



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: July 14, 2010

- APPLICATION:** **Owner Participation Agreement and Mitigated Negative Declaration No. EA08-0005 for the McCandless Mixed Use Project**
- APPLICATION SUMMARY:** An Owner Participation Agreement establishing development milestones and financial reimbursements for certain costs to develop a 23 acre site with 92,000 square feet of retail space, 1,328 new residential units, and approximately three acres of new public open space.
- LOCATION:** 1315 McCandless Dr. (APNs: 086-33-092 through -095, 086-33-098 through -099 and 086-33-101)
- APPLICANT:** Integral Communities McCandless, LLC, Glenn Brown, 160 Newport Center Drive, Suite 240, Newport Beach, CA 92625
- OWNER:** Berg & Berg, LP, 10050 Bandlely Dr., Cupertino, CA 95014
- RECOMMENDATION:** **Staff recommends that the Planning Commission: Adopt Resolution No. 10-025 recommending approval of the Owner Participation Agreement and Mitigated Negative Declaration.**
- PROJECT DATA:**
- General Plan/
Zoning Designation: Retail High Density Mixed Use (MXD2) and Multi-Family High Density (R3)/Retail High Density Mixed Use (MXD2) and High Density Transit Oriented Residential (R3)
- Overlay District: Site and Architectural (-S) and Transit Oriented Development (-TOD)
Specific Plan: Transit Area Specific Plan (TASP)
- Site Area: 23.04 acres
- CEQA Determination: In accordance with Section 15070(b), a Mitigated Negative Declaration was prepared and circulated between November 21, 2008 and December 10, 2008.
- PLANNERS:** James Lindsay, Planning & Neighborhood Services Director
Sheldon S. Ah Sing, Senior Planner

PJ: 3222

ATTACHMENTS: A. Resolution No. 10-025
Exhibit 1 (Owners Participation Agreement)
B. Mitigated Negative Declaration including addendum
Conceptual project plans

LOCATION MAP



No scale

BACKGROUND

On June 3, 2008, the City adopted the Transit Area Specific Plan. 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 (TASP). The sub-district is located adjacent to the Great Mall and is bisected by McCandless Drive. The TASP envisioned this sub-district to be the best location for a retail mixed use district, building off the established retail destination of the Great Mall and the visibility along Great Mall Parkway.

On June 4, 2008, Glenn Brown of Integral Communities McCandless, LLC submitted an application to create a nine-lot subdivision for the purposes of accommodating future residential development. The most recent version of the project proposal was submitted on May 24, 2010. The application was submitted pursuant to Title XI, Chapter 1, Section 4 of the Milpitas Municipal Code for tentative maps. The plans included 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.

At this time, only the Owner's Participation Agreement is being considered. The Tentative Map and other required entitlements for development will follow at a later date for consideration.

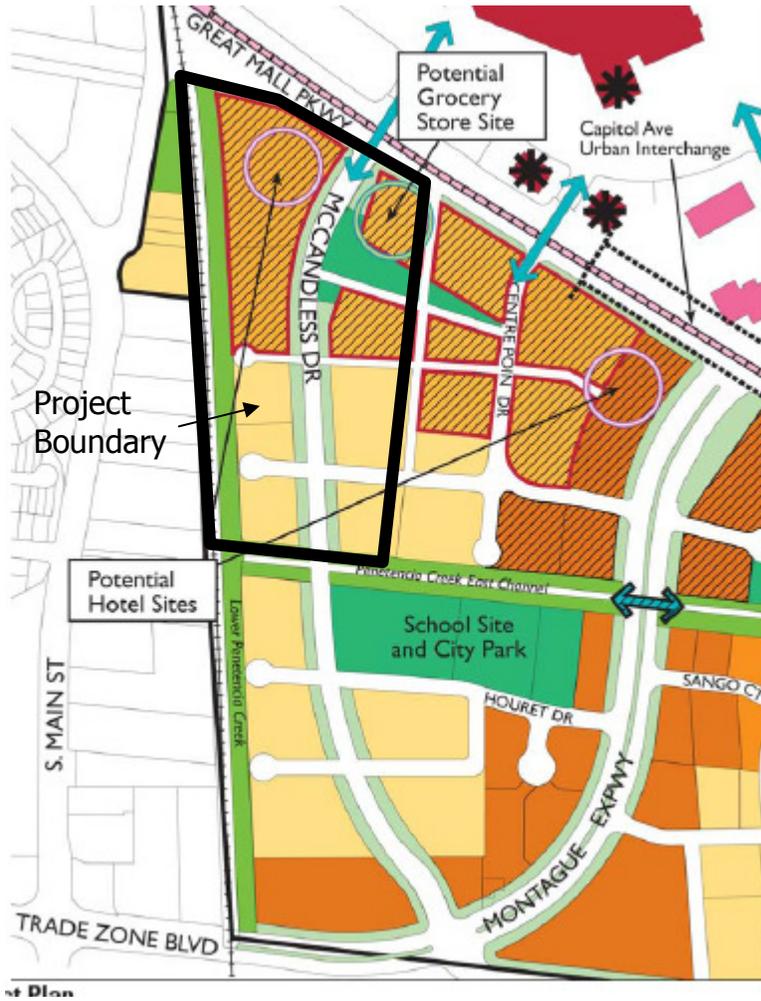
PROJECT DESCRIPTION***Site and surrounding uses***

