



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: February 22, 2012

APPLICATION: **SITE DEVELOPMENT PERMIT NO. SD11-0001, CONDITIONAL USE PERMIT NO. UP11-0037, and TENTATIVE MAP AMENDMENT NO. TM11-0002, McCANDLESS MIXED USE PROJECT**

APPLICATION SUMMARY: A request to review the site and architecture of four mixed use buildings (954 residential units and 87,023 square feet of commercial) and 27 multi-family buildings (200 residential units) and; the operations in anticipation of a future grocery store for a mixed use project.

LOCATION: 1315 – 1600 McCandless Dr. (APNs: 086-33-092, -093, -101, -94, -99, -95, and -98)

APPLICANT: Integral Communities McCandless, LLC, Glenn Brown, 675 Hartz Av, Suite 202 Danville, CA 94526-3838

OWNER: Milpitas Project Owner LP, 333 S Grand Ave. Flr 28TH, Los Angeles, CA 90071

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 12-007 recommending approval to the City Council.**

PROJECT DATA:
**General Plan/
 Zoning Designation:** Retail High Density Mixed Use (MXD2) & Multi-family High Density Residential (MFH)/Retail High Density Mixed Use (MXD2) & High Density Multi-family Residential (R3)

**Overlay District:
 Specific Plan:** Site and Architectural (-S) and Transit Oriented Development (-TOD) Transit Area Specific Plan (TASP)

Site Area: 23 acres

CEQA Determination: The project is consistent with the findings of the previously adopted Mitigated Negative Declaration (and subsequent addendum) adopted by the City Council on August 3, 2010. The project is also consistent with the Transit Area Specific Plan EIR and exempted under Section 15168(d) of the CEQA Guidelines.

PLANNER: Sheldon S. Ah Sing, Senior Planner

PJ: 3222 & 2744

ATTACHMENTS:

- A. Resolution No. 12-007
- B. Tentative Map
- C. District 1 architecture
- D. District 2 architecture
- E. McCandless Drive Improvement Plans
- F. Traffic study
- G. Comment letter from October 21, 2011
- H. Adopted Mitigated Negative Declaration and Addendum
- I. Toxic Air Contaminants study
- J. Flood study

LOCATION MAP



No scale

BACKGROUND

On June 3, 2008, the City Council adopted the Transit Area Specific Plan (TASP). The Plan encompasses 437 acres and promotes the development of 7,109 dwelling units, 287,075 square feet of retail space, 993,843 square feet of office and industrial space. The plan includes development standards, goals and policies guiding development within the plan area. Because of the physical characteristics of the area, including major streets, railroads and creeks, the plan also established sub-districts with specific goals and policies to accommodate those unique characteristics.

The proposed project is within the McCandless/Centre Pointe sub-district of the Transit Area Specific Plan. The sub-district is located adjacent to the Great Mall and is bisected by McCandless Drive. For the sub-district, the TASP envisioned this to be the best location for successful retail mixed use district, building off the established retail destination of the Great Mall and the visibility along Great Mall Parkway. According to the TASP, the residential development along McCandless can take advantage of the existing mature canopy trees lining the street.

On June 4, 2008, Glenn Brown of Integral Communities McCandless, LLC submitted an application to create a subdivision for the purposes of accommodating future residential development. The application is submitted pursuant to Title XI, Chapter 1, Section 4 of Municipal Code for tentative maps. The plans include infrastructure, roadway and open-space improvements. A Conditional Use Permit was submitted pursuant to the Density Bonus provisions of the Transit Area Specific Plan to consider a 25% increase in density and exceptions to setbacks.

On July 14, 2010, the Planning Commission considered the Owner's Participation Agreement (with the City's Redevelopment Agency) and the Mitigated Negative Declaration with project addendum and recommended approval to the City Council. The City Council on August 3, 2010, approved the Owner's Participation Agreement and adopted the Mitigated Negative Declaration with project addendum.

On August 25, 2010, the Planning Commission considered the a tentative subdivision map for the future construction of three mixed use buildings, six residential buildings, including improvements to the existing adjacent roads, the construction of a new local street, and the creation of an urban plaza and new public trail along Penitencia Creek. The project contemplated a maximum of 1,328 dwelling units, which include a transit oriented density bonus (25%) increase of the maximum density allowed for the site and 92,000 square feet of retail/commercial space. The only outstanding entitlement for the project was the Site Development Permit to address the architecture.

On July 15, 2011, Integral Communities submitted an application to amend the approved tentative map and to review the architecture of all buildings. A Conditional Use Permit was added to the request to address the operations in anticipation of a grocery store for the site and to consider exceptions to setbacks, parking garage entries and retail ceiling heights. The difference between the time when the project received approval of the OPA and the tentative map is that the applicant has since opted out of the OPA and as a result will no longer provide affordable dwelling units. In addition half of the project area is proposed to include smaller townhome or motor-court style buildings, thus affecting the previously approved vehicular and pedestrian circulation as well as the expected architectural massing along McCandless Drive. The request is submitted pursuant to Section 57, Applications of the Zoning Code. All entitlements are to be evaluated by the Planning Commission and the City Council.

PROJECT DESCRIPTION

Site and surrounding uses

The overall site is 23 acres and includes seven parcels spanning the intersection at Great Mall Parkway and McCandless Drive at the northern end of the site to McCandless Drive and East Channel Penitencia Creek at the southern end of the site. The project has two distinctive components. Three parcels (four buildings on 13 acres) closest to Great Mall Parkway are called “District 1”, a mixed use product with commercial on the first floor with residential units above wrapped around multi-story parking garages, while the balance of the project site is called “District 2” that includes lower density townhome and motor-court products with private garages on 10 acres.

Surrounding the subject project site are developed parcels. East of the subject site includes developed industrial buildings on similarly zoned properties. To the north of the project site is the Great Mall on commercially zoned property. To the south of the project site include the East Penitencia Creek and other existing industrial buildings on residentially zoned properties and a site zoned for residential but designated as open space within the TASP. To the west of the subject site includes the Lower Penitencia Creek, a railroad and existing commercial buildings along Main Street, which is currently zoned multi-family residential. A vicinity map of the subject site location is included on page 2 for reference.

The project is located within the McCandless/Centre Pointe Sub-district of the TASP. The TASP identifies the ultimate vehicular and trail network along with specific cross sections for each roadway. The project proposes new Streets A, B and C in accordance with the TASP. Figure 1 illustrates the vision of the TASP for the area.

Figure 1
McCandless/Centre point Sub-District Map



Amendments

The applicant requests amending the previously approved tentative map (Figure 2) to accommodate the District 1 and 2 conceptual plan (Figure 3). This staff report provides detailed descriptions on each District, describing density, development standards, architecture and parking.

Figure 2
Approved Tentative Map Layout



Figure 3
Proposed Plan for District Project



District 1

Zoning

District 1 is zoned Retail High Density Mixed Use (MXD2) with Site and Architectural and Transit Oriented Development Overlays focusing on design and treatment of projects near transit nodes.

Density

The TASP allows for a density range between 31 and 50 dwelling units per gross acre. The project previously received approval for an additional 25% Transit Density Bonus, which increases the maximum density to 62.5 dwellings per acre. Table 1 demonstrates that the density for District 1 is 71.4 per gross acre. While the density exceeds the maximum allowed, the TASP (Policy 3.8) allows for averaging of density over multiple parcels, provided that a legal instrument is recorded for individual parcels to ensure that the minimum and maximum densities established by the TASP are met.

Table 1
District 1 Residential Project Development Summary

Parcel	Lot	Acres	Unit Mix				Total Units	Density
			ST	1BR	2BR	3BR		
-92	1	4.988	20	186	157	9	372	74.58
-93	2	2.585	15	104	89	10	218	84.33
-101	3	5.789	10	80	87	13	190	62.88
	4		10	90	66	8	174	
Total		13.362	55	460	399	40	954	71.40
			6%	48%	42%	4%		

Retail Requirement

The MXD2 district requires a minimum of 200 square feet of retail, restaurant, or pedestrian-oriented commercial required per unit, using the minimum density. Based on the minimum density of 414 units, the project requires 82,444 square feet of commercial space. The project proposes 87,023 square feet of commercial space. This square footage includes 20,902 square feet for a grocery store. While no specific tenant is identified at this time, according to the City’s zoning ordinance, grocery stores require the approval of a Conditional Use Permit (Table 6.02-1, Mixed Use Zone Uses). Refer to the *Conditional Use Permit* section in this report for additional discussion. The Table 2 demonstrates the proposed amount of commercial for the project. The project complies with the requirement.

The minimum floor to ceiling height is 18 feet for retail and 15 feet for office. The applicant requests an exception from this requirement for 4,530 square feet of office space. Staff supports the request since the office space will be used for on-site leasing of units. The findings for exceptions are described under the “Adopted Plans and Ordinances Consistency” section of this report.

Since the Transit Area Specific Plan does not specify types of commercial uses, the specific plan defers to the zoning ordinance. Section 6.02(A)(1), Permitted and Conditionally Permitted Uses, within the Zoning Ordinance states that all uses except those noted (in Table 6.02-1) shall be conducted within enclosed structures. It is expected that there will outdoor dining areas.

Table 2
District 1 Retail Project Development Summary

Parcel	Neighborhood Retail Ground Floor				Total	Outdoor		Total Retail	Mezzanine
	Grocery	Retail	Common/Leasing			Retail	Pool		
	20' Plate	20' Plate	19' Plate	9' Plate					
-92	20,902	23,759	2,400	0	47,061	0	6,800	53,861	3,000
-93	0	0	1,400	1,700	3,100	0	0	3,100	0
-101	0	23,935	1,835	1,632	27,402	0	0	27,402	2,000
	0	0	1,462	1,198	2,660	0	0	2,660	0
Total	20,902	47,694	7,097	4,530	80,223	0	6,800	87,023	5,000

Development standards

The TASP includes development standards such as setbacks, floor area ratio, and height. The following table summarizes the project’s conformance with these development standards for District 1.

