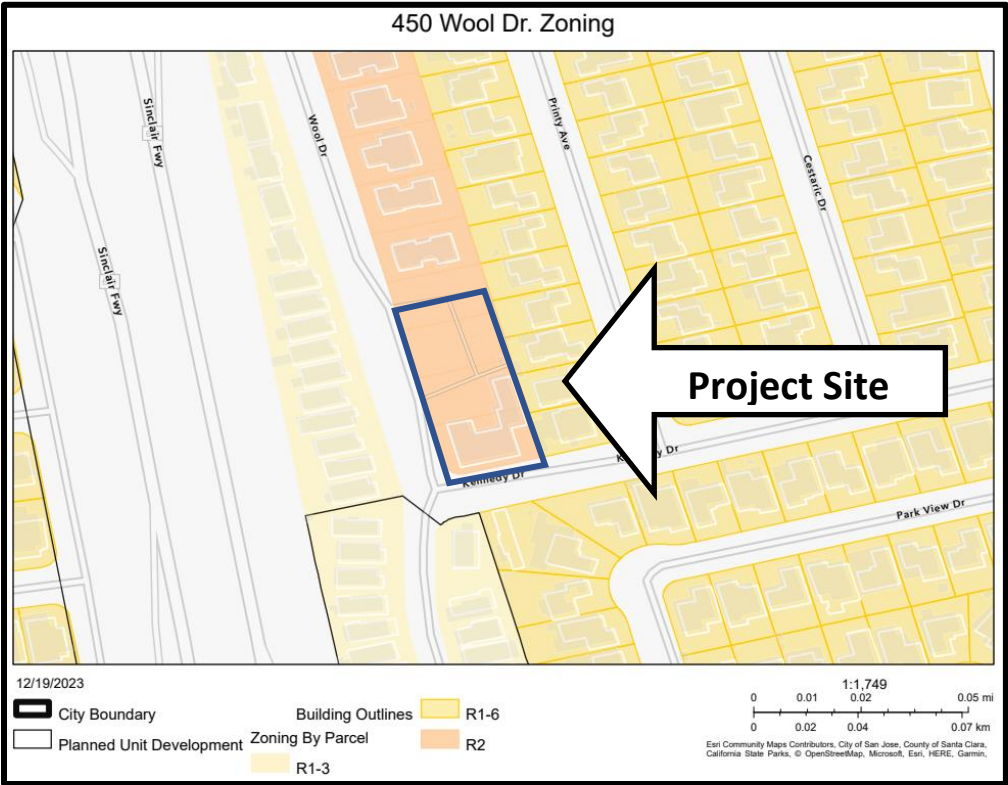
EXECUTIVE SUMMARY

On June 7, 2023, Neal Allen of Mission Peak Homes (Applicant) submitted four Site Development (SD) Permit applications to develop four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive (the “Project”). The four individual lots were subdivided as lots 177-180 of Tract Map No. 4549, which was recorded in Santa Clara County in 1969.

Site Development Permits are required for all new main buildings per Milpitas Municipal Code (“MMC”) Section XI-10-57.03 (C)(1)(a). Maps 1 and 2 demonstrate the Project site’s location and zoning map of the four lots in the City.



Map 1 – Zoning Map of 470-500 Wool Dr.



Map 2 – Aerial View of 470-500 Wool Dr.



BACKGROUND

History

On April 4, 1969, "Tract No. 4549," known as the "Victoria Park" subdivision, was filed for recordation in the Office of the Recorder of Santa Clara County, State of California. Tract Map No. 4549 created 192 lots, known as the Victoria Park subdivision. Lots 177-180 of this subdivision comprise the four contiguous lots of the proposed Project.

The four lots were previously owned and developed by the Church of Christ in the early 1970's as a commercial building with a church, accessory structures, and a surface parking lot. The City's historical permit records indicate the Planning Commission approved Use Permit No. 245 on January 9, 1973, to allow the development of a religious place of assembly and associated site improvements, including a surface parking lot on the Project site, originally addressed as 450 Wool Drive at the intersection of Wool Drive and Kennedy Drive. Subsequently on August 28, 1973, the Church of Christ obtained approval of Use Permit No. 258 to add a mobile trailer to be used as additional classrooms.

The Church of Christ owned and operated the site until December 2021, when all four lots were sold to the current property owner and Applicant, Mission Peak Homes. All existing structures on the site have been legally demolished by the end of 2023 by the obtainment of a demolition permit (B-DM22-0013) from the City's Building Department.

Before the Church of Christ was entitled per Use Permit No. 245, the site was comprised of the four individual lots described in the subdivision above and as shown in Attachment C. While these four parcels are contiguous, held by the same owner, and were used until recently for one unified purpose with straddling improvements, no notice of merger was ever recorded on these properties. The California Legislature in 1983 amended the Subdivision Map Act, including by repealing provisions that might otherwise allow for the merger of contiguous parcels held by a single owner. (E.g., former Gov. Code, § 66424.2.) Instead, the Legislature created a new procedure for the merger of parcels that it declared to be "the sole and exclusive authority for local agency initiated merger of contiguous parcels." (Gov. Code, § 66451.10(b).) Moreover, as pertinent here, the Legislature declared that unless a notice of merger was recorded on the property before January 1, 1984, all parcels would be deemed not to have merged unless certain criteria were met. (Gov. Code, § 66451.30.) The Legislature also provided a process whereby a property owner could apply to a local agency for a determination that parcels had not merged. (Gov. Code, § 66451.31.) On January 10, 2024, the City received from the Applicant a signed letter application for a determination of unmerger pursuant to Government Code section 66451.31. Attachment D includes a copy of this application. In that application, the Applicant declared under penalty of perjury that these four parcels were unmerged, and the Applicant disclaimed, abandoned, and waived any interest or right in the merger of these parcels. On January 18, 2024, the City issued a notice of determination that the criteria set by Government Code section 66451.30 were met and that by operation of law these four parcels were consequently deemed not to have merged. Attachment E includes a copy of this determination. Consequently, Tract Map No. 4549 shows the current subdivision of this property as four unmerged parcels.

The Application

The following is a summary of the Applicant's request:

- Four (4) Site Development Permits: To allow for the development of four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive. The application also includes landscaping and associated site improvements.

Process

The four applications must be considered for approval at a duly noticed public hearing by the Zoning Administrator and must satisfy the substantive and procedural requirements of a Site Development Permit, required for all new main buildings per Milpitas Municipal Code ("MMC") Section XI-10-57.03 (C)(1)(a).

PROJECT DESCRIPTION

Overview

The applicant is requesting four Site Development Permits to develop four new two-story single-family residences on four existing lots. All four projects have been designed to be nearly identical except for exterior architectural features in two alternating facade colors and material schemes. Each residence will include four bedrooms, three and a half bathrooms, an attached 423-square-foot two-car garage, and a detached single-story 747-square-foot Accessory Dwelling Unit (ADU). The ADUs are not part of the currently requested site development permits. The Applicant intends to subsequently submit for ministerial review of these ADUs during the Building Permit review phase pursuant to MMC Sec. XI-10-13.08(D) if the principal residences receive site development permits here. The two-story single-family residences of each lot will reach a maximum height of 28 feet, which is below the 30-foot maximum height limit as demonstrated in Table 3 below.

No other accessory structures are proposed as part of the four Site Development Permit requests, except for a 6-foot-high redwood fence along the side and rear property lines of all four lots. Additionally, all four lots feature similar landscape plans consisting of Hops Bush hedges along rear property lines, Kohuhu hedges along side property lines, and a variety of groundcover and other drought tolerant landscaping within the front yards. The Project will require the removal of existing trees to allow for landscaping improvements, but these trees are all under 30-inches in circumference and do not meet the threshold for a separate tree removal permit under the City's tree removal ordinance¹.

¹ Per the City's Tree Removal Ordinance per MMC Sec. X-2-7.01 on developed residential property, a protected tree is designated as one that has fifty-six-inch (56"), or greater circumference of its trunk measured 4 1/2 feet from the ground.

The first floor of each residence will include an attached two-car garage, a bedroom, one-and-a-half bathrooms, a dining area, kitchen, and family room. A small, 133 square-foot covered porch will include the entryway and front door. A sliding door at the rear of the first floor will provide direct access to the back yard. The second floor will contain three bedrooms, two additional bathrooms, and a laundry room. In total, each new residence will have approximately 2,841-square-feet of habitable space and identical floor plans.

Each new single-family residence will have four bedrooms, which requires three parking spaces per MMC Sec. XI-10-53 (Off-Street Parking Regulations). The Project meets this requirement by providing a two-car garage and a driveway on each lot that can safely accommodate two additional vehicles for a total of four off-street parking spaces. Other off-site improvements are also proposed as part of the Project, such as four new driveway approaches. The Applicant has been conditionally approved by the City's Engineering Department to obtain all necessary encroachment permits prior to altering the driveway approaches for each lot after the four SDP applications are entitled.

Colors and Materials

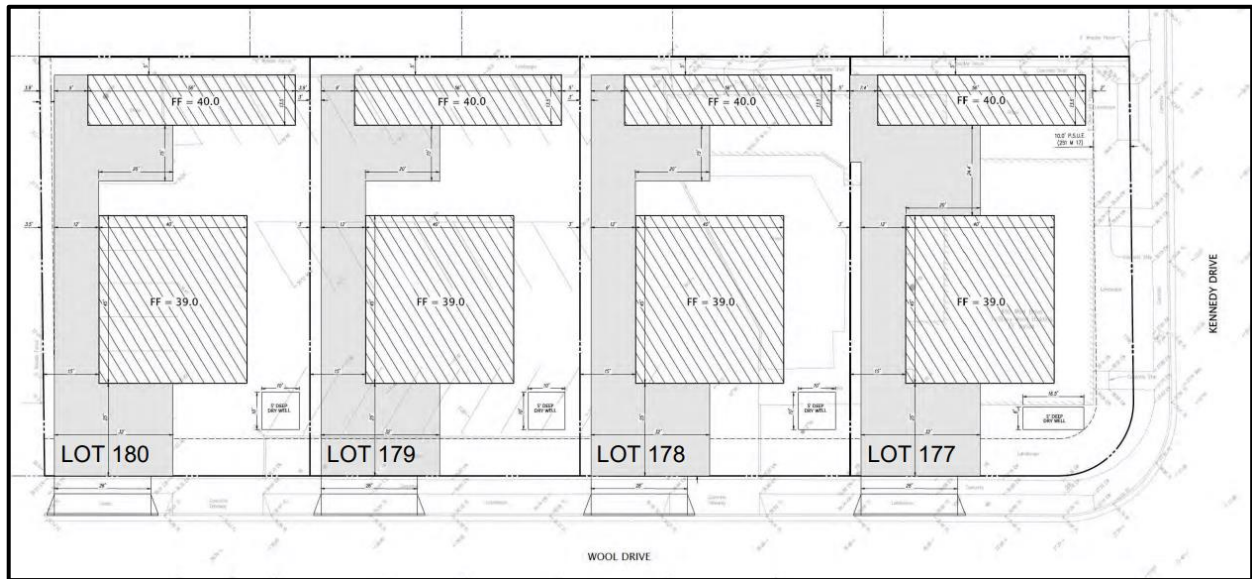
The four proposed single-family residences will feature two different alternating architectural styles (Farmhouse or Traditional) while having identical floor plans. Lots 178 and 180 (480 and 500 Wool Drive) will feature the Farmhouse architectural style with warm colored tones and a combination of taupe stucco and "antique white" siding, along with board & batten accents. Lots 177 and 179 (470 and 490 Wool Drive) will feature the Traditional architectural style with cooler colored tones and a combination of "cityscape" gray stucco and "aloof gray" siding, along with stone veneer. All four residences will feature composition shingle roofs with Lots 178 and 180 having a light brown "village blend" color mix, and Lots 177 and 179 with a gray "concord blend" color mix.

Table 1 provides a summary of the Project's Details and *Figure 1: Site Plan* shows a generalized overview of the proposed single-family residences. *Figures 2 and 3* show the proposed elevations and the two proposed architectural styles.

