Subject: Council Approval of the Final Map (Tract No. 10202) – 15 Residential Condominium Units and 5,717 Square Feet Office at 538 South Mathilda Avenue by 538 Mathilda Ave, LLC and Direct Staff to Propose an Amendment to Section 19.08 of the Municipal Code “Grant of Landscape Easement Along El Camino and Mathilda”

Background
Final Map. A vesting tentative map was conditionally approved by the Planning Commission on May 13, 2013 for 15 residential condominium units and a 5,717 square foot office.

Municipal Code. Section 19.08 of the Municipal Code provides for the granting of six-foot to ten-foot landscape easements on El Camino Real and Mathilda Avenue within certain sections of the City. The easements were intended to provide a buffer between vehicle traffic and pedestrians. Since this section was added to the Municipal Code, the City has completed the Downtown Specific Plan, El Camino Real Precise Plan and new sidewalk standards. These documents either supersede or meet the intent of Section 19.08.

Discussion
Final Map. The final map for Tract No. 10202 was examined by the Public Works staff and found to be in conformance with Sunnyvale Municipal Code Title 18 Subdivision, and the State of California “Subdivision Map Act”. The developer has executed a subdivision agreement and provided improvement securities ($122,000 for faithful performance and $122,000 for labor and materials) to guarantee completion of all public improvements.

Municipal Code. Municipal Code section 19.08 requires six-foot or ten-foot landscape easements between the curb and sidewalk on the Mathilda Avenue and El Camino frontages within certain sections of the City. The intent of the easements was to provide a buffer between pedestrians and travel lanes to create a more comfortable walking environment. Since the inclusion of this requirement in the Municipal Code section 19.08, the City has completed two different efforts that set forth a different sidewalk vision, but meets the same goals. In 2003, the City Council approved the Downtown Specific Plan, which developed new sidewalk sections and options for the Mathilda Avenue streetscape within the downtown and in 2007 the City adopted the Precise Plan for El Camino Real which set an updated vision for the EL Camino Streetscape. The City also recently updated its sidewalk standards. The new sidewalk standards, applicable to both Mathilda and El Camino, provide for a minimum 10-foot sidewalk with a parkstrip or tree-well buffer between pedestrians and
vehicles. It is staff’s opinion that these new sidewalk designs meet the original intent of Section 19.08. Staff proposes to modify Section 19.08 of the Municipal Code to address any inconsistencies between these documents and the Municipal Code.

It should be noted that the project is located within the Downtown Specific Plan, and within an area of Mathilda that is applicable to Section 19.08. In addition to a 10 tree well and sidewalk section, the map also proposes a 10-foot right-of-way dedication. The 20-foot pedestrian realm meets the intent of both the Downtown Specific Plan and Municipal Code by providing adequate space for enhanced sidewalks along Mathilda.

**ENVIRONMENTAL REVIEW**
The Planning Commission considered and approved the Mitigated Negative Declaration on May 13, 2013 of which this project is a part.

**PUBLIC CONTACT**
Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City’s Web site.

**RECOMMENDATION**
Staff recommends that Council approve the final map for Tract No. 10202; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk’s Statement and forward the final map for recordation; and direct staff to return to Council with an amendment to Section 19.08 of the Municipal Code to address inconsistencies between landscape easement requirements and current sidewalk standards.

Reviewed by:

Kent Steffens, Director of Public Works
Prepared by: Bennett Chun, Civil Engineer

Reviewed by:

Hanson Hom, Director of Community Development

Approved by:

Gary M. Luebbers, City Manager

**ATTACHMENT**
A. Final Map for Tract No. 10202
OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE, OR INTEREST IN, 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, AND THAT WE HEREBY CONSENT TO THE PREPARATION AND FILING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE ALSO HEREBY STATE THAT THE REAL PROPERTY DESCRIBED BELOW IS DESIGNATED AS AN EASEMENT FOR PUBLIC PURPOSES: STREETS AND PORTIONS OF STREETS NOT PREVIOUSLY EXISTING AS DEDICATED HEREIN AND DESIGNATED AS "STREET HEREIN DENIED".

As Owner:
538 MATHILDA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

PRINTED NAME

PROOF OF SIGNATURE

BY: DATE:

OWNER'S ACKNOWLEDGEMENT

STATE OF CALIFORNIA SS
COUNTY OF
ON , BEFORE ME, .
A NOTARY PUBLIC,

PERSONALLY APPEARED

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT EXECUTED THE SAME IN HIS/HER/ITS AUTHORIZED CAPACITY(ES) AND THAT BY HIS/HER/ITS 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.

PRINTED NAME AND TITLE

TRUSTEE'S STATEMENT

CALIFORNIA RECONVEYANCE COMPANY

AS TRUSTEE(S) UNDER THAT CERTAIN DEED OF TRUST RECORDED IN INSTRUMENT NO. , DO/DOES HEREBY CONSENT TO THE PREPARATION AND RECORDED OF THIS TRACT MAP AND JOINS ALL DEDICATION HEREOF.

BY: SIGNATURE DATE:

PRINTED NAME AND TITLE

TRUSTEE'S ACKNOWLEDGEMENT

STATE OF CALIFORNIA SS
COUNTY OF
ON , BEFORE ME, .
A NOTARY PUBLIC,

PERSONALLY APPEARED

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT EXECUTED THE SAME IN HIS/HER/ITS AUTHORIZED CAPACITY(ES) AND THAT BY HIS/HER/ITS 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.