Table 3
District 1 Development Standard Summary

	TASP Requirement	Proposed	Complies
<u>Setbacks (Minimum)*</u>			
Great Mall Parkway setback	58 feet	43 feet	No
McCandless Drive setback	45 feet	26-27 feet	No
Creek setback	45 feet	33 feet	No
Street B setback	10 feet	5 feet to back of sidewalk	Yes
<u>Floor Area Ratio (Maximum)</u>	1.88 per building	0.23 max on Bld. 1	Yes
<u>Building Height (Maximum)</u>	12 stories	74-95 feet	Yes

* The setbacks for District 1 are not changing from what was previously approved as part of the tentative map.

Architecture

All four buildings exhibit an art deco architectural style following symmetry by using a combination of metal roofing, railings and canopies, stucco walls and fabric awnings. Elements characteristic of the art deco theme include towers, spires, and marquees and other ornamental features. The colors use a warm earth tone palette. Buildings 1 and 3 that have frontage along Great Mall Parkway are seven stories tall, with other two buildings being five stories. This provides adequate massing as envisioned by the TASP along Great Mall Parkway. Figures 3 and 4 illustrate the architecture in renderings.

Figure 4
Rendering of Project



VIEW OF McCANDLESS DR. CORNER GREAT MALL PKWY.

Figure 5
Rendering of project



Parking

District 1 provides parking for residents are included in multi-level parking structures, located in the middle of the buildings. The retail parking is located either along McCandless Drive, Street A, surface parking between Building 1 and Great Mall Parkway and on the first level of the parking structures with buildings having commercial spaces. Sheets 1-A1, 2-A1, 3-A1 and 4-A1 of the project plans summarize the parking for the project. The applicant utilizes a standard parking stall replacement provision (Section 53.13(B)(4), where a maximum of five percent (5%) of the required parking can be substituted when bicycle or motorcycle parking is provided. The “Total after reduction” row demonstrates that the project provides an amount of parking consistent with the TASP and the zoning ordinance. The tables below summarize the parking for District 1 by building.

Table 4
Building 1 Parking Summary

	Parking (Minimum required)	Guest Parking (Minimum Required)	Total Parking Required	Total parking provided
Residential	507	76	583	569
Commercial*	193		193	182
Bicycle	39		39	110
Motorcycle				20
Total Auto	700	76	776	751
Total after reduction**			737	751

*Assumes that 2,047 square feet will be restaurant dining space.

**Thirty-nine (39) parking spaces are omitted.

Table 5
Building 2 Parking Summary

	Parking (Minimum required)	Guest Parking (Minimum Required)	Total Parking Required	Total parking provided
Residential	296	44	340	343
Commercial	13		13	13
Bicycle	55.1	2.22	57	57
Motorcycle				0
Total Auto	309	44	353	356
Total after reduction**			346	356

**Seven (7) parking spaces are omitted.

Table 6
Building 3 Parking Summary

	Parking (Minimum required)	Guest Parking (Minimum Required)	Total Parking Required	Total parking provided
Residential	265	40	305	307
Commercial	88		88	92
Bicycle	47.5	1.99	54	55
Motorcycle				7
Total Auto	353	40	393	399
Total after reduction**			373	399

**Twenty (20) parking spaces are omitted.

Table 7
Building 4 Parking Summary

	Parking (Minimum required)	Guest Parking (Minimum Required)	Total Parking Required	Total parking provided
Residential	235	35	270	269
Commercial	15		15	13
Bicycle	43.25	1.76	45	48
Motorcycle				0
Total Auto	250		285	282
Total after reduction**			279	282

**Six (6) parking spaces are omitted.

Landscaping

The overall project will include a new planting scheme providing a variety of turf, shrubbery, vines and trees throughout the development. The landscape palette will complement the proposed architectural style of the buildings. A final landscape plan will need to address the street trees, the recommendations of the Toxic Air Contaminants study, and the requirements of the TASP for types of vegetation.

Other items

According to the TASP, the width of parking garage entrances must be between 20 and 25 feet and the parking access point set back from the curb. The project meets this requirement except for the south entry into Building 1. The entry is 40 feet wide to accommodate access to the retail parking on the first level of the garage and a ramp to access the residential parking above. Staff supports an exception to the standard, since the entry accesses a private driveway and not McCandless Drive.

District 2

Zoning

District 2 is zoned High Density Multi-family Residential (R3) with Site and Architectural and Transit Oriented Development Overlays. The amendment to the tentative map is to allow for the development of smaller buildings in District 2. These include motor-court buildings on the west side (West Neighborhood or Village) and townhouse buildings on the east side (East Neighborhood or Village).

Density

The TASP allows for a density range between 21 and 40 dwelling units per gross acre. The table below demonstrates that the density for District 2 is 20.66 per gross acre. While the density is below the minimum required, the TASP (Policy 3.8) allows for averaging of density over multiple parcels, provided that a legal instrument is recorded for individual parcels to ensure that the minimum and maximum densities established by the Plan are met.

Table 8
District 2 Residential Project Development Summary

Neighborhood	Acres	Unit Mix			Total Units	Density
		2BR	3BR	4BR		
West (Courtyard)	4.19		81		119	28.4
East (Single Family Attached)	5.486	68	22	29*	81	14.76
Total	9.68	68	103	29	200	20.66
		34%	51%	15%		

*Includes 22 units that have an optional 4th bedroom.

Development Standards

The TASP includes development standards such as setbacks and height. The following table summarizes the project’s conformance with these development standards for District 2.

Table 9
District 2 Development Standard Summary

	TASP Requirement	Proposed	Complies
<u>Setbacks (Minimum)*</u>			
McCandless Drive setback	36-38 feet	15-20 feet	No
Creek setback	45 feet	28 feet	No
Street B setback	10 feet	6 feet to back of sidewalk	No
<u>Building Height (Maximum)</u>	12 stories	74-95 feet	Yes

Figure 5-16 of the TASP requires a 38 foot setback on the west side of McCandless Drive and a 36 foot setback on the east side of McCandless Drive. The project proposes a 20 foot setback on the west side of McCandless Drive and a 15 foot setback on the east side of McCandless Drive. The proposal represents a reduction in the TASP street setbacks for McCandless Drive; however, the applicant seeks an exception to the setback requirement. Staff supports the exception because the project as proposed and conditioned will provide upgraded architectural elements such as window and door treatment (smooth stucco trim), and a pedestrian bridge connection from the east neighborhood over the East Channel Penetencia Creek to the future park.

Parking

District 2 includes buildings with private individual garages as well as utilizing open parking spaces and parking along McCandless Drive, Street B and Street C. The East Neighborhood includes 74 dwelling units with tandem parking spaces. Tandem spaces can be allowed with the approval of a Conditional Use Permit (Section 53.07(D)(1)). For developments with private garages a maximum of 50% of parking spaces may be tandem. The development provides 18% of the dwelling units with tandem spaces.

The TASP includes minimum and maximum range for parking spaces required. The table below demonstrates that the project is consistent with the TASP.

Table 10
District 2 Parking Summary

	Residential Parking (Minimum required)	Guest Parking (Minimum Required)	Total Parking Required	Total parking provided
West (Courtyard)	130	26	156	189
East (Single Family Attached)	219	44	263	299
Total	349	70	419	488

Architecture

Finding the right architecture to complement the larger buildings proposed in District 1 was a priority for staff and the applicant. For both neighborhoods, the architecture provides vertical massing to accentuate three stories. The architecture includes a variety of narrow and wide projecting modules; a variety in height and width of the projecting bay windows plus angled side wall shape is pleasing. In addition, the architecture provides a variety of roof pitches on the projecting modules that gives a variety in silhouette when viewed from the ground level. There are also clearly defined unit entries throughout the project.

Landscaping

The overall project will include a new planting scheme providing a variety of turf, shrubbery and trees throughout the development. The landscape palette will complement the proposed architectural style of the buildings. A final landscape plan will need to address the street trees, the recommendations of the Toxic Air Contaminants study, and the requirements of the TASP for types of vegetation.

Conditional Use Permit

Grocery Store

Policy 4.71 of the TASP refers to the development of a grocery store for the sub-district. The project provides the space for a future grocery tenant. At this time, no tenant has been identified. According to the City's zoning ordinance, grocery stores require the approval of a Conditional Use Permit (Table 6.02-1, Mixed Use Zone Uses). The purpose of the CUP is to provide basic operation conditions that are common to grocers, such as deliveries and alcohol sales.

Staff proposes that alcohol sales end at midnight and that deliveries to the grocer are restricted to between 6:00AM and 10:00PM. In addition, if the grocer has any onsite cooking that the grocer would be subject to the same performance standards as restaurants regarding odors, recycling and trash (Section 6.02) within the City's zoning ordinance.

Exceptions to Development Standards

Exceptions to the TASP development standards may be approved through the Conditional Use Permit process. This process may not be used to deviate from density, allowable uses or open space requirements. Two additional findings will need to be made by the decision-making body:

“The deviation from the TASP standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development”; and

“The deviation from the TASP standard allows for a public benefit not otherwise obtainable through the strict application of the zoning standard.”

The applicant requests deviations from the required setbacks from McCandless Drive for District 2 (District 1 setback reductions have already been approved previously), the width of the entry to the garages for District 1 and floor to ceiling height for retail.