Table 1: Summary of Project Details

Address	Lot # of Tract Map No. 4549	SD Permit No.	Architectural Style
470 Wool Dr.	Lot 177	P-SD23-0006	Traditional
480 Wool Dr.	Lot 178	P-SD23-0007	Farmhouse
490 Wool Dr.	Lot 179	P-SD23-0008	Traditional
500 Wool Dr.	Lot 180	P-SD23-0009	Farmhouse

Figure 1: 470-500 Wool Dr. Site Plans



**Figure 2: Front Elevation – Farmhouse Architectural Style
Lots 178 and 180 (480 and 500 Wool Dr.)**



Figure 3: Front Elevation – Traditional Architectural Style
Lots 177 and 179 (470 and 490 Wool Dr.)



Location and Context

The Project site is in the upper middle portion of the City. The subject properties and surrounding properties to the north, west, and south are similarly zoned with residential uses as either Single-Family Residential (R1) or One- and Two- Family Residential (R2). Table 2 demonstrates the surrounding zoning and land uses.

Table 2: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing/Proposed Uses
Subject Site(s)	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Single-Family Residential
North	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Two-Family Residential
South	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
West	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
East	Low Density Residential (LDR)	Single Family Residential (R1-3)	Single-Family Residential

PROJECT ANALYSIS

Zoning Conformance

The Project sites are in the R2 Zoning District and comply with all applicable development standards shown in Table 3. As proposed, the Project and associated use are consistent with the purpose and intent of the One- and Two-Family Residential (R2) zoning district, which is intended to “*stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R2 District is intended for suburban family homes and the community services appurtenant thereto,*” per MMC Sec. XI-10-4.01.

Table 3: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' - 10"	Yes

Neighborhood Compatibility

The proposed Project will enhance the neighborhood compatibility of the four existing lots with the surrounding community by removing a church with its associated structures and surface parking lot and by developing four new single-family residences with four detached ADUs in an area predominantly surrounded by single-family residences and duplexes. The elimination of the conditionally permitted church in the area will reduce associated noise and traffic impacts in the neighborhood associated with the prior church operations. Furthermore, although the detached ADUs on each lot do not require separate off-street parking stalls, the Applicant designed four new driveway approaches that extend the new driveways along the western edge of each lot towards the back of each ADU as shown in Figure 1. As such, on-street parking in the immediately surrounding neighborhood will be preserved and will maintain the quality of life for residents in the area.

All 15 lots to the west of the Project sites on the opposite side of Wool Drive are also developed with two-story, single-family residences, and are similar in scale, bulk, and architectural style as the proposed Project's four new residences. The front elevations of the existing residences across the street on Wool Drive and the proposed new residences under the four subject SDP applications all have stepped back second stories of varying feet and dimensions at a similar depth and have similar architectural side elevations. The proposed Project's two neutral architectural colors and material schemes will also complement the other surrounding neighborhoods' muted, earth-toned colors and will similarly use asphalt shingle roofing material.

The Project will maintain compatibility with the R2 zoned lots primarily built with existing single-story, duplex units to the north by also providing two-units per subject lot (main residence and detached ADU). The detached ADUs will also be limited to one-story at a maximum height of 13-feet above grade. They will be a similar height, scale, and bulk to the single-story duplexes to the north and to the one-story, single-family residences to the east.

The immediate neighboring area to the south predominantly consists of other one- or two-story single-family residences and do not face the Project sites. All residences along Moretti Lane southwest of the Project site are two-story, single-family residences developed under Planned Unit Development No. 42 (PUD 42). These PUD 42 residences have a similar architectural styles and scales of development to the other two-story residences on the west side of Wool Drive and will similarly be compatible with the proposed Project's two architectural schemes and design. Additionally, the Project sites as proposed maintain appropriate setbacks from property lines and neighboring parcels, thereby maintaining a sense of openness and preserving the low-density, single-family residential and duplex character of the neighborhood.

Homes in the surrounding area are predominantly Ranch or Craftsman style, with varying rooflines, muted earth tone colors, prominent front-facing garages, and exterior walls finished with stucco, brick and/or stone. The proposed Project will incorporate a more contemporary Traditional and Farmhouse architectural style into the neighborhood, the Project but will remain compatible in terms of materials and colors as described in the above section and shown in the figures below.

The color and material boards for both the Traditional and Farmhouse architectural scheme are shown in Figures 4 and 5. The detached ADUs of each lot will also have a color and material scheme that match the new main residences.

Figure 4: Traditional Scheme Color and Material Board

470 and 490 Wool Dr (Lots 177 and 179)

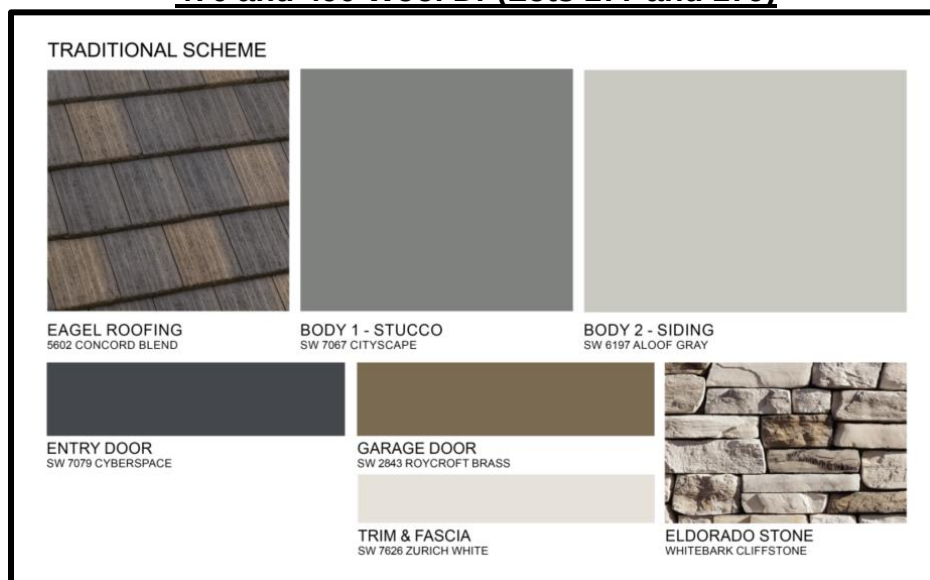


Figure 5: Farmhouse Scheme Color and Material Board

480 and 500 Wool Dr (Lots 178 and 180)



Findings for Approval:

Findings shall identify the rationale behind the decision to take a certain action. Each required finding within the Milpitas Municipal Code Section XI-10-57.03 (G) have been analyzed below:

1. The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

2. The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 3 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

3. The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

California Environmental Quality Act (CEQA):

The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New construction or conversion of small structures), Section 15332 (In-Fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Recommendation:

Staff recommends that the Zoning Administrator approve P-SD23-0006, P-SD23-0007, P-SD23-0008, and P-SD23-0009 to allow the development of four new, 2,841-square-foot, two-story, single-family residences with a 423-square-foot attached garage up to a maximum height of 28-feet on four individual 0.2-acre lots in the R2 One- and Two-Family Residential Zoning District located at 470, 480, 490, and 500 Wool Drive, subject to the findings outlined in this report and the attached Conditions of Approval.

Attachments:

- A. Resolution 24-003 for 490 Wool Dr.
- B. Project Plans for 490 Wool Dr.
- C. Tract Map. No. 4549
- D. Signed Application Letter for Determination of Unmerger
- E. Determination of Unmerger

ATTACHMENT A

RESOLUTION NO. 24-003

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE
CITY OF MILPITAS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO.
SD23-0008 TO ALLOW THE DEVELOPMENT OF AN APPROXIMATELY 2,841-
SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 423-SQUARE-
FOOT ATTACHED GARAGE UP TO A MAXIMUM HEIGHT OF 28-FEET ABOVE GRADE
LEVEL ON A 0.2-ACRE PARCEL AT 490 WOOL DRIVE
(APN 029-10-083)**

WHEREAS, on June 7, 2023, Neal Allen (“Applicant”) on behalf of Mission Peak Homes submitted a Site Development Permit (“SDP”) application to replace an existing religious place of assembly building and surface parking lot with a new two-story, single family residence (“Project”) on a 0.2-acre lot located at 490 Wool Drive (APN 029-10-083); and

WHEREAS, the property (APN 029-10-083) is located within the One- and Two-Family (R2) Zoning District; 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 Zoning Administrator determine this Project is categorically exempt; and

WHEREAS, on January 25, 2024, the Zoning Administrator 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 Zoning Administrator of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The Zoning Administrator has considered the full record before him or her, which may include but is not limited to such things as any staff report, source records, statements by staff and the public, and any other materials and evidence submitted or provided to him or her. The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Smaller Structures), Section 15332 (In-Fill Development Projects) and; as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). As proposed, the Project includes the development of a single-family residence in a residential zone, consistent with the general plan and zoning standards, located

within city limits on a site with no value to habitat for endangered species, and adequately served by all utilities.

Section 3: The Milpitas Municipal Code (MMC) requires approval of a Site Development Permit (SDP) for new main buildings (MMC Section XI-10-57.03 (C)(1)(a)). In order to approve an SDP, the Zoning Administrator must make the following findings, per MMC Section XI-10-57.03(G):

- a) *The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;*

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

- b) *The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and*

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 1 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

Table 1: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' 10"	Yes

- c) *The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.*

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street

on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

Section 4: The Zoning Administrator of the City of Milpitas hereby adopts Resolution No. 24-003 approving Site Development Permit No. SD23-0008 to allow the development of a new 2,841-square foot, two-story single-family residence with a 423-square-foot attached garage at 490 Wool Drive, subject to the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of Milpitas on January 25, 2024.

Jay Lee, AICP
Planning Director

Date: _____

EXHIBIT 1

**SITE DEVELOPMENT PERMIT NO. P-SD23-0008
490 WOOL DRIVE (APN 029-10-083)**

The City of Milpitas Zoning Administrator approves Site Development Permit No. SD23-0008 in accordance with Section XI-10-57.03 of the Milpitas Municipal Code, subject to and conditioned upon all applicable State and local laws and regulations and the Conditions of Approval outlined below. This Site Development Permit entitlement is to allow the issuance of building permits for the proposed development of a 2,841-square foot, two-story single-family residence, with a 423-square foot attached garage ("Project") on a 0.2-acre lot located within the R2 One- and Two-Family Residential Zoning District at 490 Wool Drive (APN: 029-10-083), subject to all necessary reviews, approvals, studies, and inspections for the issuance of such building permits.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

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. This Site Development Permit No. SD23-0008 ("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. **(P)**
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
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: **(P)**
 - i. Acceptance of this Permit by Permittee; and
 - ii. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all 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: **(P)**
 - i. Completes a foundation associated with the Project; or
 - ii. Dedicates any land or easement as required from the zoning action; or

- iii. 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. 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 approval of this Permit. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(CA)**
7. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Permit and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the approval of this Permit. **(P)**
8. Conditions. Each and every condition set forth in this Permit 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 Permit. **(P)**
9. 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)**
10. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(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 applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**

12. 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)**

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. **(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. **(CA)**

15. Permittee shall develop the approved Project in conformance with the approved plans (date stamped 10/09/23), approved by the Zoning Administrator on the date of the public hearing for the Project on January 25, 2024 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, the owner or designee shall be required to apply for review and obtain approval of the Zoning Administrator or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

FIRE DEPARTMENT CONDITIONS

The plans approved by the Planning Department process are not building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider this set of plans as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2022) and are provided to assist with the **building permit process**. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction as some of the requirements and notes below meets current codes.

16. Fire Department access. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Bearing capacity for the driveway and the entry drive court shall be designed to provide a minimum of 50,000 lbs bearing capacity for the fire apparatus. CFC Section 503.2.3.
- 16.1. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of 13 feet 6 inches (4115 mm).
17. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for all structures (living space, garage, outdoor spaces attached to the home, pool cabana, ADU, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code V-300-2.82.
- 17.1. FIRE SPRINKLERS for NEW HOMES
- 17.1.1. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for the home (living space, garage, outdoor spaces attached to the home, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code **V-300-2.62**
- 17.1.2. FIRE DEPARTMENT PERMIT – REQUIRED
- The Milpitas Fire Department shall approve new installation and/or modifications to existing fire protection, alarm or monitoring system(s). A separate submittal is required to the Milpitas Fire Department, for review and approval, prior to the commencement of any work. CFC Section 901.2
- 17.1.3. WATER SUPPLY SERVICE TO THE HOME
- The existing water supply service to the home may need upgrading to service the automatic fire sprinkler system. All new water services shall be done as required by the City of Milpitas Engineering Division.
18. ACCESS CONTROL DEVICES. When access control devices including bars, grates, gates, or electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the fire code official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. (Knox box location shall be at 6 feet above the finish floor, or fire access walkway or road).
19. SITE ADDRESS. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. Where access is by means of a private road the building cannot be viewed by the public way, a monument,

pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

20. **KEY BOX.** The Fire Code Official is authorized to require a key box to be installed in an approved location if necessary for lifesaving or firefighting purpose. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. (Knox box location shall be at 6 feet above finish floor, or fire access walkway or road).