The site contains 23.04 acres on seven parcels and is located at the intersection of Great Mall Parkway and McCandless Drive. The northern 13.36 acres is zoned Retail High Density Mixed Use (MXD2) and the remaining 9.68 acres is zoned High Density Transit Oriented Residential (R3). The entire project site has Site and Architectural and Transit Oriented Development Overlays focusing on design and treatment of projects near transit nodes. The northern parcels along Great Mall Parkway are shown as potential hotel and grocery store sites in the TASP.

Surrounding the subject property 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 includes the East Penetencia 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 Penetencia Creek, railroad tracks 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 also located within the City's redevelopment project area.

Figure 1
McCandless/Centrepont Sub-District Map



Overview of project

Integral Communities intends to develop 1,328 residential units, 92,000 square feet of retail space and approximately three acres of new public trails and urban plaza space. Fifteen percent of the total units or 199 units would be income restricted for moderate income households. All residential units will initially be rental; however, the project may be converted to ownership units depending upon future market conditions. At least 30,000 square feet of the retail area will be set aside for a new grocery store space to be located at the southwest corner of McCandless Drive and Great Mall Parkway.

Impact Fees

The City adopted a development impact fee in September 2008 to fund the necessary public improvements needed to support development in the Transit Area. The 2008 fee amount is \$23,800 per residential unit and \$16.70 per square foot of retail space. Developments can receive credits towards these fees for any public improvements that are constructed as part of the project. The estimated gross fee obligation (in 2008 dollars) for this project is \$33.14 million. The estimated value of the credits for public improvements to be constructed with the project is \$9.43 million. This results in an estimated net Transit Area development impact fee obligation of \$23.71 million. The project would also be required to pay an estimated \$3.95 million in school impact fees and \$4.29 million in utility connection fees. The project would therefore be required to pay an estimated total of \$31.95 million in various impact fees based on 2008 fee schedules.

Tax Increment

When a redevelopment project area is adopted, the current assessed values of the property within the project area are designated as the base year value. Tax increment comes from the property taxes collected on the increased assessed value of property over the base year value. The property tax rate remains the same. Any increases in assessed value, because of change of ownership or new construction, will increase tax revenue generated by the property. The Milpitas Redevelopment Agency (Agency) receives a percentage of this tax increment revenue to implement the adopted Redevelopment Plan for the Redevelopment Project Area. Twenty percent of the tax increment revenue are required to be set-aside and spent only on the creation and rehabilitation of affordable housing. Remaining tax increment revenue after the mandated pass-through obligations to other taxing entities, can be used for general redevelopment purposes.

An independent financial projection estimated that an earlier version (1,180 units) of the McCandless Mixed Use Project would generate \$122.11 million in additional property tax increment (\$38.51 million to the Housing Fund and \$83.59 million to the Project Fund) over the life of the Redevelopment Project Area (40 years). The additional 148 units now proposed in the project do not materially change these estimates.

Owner Participation Agreement

An Owner Participation Agreement is similar to a Development Agreement; however, the developer enters into an agreement with the Redevelopment Agency, rather than the City. The Owner Participation Agreement (OPA) outlines the framework for phasing, development components and financing aspects of the project. The primary inducement for the Agency to enter into this OPA is Integral's commitment to be subject to a restrictive use covenant to construct a grocery store space and work with the Agency to recruit a mutually acceptable grocery store operator to serve the existing and future residences in the southern portion of the City.