Staff can support the deviations because the site planning, architecture and landscaping complement each other. The office space will support the leasing of units within the development. In addition, the project will incorporate higher level of architectural detail for elements such as window trim, lighting, and other ornate features. The project will also as a public benefit provide the funding for the design, permitting and construction of a pedestrian bridge crossing over East Channel Penetencia.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project's consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 11
General Plan Consistency

Policy	Consistency Finding
<i>2.a.1-25: Require development in the Transit Area to conform to the adopted design guidelines and requirements contained in the Transit Area Plan.</i>	<i>Consistent.</i> The project as proposed and conditioned conforms to the street layout, street sections, density and land use.
<i>2.a.-G-2: Maintain a relatively compact urban form.</i>	<i>Consistent.</i> The project provides a high density mixed use development.

Zoning Ordinance

Where the TASP development standards are silent, the City’s zoning ordinance prevails. The project as proposed is consistent with the City’s zoning ordinance.

Transit Area Specific Plan

Overall compliance

The table below summarizes compliance with various specific plan policies. Additional discussion is provided for density, the required retail, and street sections.

Table 12
Consistency With Transit Area Specific Plan Policies

Policy	Compliance
Policy 4.69 (MC-C): Create a mixed use area with retail, restaurant, and personal service uses in the area closest to Great Mall Parkway.	Yes.
Policy 4.70 (MC-C): Create a high-density residential neighborhood at the interior of the sub-district, centered along McCandless Drive.	Yes.
Policy 4.71 (MC-C): Provide a grocery store within the Residential-Retail High Density Mixed Use district that serves neighborhood residents and provides a range of fresh produce as well as meat, poultry, and fish.	Yes.
Policy 4.73 (MC-C): Create a plaza or other type of public space in the retail mixed use district, located as shown in the Plan Map.	Yes.
Policy 4.74 (MC-C): Create a trail along the Penitencia Creek East Channel.	Yes.

Density

On all sites throughout the Transit Area, densities can be averaged over an individual project which covers multiple parcels or over separate projects; provided that legal instruments are recorded for

individual parcels to ensure that the minimum and maximum densities established by the plan are met. As discussed earlier, the project will require the execution of legal instruments to average the densities across the 23 acre project site.

McCandless Drive

Through a series of discussions with the developer, a design that incorporates stormwater treatment, medians that accommodate fire department apparatus and lane configurations that incorporate the focus traffic study findings is included as Attachment E. Since the existing trees along the street will be removed, as a condition of approval, the project will require the planting of 48" box trees with 36" box trees interspersed to mitigate for the loss of the mature canopies. Other features within McCandless Drive include raised intersections to help with traffic calming.

Open space

The project is consistent with the previous approvals for private recreation and public open space (trails and urban plaza) totaling 1.04 acres. In addition, the project includes the touchdown area for the future pedestrian bridge across the East Penetencia Creek Channel adjacent to the west neighborhood, which will connect with DR Horton's "Harmony" residential project to the south. Another pedestrian bridge crossing the East Penetencia Creek Channel is proposed as a condition of approval adjacent to the east neighborhood, which will connect with the future park and school site to the south.

District 1

Each building in District 1 has at least one courtyard for the purpose of providing private recreation space. These courtyards include water features, outdoor cooking areas, seats, and fire elements. See Sheets L1-07 of the plans.

District 2

District 2 provides for a common area between the termination of Street E and the trail along Penetencia Creek. District 2 will also include two pedestrian bridges crossing over the East Channel Penetencia Creek.

Traffic Study

Although the Transit Area Specific Plan EIR already evaluated the impacts on intersections and roadway segments, the original project approval required that the project submit to the City a focused traffic study to evaluate the ingress and egress of buildings and new streets onto McCandless Drive and Great Mall Parkway. The recommendations from the traffic study are incorporated into the plan; the most significant change is that Street A is now one-way in the west direction and that the west bound left turn pocket on McCandless Drive has been elongated. No new impacts to intersections are identified that were already identified in the TASP EIR. Mitigation for those impacts are taken care of through the payment of the TASP impact fee.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA) and recommend the project is consistent with the findings of the previously adopted Mitigated Negative Declaration (and subsequent addendum) adopted by the City Council on August 3, 2010. The project is also consistent with the Transit Area Specific Plan EIR and exempted under Section 15168(d) of the CEQA Guidelines.

The project's scope has been reduced from what was stated in the addendum and thus any anticipated impacts are less than previously stated.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. Staff did receive a comment (Attachment G) on the environmental determination of the project on October 21, 2011, which was before the public notice was distributed for the project.

In summary, the commenter states that the project fails to comply with CEQA and the California Water Code. A Mitigated Negative Declaration was drafted, circulated (in 2008) and adopted by the City Council (in 2010). This application considers an amendment to the tentative map, the review of architecture, the operations of a future grocery store and deviations to the TASP development standards. The project is within the scope of the policies, goals and guidelines of the adopted Transit Area Specific Plan (2008).

Traffic Study

The commenter mentions conditions of approval from the Tentative Map regarding a traffic study. The applicant submitted and staff evaluated the focused traffic study. Components of McCandless Drive and the new Street A and the ingress/egress of Building 1 were altered as a result of the findings from the focused traffic study. Therefore, the condition of approval is satisfied.

Raptor and Arborist Studies

The commenter mentions conditions of approval from the Tentative Map regarding an arborist report, and raptor study. The raptor study is useful prior to eminent construction. The nesting patterns of birds may change by season and it is most appropriate to conduct that study at a time when construction is eminent not months or years before construction. The policies outlined in the TASP as well as the MND for the project provide an expected outcome of what is expected if any nests are found.

The applicant submitted an arborist report on December 20, 2007, which identifies all trees on the project site by species and health. Therefore, that condition of approval has been satisfied. Regarding, the replacement of trees, typically, 24" box trees are planted to replace trees. The project's tentative map is conditioned that 36" and 48" box trees are to be planted along McCandless Drive. These larger trees are viewed as adequate replacements when to the extent feasible those existing street trees could not be preserved.

Water Supply Assessment

The commenter also comments about the availability of a Water Supply Assessment and refers to a condition of approval in the Tentative Map project. The Water Supply Assessment for the Transit Area Specific Plan was adopted by the City Council in September 2006 (prior to the adoption of the Specific Plan). The assessment covers 7,186 dwelling units. The Integral Communities project on a whole includes 1,154 dwellings, well below the amount covered by the WSA. Therefore, the condition is satisfied with the already adopted WSA.

Toxic Air Contaminants

Pursuant to Policy 5.25 of the TASP, the applicant submitted a Toxic Air Contaminants study performed by Haley & Aldrich. The study recommends that the project include filters for certain affected dwelling units and vegetation barriers. This is consistent with the findings for the Harmony residential project to the south along McCandless Drive.

Flood Hazards

Conditions of approval on the Tentative Map for the project ensure compliance with FEMA prior to Final Map and prior to issuance of any building permit. Therefore, those conditions still remain valid.

Stormwater Control Plan

While a conceptual stormwater control plan was submitted, a final plan will be required prior to construction.

Project Phasing

The entire project is collectively known as The District (McCandless Mixed Use Project). This proposal includes the evaluation of the entire project. The project is less intense than what was originally approved.

CONCLUSION

The proposed project represents the gateway into the Transit Area. The architecture of the project is compatible with the surrounding buildings and complements the development within the Transit Area Specific Plan. The massing and densities are consistent with the vision of the specific plan. The conditions of approval for the grocery store will ensure the basic operations of a typical grocer do not interfere with the residential and commercial operations of District 1.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing, following public testimony and adopt Resolution No. 12-007 recommending approval of Site Development Permit No. SD11-0001, Conditional Use Permit No. UP11-0037, and Tentative Map Amendment No. TM11-0002, McCandless Mixed Use Project subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 12-007
- B. Tentative Map
- C. District 1 architecture
- D. District 2 architecture
- E. McCandless Drive Improvement Plans
- F. Traffic operations analysis
- G. Comment letter from October 21, 2011
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RESOLUTION NO. 12-007**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, RECOMMENDING APPROVAL TO THE CITY COUNCIL SITE DEVELOPMENT PERMIT NO. SD11-0001/MAJOR TENTATIVE MAP AMENDMENT NO. TM11-0002/CONDITIONAL USE PERMIT NO. UP11-0037, MCCANDLESS MIXED USE PROJECT LOCATED AT 1315 – 1600 MCCANDLESS DRIVE**

WHEREAS, on June 4, 2008, an application was submitted by Glenn Brown of Integral Communities, to allow the future phased development of 1,573 dwelling units (subsequently reduced to 1,328) and 92,000 square feet of commercial development for a 23-acre site. The property is located within the Retail High Density Mixed Use (MXD2) and Multi-Family High Density (R3) with Site and Architectural Overlay (-S) and Transit Overlay (-TOD) Zoning district (APN: 086-33-092 through -095, 086-33-098 through -099 and 086-33-101). A request for financial assistance for the project from the Milpitas Redevelopment Project was also submitted; and

WHEREAS, on August 3, 2010, the City Council and the Board of Directors of the Milpitas Redevelopment Agency held a duly noticed public hearing on the project and considered evidence presented by City staff and other affected parties, including but not limited to the materials and evidence previously presented to the Planning Commission and adopted Resolution No. 8017, approving an Owner Participation Agreement outlining the financial assistance and redevelopment aspects of the overall development and adopting a Mitigated Negative Declaration for the project pursuant to Sections 15074 and 15168 of the CEQA guidelines; and

WHEREAS, on September 7, 2010, the City Council held a duly noticed public hearing on the project and considered evidence presented by City staff and other affected parties, including but not limited to the materials and evidence previously presented to the Planning Commission and adopted Resolution No. 8029 approving a tentative map and a conditional use permit granting a development density for the project with conditions. The application to the City at the did not include any request for site and architectural design approval; and

WHEREAS, on July 15, 2011, Integral Communities submitted an application for the approval of the architectural design of four buildings on 13 acres of the overall project site (APNs: 086-33-092, -093, and -101) zoned Retail High Density Mixed Use (MXD2) with Site and Architectural (-S) and Transit Oriented Development (-TOD) Overlays and a Tentative Map amendment and architectural review of townhome product on the remaining 10 acres of the overall site (APNs: 086-33-94, -099, -098, and -098). A follow up Conditional Use Permit was added to the request to address the operations of an anticipated grocery store for the site and deviations from the TASP development standards; and

WHEREAS, while the project is covered by the Environmental Impact Report certified for the Transit Area Specific Plan and an adopted Mitigated Negative Declaration and subsequent addendum; and

WHEREAS, on February 22, 2012, the Planning Commission 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 Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is consistent with the findings of the previously adopted Mitigated Negative Declaration (and subsequent addendum) adopted by the City Council on August 3, 2010. The project is also consistent with the Transit Area Specific Plan EIR and exempted under Section 15168(d) of the CEQA Guidelines.