BUILDING DEPARTMENT CONDITIONS

21. **Compliance with California Code of Regulations.** The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department.

ENGINEERING DEPARTMENT CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

22. **Modifications:** The Site Development Plan received 10/09/2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
23. **Submittal Requirements:** Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
24. **Project Job Account/Fee Deposit:** Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the Project. The amount shall be determined based on the approved City fee schedule at the time of application submittal.
25. **Coordination with other Projects:** Permittee shall coordinate designs with the projects associated with permit numbers P-SD23-0006, P-SD23-0007, P-SD23-0009 in advance prior to any plan submittal.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

28. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
29. Demolition of Existing Building: Permittee shall demolish existing buildings/ facilities that are in conflict with the new property lines.
30. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Chapter 10, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
31. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2005-1, and agree to pay the special taxes levied by the CFD 2005-1 for the purpose of maintaining the public services. 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. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 28 notwithstanding.
32. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - b. Standard details and specifications: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - c. Americans with Disabilities Act (ADA) requirements, where applicable.
33. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
34. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as

needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the Project.

35. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a) Installation of separate water service tap and meter for the main residence and accessory dwelling unit.
 - b) Installation of separate utility service lines (domestic water, sanitary sewer) for the main residence and accessory dwelling unit.
 - c) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with 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 subject radio antenna.
 - d) Installation of pavement microsurfacing along half of the street width of the project frontage on Wool Dr. to the City Engineer's satisfaction.
 - e) Installation of new sidewalk and driveway along the project frontage.
 - f) Installation of new street trees along the project frontage. The locations, spacing of tree and tree species shall be in compliance with applicable City standards and details.
36. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
37. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
38. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements, such as landscape irrigation within the public right of way, mutually agreed between the City and the Permittee.
39. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
40. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

41. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
42. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
43. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
44. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following 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.Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.
45. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. 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 Department for approval by the Engineering Department prior to inspection by the Building Department.
46. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "f" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
 - a) Storm water connection fee at \$1,100/unit for residential.
 - b) Water connection fee at \$1,910/unit for residential.
 - c) Sewer connection fee at \$1,908/unit for residential.

- d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
- e) Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
- f) 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.

47. Mailboxes: The Permittee shall coordinate with US Postal Services regarding placement of required mailboxes. Mailbox location shall not be on public street frontages and shall be approved by City and US Postal Services prior to building permit issuance. Mailbox locations shall be shown on the improvement plans and Permittee shall submit a letter to the City's Land Development Engineering Section from the Postmaster approving the location of the mailbox. Structures to protect mailboxes may require Building, Engineering and Planning Department review.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the Project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

48. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
49. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
50. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
51. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector, and notify affected property owners/ tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved by the Director of Engineering/City Engineer.*

52. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements along Wool Drive as shown on City approved plans.
53. Landscape Certificate of Completion: Permittee shall submit a Certificate of Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.

54. Record Drawings: Permittee shall submit record drawings in Full size hard copy, AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements.

55. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

(P) = Planning

(F) = Fire Prevention

(B) = Building

(LD) = Land Development

(CA) = City Attorney

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.

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 subject property on the terms and conditions set forth in this Permit.

Dated: _____

Signature of Permittee

MEMORANDUM

Planning Department



Date: January 25, 2024
To: Zoning Administrator
From: Randy Baez, Associate Planner
Kristina Phung, Associate Planner

Subject: **MISSION PEAK HOMES – 470, 480, 490, and 500 Wool Drive - P-SD23-0006, -07, -08, -09** – Four Site Development Permits to develop four new detached, 2,841-square-foot, two-story single-family residences with attached, 423-square-foot garages each on a 0.2-acre lot in the R2 (One- and Two-Family Residential) Zoning District located at 470, 480, 490, and 500 Wool Drive. The maximum height of the new residences will be up to 28 feet above grade level. The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), Section 15332 (In-fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Location: 470, 480, 490, and 500 Wool Dr. (APNs: 029-10-081, 029-10-082, 029-10-083, and 029-10-084)

Zoning/GP: One- and Two- Family Residential (R2) / Medium Density Residential (MDR)

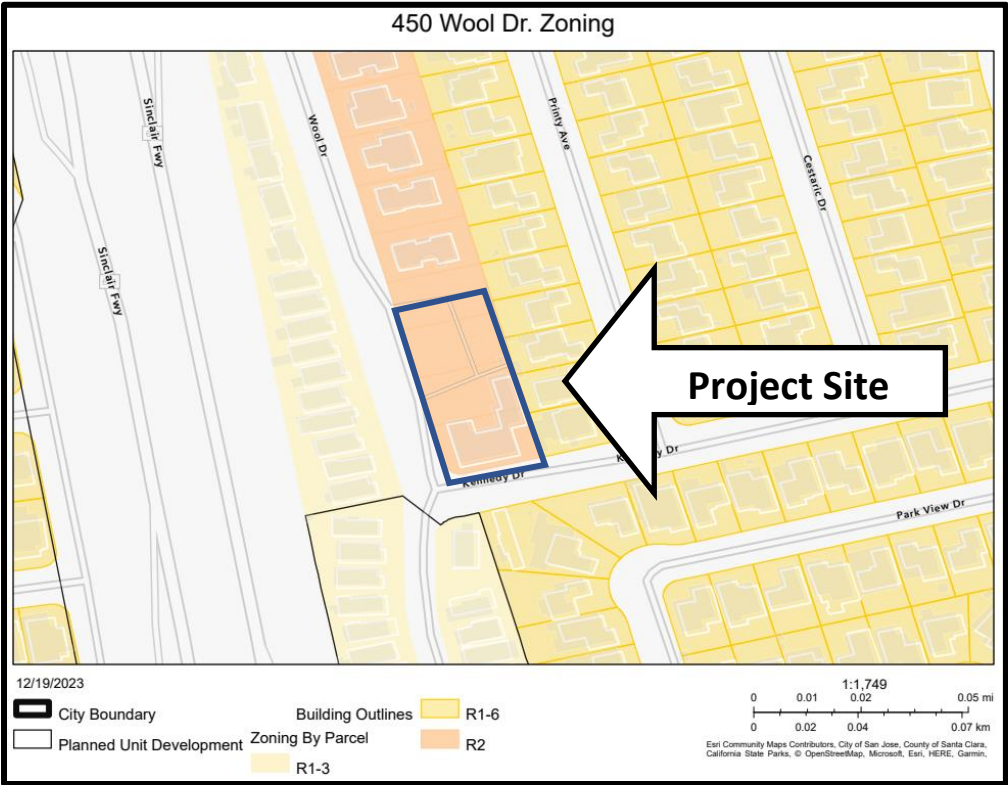
EXECUTIVE SUMMARY

On June 7, 2023, Neal Allen of Mission Peak Homes (Applicant) submitted four Site Development (SD) Permit applications to develop four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive (the "Project"). The four individual lots were subdivided as lots 177-180 of Tract Map No. 4549, which was recorded in Santa Clara County in 1969.

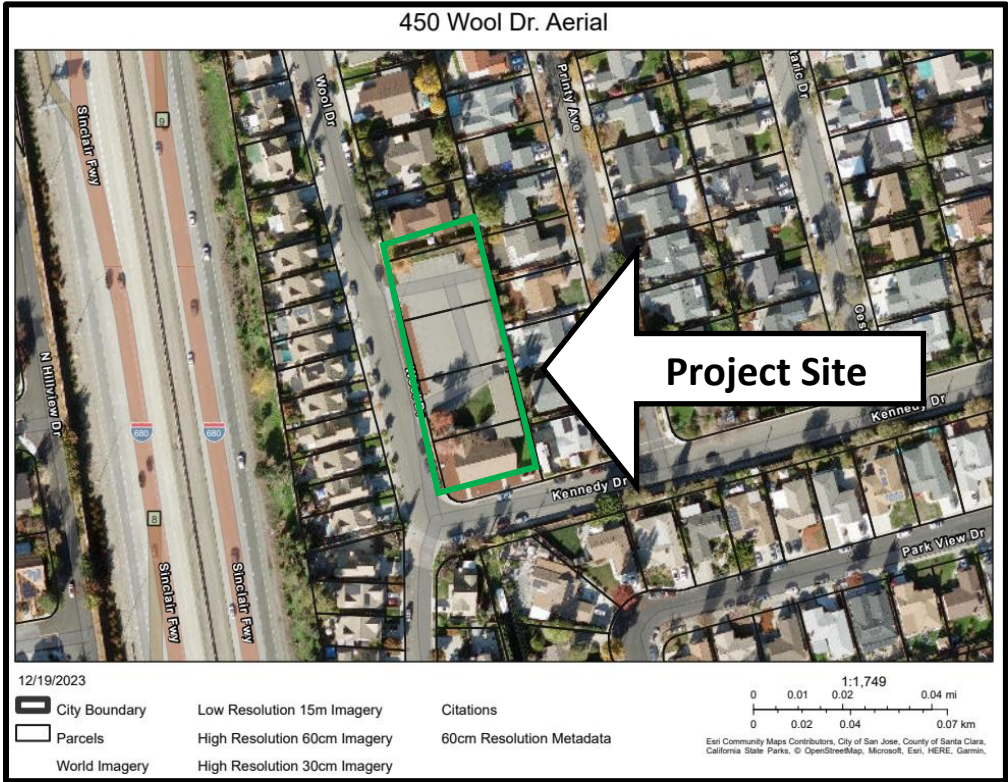
Site Development Permits are required for all new main buildings per Milpitas Municipal Code ("MMC") Section XI-10-57.03 (C)(1)(a). Maps 1 and 2 demonstrate the Project site's location and zoning map of the four lots in the City.



Map 1 – Zoning Map of 470-500 Wool Dr.



Map 2 – Aerial View of 470-500 Wool Dr.



BACKGROUND

History

On April 4, 1969, "Tract No. 4549," known as the "Victoria Park" subdivision, was filed for recordation in the Office of the Recorder of Santa Clara County, State of California. Tract Map No. 4549 created 192 lots, known as the Victoria Park subdivision. Lots 177-180 of this subdivision comprise the four contiguous lots of the proposed Project.

The four lots were previously owned and developed by the Church of Christ in the early 1970's as a commercial building with a church, accessory structures, and a surface parking lot. The City's historical permit records indicate the Planning Commission approved Use Permit No. 245 on January 9, 1973, to allow the development of a religious place of assembly and associated site improvements, including a surface parking lot on the Project site, originally addressed as 450 Wool Drive at the intersection of Wool Drive and Kennedy Drive. Subsequently on August 28, 1973, the Church of Christ obtained approval of Use Permit No. 258 to add a mobile trailer to be used as additional classrooms.

The Church of Christ owned and operated the site until December 2021, when all four lots were sold to the current property owner and Applicant, Mission Peak Homes. All existing structures on the site have been legally demolished by the end of 2023 by the obtainment of a demolition permit (B-DM22-0013) from the City's Building Department.

Before the Church of Christ was entitled per Use Permit No. 245, the site was comprised of the four individual lots described in the subdivision above and as shown in Attachment C. While these four parcels are contiguous, held by the same owner, and were used until recently for one unified purpose with straddling improvements, no notice of merger was ever recorded on these properties. The California Legislature in 1983 amended the Subdivision Map Act, including by repealing provisions that might otherwise allow for the merger of contiguous parcels held by a single owner. (E.g., former Gov. Code, § 66424.2.) Instead, the Legislature created a new procedure for the merger of parcels that it declared to be "the sole and exclusive authority for local agency initiated merger of contiguous parcels." (Gov. Code, § 66451.10(b).) Moreover, as pertinent here, the Legislature declared that unless a notice of merger was recorded on the property before January 1, 1984, all parcels would be deemed not to have merged unless certain criteria were met. (Gov. Code, § 66451.30.) The Legislature also provided a process whereby a property owner could apply to a local agency for a determination that parcels had not merged. (Gov. Code, § 66451.31.) On January 10, 2024, the City received from the Applicant a signed letter application for a determination of unmerger pursuant to Government Code section 66451.31. Attachment D includes a copy of this application. In that application, the Applicant declared under penalty of perjury that these four parcels were unmerged, and the Applicant disclaimed, abandoned, and waived any interest or right in the merger of these parcels. On January 18, 2024, the City issued a notice of determination that the criteria set by Government Code section 66451.30 were met and that by operation of law these four parcels were consequently deemed not to have merged. Attachment E includes a copy of this determination. Consequently, Tract Map No. 4549 shows the current subdivision of this property as four unmerged parcels.