The purpose of an OPA is to effectuate the Redevelopment Plan by providing for the development of the Property to benefit the Redevelopment Project Area, and further the goals of the Redevelopment Plan by alleviating blight and providing affordable housing in the Project Area. The OPA will (1) accelerate the development of the Project Area; (2) reduce uncertainties in planning and provide for the orderly rehabilitation and development of the site; (3) reduce physical blighting influences within the Project Area; and (4) provide for the reimbursement to the developer of certain costs, thereby

making development of the site economically feasible and achieve the Agency's goals for redevelopment of the Project Area.

As noted above, the OPA provides for assistance and reimbursement of certain costs incurred in developing the project. These have been divided up into the following categories within the OPA:

Grocery Store Covenant Payment – An annual payment by the Agency for Integral's restriction via a restrictive use covenant of at least 30,000 square feet of retail space for use by a grocery store, prorated to the actual amount of time a grocery store was open to the public in the preceding fiscal year. The payment would not exceed \$630,000 annually and would continue for up to 10 years for an amount not to exceed \$6.30 million.

Base Public Improvement Reimbursement – Reimbursement of costs to construct off-site infrastructure (that is not subject to any fee credits) and payment of certain fees dedicated to the construction of public facilities and infrastructure (e.g. TASP Impact Fee and utility connection fees). The amount of reimbursement for public improvements would not exceed \$29.15 million.

Restricted Unit Assistance – Assistance to fund the costs of restricting 15% of the units to moderate income households that would not exceed \$5.84 million or \$29,378 per restricted unit.

The assistance/reimbursement commitment in the OPA totals \$41.30 million for the project. A key provision in the OPA limits the amount of annual assistance to the additional tax increment the Agency receives from the construction of the project each year. Integral will not receive any assistance/reimbursement beyond what the project can generate annually in additional tax increment to the Agency for a period of 24 years. After 24 years all assistance/reimbursements will stop and the Agency will retain 100% of the tax increment from the project until the Project Area expires. The Phasing Timeline (Exhibit E) in the OPA also generally requires the completion of all the retail space within six years and 902 residential units within 10 years.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan / Zoning Ordinance / Transit Area Specific Plan

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

Table 1
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</i> | Consistent. The OPA and the conceptual project plans generally conform to the Transit Area Specific Plan. |

| | |
|---------------------------|--|
| <i>Transit Area Plan.</i> | |
|---------------------------|--|

It was revealed after the adoption of the Specific Plan that there was an inconsistency between the Specific Plan designation and the Zoning and General Plan land use designations for the 2.24 acre parcel located at 1425 McCandless Drive, which is a part of the subject project. In order to maintain consistency between the General Plan, Zoning and Specific Plan, amendments to the Zoning map and General Plan land use map are required. The Planning Commission has already taken action on the necessary zoning and General Plan amendments and those changes will be considered by the City Council as either part of the General Plan technical clean-up work or the specific development applications for the project.

Overall Transit Area Plan Compliance

While the subject of this report is the OPA, staff continues to review conceptual development plans for the project. These plans are incorporated for reference in the OPA as Exhibits A-2 and A-3. A detailed review of the project’s compliance with specific development standards will occur during review of the Site Development Permit and Tentative Map. However, enough detail is provided on the conceptual site plans to conclude that the project’s density, land use and street layout are generally consistent with the McCandless/Centre Pointe sub-district (Chapter 4.5 of the Specific Plan) policies as shown below.

Table 2
Consistency With Transit Area Specific Plan Policies

| Policy | Compliance |
|--|---|
| Policy 4.59 (MC-C): To the maximum extent feasible (and with exceptions such as removal for emergency, health, or fire hazard purposes), retain the corridor of trees along McCandless Drive and in the vicinity both as an important visual resource and a potential resource for habitat. Also maintain the existing double row of trees on Great Mall Parkway north of McCandless Drive. | No. The project does not preserve the street trees along McCandless. |
| Policy 4.60 (MC-C): Break the area into smaller scale blocks that are appropriate to residential development and the desired pedestrian scale for the neighborhood. Block dimensions shall generally be between 300 and 400 feet, and shall never exceed 450 feet. | Yes. |
| Policy 4.61 (MC-C): Transform McCandless Drive into a two lane boulevard with bike lanes and street parking. | Yes. |
| Policy 4.62 (MC-C): Create a boulevard street design on Great Mall Parkway between McCandless Drive and Centre Point Drive. | Yes. |
| Policy 4.64 (MC-C): Create a new north/south street parallel to McCandless Drive and Centre Point Drive to provide access to parking as well as service and loading functions. | Yes. |