PRINTED NAME AND TITLE

TRUSTEE'S STATEMENT

OLD REPUBLIC TITLE COMPANY

AS TRUSTEE(S) UNDER THAT CERTAIN DEED OF TRUST RECORDED IN INSTRUMENT NO. , DO/DOES HEREBY CONSENT TO THE PREPARATION AND RECORDED OF THIS TRACT MAP AND JOINS ALL DEDICATION HEREOF.

BY: SIGNATURE DATE:

PRINTED NAME AND TITLE

CITY CLERK'S STATEMENT

I HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF SUNNYVALE AT ITS REGULAR MEETING HELD ON , ADOPTED THE HIEREN FINAL MAP OF TRACT NO. 10202 AS SHOWN HEREIN AND ACCEPTED SUBJECT TO COMPLETION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS ON BEHALF OF THE PUBLIC ALL EASEMENTS OFFERED FOR DEDICATION IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION.

DATE: BY:

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREIN FINAL MAP OF THE TRACT NO. 10202 THAT THE SUBDIVISION AS SHOWN HEREIN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT, AS AMENDED, AND OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

DATE: BY:

ENGINEER'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY CONFORMING WITH THE REQUIREMENTS OF THE SUBDIVISION ACT, AS AMENDED, AND MEETED WITH THE REQUIREMENTS OF ANY LOCAL ORDINANCE APPLICABLE OR THAT THEY WILL BE SET IN PLACE BEFORE SEPTEMBER 2014, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRIEVED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

DATE: BY:

GEOENGINEERING REPORT

A GEOENGINEERING REPORT HAS BEEN PREPARED BY WAYNE TING & ASSOCIATES, INC. (WTA), ENTITLED "GEOENGINEERING INVESTIGATION, 538 AND 540 SOUTH MATHILDA ROAD, SUNNYVALE CA 94086", DATED APRIL 5, 2013, AND SIGNED BY WAYNE L. TING, RCE #60276, A COPY OF WHICH HAS BEEN FILED WITH THE CITY OF SUNNYVALE.

COUNTY RECORDER'S STATEMENT

FILE NO.: FEE: PAID:

FILED THIS DAY OF , AT M IN BOOK , MAPS, AT PAGE(S) , ON THE REQUEST OF 538 MATHILDA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY.

REOshift ALCOMENDRA, COUNTY RECORDER, SANTA CLARA COUNTY, CALIFORNIA

BY DEPUTY
TRACT NO. 10202
MATHILDA VILLAS

A ONE LOT SUBDIVISION FOR CONDOMINIUM PURPOSES TO CONSIST OF FIFTEEN RESIDENTIAL CONDOMINIUMS AND ONE COMMERCIAL CONDOMINIUM, 538 SOUTH MATHILDA AVENUE, SUNNYVALE CA 94086

CONSISTING OF TWO SHEETS

BEING A RESUBDIVISION OF PORTIONS OF LOTS 18 AND 19 IN BLOCK 15 (R1), AS SAID LOTS AND BLOCK ARE SHOWN UPON CERTAIN MAP ENTILED, "MAP OF THE TOWN OF ENCINAL" WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON JANUARY 25, 1998 IN BOOK "Y" OF MAPS AT PAGES 88 AND 89, AND LYING ENTIRELY WITHIN THE CITY OF SUNNYVALE, COUNTY OF SANTA CLARA, CALIFORNIA

SEPTEMBER 2013

BASIS OF BEARINGS

THE BASIS OF BEARINGS USED FOR THIS MAP IS THE CENTERLINE OF WEST OLIVE AVENUE, NORTH 75°08'00" WEST, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED NOVEMBER 15, 2010 IN BOOK 860 OF MAPS AT PAGE 5, OFFICIAL RECORDS, COUNTY OF SANTA CLARA, CALIFORNIA.

NOTES:

1. THE DISTINCTIVE BORDER LINE INDICATES THE BOUNDARY OF LAND SUBDIVIDED BY THIS MAP AND CONTAINS GROSS AREA OF 19,185 SQUARE FEET (0.44± ACRE) AND NET AREA OF 17,685 SQUARE FEET (0.41± ACRE).

2. DISTANCES ARE GIVEN IN FEET AND DECIMALS THEREOF.

REFERENCES:

R1 RECORD OF SURVEY, OPM#, RECORDED 11-15-2010
R2 PARCEL MAP, OPM#, RECORDED FEBRUARY 15, 1983
R3 MAP OF THE TOWN OF ENCINAL, M 88-89, RECORDED JANUARY 25, 1898
D1 DOCUMENT 22149527 RECORDED MARCH 28, 2013
D2 DOCUMENT 22251037 RECORDED June 6, 2013
D3 3079 O.R. 49R RECORDED FEBRUARY 6, 1995
D4 3076 O.R. 251 RECORDED FEBRUARY 7, 1990
D5 1445 O.R. 59I RECORDED JANUARY 6, 1948
D6 1625 O.R. 228 RECORDED FEBRUARY 19, 1941