The Application

The following is a summary of the Applicant's request:

- Four (4) Site Development Permits: To allow for the development of four new two-story, 2,841-square-foot detached single-family residences with 423-square-foot attached garages on each of the 0.2-acre lots located at 470, 480, 490, and 500 Wool Drive. The application also includes landscaping and associated site improvements.

Process

The four applications must be considered for approval at a duly noticed public hearing by the Zoning Administrator and must satisfy the substantive and procedural requirements of a Site Development Permit, required for all new main buildings per Milpitas Municipal Code ("MMC") Section XI-10-57.03 (C)(1)(a).

PROJECT DESCRIPTION

Overview

The applicant is requesting four Site Development Permits to develop four new two-story single-family residences on four existing lots. All four projects have been designed to be nearly identical except for exterior architectural features in two alternating facade colors and material schemes. Each residence will include four bedrooms, three and a half bathrooms, an attached 423-square-foot two-car garage, and a detached single-story 747-square-foot Accessory Dwelling Unit (ADU). The ADUs are not part of the currently requested site development permits. The Applicant intends to subsequently submit for ministerial review of these ADUs during the Building Permit review phase pursuant to MMC Sec. XI-10-13.08(D) if the principal residences receive site development permits here. The two-story single-family residences of each lot will reach a maximum height of 28 feet, which is below the 30-foot maximum height limit as demonstrated in Table 3 below.

No other accessory structures are proposed as part of the four Site Development Permit requests, except for a 6-foot-high redwood fence along the side and rear property lines of all four lots. Additionally, all four lots feature similar landscape plans consisting of Hops Bush hedges along rear property lines, Kohuhu hedges along side property lines, and a variety of groundcover and other drought tolerant landscaping within the front yards. The Project will require the removal of existing trees to allow for landscaping improvements, but these trees are all under 30-inches in circumference and do not meet the threshold for a separate tree removal permit under the City's tree removal ordinance¹.

¹ Per the City's Tree Removal Ordinance per MMC Sec. X-2-7.01 on developed residential property, a protected tree is designated as one that has fifty-six-inch (56"), or greater circumference of its trunk measured 4 1/2 feet from the ground.

The first floor of each residence will include an attached two-car garage, a bedroom, one-and-a-half bathrooms, a dining area, kitchen, and family room. A small, 133 square-foot covered porch will include the entryway and front door. A sliding door at the rear of the first floor will provide direct access to the back yard. The second floor will contain three bedrooms, two additional bathrooms, and a laundry room. In total, each new residence will have approximately 2,841-square-feet of habitable space and identical floor plans.

Each new single-family residence will have four bedrooms, which requires three parking spaces per MMC Sec. XI-10-53 (Off-Street Parking Regulations). The Project meets this requirement by providing a two-car garage and a driveway on each lot that can safely accommodate two additional vehicles for a total of four off-street parking spaces. Other off-site improvements are also proposed as part of the Project, such as four new driveway approaches. The Applicant has been conditionally approved by the City's Engineering Department to obtain all necessary encroachment permits prior to altering the driveway approaches for each lot after the four SDP applications are entitled.

Colors and Materials

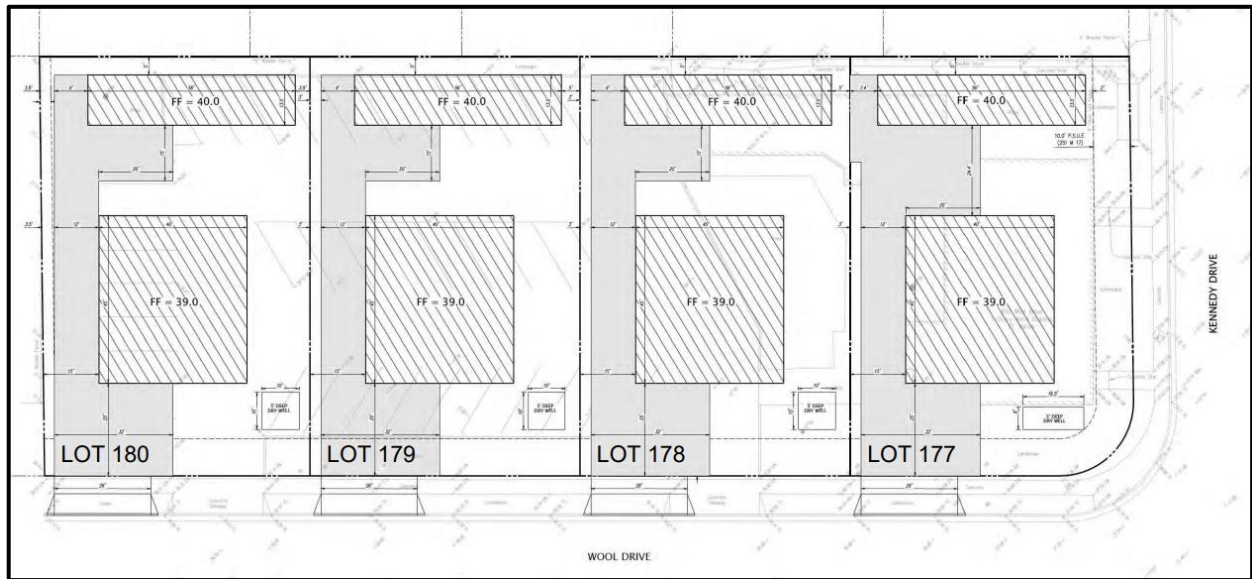
The four proposed single-family residences will feature two different alternating architectural styles (Farmhouse or Traditional) while having identical floor plans. Lots 178 and 180 (480 and 500 Wool Drive) will feature the Farmhouse architectural style with warm colored tones and a combination of taupe stucco and "antique white" siding, along with board & batten accents. Lots 177 and 179 (470 and 490 Wool Drive) will feature the Traditional architectural style with cooler colored tones and a combination of "cityscape" gray stucco and "aloof gray" siding, along with stone veneer. All four residences will feature composition shingle roofs with Lots 178 and 180 having a light brown "village blend" color mix, and Lots 177 and 179 with a gray "concord blend" color mix.

Table 1 provides a summary of the Project's Details and *Figure 1: Site Plan* shows a generalized overview of the proposed single-family residences. *Figures 2 and 3* show the proposed elevations and the two proposed architectural styles.

Table 1: Summary of Project Details

Address	Lot # of Tract Map No. 4549	SD Permit No.	Architectural Style
470 Wool Dr.	Lot 177	P-SD23-0006	Traditional
480 Wool Dr.	Lot 178	P-SD23-0007	Farmhouse
490 Wool Dr.	Lot 179	P-SD23-0008	Traditional
500 Wool Dr.	Lot 180	P-SD23-0009	Farmhouse

Figure 1: 470-500 Wool Dr. Site Plans



**Figure 2: Front Elevation – Farmhouse Architectural Style
Lots 178 and 180 (480 and 500 Wool Dr.)**



Figure 3: Front Elevation – Traditional Architectural Style
Lots 177 and 179 (470 and 490 Wool Dr.)



Location and Context

The Project site is in the upper middle portion of the City. The subject properties and surrounding properties to the north, west, and south are similarly zoned with residential uses as either Single-Family Residential (R1) or One- and Two- Family Residential (R2). Table 2 demonstrates the surrounding zoning and land uses.

Table 2: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing/Proposed Uses
Subject Site(s)	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Single-Family Residential
North	Medium Density Residential (MDR)	One- and Two- Family Residential (R2)	Two-Family Residential
South	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
West	Low Density Residential (LDR)	Single Family Residential (R1-6)	Single-Family Residential
East	Low Density Residential (LDR)	Single Family Residential (R1-3)	Single-Family Residential

PROJECT ANALYSIS

Zoning Conformance

The Project sites are in the R2 Zoning District and comply with all applicable development standards shown in Table 3. As proposed, the Project and associated use are consistent with the purpose and intent of the One- and Two-Family Residential (R2) zoning district, which is intended to “*stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R2 District is intended for suburban family homes and the community services appurtenant thereto,*” per MMC Sec. XI-10-4.01.

Table 3: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' - 10"	Yes

Neighborhood Compatibility

The proposed Project will enhance the neighborhood compatibility of the four existing lots with the surrounding community by removing a church with its associated structures and surface parking lot and by developing four new single-family residences with four detached ADUs in an area predominantly surrounded by single-family residences and duplexes. The elimination of the conditionally permitted church in the area will reduce associated noise and traffic impacts in the neighborhood associated with the prior church operations. Furthermore, although the detached ADUs on each lot do not require separate off-street parking stalls, the Applicant designed four new driveway approaches that extend the new driveways along the western edge of each lot towards the back of each ADU as shown in Figure 1. As such, on-street parking in the immediately surrounding neighborhood will be preserved and will maintain the quality of life for residents in the area.

All 15 lots to the west of the Project sites on the opposite side of Wool Drive are also developed with two-story, single-family residences, and are similar in scale, bulk, and architectural style as the proposed Project's four new residences. The front elevations of the existing residences across the street on Wool Drive and the proposed new residences under the four subject SDP applications all have stepped back second stories of varying feet and dimensions at a similar depth and have similar architectural side elevations. The proposed Project's two neutral architectural colors and material schemes will also complement the other surrounding neighborhoods' muted, earth-toned colors and will similarly use asphalt shingle roofing material.

The Project will maintain compatibility with the R2 zoned lots primarily built with existing single-story, duplex units to the north by also providing two-units per subject lot (main residence and detached ADU). The detached ADUs will also be limited to one-story at a maximum height of 13-feet above grade. They will be a similar height, scale, and bulk to the single-story duplexes to the north and to the one-story, single-family residences to the east.

The immediate neighboring area to the south predominantly consists of other one- or two-story single-family residences and do not face the Project sites. All residences along Moretti Lane southwest of the Project site are two-story, single-family residences developed under Planned Unit Development No. 42 (PUD 42). These PUD 42 residences have a similar architectural styles and scales of development to the other two-story residences on the west side of Wool Drive and will similarly be compatible with the proposed Project's two architectural schemes and design. Additionally, the Project sites as proposed maintain appropriate setbacks from property lines and neighboring parcels, thereby maintaining a sense of openness and preserving the low-density, single-family residential and duplex character of the neighborhood.

Homes in the surrounding area are predominantly Ranch or Craftsman style, with varying rooflines, muted earth tone colors, prominent front-facing garages, and exterior walls finished with stucco, brick and/or stone. The proposed Project will incorporate a more contemporary Traditional and Farmhouse architectural style into the neighborhood, the Project but will remain compatible in terms of materials and colors as described in the above section and shown in the figures below.

The color and material boards for both the Traditional and Farmhouse architectural scheme are shown in Figures 4 and 5. The detached ADUs of each lot will also have a color and material scheme that match the new main residences.