Section 3: As conditioned, the project is consistent with the Milpitas Zoning Ordinance in that the project site meets the density and land use requirements.

Section 4: The project is consistent with the Milpitas General Plan in that the project meets the density and land use requirements.

Section 5: As conditioned, the project is consistent with the Transit Area Specific Plan in that the project creates a mixed use project with trails along Penetencia Creek. The project provides a grocery store and includes a public plaza along future Street A.

Section 6: With respect to the Site Development Permit, the layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development in that the project's architecture, massing, materials used and landscaping complement the surroundings.

Section 7: With respect to the Conditional Use Permit, the proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare in that the conditions of approval provide basic operational standards for a future grocery store. The grocery store use will be consistent with Transit Area Specific Plan goals for complete and well-rounded neighborhoods with an emphasis on walkable amenities that are also transit accessible. The operational standards set forth herein will ensure the compatibility of a needed source of fresh produce, meats, and/or prepared and canned foods with surrounding residential and commercial retail uses.

Section 8: With respect to the Conditional Use Permit, the deviation from the TASP standard (street setbacks, garage entries and ceiling height for retail) meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development in that the project's higher quality architecture details, pedestrian connectivity complements the overall project design and fulfills the intent of the specific plan.

Section 9: With respect to the Conditional Use Permit, the deviation from the TASP standard allows for a public benefit not otherwise obtainable through the strict application of the zoning standard in that the project will pay for the design and construction of a pedestrian bridge over the Penentecia East Channel Creek between the project site and the future park to the south and will provide enhanced architecture.

Section 10: The Planning Commission of the City of Milpitas hereby approves Site Development Permit No. SD11-0001, Tentative Map Amendment No. TM11-0002, McCandless Mixed Use Project, subject to the above Findings, Conditions of Approval attached hereto as Exhibit 1 (District 1) and Exhibit 2 (District 2).

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on February 22, 2012.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on February, 22 2012, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Garry Barbadillo				

EXHIBIT 1

CONDITIONS OF APPROVAL

Site Development Permit No. SD11-0001/Major Tentative Map Amendment No. TM11-0002/Conditional Use Permit No. UP11-0037, McCandless Mixed Use Project (District 1)

(APNs: 86-33-092, 86-33-101, 86-33-093)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on February 22, 2012, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee 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 Planning Commission, in accordance with the Zoning Ordinance. (P)

2. **SD11-001/TM11-0002/UP11-0037/TM11-0002** shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
3. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **SD11-001/TM11-0002/UP11-0037/TM11-0002** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
4. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. (P)
5. The project shall demonstrate compliance with the project's mitigation monitoring program, including, but not limited to:
 - a. McCandless Drive Tree mitigation; and
 - b. Noise and vibration mitigation (P)

6. The project applicant shall indemnify, defend with counsel of the City's reasonable choosing, and hold harmless City and its City Council, its boards and commissions, officials, officers, employees, and agents (the "Indemnified Parties") from and against any third party claim, action, or proceeding against City and/or the Indemnified Parties to attack, review, set aside, void, or annul the City's approval of Site Development Permit No. SD11-0001, Conditional Use Permit No. UP11-0037 and Tentative Map Amendment No. TM11-0002. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, reasonable attorneys' fees, and other reasonable expenses incurred in connection with such claim, action, causes of action, suit or proceeding. The applicant shall pay to the City upon demand or, as applicable, on a monthly basis to counsel of City's reasonable choosing, amounts owed pursuant to the indemnification requirements prescribed in this condition, provided each such demand or monthly payment request includes reasonably detailed back-up documentation, including invoices and/or receipts, as applicable, for all amounts to be paid. Notwithstanding the foregoing, City shall have the right to redact invoices and/or receipts as necessary to preserve attorney-client privilege. City shall promptly notify the project applicant of any claim, action, or proceeding and shall engage in reasonable efforts to cooperate in the defense. If City fails to so promptly notify the project applicant or if City fails to engage in reasonable efforts to cooperate in the defense, then the project applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The project applicant shall not be required to pay or perform any settlement unless the settlement is approved by the project applicant. **(CA)**
7. The owner or designee prior to building permit issuance shall demonstrate compliance with the recommendations of the project's Toxic Air Contaminants Study. **(P)**

Conditional Use Permit

8. Alcohol sales for the grocery store shall cease at midnight daily. **(P)**
9. The operator shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request. **(P)**
10. The operator of the grocery store shall be responsible to maintain the area in front and behind the tenant space free and clear of debris and litter on a daily basis. **(P)**
11. The operator of the grocery store shall be responsible for ensuring that shopping carts are in cart corrals at least twice daily or as necessary. **(P)**
12. Deliveries to the grocery store shall be restricted to occur between 6AM and 10PM daily. **(P)**

13. The grocery store shall be subject to the performance standards included in Section 6.02-5, Restaurant Uses within Mixed Use Districts, of the City of Milpitas Zoning Ordinance. **(P)**

Site Development Permit

14. Prior to building permit issuance, the owner or designee shall demonstrate compliance with the private open space minimum requirements, including balcony sizes. **(P)**
15. Prior to building permit issuance, the owner or designee shall revise the landscape sheets to include 36” and 48” box tree specimens interspersed within the plant palette. **(P)**
16. Prior to building permit issuance, the owner or designee shall submit for approval a final detailed landscape plan for approval. **(P)**
17. Prior to building permit issuance, the owner or designee shall revise Sheets L1.02 and 2-A4.2 to reflect the current layout of the project. **(P)**
18. Prior to building permit issuance, the owner or designee shall demonstrate that the window trims around the building are of smooth finish. **(P)**

Tentative Map

19. Water Supply and Force Majeure. The City currently has adequate water supply and sewerage treatment plant capacity allocation for this land entitlement approval project. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. Prior to any building permit issuance, Council’s approval of the water Supply Assessment is required. However, this condition of approval applies in case of emergency declaration of supply assurance in the case of a major catastrophic event that restricts City’s assurance to provide water supply, or allocated treatment plant capacity. **(E)**
20. Street B. Prior to final map approval or as directed by City Engineer, owner or designee shall complete design of Street B Improvements to serve District 1 and District 2 for review and approval. Owner or designee shall construct a portion of Street B (along project frontage) at the same time prior to Certificate of occupancy of any unit for District 1.
21. Prior to final map recordation, the owner or designee shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development’s effect on the City’s present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the owner or designee will be required to mitigate the overflow or shortage by construction of a parallel line or pay an impact charge, if acceptable to the City Engineer. **(E)**

22. Prior to final map recordation, the owner or designee shall submit a grading plan and a hydraulic and hydrologic study prepared by a registered Civil Engineer. The study shall analyze the existing and ultimate conditions and facilities and assure no adverse impacts to adjacent properties. The study shall be reviewed and approved by the City Engineer and the owner or designee shall satisfy the conclusions and recommendations of the approved study. **(E)**
23. The submitted grading plan, street sections along McCandless and Great Mall Drive, vehicular Driveway access and pedestrian circulation are preliminary and subject to change. Developer agrees to work with city staff in fine tuning the design of ramps, stairs, and sidewalks prior to final map approval or building permit issuance which ever comes first. Developer shall submit a revised plan for review and approval to the satisfaction of the City Engineer. **(E)**
24. Community Facilities District. Prior to any building permit issuance, the owner or designee shall submit an executed petition to annex the subject property into the Community Facility District 2008-1 (CFD 2008-1), and agree to pay the special taxes levied by CFD 2008-1 for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The owner or designee shall comply with all rules, regulations, policies and practices established by 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. Additionally, any maintenance obligation by CFD shall be paid for by developer for a period of one year after building permit final occupancy to cover funding gap cash flow to fund maintenance operations. **(E)**
25. The final map shall be recorded prior to any building permit issuance. The owner or designee shall provide a current title report with the final map submittal, not more than 90 days old. The title report should include the proposed parking and park area at the southeast corner of Great Mall Parkway/McCandless Drive intersection. **(E)**
26. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements. **(E)**
27. Prior to final map approval, the owner or designee shall establish necessary homeowner association (HOA). Membership of the HOA shall include all owners of the residential, commercial and office spaces. The HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The HOA shall manage the onsite water and sewer system and implement the Solid Waste handling plan. The HOA shall establish a Private Job account prior to final certificate of occupancy with the City and maintain a minimum balance of \$4,000 to administer compliance for management of the project storm water management facilities, annual reporting and inspection for compliance with NPDES permit regulatory requirements. This information shall be clearly included in the Conditions,

Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer. (E)