| Policy | Compliance |
|---|---|
| Policy 4.66 (MC-C): Create new streets between McCandless Drive and Lower Penitencia Creek which will provide access to parking garages, and will also provide on-street parking. | No. None are proposed. Pedestrian paseos are provided. |
| Policy 4.67 (MC-C): Do not create new curb cuts along McCandless Drive or Centre Point Drive, in order to preserve the existing trees and to create a pedestrian environment along the street. | No. New curb cuts are proposed and no street trees are preserved along McCandless. |
| 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 subdistrict, 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. |

The TASP does require the northern 13.36 acres of the project zoned MXD2-TOD to contain at least 87,300 square feet of retail space. The project will provide 92,000 square feet, 4,700 more square feet than required by the TASP. The OPA does provide for the possibility that this additional square footage could be mezzanine space if the design of the space meets the approval of the City through the Site Development Permit process.

Density

The site includes 13.362 acres of Retail High Density Mixed Use-Transit Oriented Development (MXD2-TOD) (31 min/50 max units per acre) and 9.685 acres of High Density Residential-Transit Oriented Development (R3-TOD) (21 min/40 max units per acre). 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. Table 4 demonstrates that the Transit Area Specific Plan allows up to 1,055 dwelling units on the project site. Table 5 summarizes the total density allowed if the project uses the transit oriented density bonus (Conditional Use Permit and additional environmental clearance required) and using the affordable housing density bonus. The conditional use permit will be considered with the development project

submittal, while a Mitigated Negative Declaration was prepared by staff and discussed in greater detail the “Environmental Review” section of this report.

Table 3
Density Allowed

| Land use designation | Acreage | Density (min-max) | Max allowable units |
|-----------------------------|----------------|--------------------------|----------------------------|
| MXD2-S-TOD | 13.362 | 31 du-ac/50 du-ac | 668 |
| R3-S-TOD | 9.6856 | 21 du-ac/40 du-ac | 387 |
| Total | 23.04 | | 1,055 |

Table 4
Allowed Density plus Density bonuses

| | MXD2 | R3 | Subtotal |
|--|-------------|-----------|-----------------|
| Allowed Max density | 668 | 387 | 1,055 |
| Transit Oriented Density bonus (25%) | 835 | 0 | 1,222 |
| Affordable Housing Density bonus (10%) | | | 1,328 |

Affordable density bonus provisions provided for in Section 10-54.15 of the zoning ordinance are intended to encourage the inclusion of affordable housing in the community by granting additional density and other incentives to provide housing units that will be available for purchase or rent by lower income persons and households. The amount of density bonus depends on the level of affordability and the amount of housing units offered by the developer. The McCandless Mixed Use Project will be restricting 15 percent of the units for moderate income households and is therefore entitled to a 10 percent density bonus.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Because the project is utilizing the transit oriented density bonus provided for in the TASP, the project is subject to additional environmental review. Staff prepared an initial study and distributed a Notice of Intent to Adopt a Mitigated Negative Declaration because the project may have potentially significant impacts on the environment. Mitigation measures are imposed on the project to reduce those identified impacts to a less than significant level. The mitigated negative declaration was circulated for public review between November 21, 2008 and December 10, 2008.

Transportation analyzed

The Mitigated Negative Declaration concludes that the additional density (194 units-Transit Oriented Bonus and the State affordability bonus attributed to the TOD bonus—that unit number has since changed downward to 184) will not cause any significant environmental impacts to the transportation network. A key analysis is determining whether the proposed trip generations for the project are consistent with what was assumed in the Transit Area Specific Plan EIR. Both the project and the Transit Area Specific Plan trips were estimated based on the trip rates in the EIR, with the exception of multi-family residential. The Transit Area Specific Plan calculation used eight (8) daily trips/unit (consistent with EIR), while the project used six (6) daily trips/unit. The Transit Area

Specific Plan Traffic Study included 7,000 dwelling units (all multi-family). Since multi-family units have a daily trip generation range of six to eight (6 to 8) trips, the Traffic Study assumed eight (8) trips per dwelling unit. Trip generation for townhouses is eight (8) and apartments/condos is six (6). The project is more akin to the apartment/condo rate of six (6) trips, which is consistent with the City's use of SANDAG (San Diego Association of Governments) trip generation rates. Using the eight (8) trip generation rate provided flexibility to the developers of the Transit Area Specific Plan.