Figure 4: Traditional Scheme Color and Material Board

470 and 490 Wool Dr (Lots 177 and 179)

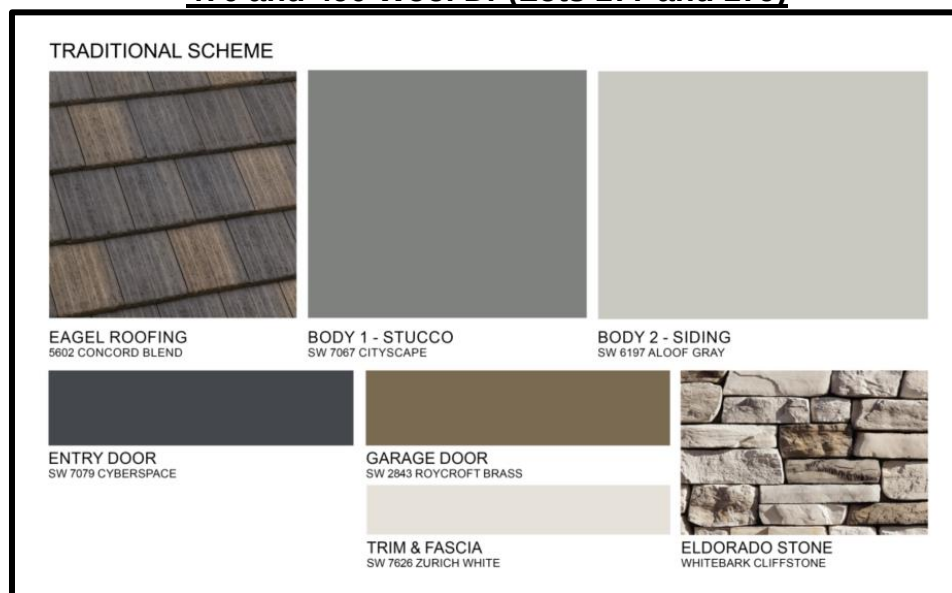


Figure 5: Farmhouse Scheme Color and Material Board

480 and 500 Wool Dr (Lots 178 and 180)



Findings for Approval:

Findings shall identify the rationale behind the decision to take a certain action. Each required finding within the Milpitas Municipal Code Section XI-10-57.03 (G) have been analyzed below:

1. The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

2. The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 3 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

3. The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

California Environmental Quality Act (CEQA):

The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New construction or conversion of small structures), Section 15332 (In-Fill Development Projects) and, as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Recommendation:

Staff recommends that the Zoning Administrator approve P-SD23-0006, P-SD23-0007, P-SD23-0008, and P-SD23-0009 to allow the development of four new, 2,841-square-foot, two-story, single-family residences with a 423-square-foot attached garage up to a maximum height of 28-feet on four individual 0.2-acre lots in the R2 One- and Two-Family Residential Zoning District located at 470, 480, 490, and 500 Wool Drive, subject to the findings outlined in this report and the attached Conditions of Approval.

Attachments:

- A. Resolution 24-004 for 500 Wool Dr.
- B. Project Plans for 500 Wool Dr.
- C. Tract Map. No. 4549
- D. Signed Application Letter for Determination of Unmerger
- E. Determination of Unmerger

ATTACHMENT A

RESOLUTION NO. 24-004

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE
CITY OF MILPITAS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO.
SD23-0009 TO ALLOW THE DEVELOPMENT OF AN APPROXIMATELY 2,841-
SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 423-SQUARE-
FOOT ATTACHED GARAGE UP TO A MAXIMUM HEIGHT OF 28-FEET ABOVE GRADE
LEVEL ON A 0.2-ACRE PARCEL AT 500 WOOL DRIVE
(APN 029-10-084)**

WHEREAS, on June 7, 2023, Neal Allen (“Applicant”) on behalf of Mission Peak Homes submitted a Site Development Permit (“SDP”) application to replace an existing religious place of assembly building and surface parking lot with a new two-story, single family residence (“Project”) on a 0.2-acre lot located at 500 Wool Drive (APN 029-10-084); and

WHEREAS, the property (APN 029-10-084) is located within the One- and Two-Family (R2) Zoning District; 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 Zoning Administrator determine this Project is categorically exempt; and

WHEREAS, on January 25, 2024, the Zoning Administrator 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 Zoning Administrator of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The Zoning Administrator has considered the full record before him or her, which may include but is not limited to such things as any staff report, source records, statements by staff and the public, and any other materials and evidence submitted or provided to him or her. The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Smaller Structures), Section 15332 (In-Fill Development Projects) and; as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). As proposed, the Project includes the development of a single-family residence in a residential zone, consistent with the general plan and zoning standards, located

within city limits on a site with no value to habitat for endangered species, and adequately served by all utilities.

Section 3: The Milpitas Municipal Code (MMC) requires approval of a Site Development Permit (SDP) for new main buildings (MMC Section XI-10-57.03 (C)(1)(a)). In order to approve an SDP, the Zoning Administrator must make the following findings, per MMC Section XI-10-57.03(G):

- a) *The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;*

The Project includes the construction of four new two-story, single-family residences on four individual lots each with a detached ADU within the R2 (One- and Two-family Residential) Zoning District. The proposed architectural designs integrate well with the surrounding neighborhood in terms of color and building materials such as earth-tone stucco, stone and siding accents, and composition shingle roofs. The proposed residences will respect the existing development pattern in the neighborhood by maintaining ample setbacks as well as stepping back the second story on the front elevation to soften and reduce the visual prominence, scale, and bulk of the Project. The hip-roof designs mimic those of other residences in the immediate area, and the size and scale of the proposed Project are consistent with other two-story residences directly across the street on Wool Drive. Still, the Project provides substantially greater setbacks between structures.

- b) *The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and*

The proposed new residences satisfy functional requirements as they were designed to maximize space and functionality without being impactful to the neighborhood. The proposed residences are consistent with the development standards required for the zoning district as demonstrated in Table 1 and will feature contemporary design and materials. Additionally, the new residences will be constructed in compliance with the most recent California Building Code, California Fire Code, and other required applicable development codes to improve functional aspects including but not limited to seismic safety, electrical, and energy efficiency considerations such as Title 24 compliance, and enhanced noise insulation.

Table 1: R2 Zoning District Development Standards

Standards	Required	Proposed	Complies
Lot Area, Min.	Single-Family: 6,000 square feet Two-Family: 8,000 square feet	~8,400 square feet (No Change from Existing)	Yes
Lot Width, Min.	Single-Family: 55 feet Two-Family: 70 feet	~73 feet (No Change from Existing)	Yes
Front Yard Setback, Min.	20 feet	20 feet	Yes
Side Yard Setback, Min. (Interior Lots – 480, 490, 500 Wool Dr.)	Single-Family, Two-Story: one side 6 ft., total both sides 15 ft.	17' (left) 16' (right)	Yes
Side Yard Setback, Min. (Street side/Corner Lot – 470 Wool Dr.)	10 feet	19 feet	Yes
Rear Yard Setback, Min.	Single-Family, Two-Story: 25 feet	38.9 feet	Yes
Parking, Min.	Three Spaces	Four Spaces (Two in Garage, Two in Driveway)	Yes
Building Height, Max.	30 feet	27' 10"	Yes

- c) *The development assures that the modifications will not interfere with the privacy, quiet enjoyment, or view of the surrounding properties.*

The proposed two-story residences feature windows and doors along the front, sides, and rear of the homes and the Project proposes six-foot tall redwood fencing installed along the sides and rear of the property lines of all four lots in compliance with MMC Section XI-10-54.10 (Fences and Walls) providing privacy protections against neighboring properties on the first floor and the subject home. The lots immediately to the east of the subject lot are all single-story, and any future alterations to add a second story or build a new two-story residence on those lots would undergo individual privacy and direct line of sight studies to this new residence on a case by case basis to assess and reduce potential concerns on privacy, quiet enjoyment, or views. Furthermore, the lots directly across the street

on Wool Drive are all two-story single-family homes, which would be compatible with the proposed Project.

The second floor of all four residences of the proposed Project will be stepped back on the front elevation, providing additional distance separation and reducing the bulk of the new residences from public view. The proposed second floor of the residences would be setback approximately 39 feet from the rear property line, and approximately 50-70 feet from the existing residences to the east. Each residence of this Project will also be setback approximately 30 feet between each structure. Therefore, potential privacy concerns will be minimized as there are significant setbacks between existing and proposed structures.

Additionally, the property and neighboring lots are on the valley floor and do not have significant or protected views. The proposed Project complies with the setback and height requirements for the R2 Zoning District, thereby maintaining solar access and privacy for the subject residences and neighboring homes. Furthermore, the proposed single-family use is permitted by right in an existing one- and two-family residential zoning district and does not propose a change in land use that could interfere with the quiet enjoyment of the residential neighborhood.

Section 4: The Zoning Administrator of the City of Milpitas hereby adopts Resolution No. 24-004 approving Site Development Permit No. SD23-0009 to allow the development of a new 2,841-square foot, two-story single-family residence with a 423-square-foot attached garage at 500 Wool Drive, subject to the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of Milpitas on January 25, 2024.

Jay Lee, AICP
Planning Director

Date: _____

EXHIBIT 1

**SITE DEVELOPMENT PERMIT NO. P-SD23-0009
500 WOOL DRIVE (APN 029-10-084)**

The City of Milpitas Zoning Administrator approves Site Development Permit No. SD23-0009 in accordance with Section XI-10-57.03 of the Milpitas Municipal Code, subject to and conditioned upon all applicable State and local laws and regulations and the Conditions of Approval outlined below. This Site Development Permit entitlement is to allow the issuance of building permits for the proposed development of a 2,841-square foot, two-story single-family residence, with a 423-square foot attached garage ("Project") on a 0.2-acre lot located within the R2 One- and Two-Family Residential Zoning District at 500 Wool Drive (APN: 029-10-084), subject to all necessary reviews, approvals, studies, and inspections for the issuance of such building permits.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

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. This Site Development Permit No. SD23-0009 ("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. **(P)**
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
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: **(P)**
 - i. Acceptance of this Permit by Permittee; and
 - ii. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all 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: **(P)**
 - i. Completes a foundation associated with the Project; or
 - ii. Dedicates any land or easement as required from the zoning action; or

- iii. 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. 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 approval of this Permit. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(CA)**
7. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Permit and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the approval of this Permit. **(P)**
8. Conditions. Each and every condition set forth in this Permit 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 Permit. **(P)**
9. 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)**
10. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(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 applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**

12. 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)**

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. **(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. **(CA)**

15. Permittee shall develop the approved Project in conformance with the approved plans (date stamped 10/09/23), approved by the Zoning Administrator on the date of the public hearing for the Project on January 25, 2024 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, the owner or designee shall be required to apply for review and obtain approval of the Zoning Administrator or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

FIRE DEPARTMENT CONDITIONS

The plans approved by the Planning Department process are not building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider this set of plans as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2022) and are provided to assist with the **building permit process**. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction as some of the requirements and notes below meets current codes.

16. Fire Department access. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Bearing capacity for the driveway and the entry drive court shall be designed to provide a minimum of 50,000 lbs bearing capacity for the fire apparatus. CFC Section 503.2.3.
- 16.1. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of 13 feet 6 inches (4115 mm).
17. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for all structures (living space, garage, outdoor spaces attached to the home, pool cabana, ADU, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code V-300-2.82.
- 17.1. FIRE SPRINKLERS for NEW HOMES
- 17.1.1. An approved automatic fire sprinkler system (NFPA 13D minimum) shall be provided for the home (living space, garage, outdoor spaces attached to the home, etc). California Fire Code Section 903.2, amended by Milpitas Municipal Code **V-300-2.62**
- 17.1.2. FIRE DEPARTMENT PERMIT – REQUIRED
- The Milpitas Fire Department shall approve new installation and/or modifications to existing fire protection, alarm or monitoring system(s). A separate submittal is required to the Milpitas Fire Department, for review and approval, prior to the commencement of any work. CFC Section 901.2
- 17.1.3. WATER SUPPLY SERVICE TO THE HOME
- The existing water supply service to the home may need upgrading to service the automatic fire sprinkler system. All new water services shall be done as required by the City of Milpitas Engineering Division.
18. ACCESS CONTROL DEVICES. When access control devices including bars, grates, gates, or electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the fire code official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. (Knox box location shall be at 6 feet above the finish floor, or fire access walkway or road).
19. SITE ADDRESS. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. Where access is by means of a private road the building cannot be viewed by the public way, a monument,

pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

20. **KEY BOX.** The Fire Code Official is authorized to require a key box to be installed in an approved location if necessary for lifesaving or firefighting purpose. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. (Knox box location shall be at 6 feet above finish floor, or fire access walkway or road).

BUILDING DEPARTMENT CONDITIONS

21. **Compliance with California Code of Regulations.** The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department.