28. Prior to recordation of any final map, the owner or designee shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
29. Prior to final map approval, the owner or designee shall obtain design approval and bond for all necessary public improvements along McCandless Drive and Great Mall parkway, including but not limited to the following and subject to the satisfaction of the City Engineer:
 - a. Removal and installation of new curb, gutter, and sidewalk, new median installation, signage and striping, street lights, fire hydrants, bus stop, traffic signal, Penitencia Creek Trail improvement, and storm, water and sewer service installation. All project major benchmarks used for this project shall be verified and be certified in accordance with the National Spatial Reference System.
 - b. Owner or designee is required to install the sewer project known as 11A, as specified in the City of Milpitas Sewer Master Plan, in its entirety. Owner or designee is required to replace 560 linear feet of 18 inch pipe with 21 inch pipe; replace 992 linear feet of 18 inch pipe with 27 inch pipe; and replace 369 feet of 12 inch pipe with 27 inch pipe, as identified on the sewer master plan.
 - c. Owner or designee is required to install a portion of the sewer project known as 11B, as specified in the City of Milpitas Sewer Master Plan. The work required at this time includes replacement of 360 linear feet of 15 inch diameter pipe with 18 inch diameter pipe; and replacement of 924 linear feet of 10 inch diameter pipe with 18 inch diameter pipe. The upstream portion is not required for this project.
 - d. Owner or designee is required to upsize the existing sanitary sewer line on McCandless Boulevard to accommodate the proposed development, and preserve the needed capacity for and address the project impact on the future developments upstream.
 - e. Plans for all public improvements shall be prepared on Mylar (24" x 36" sheets) with City Standard Title Block and owner or designee shall submit a digital format of the Record Drawings (AutoCAD format latest edition supported by the City) upon completion of improvements. The owner or designee shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. *All improvements must be in accordance with the City of Milpitas Transit Area Specific Plan, and all public improvements*

shall be constructed to the city Engineer's satisfaction and accepted by the City prior to issuance of any final certificate of occupancy of any unit. (E)

30. Sewer Capacity and Improvements. The existing sanitary sewer collection system is at full capacity. Owner and City agree to work cooperatively in developing an agreement for the design and construction obligation for the projects defined as Projects 11A and 11B, as identified in the 2009 Sewer Master Plan. Construction of these projects shall be completed prior to issuance of building certificate of occupancy or to the satisfaction of the City Engineer. (E)
31. McCandless Drive Street Improvements. Prior to final map approval or as directed by City Engineer, owner or designee shall complete design of McCandless Street Improvements for review and approval. Owner or designee agrees to coordinate as deemed feasible District 1 and District 2 McCandless Drive improvements if constructed simultaneously. (E)
32. Prior to any final map approval or as directed by the City Engineer, the owner or designee shall prepare all necessary plans and exhibits and submit to the City so the City can process and obtain approval of a joint use agreement between with the Santa Clara Valley Water District (SCVWD) for the proposed trail improvements, and maintenance within the districts right-of-way. Owner or designee is responsible to pay for all costs associated with agreement, trail improvements and any further CEQA requirement needed to implement this plan. (E)
33. Pedestrian Bridges. Two (2) pedestrian bridges will be required as part of the proposed trail along Lower Penitencia Creek and East Penitencia Creek. Currently DR Horton will be contributing \$250,000 for the City to design and permit one bridge at the confluence of the two creeks. As a condition of this project approval, owner or designee agrees to pay an amount of \$250,000 at the time of building permit issuance for the design and construction of the second bridge along East Penitencia Creek east of McCandless to a location to be determined by the City Engineer. (E)
34. The proposed Penitencia Creek Trail improvements shall be built to the Santa Clara Valley Water District's and City's satisfaction. Any improvements on the SCVWD right of way require districts approval and permit. (E)
35. It is anticipated that the on-site private storm drainage system will collect a certain amount of public storm water runoff from proposed trail along creek frontage. Prior to building permit issuance, the owner or designee shall enter into an agreement with the City for collecting, accepting, treating and conveying public runoff through private drainage system at no cost to the City. The storm water control plan (C3) need to include this area and provide adequate treatment area. (E)
36. The owner or designee shall submit the following items with the building permit application and pay the related Engineering and Impact Fees (does not include Building Permit fees) prior to building permit issuance unless otherwise stated:

- a. Storm water connection fee of **\$287,421** (based on 13.33 acres @ \$21,562/acre), to be paid prior to final map recordation.
 - b. Water connection fee based on 954 units @ \$1,164/Unit, and \$5.97 per GPD use of the non-residential areas with \$14,328/AC credit for previous use.
 - c. Sewer connection fee based on 954 units @ \$1,406/Unit, and \$8.52 per GPD use of the non-residential areas with \$20,448/AC credit for previous use.
 - d. Water Service Agreement(s) for water meter(s) and detector check(s).
 - e. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
 - f. Transit Area Specific Plan Impact Fees (TASPIF): Residential impact fee of approximately \$23,163,120.00 based on 954 units at \$24,280 per unit; and Commercial impact fee of approximately \$1,482,871.90 based on 87,023 square feet at \$17.04 per square foot. Total estimated TASPIF is estimated at **\$24,645,991.90. (E)**
 - g. Fees will be finalized and calculated as part of the subdivision improvement agreement approval. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). **(E)**
37. Prior to building permit issuance, owner or designee must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees are part of the secured subdivision improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. **(E)**
38. In accordance with Milpitas Municipal Code XI-1-7.02-2, the owner or designee shall underground all existing wires and remove the related poles within the proposed development, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state the wire voltage. **(E)**
39. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The owner or designee shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at (408) 586-3345 for further information. **(E)**

40. It is the responsibility of the owner or designee to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, AT&T, Comcast, Santa Clara Valley Water District and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. **(E)**
41. Prior to start of any construction, the owner or designee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, construction information signage and establishment of a neighborhood hotline to record and respond to neighborhood construction related concerns. The owner or designee shall coordinate their construction activities with other construction activities in the vicinity of this project. The owner or designee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. **(E)**
42. Prior to submittal for building permit issuance, the owner or designee shall submit plans to Santa Clara Valley Water District for review and approval. Provide their comments to the City. **(E)**
43. The owner or designee shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping and signs as determined by sight distance shall not exceed two feet when measured from street elevation. **(E)**
44. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. **(E)**
45. Prior to any work within public right of way or City easement, the owner or designee shall obtain an encroachment permit from City of Milpitas Engineering Division. **(E)**
46. If necessary, the owner or designee shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755. **(E)**
47. Prior to any building permit issuance unless otherwise noted the developer shall comply with the following solid waste requirements and modify plans as a condition of project approval:
 - a. Project is required to design for roll-off compactor service for both trash and recyclables. Developer shall provide sufficient facilities for on-site storage and

collection of solid waste and recyclables in accordance with City guidelines. Applicant shall procure sufficient service frequency.

- b. Prior to final map approval, owner designee shall demonstrate adequate safe access to solid waste collection enclosure to provide service. Enclosure shall accommodate a 40 feet safe staging area for pick up and drop off the roll-off compactor.
- c. The developer shall estimate the weekly volume of trash and recyclables, determine container sizes, provide sufficient enclosure space, and include utility hook-ups.
- d. Developer shall provide a Solid Waste Handling Plan showing how materials will be transferred from each dwelling unit to the trash enclosure, address property management responsibility for bin management (ie sufficient number, size of bins, storage, positioning), compaction, chute design & maintenance requirements, and litter management. The plan shall demonstrate that the site plan provides sufficient space for the solid waste vehicle to perform collection and turn around on-site excluding public and private streets and make any site plan modifications to address this issue.
- e. The solid waste collection areas shall be designed to parking garage standards and meet all building and fire code requirements. The collection areas shall be designed to accommodate new solid waste truck turn around and height requirements. The collection areas shall include a minimum forty (40) feet straight approach. No vehicle backing onto public/private streets is allowed. The largest roll-off container that can be accommodated in an internal trash area is thirty (30) cubic yards. No collection equipment shall be placed in public view. The enclosure areas shall be designed such that the drains must discharge to the sanitary sewer line. All storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains.
- f. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, applicant / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered.
- g. **Prior to any building permit issuance**, Owner/Developer shall submit to the City (for review and approval) a written Solid Waste Handling Plan including detailed step-by-step instructions to manage solid waste from generation to disposal. Particularly showing how trash and recyclables will be transferred from each dwelling unit to the trash enclosure area. The Solid Waste Handling Plan shall also address other requirements, such as compaction, chute design & maintenance requirements, sufficient number & size of bins, property

- c. Prior to issuance of Certificate of Occupancy, the owner or designee shall submit a Storm water Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
 - d. Owner or designee shall include in the approved CC&R, language in regard to providing the City with an annual inspection report of the Storm Water Control Plan post construction compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. If the City does receive the report, City will conduct the field inspection and report, and the developer and its successor shall be responsible to pay all associated costs.
 - e. Prior to Final occupancy, the owner or designee shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
 - f. Owner or Designee shall comply with all "Model Conditions Of Approval For Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval.
 - g. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the owner or designee's final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Any changes to the final Storm Water Control Plan shall require Site & Architectural ("S" Zone) Amendment application review. **(E)**
50. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb one acre or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES

Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the developer, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. **(E)**