Mitigations

Noise and vibration

Because the project is adjacent to an active railroad and light rail transit system, the project will be required to provide soundproofing to the satisfaction of the noise and vibration study for the proposed units. The mitigation will be implemented during the plan checking of construction documents.

Biology-trees

Because the project is proposing to eliminate many trees along McCandless Drive, the project will also be required to pay an in-lieu fee for any protected tree under the City's Tree Protection Ordinance that is proposed to be removed or the applicant may choose to replace the trees at a ratio of 3:1.

Comments from other agencies

The Planning Division received comments from Valley Transit Authority, County of Santa Clara Roads, and the City of Santa Clara. The majority of comments were interested in a Transportation Impact Analysis. A focused TIA will be conducted as a part of the review process for a Site Development Permit. The TIA will look at the proposed new entry from Great Mall Parkway and new intersections along McCandless Drive to determine whether the established level of service thresholds are impacted. The TIA will be forwarded to these agencies for comment. It is acknowledged by the applicant that if the LOS thresholds are exceeded that the project may have to eliminate the proposed entryway and would result in a revision to the project.

The City of Santa Clara's comment was regarding the Transit Area's Traffic Impact Fee. The project will be subject to the Transit Area Impact Fee, which includes fees to upgrade the transportation network, however, no intersections were identified as being impacted in Santa Clara in the certified EIR.

Addendum

Because of the change in scope of the project--the reduction in dwelling units and the increase in retail square footage, an addendum was drafted to address the minor technical changes. With the changes to the project, no additional significant impacts are expected.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing, following public testimony and adopt Resolution No. 10-025 recommending approval of the Owner's Participation Agreement and Environmental Impact Assessment No. EA08-0005, McCandless Mixed Use Project to the City Council.

Attachments:

- A. Resolution No. 10-025
Exhibit 1 (Owners Participation Agreement)
- B. Mitigated Negative Declaration with addendum

UNAPPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

July 14, 2010

I. ROLL CALL

Present: Larry Ciardella and Sudhir Mandal
Staff: Ah Sing and Casagrande

1. MINOR SITE DEVELOPMENT PERMIT NO. MS10-0013

Sheldon Ah Sing, Senior Planner, presented a request for a three-day outdoor event held on October 1-3, 2010. The event is a Middle Eastern and Greek Food Festival located in the parking lot of St. James Orthodox Church at 195 North Main Street. Mr. Ah Sing recommended approving Minor Site Development Permit No. MS10-0013 subject to the conditions of approval.

Motion to approve Minor Site Development Permit No. MS10-0013 subject to the conditions of approval.

M/S: Ciardella, Mandal

AYES: 2

NOES: 0

2. MINOR SITE DEVELOPMENT PERMIT NO. MS10-0015

Sheldon Ah Sing, Senior Planner, presented a request for a one day special event for Humane Society's Summer Music and Wine Festival held on August 1, 2010 between the hours of 1:00 p.m. to 6:00 p.m. in the Humane Society central parking lot area at 901 Ames Avenue. Mr. Ah Sing recommended approving Minor Site Development Permit No. MS10-0015 subject to the conditions of approval.

Motion to approve Minor Site Development Permit No. MS10-0015 subject to the conditions of approval.

M/S: Mandal, Ciardella

AYES: 2

NOES: 0

II. ADJOURNMENT

This meeting was adjourned at 6:45 p.m.