ENGINEERING DEPARTMENT CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

22. **Modifications:** The Site Development Plan received 10/09/2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
23. **Submittal Requirements:** Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
24. **Project Job Account/Fee Deposit:** Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the Project. The amount shall be determined based on the approved City fee schedule at the time of application submittal.
25. **Coordination with other Projects:** Permittee shall coordinate designs with the projects associated with permit numbers P-SD23-0006, P-SD23-0007, P-SD23-0008 in advance prior to any plan submittal.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

28. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
29. Demolition of Existing Building: Permittee shall demolish existing buildings/ facilities that are in conflict with the new property lines.
30. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Chapter 10, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
31. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2005-1, and agree to pay the special taxes levied by the CFD 2005-1 for the purpose of maintaining the public services. 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. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 28 notwithstanding.
32. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - b. Standard details and specifications: (<https://www.milpitas.gov/317/Land-Development-Procedures-Guidelines>);
 - c. Americans with Disabilities Act (ADA) requirements, where applicable.
33. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
34. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as

needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the Project.

35. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a) Installation of separate water service tap and meter for the main residence and accessory dwelling unit.
 - b) Installation of separate utility service lines (domestic water, sanitary sewer) for the main residence and accessory dwelling unit.
 - c) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with 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 subject radio antenna.
 - d) Installation of pavement microsurfacing along half of the street width of the project frontage on Wool Dr. to the City Engineer's satisfaction.
 - e) Installation of new sidewalk and driveway along the project frontage.
 - f) Installation of new street trees along the project frontage. The locations, spacing of tree and tree species shall be in compliance with applicable City standards and details.
36. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
37. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
38. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements, such as landscape irrigation within the public right of way, mutually agreed between the City and the Permittee.
39. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
40. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

41. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
42. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
43. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
44. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following 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.Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.
45. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. 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 Department for approval by the Engineering Department prior to inspection by the Building Department.
46. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "f" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
 - a) Storm water connection fee at \$1,100/unit for residential.
 - b) Water connection fee at \$1,910/unit for residential.
 - c) Sewer connection fee at \$1,908/unit for residential.

- d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
- e) Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
- f) 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.

47. Mailboxes: The Permittee shall coordinate with US Postal Services regarding placement of required mailboxes. Mailbox location shall not be on public street frontages and shall be approved by City and US Postal Services prior to building permit issuance. Mailbox locations shall be shown on the improvement plans and Permittee shall submit a letter to the City's Land Development Engineering Section from the Postmaster approving the location of the mailbox. Structures to protect mailboxes may require Building, Engineering and Planning Department review.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the Project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

48. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
49. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
50. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
51. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector, and notify affected property owners/ tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved by the Director of Engineering/City Engineer.*

52. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements along Wool Drive as shown on City approved plans.
53. Landscape Certificate of Completion: Permittee shall submit a Certificate of Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.

54. Record Drawings: Permittee shall submit record drawings in Full size hard copy, AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements.

55. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

(P) = Planning

(F) = Fire Prevention

(B) = Building

(LD) = Land Development

(CA) = City Attorney

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.

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 subject property on the terms and conditions set forth in this Permit.

Dated: _____

Signature of Permittee

TRACT N° 4549

VICTORIA PARK

BEING A PORTION OF THE TULARCITOS RANCHO
AND LYING ENTIRELY WITHIN THE CITY OF....

MILPITAS

SANTA CLARA COUNTY, CALIFORNIA

Consisting of 2 sheets

JENNINGS · McDERMOTT · HEISS, INC.
CIVIL ENGINEERS LAND PLANNERS

SAN JOSE, CALIFORNIA

August, 1968

OWNER'S CERTIFICATE

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE BLUE BORDER LINE; THAT WE HEREBY OFFER FOR DEDICATION TO PUBLIC USE ALL STREETS AND PORTIONS OF STREETS NOT HERETOFORE EXISTING AS SHOWN ON THE HEREON MAP OF SAID SUBDIVISION; AND THAT WE DEDICATE TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC USES UNDER, UPON AND OVER SAID STREETS AND SAID PORTIONS THEREOF.

WE ALSO DEDICATE TO PUBLIC USE:

EASEMENTS FOR ANY AND ALL PUBLIC SERVICE FACILITIES, INCLUDING POLES, WIRES, CONDUITS, STORM SEWERS, SANITARY SEWERS, WATER MAINS, PUBLIC UTILITIES AND APPURTENANCES TO THE ABOVE UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS "P.S.U.E." (PUBLIC SERVICE & UTILITY EASEMENTS) AND EASEMENTS FOR PUBLIC UTILITIES INCLUDING WIRES, CONDUITS AND APPURTENANCES THERETO UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS "P.U.E." (PUBLIC UTILITY EASEMENTS).

THE ABOVE-MENTIONED PUBLIC SERVICE EASEMENTS AND PUBLIC UTILITY EASEMENTS ARE TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE AND PUBLIC UTILITY STRUCTURES AND THEIR APPURTENANCES, IRRIGATION SYSTEMS AND THEIR APPURTENANCES, LAWFUL FENCES AND LAWFUL UNSUPPORTED ROOF OVERHANGS.

WE ALSO DEDICATE TO THE CITY OF MILPITAS THE AREAS SHOWN ON THIS MAP AS "1' RESERVE," TO ENABLE THE CITY TO CONTROL ACCESS TO THE RESPECTIVE PUBLIC STREET WHICH SAID RESERVE STRIP ABUTS. SAID RESERVE STRIP IS NOT PART OF SAID PUBLIC STREET HOWEVER, UNTIL SAID STREET IS EXTENDED AND ACCEPTED BY THE CITY.

SURVEYOR'S CERTIFICATE

I, Robert G. McDermott, a licensed Land Surveyor of the State of California, hereby certify that this map, consisting of two sheets, correctly represents a survey made under my supervision during July, 1968; that the survey is true and complete as shown; that all monuments exist as shown or will be placed by April, 1970

and that their positions are sufficient to enable the survey to be retraced.

2/27/69
DATE

Robert G. McDermott
ROBERT G. McDERMOTT
L.S. N° 2734

CITY ENGINEER'S CERTIFICATE

I hereby certify that I have examined the within final map of Tract N° 4549, Victoria Park; that the subdivision shown thereon is substantially the same as it appeared on the tentative map and any approved alterations thereof; that all provisions of the Subdivision Map Act and of any local ordinance applicable at the time of approval of the tentative map have been complied with and I am satisfied and that said map is technically correct.

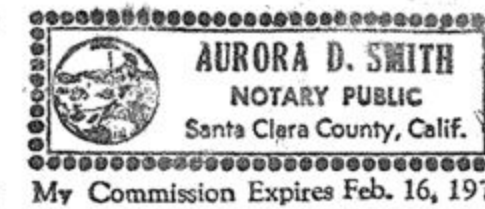
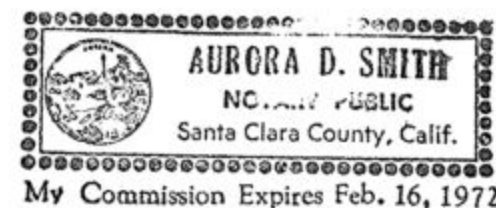
Wesley D. Smith, CITY ENGINEER
City of Milpitas, California

Wesley D. Smith
R.C.E. 14766

4/3/69
DATE

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA S.S.
On this 21st day of Feb., 1969, before me Aurora D. Smith, a Notary Public in and for said County and State, residing therein, duly sworn and commissioned, personally appeared Kathleen M. Babb and C. Davis known to me to be the ASST. SECY. and ASST. VICE PRES. respectively, of AMERICAN SECURITIES COMPANY, A CORPORATION, the corporation that executed the within instrument as Trustee, and known to me to be the persons who executed the same on behalf of the corporation named herein, and acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors, as Trustee. In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year first above written. My Commission expires 2-16-72.



ACKNOWLEDGEMENT

State of California
County of Santa Clara S.S.
On this 21st day of FEB. 1969 before me Aurora D. Smith, a Notary Public in & for said County & State residing therein duly sworn and commissioned personally appeared R. SIMONI and ERIC OTTO known to me to be the Assistant Secretary & Assistant Secretary, respectively of Lawyers Title Guaranty Company, a California Corporation the corporation that executed the within instrument as TRUSTEE, & known to me to be the persons who executed the same on behalf of the corporation named herein & acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors as TRUSTEE. In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year first above written. My commission expires 2-16-72.

Aurora D. Smith
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

CITY CLERK'S CERTIFICATE

It is ordered that the map of Tract N° 4549, Victoria Park, be and the same is hereby approved; that all streets and portions thereof and the Public Service and Utility Easements (P.S.U.E.) as shown on said map & therein offered for dedication to public use are hereby accepted for the use intended and that all Public Utility Easements (P.U.E.) as shown on said map and offered for dedication to public use are hereby not accepted. Also accepted on behalf of the public are the areas shown on this map as "1' Reserve" subject to the terms of the dedication set forth on this sheet. I hereby certify that the foregoing order was adopted by the City Council of the City of Milpitas, State of California, at a meeting held on the 19th day of November 1968.

CITY CLERK, CITY OF MILPITAS

R. B. Hong

COUNTY RECORDER'S CERTIFICATE

File N° 3535367 Fee: 7th paid.
Accepted for record and filed in Book 251 of Maps at Pages 17 & 18, Santa Clara County Records, this 4th day of APRIL, 1969, at 8:01 A.M.

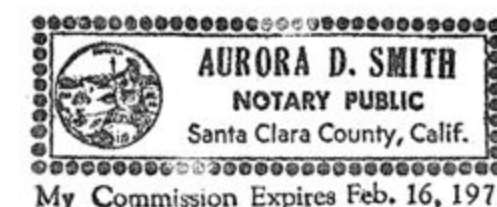
GEORGE E. FOWLES, COUNTY RECORDER
Santa Clara County, California

By [Signature] DEPUTY

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA S.S.
On this 21st day of FEB. 1969, before me Aurora D. Smith, a Notary Public in and for said County and State, residing therein, duly sworn and commissioned, personally appeared R. SIMONI and ERIC OTTO known to me to be the VICE PRESIDENT and ASSISTANT SECRETARY, respectively, of LAWYERS TITLE INSURANCE CORPORATION, the corporation that executed the within instrument as Owner and known to me to be the persons who executed the same on behalf of the corporation named herein and acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors as Owner. In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year first above written. My commission expires 2-16-72.

Aurora D. Smith
NOTARY PUBLIC IN AND FOR SAID COUNTY & STATE



OWNER: LAWYERS TITLE INSURANCE CORPORATION, A CORPORATION
VICE PRESIDENT: [Signature]
TRUSTEE: LAWYERS TITLE GUARANTY COMPANY, A CALIFORNIA CORPORATION
ASSISTANT SECRETARY: [Signature]

TRUSTEE: AMERICAN SECURITIES COMPANY, A CORPORATION
VICE PRESIDENT: [Signature]
ASSISTANT VICE PRESIDENT: [Signature]
ASSISTANT SECRETARY: [Signature]

SHEET 1 OF 2

JOB NO. 1534

CURVE DATA				CURVE DATA			
A	90°42'25"	20.00	31.66	J	93°51'58"	20.00	32.77
B	89°11'35"	20.00	31.17	K	94°47'16"	20.00	33.03
C	89°19'10"	20.00	31.18	L	89°33'28"	25.00	25.93
D	90°40'50"	20.00	31.65	M	16°01'04"	50.00	13.93
E	90°00'00"	20.00	31.42	N	24°57'05"	25.00	10.89
F	25°50'31"	25.00	11.28	O	80°12'29"	25.00	21.91
G	16°34'10"	20.00	26.73	P	33°10'45"	25.00	17.17
H	96°01'16"	20.00	33.52	Q	4°35'01"	50.00	4.00