51. The project shall be served by SCVWD Zone 1 water supply. The project shall be served by master water meters, with separate services for commercial domestic, fire, and interim potable irrigation. Each residential building shall have a separate domestic service. Prior to issuance of any building permits, the developer shall obtain approval from the City Engineer and Fire Marshal of water system studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the City's public water distribution system. These studies shall also demonstrate that the multiple on-site water system improvements (ie commercial domestic, fire, residential domestic, and interim potable irrigation) provide sufficient capacity and pressure to meet minimum domestic and fire demands at the top story of each tower. If the results of the study indicate that minimum water pressure cannot be maintained at the water meters, the developer shall construct necessary off-site public water system improvements to achieve minimum water supply pressures. Design and construction of all public water system facilities shall be in accordance with State and City standards and guidelines (including but not limited to placement within right-of-way, pipeline material, depth, and spacing; water meter type, and backflow protection). Design and construction of the on-site water systems shall be in accordance with the approved studies, and applicable building, plumbing, and fire codes. The City makes every effort to deliver a continuous and sufficient supply of water. However, temporary interruptions may be necessary for the purpose of making repairs or improvements. If it is important to maintain uninterrupted water supply to this development (except in case of emergency), the developer is encouraged to design and install a redundant water service system. Regardless of the water system study results, at a minimum, the developer shall:
- a. Dedicate all public improvements to the City.
 - i. Design and construct all water system improvements necessary to serve this project.
 - ii. The developer shall submit for City approval detailed utility plan and profiles showing the sizes & locations of all existing and proposed water mains, services, meter(s) and backflow devices. Also, show horizontal and vertical clearances from other utilities; and depth and material of existing main for wet/hot taps or isolation valves for cutting in tee's. All domestic and irrigation services shall include reduced pressure principle backflow prevention device as per City Standard Drawing #734. Fire services shall be protected from backpressure/back-siphonage in accordance USC Manual of Cross-Connection and City requirements. **(E)**

52. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the owner or designee shall:

- a. Provide separate water meters for domestic water service and irrigation service. Owner or designee is also required to provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
- b. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord. No 238). Two sets of landscape documentation package shall be submitted by the owner or designee or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.
- c. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. **(E)**

53. Recycled Water. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240), the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. To meet the recycle water guideline the owner or designee shall:

- a. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
- b. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the California Department of Public Health (CDPH) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and CDPH approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
- C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing or eating areas, walkways, pavements, and any other uncontrolled access areas. **(E)**

54. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the owner or designee may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. **(E)**

55. The owner or designee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities. **(E)**

56. Proposed development is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to final map approval, the developer shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain. The developer shall also obtain a Letter of Map Revision (LOMR) prior to building permit issuance, and provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the tentative map shall comply with the established BFE as determined in the final flood study report. Developer agrees to make a good faith effort to work cooperatively with the City and outside agencies in evaluating options to assist in flood plain alleviation improvements deemed feasible in dealing with cumulative impacts.
57. Prior to any building permit submittal, Developer/Subdivider shall submit the project Flood Study, demonstrating to the satisfaction of the City Engineer that the proposed development has NO adverse impact to the surrounding flood plain within the Special Flood Hazard Area and flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments (DR Horton @ McCandless, Montague/Piper TASP sub-district, and the BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one/tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS.
58. Prior to any building permit submittal, the developer shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer, consistent with the approved CLOMR. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study. (E)
59. Prior to final map approval owner or designee shall:
- a. Comply with the submitted focused traffic study and any of its recommendations. Owner or designee agrees to modify street geometry to address any impact identified in the traffic study.
 - b. Submit plans for Great Mall Parkway improvements, including but not limited to median island modifications, street curb modifications, and roadway marking modifications, as determined by a focused traffic operations study to address potential weaving impacts that may result from the installation of new driveways along Great Mall Parkway. All such improvements shall be incorporated into the subdivision improvement agreement for this project.

- c. Maintain the existing lane configurations on McCandless Drive at the Great Mall Parkway intersection to ensure compliance with the Transit Area Specific Plan Environmental Impact Report (TASP EIR).
 - d. Maintain the bike lane along McCandless Boulevard. **(E)**
60. At the 65% build-out of the project, the owner or designee shall provide a performance bond for half (1/2) of the cost of a traffic signal (assumed fair-share) at the future McCandless Drive/Future Public Park intersection south of the project site; OR at the City's request provide an escrow account naming the City of Milpitas as designee to use the funds for the design and construction of the traffic signal. **(E)**
61. All utilities shall be properly disconnected before the building can be demolished. Demonstrate how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. **(E)**
62. Prior to demolition permit issuance, the Applicant, or Contracted Designee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these 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.
 - e. Applicant/Contractor shall make every effort to salvage materials for reuse and recycling. **(E)**
63. Prior to building permit issuance, applicant shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section that confirms items 1 – 4 of the Recycling Report, especially materials generated and actual quantities of recycled materials. 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

Division for approval by the Utility Engineering/Solid Waste Section prior to inspection by the Building Division. **(E)**

64. All demolished materials including, but not limited to broken concrete and paving materials, pipe, vegetation, and other unsuitable materials, excess earth, building debris, etc., shall be removed from the job site for recycling and/or disposal by the Applicant/Contractor, all to the satisfaction of the City Engineer or designee. The Applicant/Contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The Applicant/Contractor shall recycle all building and paving materials including, but not limited to roofing materials, wood, drywall, metals, and miscellaneous and composite materials, aggregate base material, asphalt, and concrete. The Applicant/Contractor shall perform all recycling and/or disposal by removal from the job site. **(E)**

65. The owner or designee shall obtain information from the US Postal Service regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review. **(P)**

66. Make changes as noted on Engineering Services Exhibit "T" (dated 2/6/2012) and submit a Mylar of the revised tentative map to the Planning Division for approval. No application for the review of the parcel map or improvement plans will be accepted until this condition is satisfied. **(E)**

(P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention
(CA) = City Attorney

EXHIBIT 2

CONDITIONS OF APPROVAL

Site Development Permit No. SD11-0001/Major Tentative Map Amendment No. TM11-0002/Conditional Use Permit No. UP11-0037, McCandless Mixed Use Project (District 2)

(APNs: 86-33-94, 86-33-99, 86-33-95, and 86-33-98)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on February 22, 2012, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee 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 Planning Commission, in accordance with the Zoning Ordinance. **(P)**

2. **SD11-001/TM11-0002/UP11-0037** shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
3. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **SD11-001/TM11-0002/UP11-0037** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
4. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
5. The project shall demonstrate compliance with the project's mitigation monitoring program, including, but not limited to:
 - a. McCandless Drive Tree mitigation; and

- b. Noise and vibration mitigation; and **(P)**
6. The project applicant shall indemnify, defend with counsel of the City's reasonable choosing, and hold harmless City and its City Council, its boards and commissions, officials, officers, employees, and agents (the "Indemnified Parties") from and against any third party claim, action, or proceeding against City and/or the Indemnified Parties to attack, review, set aside, void, or annul the City's approval of Site Development Permit No. SD11-0001, Conditional Use Permit No. UP11-0037 and Tentative Map Amendment No. TM11-0002. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, reasonable attorneys' fees, and other reasonable expenses incurred in connection with such claim, action, causes of action, suit or proceeding. The applicant shall pay to the City upon demand or, as applicable, on a monthly basis to counsel of City's reasonable choosing, amounts owed pursuant to the indemnification requirements prescribed in this condition, provided each such demand or monthly payment request includes reasonably detailed back-up documentation, including invoices and/or receipts, as applicable, for all amounts to be paid. Notwithstanding the foregoing, City shall have the right to redact invoices and/or receipts as necessary to preserve attorney-client privilege. City shall promptly notify the project applicant of any claim, action, or proceeding and shall engage in reasonable efforts to cooperate in the defense. If City fails to so promptly notify the project applicant or if City fails to engage in reasonable efforts to cooperate in the defense, then the project applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The project applicant shall not be required to pay or perform any settlement unless the settlement is approved by the project applicant. **(CA)**
7. The owner or designee prior to building permit issuance shall demonstrate compliance with the recommendations of the project's Toxic Air Contaminants Study. **(P)**

Site Development Permit

8. Prior to building permit issuance, the owner or designee shall demonstrate compliance with the private open space minimum requirements, including balcony sizes. **(P)**
9. Prior to building permit issuance, the owner or designee shall revise the landscape sheets to include 36" and 48" box tree specimens interspersed within the plant palette. **(P)**
10. Prior to building permit issuance, the owner or designee shall submit for approval a final detailed landscape plan for approval. **(P)**
11. Prior to building permit issuance, the owner or designee shall demonstrate that the window trims around the building are of smooth finish. **(P)**

Tentative Map

12. Water Supply and Force Majeure. The City currently has adequate water supply and sewerage treatment plant capacity allocation for this land entitlement approval project. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. Prior to any building permit issuance, Council's approval of the water Supply Assessment is required. However, this condition of approval applies in case of emergency declaration of supply assurance in the case of a major catastrophic event that restricts City's assurance to provide water supply, or allocated treatment plant capacity. **(E)**
13. Street B. Prior to final map approval or as directed by City Engineer, owner or designee shall complete design of Street B Improvements to serve District 1 and District 2 for review and approval. Owner or designee shall construct all of Street B (from Great Mall Parkway) at the same time if District 1 has not commenced construction prior to Certificate of occupancy of any unit for District 2. **(E)**
14. Prior to final map recordation, the owner or designee shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the owner or designee will be required to mitigate the overflow or shortage by construction of a parallel line or pay an impact charge, if acceptable to the City Engineer. **(E)**
15. Prior to final map recordation, the owner or designee shall submit a grading plan and a hydraulic and hydrologic study prepared by a registered Civil Engineer. The study shall analyze the existing and ultimate conditions and facilities and assure no adverse impacts to adjacent properties. The study shall be reviewed and approved by the City Engineer and the owner or designee shall satisfy the conclusions and recommendations of the approved study. **(E)**
16. The submitted grading plan, street sections along McCandless Drive, vehicular Driveway access and pedestrian circulation are preliminary and subject to change. Developer agrees to work with city staff in fine tuning the design of ramps, stairs, and sidewalks prior to final map approval or building permit issuance which ever comes first. Developer shall submit a revised plan for review and approval to the satisfaction of the City Engineer. **(E)**
17. Community Facilities District. Prior to any building permit issuance, the owner or designee shall submit an executed petition to annex the subject property into the Community Facility District 2008-1 (CFD 2008-1), and agree to pay the special taxes levied by CFD 2008-1 for the purpose of maintaining the public services. The petition

to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The owner or designee shall comply with all rules, regulations, policies and practices established by 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. Additionally, any maintenance obligation by CFD shall be paid for by developer for a period of one year after building permit final occupancy to cover funding gap cash flow to fund maintenance operations. **(E)**