UNAPPROVED

PLANNING COMMISSION MINUTES

July 14, 2010

- I. ROLL CALL/SEATING OF ALTERNATE**
Present: Larry Ciardella, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, Steve Tao, Mark Tiernan, and Cliff Williams
Absent: None
Staff: Ah Sing, Casagrande, Lindsay, and Otake
- II. PLEDGE OF ALLEGIANCE**
Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- III. PUBLIC FORUM**
Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.
There were no speakers from the audience.
- IV. APPROVAL OF MINUTES**
June 23, 2010
Chair Williams called for approval of the minutes of the Planning Commission meeting of June 23, 2010.
There were no changes to the minutes.
Motion to approve the minutes of June 23, 2010 as submitted.
M/S: Mandal, Tiernan
AYES: 6
NOES: 0
ABSENT: 0
ABSTAIN: 1 (Cliff Williams)
- V. ANNOUNCEMENTS**
Commissioner Sandhu announced his appointment to Santa Clara County Grand Jury as alternate juror No. 1. He also announced his daughter's marriage.
Commissioner Tabladillo announced she will not be at the next PC meeting.
- VI. CONFLICT OF INTEREST**
Assistant City Attorney, Bryan Otake, asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. There were no Commissioners who identified a conflict of interest.
- VII. APPROVAL OF AGENDA**
Chair Williams asked whether staff or the Commission have any changes to the agenda.
There were no changes to the agenda.
Motion to approve the agenda as submitted.
M/S: Mandal, Sandhu

UNAPPROVED

Planning Commission Minutes

July 14, 2010

AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0

**VIII. ELECTION OF
PLANNING
COMMISSION
OFFICERS**

Assistant City Attorney, Bryan Otake, stated each year the Chair and Vice-Chair are elected to serve a one-year term.

Commissioner Ciardella nominated Cliff Williams as Chair. Commissioner Tabladillo seconds the nomination.

Motion to elect Cliff Williams as Chair.

M/S: Tiernan, Mandal

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Commissioner Tabladillo nominated Sudhir Mandal as Vice-Chair. Commissioner Ciardella seconds the nomination.

Motion to elect Sudhir Mandal as Vice-Chair.

M/S: Tabladillo, Ciardella

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

**IX. CONSENT
CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar.

There were no changes to the Consent Calendar.

Chair Williams opened the public hearing on Item No. IX-1.

Motion to continue Item No. IX-1 to the September 8, 2010 PC meeting.

M/S: Ciardella, Mandal

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

- 1. CONDITIONAL USE PERMIT NO. UP09-0040 AND MINOR SITE DEVELOPMENT NO. MS09-0011:** A request to construct two new 24' tall antennae with enclosures on the property located at 461 S. Milpitas Blvd. (APN: 086-42-016) zoned Heavy Industrial with Site and Architectural Overlay (M2-S). Applicant: Globalstar Inc. Staff Contact: Cindy Hom (480) 586-3284. PJ #

UNAPPROVED
Planning Commission Minutes

July 14, 2010

X. PUBLIC HEARING
1. OWNER PARTICIPATION AGREEMENT AND MITIGATED NEGATIVE DECLARATION NO. EA08-0005 FOR MCCANDLESS MIXED USE PROJECT

James Lindsay, Planning Director, presented an Owner Participation Agreement (OPA) establishing development milestones and financial reimbursement for certain costs to develop a 23 acre site with 92,000 square feet of retail space (including a new grocery store space), 1,328 new residential units, and approximately 3 acres of new public open space. The site is located at 1315 McCandless Drive and is also located within the Transit Area Specific Plan. Mr. Lindsay recommended adopting Resolution No. 10-025 recommending approval of the Agreement and Mitigated Negative Declaration to the City Council.

Commissioner Tao asked if the first three buildings be built on lot 1, 3 or 4. Mr. Lindsay stated they will be built on the lots closer to the Great Mall. Commissioner Tao also asked if there is a timeframe. Mr. Lindsay stated the agreement does not set a timeframe.

Commissioner Ciardella asked how big the grocery store will be. Mr. Lindsay stated the agreement calls for a range from 30,000 to 45,000 square feet for the grocery store.

Commissioner Sandhu asked if there is a designated store for this area. Mr. Lindsay said no.

Vice-Chair Mandal wanted clarification on the grocery store. Mr. Lindsay stated there is an agreement to have the grocery store covenant for 10 years.

Commissioner Tabladillo wanted clarification on the impact fees and what percentage will go to the schools. Mr. Lindsay said close to four million dollars could go to schools from the impact fees.

Evan Knapp, Principal, Integral Communities, stated they are looking forward to this project and being part of this community.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu, Mandal

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Commissioner Tiernan supports the prevailing wage requirements.

Commissioner Tabladillo stated staff did a sufficient job on this project.

Chair Williams feels this project will fulfill the goals and ideas of this project. He is very supportive of this project.

Commissioner Sandhu also supports this project. He asked if the commercial area is on the ground floor. Mr. Lindsay stated this type of development is the same as in Santa Clara.

Motion to adopt Resolution No. 10-025 recommending approval of the Agreement and Mitigated Negative Declaration to the City Council.