TRACT N^o 4549 Victoria Park

CONSISTING OF TWO SHEETS
SHEET NUMBER TWO

Being a portion of Tularcitos Rancho
Lying entirely within the City of

MILPITAS

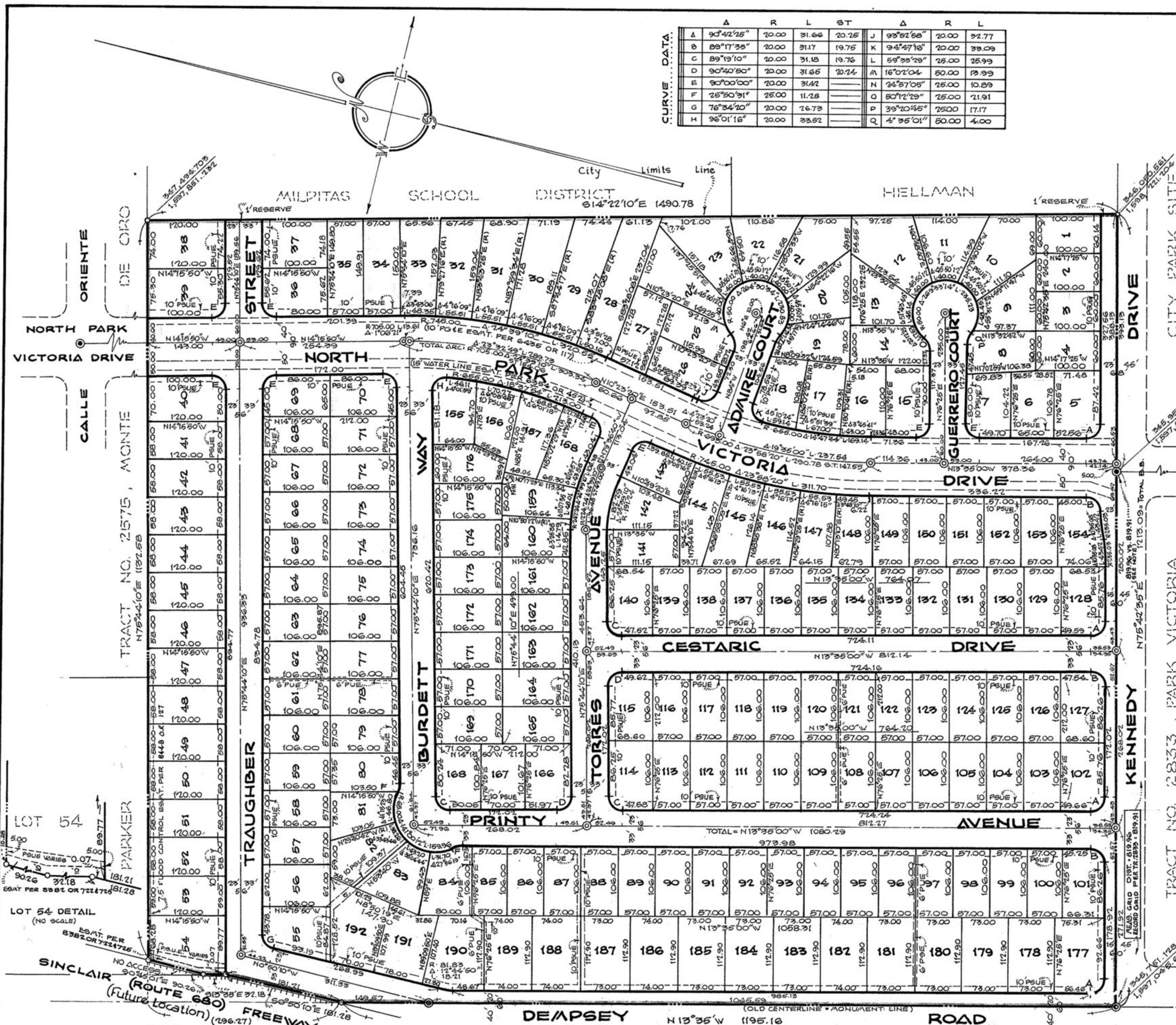
SCALE: 1"=100'

AUGUST, 1968

Jennings-McDermott-Heiss, Inc.

CIVIL ENGINEERS · LAND PLANNERS

San Jose



BASIS OF BEARINGS, NOTES & LEGEND
All bearings and coordinates shown hereon are based on California Coordinate System Zone 3. All distances shown hereon are grid distances. To obtain the ground level distances, multiply distance by the factor 1.0000582. All distances shown hereon are in feet and decimals thereof. The blue border (containing approximately 40.962 Acres) indicates the limits of land subdivided by this map.

- Indicates 3/4" iron pipe set.
- Indicates monument found.
- ⊙ Indicates standard city monument set.
- ⊙ Indicates standard city monument found.
- R.U.E. Indicates Public Utility Easement
- ||||| Indicates access prohibited.
- P.S.U.E. Indicates Public Service and Utility Easement

Lot corners and points of curvature that adjoin public improvements (i.e. sidewalks) to be permanently monumented by either 3/4" iron pipe or by chisled crosses on top of curbs on offset. All rear corners to be monumented by 3/4" iron pipe.

A soils report was prepared by Woodward-Clyde & Associates in June, 1964 & July, 1968, project number JS 1216-A.

A 10' PSUE adjoins the street frontage of each and every lot in this tract.

File Number **3595367**. Filed for record this _____ day of _____, 1968 at _____ o'clock _____ A. in Book _____ of Maps, pages _____ and _____.



Planning Department

City of Milpitas

408.586.3279

455 E. Calaveras Blvd.

Milpitas, CA 95035

www.milpitas.gov/295/Planning

planningdepartment@milpitas.gov

Neal Allen
Mission Peak Homes Inc.
39488 Stevenson Place #107
Fremont, CA 94539

RE: Mission Peak Homes Project Nos. SD23-0006, SD23-0007, SD23-0008, and SD23-0009; located at 470, 480, 490, and 500 Wool Drive

Pursuant to Government Code sections 66451.30 et seq., I, John S. Wong, respectfully request and petition the City of Milpitas for a determination that the parcels described as follows be legally deemed not to have merged, including during and as a result of their prior joint ownership and/or use and development as a church or other place of worship and associated use and development:

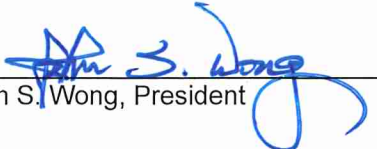
All of Lots 177, 178, 179, and 180, as shown on that certain map entitled, Tract No. 4549, which map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on April 4, 1969, in book 251 of maps, pages 17 and 18.

In making this application, I acknowledge, represent, assert, and aver that the following is true and correct:

- 1) I am the sole legal owner of the above-described parcels, and no other person or entity has a superior interest or other interest in these parcels of land.*
- 2) The subdivision and boundaries of the above-described parcels are truly and accurately reflected in the above-identified map.*
- 3) I have no reason to believe, including from any prior owner or based upon the records available in the Office of the Recorder of the County of Santa Clara and elsewhere, that the above-described parcels are currently merged or have ever been merged after the recording of the above-identified map.*
- 4) The above-described parcels are unmerged, and I irrevocably disclaim, abandon, and waive any interest or right in the merger of these parcels.*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge, understanding, and ability.

Mission Peak Homes, Inc.



John S. Wong, President



Recording Request By and Mail Recorded Copy to:

City of Milpitas
Attn: Engineering Division, Land Development
455 East Calaveras Boulevard
Milpitas, CA 95035

Record without fee under
Sections 6103, 27383 – Government Code
State of California

Recording permitted under
Section 38773.5 – Government Code
State of California

Space Above This Line for Recorder's Use

**NOTICE OF DETERMINATION OF UNMERGER PURSUANT TO TITLE 7, DIVISION 2, CHAPTER 3,
ARTICLE 1.7 COMMENCING WITH SECTION 66451.30 OF THE CALIFORNIA GOVERNMENT CODE**

WHEREAS, on or about January 18, 2024, the City of Milpitas ("City") received from Mission Peak Homes, Inc., the owner(s) of the contiguous parcels within the City's jurisdiction described below ("Owner"), an application pursuant to Government Code section 66451.31 for a determination that the following parcels be deemed not to have merged:

All of Lots 177, 178, 179, and 180, as shown on that certain map entitled, Tract No. 4549, which map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on April 4, 1969, in book 251 of maps, pages 17 and 18. (Commonly Referred to As 450 Wool Drive, Milpitas, CA 95035, APN Nos. 029-10-081, 029-10-082, 029-10-083, and 029-10-084.)

Collectively, the above-described property or properties are referred to as the "Subject Parcels;" and

WHEREAS, in making this application, Owner expressly declared under penalty of perjury that they are the sole owner of the Subject Parcels, that no other person or entity has a superior or other interest in the Subject Parcels, that the above identified map accurately reflects the subdivision and boundaries of the Subject Parcels, that they have no reason to believe the Subject Parcels are currently merged or have ever been merged after the recording of the above identified map, and that the Owner disclaims, abandons, and waives any interest or right in any prior merger of the Subject Parcels; and

WHEREAS, Government Code section 66451.30 states that any parcels or units of land for which a notice of merger had not been recorded on or before January 1, 1984, shall be deemed not to have merged if certain criteria specified in that section are met; and

WHEREAS, under Government Code section 66451.31, upon application made by the owner of parcels of land and payment of any applicable fee, a local public entity must determine whether the affected parcels have merged or, if meeting the criteria of Government Code section 66451.30, are deemed not to have merged; and

WHEREAS, upon consideration of the application and the full record before it, the City has determined that the Subject Parcels meet the standards specified in Government Code section 66451.30 and consequently by operation of law shall be deemed not to have merged; and

WHEREAS, under Government Code section 66451.32, upon a determination that the parcels meet the standards specified in Government Code section 66451.30, the local agency must issue to the owner and record with the county recorder a notice of the status of the parcels which shall identify each parcel and declare that the parcels are unmerged pursuant to Title 7, Division 2, Chapter 3, Article 1.7 of the Government Code.

NOW, THEREFORE, the City Engineer or his or her duly authorized designee, who are hereafter interchangeably referred to as the City Engineer, hereby finds and determines as follows on behalf of the City of Milpitas:

1. The City Engineer has considered the full record before him or her, which may include but is not limited to such things as any staff report, source records, statements by staff and the public, and any other materials and evidence

submitted or provided to him or her. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The City Engineer hereby finds and determines that no notice of merger was recorded on the Subject Parcels prior to January 1, 1984, or any time thereafter, and all of the criteria for unmerger specified in Government Code section 66451.30(a) are met, including that each parcel comprises at least 5,000 square feet in area, the parcels were created in compliance with applicable laws and ordinances in effect at the time of their original creation, the parcels meet the current standards for sewage disposal and domestic water supply, the parcels meet the current standards for slope density, the properties have legal access which is adequate for vehicular and safety equipment access and maneuverability, the development of the parcels would not inherently create health or safety hazards, and the parcels would be consistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.
3. The City Engineer hereby finds and determines that the conditions prohibiting unmerger specified in Government Code section 66451.30(b) are not met, including that on or before July 1, 1981, none of the Subject Parcels were enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Revenue and Taxation Code section 421, none of the Subject Parcels were timberland, as defined in Government Code section 51104(f), or were land devoted to an agricultural use, as defined in Government Code section 51201(b), none of the Subject Parcels were located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, and none of the Subject Parcels were within the coastal zone, as defined in Public Resources Code section 30103, or otherwise meets the criteria set forth in Government Code section 66451.30(b)(5).
4. Accordingly, the City Engineer hereby finds and determines on behalf of the City of Milpitas that the Subject Parcels meet the criteria set forth in Government Code section 66451.30 and are consequently by operation of law deemed not to have merged pursuant to Title 7, Division 2, Chapter 3, Article 1.7 of the Government Code. Consequently, the map attached hereto as **Exhibit A** truly and acutely reflects the subdivision of the Subject Parcels as unmerged parcels or other units of land.
5. City staff shall cause a copy of this notice and determination to be issued to the Owner and recorded with the Office of the Santa Clara County Recorder.

APPROVED:



Matt Cano, PE
Assistant City Manager / Acting City Engineer
City of Milpitas

Exhibit A

Tract Map No. 4549, as Filed for Record in the Office of the Recorder of the County of Santa Clara, State of California,
on April 4, 1969, in Book 251 of Maps, Pages 17 and 18

(Remainder of page intentionally left blank)

TRACT N° 4549

VICTORIA PARK

BEING A PORTION OF THE TULARCITOS RANCHO
AND LYING ENTIRELY WITHIN THE CITY OF...

MILPITAS

SANTA CLARA COUNTY, CALIFORNIA

Consisting of 2 sheets

JENNINGS · McDERMOTT · HEISS, INC.

CIVIL ENGINEERS LAND PLANNERS

SAN JOSE, CALIFORNIA

August, 1968

OWNER'S CERTIFICATE

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE BLUE BORDER LINE; THAT WE HEREBY OFFER FOR DEDICATION TO PUBLIC USE ALL STREETS AND PORTIONS OF STREETS NOT HERETOFORE EXISTING AS SHOWN ON THE HEREON MAP OF SAID SUBDIVISION; AND THAT WE DEDICATE TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC USES UNDER, UPON AND OVER SAID STREETS AND SAID PORTIONS THEREOF.

WE ALSO DEDICATE TO PUBLIC USE:

EASEMENTS FOR ANY AND ALL PUBLIC SERVICE FACILITIES, INCLUDING POLES, WIRES, CONDUITS, STORM SEWERS, SANITARY SEWERS, WATER MAINS, PUBLIC UTILITIES AND APPURTENANCES TO THE ABOVE UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS "P.S.U.E." (PUBLIC SERVICE & UTILITY EASEMENTS) AND EASEMENTS FOR PUBLIC UTILITIES INCLUDING WIRES, CONDUITS AND APPURTENANCES THERETO UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AS "P.U.E." (PUBLIC UTILITY EASEMENTS).

THE ABOVE-MENTIONED PUBLIC SERVICE EASEMENTS AND PUBLIC UTILITY EASEMENTS ARE TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE AND PUBLIC UTILITY STRUCTURES AND THEIR APPURTENANCES, IRRIGATION SYSTEMS AND THEIR APPURTENANCES, LAWFUL FENCES AND LAWFUL UNSUPPORTED ROOF OVERHANGS.

WE ALSO DEDICATE TO THE CITY OF MILPITAS THE AREAS SHOWN ON THIS MAP AS "1" RESERVE," TO ENABLE THE CITY TO CONTROL ACCESS TO THE RESPECTIVE PUBLIC STREET WHICH SAID RESERVE STRIP ADJUTS. SAID RESERVE STRIP IS NOT PART OF SAID PUBLIC STREET HOWEVER, UNTIL SAID STREET IS EXTENDED AND ACCEPTED BY THE CITY.

ACKNOWLEDGEMENT

State of California
County of Santa Clara
On this 21st day of FEB 1969 before me Aurora D. Smith, a Notary Public in & for said County & State, residing therein, duly sworn and commissioned, personally appeared R. Simon and Eric Otto known to me to be the Assistant Secretary & Assistant Secretary, respectively, of Lawyers Title Guaranty Company a California Corporation the corporation that executed the within instrument as Trustee, & known to me to be the persons who executed the same on behalf of the corporation named herein & acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors as Trustee.
In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year first above written.
My commission expires 2-16-72

Aurora D. Smith
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

CITY CLERK'S CERTIFICATE

It is ordered that the map of Tract N° 4549, Victoria Park, be and the same is hereby approved, that all streets and portions thereof and the Public Service and Utility Easements (P.S.U.E.) as shown on said map & therein offered for dedication to public use, are hereby accepted for the use intended and that all Public Utility Easements (P.U.E.) as shown on said map and offered for dedication to public use are hereby not accepted. Also accepted on behalf of the public are the areas shown on this map as "1" Reserve" subject to the terms of the dedication set forth on this sheet. I hereby certify that the foregoing order was adopted by the City Council of the City of Milpitas, State of California, at a meeting held on the 19th day of September 1968.

CITY CLERK, CITY OF MILPITAS

R. DeLong

COUNTY RECORDER'S CERTIFICATE

File N° 359,536-7, Fee \$7.25 paid.
Accepted for record and filed in Book 251 of Maps at Pages 17 & 18, Santa Clara County Records, this 4th day of APRIL, 1969, at 10:11 A.M.

GEORGE E. POWERS, COUNTY RECORDER
Santa Clara County, California

DEPUTY

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
On this 21st day of FEB 1969, before me Aurora D. Smith, a Notary Public in and for said County and State, residing therein, duly sworn and commissioned, personally appeared R. Simon and Eric Otto known to me to be the VICE PRESIDENT and Assistant Secretary, respectively, of Lawyers Title Guaranty Corporation the corporation that executed the within instrument as Owner and known to me to be the persons who executed the same on behalf of the corporation named herein and acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors as Owner. In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year first above written. My commission expires 2-16-72

Aurora D. Smith
NOTARY PUBLIC IN AND FOR SAID COUNTY & STATE

SURVEYOR'S CERTIFICATE

I, Robert G. McDermott, a licensed Land Surveyor of the State of California, hereby certify that this map, consisting of two sheets, correctly represents a survey made under my supervision during July, 1968, that the survey is true and complete as shown; that all monuments exist as shown or will be placed by April 1, 1970 and that their positions are sufficient to enable the survey to be retraced.

3/27/69
DATE
Robert G. McDermott
ROBERT G. McDERMOTT
L.S. N° 2734

CITY ENGINEER'S CERTIFICATE

I hereby certify that I have examined the within final map of Tract N° 4549, Victoria Park; that the subdivision shown thereon is substantially the same as it appeared on the tentative map and any approved alterations thereof; that all provisions of the Subdivision Map Act and of any local ordinance applicable at the time of approval of the tentative map have been complied with and I am satisfied and that said map is technically correct.

Wesley D. Smith, CITY ENGINEER
City of Milpitas, California

Wesley D. Smith
R.C.B. 1976 4/3/69
DATE

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
On this 21st day of FEB 1969, before me Aurora D. Smith, a Notary Public in and for said County and State, residing therein, duly sworn and commissioned, personally appeared R. Simon and Eric Otto known to me to be the Assistant Secretary and Assistant Secretary, respectively, of Lawyers Title Guaranty Corporation the corporation that executed the within instrument as Trustee, and known to me to be the persons who executed the same on behalf of the corporation named herein and acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors as Trustee. In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year first above written. My commission expires 2-16-72.



OWNER: LAWYERS TITLE INSURANCE CORPORATION, A CORPORATION
TRUSTEE: R. Simon, Eric Otto
TRUSTEE: LAWYERS TITLE INSURANCE CORPORATION, A CALIFORNIA CORPORATION
ASSISTANT SECRETARY: R. Simon, Eric Otto

SHEET 1 OF 2

JOB NO. 1554

251
17

CURVE DATA		A	R	L	BT	A	R	L	
	1	94°42'56"	20.00	31.66	22.26	J	95°02'56"	20.00	32.77
	2	89°17'56"	20.00	31.17	19.76	K	94°57'12"	20.00	33.09
	3	89°19'10"	20.00	31.15	19.76	L	94°58'09"	20.00	33.99
	4	90°40'00"	20.00	31.66	22.26	M	16°02'04"	60.00	15.33
	5	90°00'00"	20.00	31.41	19.76	N	94°57'09"	20.00	33.99
	6	16°00'00"	20.00	11.78	11.78	O	87°12'29"	20.00	21.91
	7	76°54'20"	20.00	74.79	74.79	P	39°10'59"	20.00	17.17
	8	96°01'16"	20.00	35.92	35.92	Q	4°49'52"	60.00	4.00

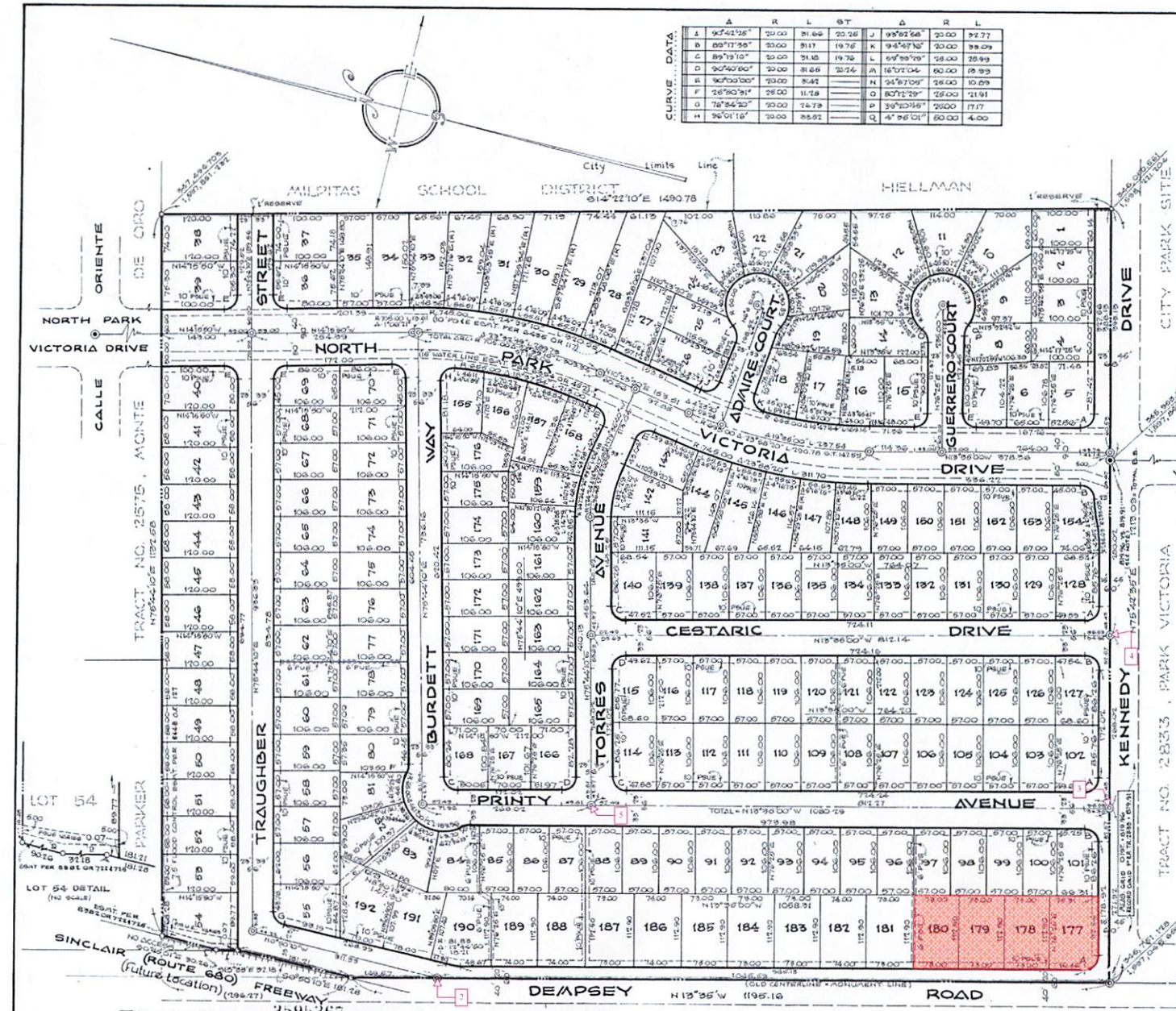
TRACT N° 4549 *Victoria Park*

CONSISTING OF TWO SHEETS
SHEET NUMBER TWO
Being a portion of Tularcitos Rancho
Lying entirely within the City of

MILPITAS

SCALE: 1"=100' AUGUST, 1968

Jennings · McDermott · Heiss, Inc.
CIVIL ENGINEERS · LAND PLANNERS
San Jose



BASIS OF BEARINGS, NOTES & LEGEND
All bearings and coordinates shown hereon are based on California Coordinate System Zone 3. All distances shown hereon are grid distances. To obtain the ground level distances, multiply distance by the factor 1.0000282. All distances shown hereon are in feet and decimals thereof. The blue border (containing approximately 40.962 Acres) indicates the limits of land subdivided by this map.

- Indicates 3/4" iron pipe set.
- Indicates monument found.
- ⊙ Indicates standard city monument set.
- ⊙ Indicates standard city monument found.
- RUE Indicates Public Utility Easement
- ==== Indicates access prohibited.
- PSUE Indicates Public Service and Utility Easement

Lot corners and points of curvature that adjoin public improvements (i.e. sidewalks) to be permanently monumented by either 3/4" iron pipe or by chiseled crosses on top of curbs on offset. All rear corners to be monumented by 3/4" iron pipe.

A soils report was prepared by Woodward-Clyde & Associates in June, 1964 & July, 1968, project number JS 1216-A.

A 10' PSUE adjoins the street frontage of each and every lot in this tract.

File Number 3595367 Filed for record this day of 1968 at o'clock A. in Book of Maps, pages and .

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On January 18, 2024, before me, Benjamin Silowitz, Notary Public, personally appeared Matt Cano, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within the instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____



(Seal)