18. The final map shall be recorded prior to issuance of any building permit. The owner or designee shall provide a current title report with your final map submittal, not more than 90 days old. The title report should include the proposed parking and proposed new Street B area at the and any other are affected by the project not under the control of developer or designee. **(E)**
19. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements. **(E)**
20. Prior to final map approval, the owner or designee shall establish necessary homeowner association (HOA). Membership of the HOA shall include all owners of the residential, commercial and office spaces. The HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The HOA shall manage the onsite water and sewer system and implement the Solid Waste handling plan. The HOA shall establish a Private Job account prior to final certificate of occupancy with the City and maintain a minimum balance of \$4,000 to administer compliance for management of the project storm water management facilities, annual reporting and inspection for compliance with NPDES permit regulatory requirements. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer. **(E)**
21. Prior to recordation of any final map, the owner or designee shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. **(E)**
22. Prior to final map approval, the owner or designee shall obtain design approval and bond for all necessary public improvements along McCandless Drive and Great Mall parkway, including but not limited to the following:
 - a. Removal and installation of new curb, gutter, and sidewalk, new median installation, signage and striping, street lights, fire hydrants, bus stop, traffic signal, Penitencia Creek Trail improvement, and storm, water and sewer service installation. All project major benchmarks used for this project shall be verified and be certified in accordance with the National Spatial Reference System.

- b. Owner or designee is required to install the sewer project known as 11A, as specified in the City of Milpitas Sewer Master Plan, in its entirety. Owner or designee is required to replace 560 linear feet of 18 inch pipe with 21 inch pipe; replace 992 linear feet of 18 inch pipe with 27 inch pipe; and replace 369 feet of 12 inch pipe with 27 inch pipe, as identified on the sewer master plan.
 - c. Owner or designee is required to install a portion of the sewer project known as 11B, as specified in the City of Milpitas Sewer Master Plan. The work required at this time includes replacement of 360 linear feet of 15 inch diameter pipe with 18 inch diameter pipe; and replacement of 924 linear feet of 10 inch diameter pipe with 18 inch diameter pipe. The upstream portion is not required for this project.
 - d. Owner or designee is required to upsize the existing sanitary sewer line on McCandless Drive to accommodate the proposed development, and preserve the needed capacity for and address the project impact on the future developments upstream.
 - e. Plans for all public improvements shall be prepared on Mylar (24" x 36" sheets) with City Standard Title Block and owner or designee shall submit a digital format of the Record Drawings (AutoCAD format latest edition supported by the City) upon completion of improvements. The owner or designee shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. *All improvements must be in accordance with the City of Milpitas Transit Area Specific Plan, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to issuance of any final certificate of occupancy of any unit. (E)*
23. Sewer Capacity and Improvements. The existing sanitary sewer collection system is at full capacity. Owner and City agree to work cooperatively in developing an agreement for the design and construction obligation for the projects defined as Projects 11A and 11B, as identified in the 2009 Sewer Master Plan. Construction of these projects shall be completed prior to issuance of building certificate of occupancy or to the satisfaction of the City Engineer. **(E)**
24. McCandless Drive Street Improvements. Prior to final map approval or as directed by City Engineer, owner or designee shall complete design of McCandless Street Improvements for review and approval. Owner or designee agrees to coordinate as deemed feasible District 1 and District 2 McCandless Drive improvements if constructed simultaneously. **(E)**
25. Prior to any final map approval or as directed by the City Engineer, the owner or designee shall prepare all necessary plans and exhibits and submit to the City so the City

can process and obtain approval of a joint use agreement between with the Santa Clara Valley Water District (SCVWD) for the proposed trail improvements, and maintenance within the districts right-of-way. Owner or designee is responsible to pay for all costs associated with agreement, trail improvements and any further CEQA requirement needed to implement this plan. (E)

26. Pedestrian Bridges. Two (2) pedestrian bridges will be required as part of the proposed trail along Lower Penitencia Creek and East Penitencia Creek. Currently DR Horton will be contributing \$250,000 for the City to design and permit one bridge at the confluence of the two creeks. As a condition of this project approval, owner or designee agrees to pay an amount of \$250,000 at the time of building permit issuance for the design and construction of the second bridge along East Penitencia Creek east of McCandless Drive to a location to be determined by the City Engineer. (E)
27. Prior to any final map approval or as directed by the Public Works Director, the owner or designee shall process and obtain approval of a joint use agreement between the City and Santa Clara Valley Water District (SCVWD) for the proposed Penitencia Creek Trail improvements and their maintenance within the districts right-of-way to the satisfaction of City Engineer. Owner or designee is responsible for occurred costs associated with agreement and trail improvements. (E)
28. The proposed Penitencia Creek Trail improvements shall be built to the Santa Clara Valley Water District's and City's satisfaction. Any improvements on the SCVWD right of way require districts approval and permit. (E)
29. It is anticipated that the on-site private storm drainage system will collect a certain amount of public storm water runoff from proposed trail along creek frontage. Prior to building permit issuance, the owner or designee shall enter into an agreement with the City for collecting, accepting, treating and conveying public runoff through private drainage system at no cost to the City. The storm water control plan (C3) need to include this area and provide adequate treatment area. (E)
30. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
 - a. Storm water connection fee of **\$208,720** (based on 9.68 acres @ \$21,562/acre).
 - b. Water connection fee of **\$94,105** (based on 200 units @ \$1,164/U, with \$14,328/AC credit for previous use).
 - c. Sewer connection fee of **\$83,263** (based on 200 units @ \$1406/U, with \$20448/AC credit for previous use).
 - d. Water Service Agreement(s) for water meter(s) and detector check(s).
 - e. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

- f. Transit Area Specific Plan Impact Fees (TASPIF): Residential impact fee of approximately **\$4,856,000** based on 200 units at \$24,280 per unit.
 - g. Fees will be finalized and calculated as part of the subdivision improvement agreement approval. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). **(E)**
31. Prior to building permit issuance, developer must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, connection fees (water, sewer and storm), Transit Area impact fee, plan check and inspection deposit, and 2.5% building permit automation fee as approved by City Council Resolution No. 7590. These fees are part of the secured subdivision improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. **(E)**
32. Prior to any building permit issuance or as directed by the Public Works Director, the owner or designee shall pay a Transit Area Development Impact fee in accordance with the stipulations in the Owner's Participation Agreement for the project. **(E)**
33. In accordance with Milpitas Municipal Code XI-1-7.02-2, the owner or designee shall underground all existing wires and remove the related poles within the proposed development, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Show all existing utilities within and bordering the proposed development, and clearly identify the existing PG&E wire towers and state the wire voltage. **(E)**
34. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The owner or designee shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at (408) 586-3345 for further information. **(E)**
35. It is the responsibility of the owner or designee to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, AT&T, Comcast, Santa Clara Valley Water District and Santa Clara Valley Transportation Agency (VTA). Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. **(E)**
36. Prior to start of any construction, the owner or designee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary

construction fencing, construction information signage and establishment of a neighborhood hotline to record and respond to neighborhood construction related concerns. The owner or designee shall coordinate their construction activities with other construction activities in the vicinity of this project. The owner or designee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. **(E)**

37. Prior to submittal for building permit issuance, the owner or designee shall submit plans to Santa Clara Valley Water District for review and approval. Owner or designee shall provide the District's comments to the City. **(E)**
38. The owner or designee shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping and signs as determined by sight distance shall not exceed two feet when measured from street elevation. **(E)**
39. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. **(E)**
40. Prior to any work within public right of way or City easement, the owner or designee shall obtain an encroachment permit from City of Milpitas Engineering Division. **(E)**
41. If necessary, the owner or designee shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 277-2755. **(E)**
42. Prior to any building permit issuance unless otherwise noted the developer shall comply with the following solid waste requirements and modify plans as a condition of project approval:
 - a. Project is required to design for roll-off service for both trash and recyclables. The owner or designee shall provide sufficient facilities for on-site storage and collection of solid waste and recyclables in accordance with City guidelines. Applicant shall procure sufficient service frequency.
 - b. Prior to final map approval, owner or designee shall demonstrate adequate safe access to solid waste collection enclosure to provide service. Enclosure shall accommodate a 40 feet safe staging area for pick up and drop off the roll-off compactor.
 - c. The owner or designee shall estimate the weekly volume of trash and recyclables, determine container sizes, provide sufficient enclosure space, and include utility hook-ups.