UNAPPROVED
Planning Commission Minutes

July 14, 2010

M/S: Williams, Mandal

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

XI. NEW BUSINESS

James Lindsay, Planning Director, stated this is a continuation from the previous meeting. Mr. Lindsay handed out a list of suggestions for the tour.

1. DISCUSSION OF 2010 WALKING TOUR

Vice-Chair Mandal suggested a tour to the BART station area.

Chair Williams asked staff which areas are more important. Mr. Lindsay stated Transit Area opportunity sites, and areas surrounding the proposed Conference Center and North McCarthy Boulevard.

Commissioner Tabladillo suggested staff give a briefing on the BART project at a future meeting.

Mr. Lindsay stated that the tour will consists of the Transit Area opportunity sites and areas surrounding the proposed Conference Center and North McCarthy Boulevard. Mr. Lindsay asked the Commission to supply staff with available dates in August.

XII. ADJOURNMENT

The meeting was adjourned at 8:40 p.m. to the next meeting of July 28, 2010.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

James Lindsay

From: cliffwms@wmsgrp.org
Sent: Tuesday, July 20, 2010 6:23 PM
To: Robert Livengood; Pete McHugh; Debbie Giordano; Armando Gomez; Althea Polanski
Cc: James Lindsay; Bryan Otake; Steve Tao
Subject: Post PC Meeting McCandless Proj Clarification
CITY OF MILPITAS PLANNING COMMISSION

Most Honorable Mayor and City Council,

During the Planning Commission meeting of July 14, 2010, the Commission reviewed and deliberated on the **OWNER PARTICIPATION AGREEMENT AND MITIGATED NEGATIVE DECLARATION NO. EA08-0005 FOR MCCANDLESS MIXED USE PROJECT**. During our meeting Commissioner, Tao attempted to address a concern about the project that the Commission should seriously consider and make it an additional condition. However, the Commission did not make his concern a "Condition", but attempts were made to bring it to Council's attention. Having received the attached letter of clarification from Commissioner Tao, I find that his comments consider further consideration by Council and with all respect; I wish to forward his comments to your attention for upcoming consideration.

Yours Respectfully,

Cliff Williams

Planning Commissioner, Chair

Memorandum

Date: July 19, 2010
To: Cliff Williams, Chair of Milpitas Planning Commission
From: Steve Tao, Planning Commissioner
Ref: 7/15/2010 Public Hearing, OPA, Integral Communities

This memorandum is written pursuant to your verbal request following the Planning Commission meeting. This is to rectify the mis-interpretation of the Commission at the time the Amendment was presented and for recommendation of said Amendment to the Redevelopment Agency for adoption at its scheduled public meeting .

The purpose of your request is upon further private discussion after the public meeting, the intent and 'real world implication and application' of this Amendment shall benefit the RDA, City of Milpitas and community at large. This memorandum is provided as basis for your recommendations to RDA for action.

The Amendment is for the OPA to include language WHEREIN a set aside of between 5,000-7,000 rentable square feet (RSF) of the proposed total of up to 92,000 RSF (minimum 5.5%-maximum 7.5%) retail space be intended for 'unique concept, local oriented, artistically inclined, non-franchise, non-multi store, non-multi national, retailers whose store footprints are 2,500 RSF or smaller'.

Further, RDA encourages the developer in its negotiation of the Project Labor Agreement (PLA) for these specified uses, the first and succeeding generations of tenant Improvement costs shall be exempt from the living wage requirements from the Project Labor Agreement (PLA). The exemptions shall be for tenant improvement project costs of \$100.00 per RSF for food service operations and \$60.00 per RSF for all others. Any costs beyond noted figures for tenant improvements shall revert back to the living wage requirements.

As background to the considerations, the type of dollar exemptions is utilized and common place. The Pacific Commons project in Fremont, a labor financed project, agreed to the exemptions as the realization of the small independents are often times hard pressed for the upfront lump sum improvement costs and their addition to the project would greatly benefit the tenant mix as well as diversifying the mix so such endeavors do not become replications of other similar projects. At the same time, the 5-7% tenant improvement portion of the overall construction, represents a very small portion of the overall project. Every larger sized development projects also possesses some hard to lease spaces due to varying factors, this will provide some degree of relief along rent concessions to fill the spaces and make this development, long dreamt, a more popular and successful cornerstone project.