- d. The owner or designee shall provide a Solid Waste Handling Plan showing how materials will be transferred from each dwelling unit to the trash enclosure, address property management responsibility for bin management (i.e. sufficient number, size of bins, storage, positioning), compaction, chute design & maintenance requirements, and litter management. The plan shall demonstrate that the site plan provides sufficient space for the solid waste vehicle to perform collection and turn around on-site excluding public and private streets and make any site plan modifications to address this issue.
- e. The solid waste collection areas shall be designed to parking garage standards and meet all building and fire code requirements. The collection areas shall be designed to accommodate new solid waste truck turn around and height requirements. The collection areas shall include a minimum forty (40) feet straight approach. No vehicle backing onto public/private streets is allowed. The largest roll-off container that can be accommodated in an internal trash area is thirty (30) cubic yards. No collection equipment shall be placed in public view. The enclosure areas shall be designed such that the drains must discharge to the sanitary sewer line. All storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains.
- f. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, applicant / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered.
- g. **Prior to any building permit issuance**, Owner or designee shall submit to the City (for review and approval) a written Solid Waste Handling Plan including detailed step-by-step instructions to manage solid waste from generation to disposal. Particularly showing how trash and recyclables will be transferred from each dwelling unit to the trash enclosure area. The Solid Waste Handling Plan shall also address other requirements, such as compaction, chute design & maintenance requirements, sufficient number and size of bins, property management responsibility for bin management, storage and positioning, and litter control. Owner or designee shall add this language to the deed restriction and CC&Rs and HOA shall be responsible to implement this plan.
- h. Prior to occupancy permit issuance, the property management shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Allied Waste Services (formally BFI). After the applicant has full occupancy, the developer shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the developer shall increase the service to the level determined by the evaluation. For general information, contact Allied Waste Services at (408) 432-1234.

43. The owner or designee shall comply with Municipal Regional Permit (MRP) Order R2-2009-0074 for post construction C3 provisions for new development and redevelopment regulated projects storm water treatment requirements, and National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009—0009 NPDES No. CAS000002 or as required by the Regional Board at the time Developer submits the NOI for the project for pre construction storm water treatment requirements. **(E)**
44. Prior to any building permit submittal, the owner or designee shall submit a Storm Water Control plan that incorporates best management practices (BMPs) for treatments of stormwater run off from all parcels. The Storm Water Control plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs such as the use of bio-treatment areas into the landscape design elements and the use of permeable pavement BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. **Site design shall also include Low Impact Development (LID) Section C3.c.i.(2)(b) measures of harvesting and reuse, infiltration, or evaporate-transpiration. Biotreatment systems may be considered if the other LID measures are demonstrated to be infeasible.** The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer.
- a. The owner or designee shall submit a final Storm Water Control Plan package for review and approval with the building permit submittal.
 - b. The Plan shall be prepared by a licensed Civil Engineer qualified and trained professional with storm water treatment process and certifies that measures specified in the report meet the MRP requirements.
 - c. Prior to issuance of Certificate of Occupancy, the owner or designee shall submit a Storm water Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
 - d. The owner or designee shall include in the approved CC&R, language in regard to providing the City with an annual inspection report of the Storm Water Control Plan post construction compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. If the City does receive the report, City will conduct the field inspection and report, and the developer and its successor shall be responsible to pay all associated costs.

- e. Prior to Final occupancy, the owner or designee shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
 - f. The owner or designee shall comply with all “Model Conditions Of Approval For Stormwater Quality” as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010 and are hereby incorporated as conditions of project approval.
 - g. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the developer’s final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City’s Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Any changes to the final Storm Water Control Plan shall require Site & Architectural (“S” Zone) Amendment application review. **(E)**
45. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb one acre or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the developer, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. **(E)**
46. The project shall be served by SCVWD Zone 1 water supply. The project shall be served by master water meters, with separate services for commercial domestic, fire, and interim potable irrigation. Each residential building shall have a separate domestic service. Prior to issuance of any building permits, the developer shall obtain approval from the City Engineer and Fire Marshal of water system studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the City’s public water distribution system. These studies shall also demonstrate that the multiple on-site water system improvements (i.e. commercial domestic, fire, residential domestic, and interim potable irrigation) provide sufficient capacity and pressure to meet minimum domestic and fire

demands at the top story of each tower. If the results of the study indicate that minimum water pressure cannot be maintained at the water meters, the developer shall construct necessary off-site public water system improvements to achieve minimum water supply pressures. Design and construction of all public water system facilities shall be in accordance with State and City standards and guidelines (including but not limited to placement within right-of-way, pipeline material, depth, and spacing; water meter type, and backflow protection). Design and construction of the on-site water systems shall be in accordance with the approved studies, and applicable building, plumbing, and fire codes. The City makes every effort to deliver a continuous and sufficient supply of water. However, temporary interruptions may be necessary for the purpose of making repairs or improvements. If it is important to maintain uninterrupted water supply to this development (except in case of emergency), the developer is encouraged to design and install a redundant water service system. Regardless of the water system study results, at a minimum, the developer shall:

- a. Dedicate all public improvements to the City.
 - b. Design and construct all water system improvements necessary to serve this project.
 - c. The owner or designee shall submit for City approval detailed utility plan and profiles showing the sizes & locations of all existing and proposed water mains, services, meter(s) and backflow devices. Also, show horizontal and vertical clearances from other utilities; and depth and material of existing main for wet/hot taps or isolation valves for cutting in tee's. All domestic and irrigation services shall include reduced pressure principle backflow prevention device as per City Standard Drawing #734. Fire services shall be protected from backpressure/back-siphonage in accordance USC Manual of Cross-Connection and City requirements. (E)
47. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the owner or designee shall:
- a. Provide separate water meters for domestic water service & irrigation service. Owner or designee is also required to provide separate domestic meters for each proposed use (Residential, Food Services, Commercial/Office).
 - b. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord. No 238). Two sets of landscape documentation package shall be submitted by the owner or designee or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

- c. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. **(E)**
48. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240), the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. To meet the recycle water guideline the owner or designee shall:
 - a. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape.
 - b. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the California Department of Public Health (CDPH) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and CDPH approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards. **(E)**
49. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the owner or designee may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. **(E)**
50. The owner or designee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities. **(E)**
51. Proposed development is located within the Special Flood Hazard Zone AO (depth 1), and therefore shall comply with the National Flood Insurance Program (NFIP) Title 44 of the Code Federal Regulations and City's Flood Plain Management Regulations, City of Milpitas Code Title XI Chapter 15. Prior to final map approval, the developer shall obtain a Conditional Letter of Map Revision (CLOMR) from Federal Emergency Management Agency (FEMA), conditionally approving the revised floodplain. The developer shall also obtain a Letter of Map Revision (LOMR) prior to building permit issuance, and provide all elevation certificates prior to final building inspection or certificate of occupancy for any portion of the development. The proposed grading plan shown in the tentative map shall comply with the established BFE as determined in the final flood study report. Developer agrees to make a good faith effort to work cooperatively with the City and outside agencies in evaluating options to assist in flood plain alleviation improvements deemed feasible in dealing with cumulative impacts. **(E)**
52. Prior to any building permit submittal, owner or designee/Subdivider shall submit the project Flood Study, demonstrating to the satisfaction of the City Engineer that the proposed development has NO adverse impact to the surrounding flood plain within the Special Flood Hazard Area and flood carrying capacity of the area. The study should

include cumulative effects of existing and proposed developments (DR Horton @ McCandless Drive, Montague/Piper TASP sub-district, and the BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one-tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. **(E)**

53. Prior to any building permit submittal, the owner or designee shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer, consistent with the approved CLOMR. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study. **(E)**
54. Prior to final map approval owner or designee shall:
 - a. Comply with the submitted focused traffic study and any of its recommendations. Owner or designee agrees to modify street geometry to address any impact identified in the traffic study.
 - b. Submit plans for Great Mall Parkway improvements, including but not limited to median island modifications, street curb modifications, and roadway marking modifications, as determined by a focused traffic operations study to address potential weaving impacts that may result from the installation of new driveways along Great Mall Parkway. All such improvements shall be incorporated into the subdivision improvement agreement for this project.
 - c. Maintain the existing lane configurations on McCandless Drive at the Great Mall Parkway intersection to ensure compliance with the Transit Area Specific Plan Environmental Impact Report (TASP EIR).
 - d. Maintain the bike lane along McCandless Drive. **(E)**
55. At the 65% build-out of the project, the owner or designee shall provide a performance bond for half (½) of the cost of a traffic signal (assumed fair-share) at the future McCandless Drive/Future Public Park intersection south of the project site; OR at the City's request provide an escrow account naming the City of Milpitas as designee to use the funds for the design and construction of the traffic signal. **(E)**
56. All utilities shall be properly disconnected before the building can be demolished. Demonstrate how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not

to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. **(E)**

57. Prior to demolition permit issuance, the Applicant, or Contracted Designee, shall submit Part I of a Recycling Report on business letterhead to the Building Division, for forwarding to the Engineering Section. This initial report shall be approved by the City's Utility Engineering/Solid Waste Section prior to demolition permit issuance. The report shall describe these 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.
 - e. Applicant/Contractor shall make every effort to salvage materials for reuse and recycling. **(E)**
58. Prior to building permit issuance, applicant shall submit Part II of the Recycling Report to the Building Division, for forwarding to the City's Utility Engineering/Solid Waste Section that confirms items 1 – 4 of the Recycling Report, especially materials generated and actual quantities of recycled materials. 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 Division for approval by the Utility Engineering/Solid Waste Section prior to inspection by the Building Division. **(E)**
59. All demolished materials including, but not limited to broken concrete and paving materials, pipe, vegetation, and other unsuitable materials, excess earth, building debris, etc., shall be removed from the job site for recycling and/or disposal by the Applicant/Contractor, all to the satisfaction of the City Engineer or designee. The Applicant/Contractor shall, to the maximum extent possible, reuse any useful construction materials generated during the demolition and construction project. The Applicant/Contractor shall recycle all building and paving materials including, but not limited to roofing materials, wood, drywall, metals, and miscellaneous and composite materials, aggregate base material, asphalt, and concrete. The Applicant/Contractor shall perform all recycling and/or disposal by removal from the job site. **(E)**
60. The owner or designee shall obtain information from the US Postal Service regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review. **(P)**

61. Make changes as noted on Engineering Services Exhibit "T" (dated 2/6/2012) and submit a Mylar of the revised tentative map to the Planning Division for approval. No application for the review of the parcel map or improvement plans will be accepted until this condition is satisfied. **(E)**

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney