

Exhibit C

**Planned Development Permit PLN2011-00039**

**RECOMMENDED CONDITIONS OF APPROVAL**

**A Planned District Permit Addressed As 1550 East 14th Street, San Leandro Boulevard, a Five Lot Parcel Identified as APN 077 0540 009 00  
Innisfree Ventures II, LLC, (the "Applicant").**

**I. COMPLIANCE WITH APPROVED PLANS**

- A. The Project shall comply with exhibits and plans attached to the Staff Report, dated October 20, 2011, except as hereinafter modified. (Exhibits and plans are on file at the City of San Leandro, Community Development Department, 835 East 14th Street, San Leandro, California, 94577).

Exhibit A – Site Plan (A1)

Exhibit B – Multi-Tenant Building Floor Plan (A2)

Exhibit C – Specialty Grocery Floor Plan (A3)

Project Plans

Exhibit D – Multi-Tenant Building Exterior Elevations (A4)

Exhibit E – Multi-Tenant Exterior Elevations (A5)

Exhibit F – Specialty Grocery Exterior Elevations (A6)

Exhibit G – Conceptual Landscape Plans (L1)

Exhibit H – Enlarged Landscape Plans (L2)

Exhibit J – Plant Palette (L3)

Exhibit K – Site Photometric (EP1.0)

Exhibit L – Fixture Cut Sheets (EPO.1)

Exhibit M – ALTA Survey (C1)

- B. The Applicant shall be responsible for assuring that any successor in interest who assumes responsibility for this zoning approval is informed of, bound by, and must satisfy and abide by its terms and conditions, including those listed in these conditions of approval.
- C. Construction shall commence within 3 (three) years following City Council approval and shall be substantially completed 18 (eighteen) months thereafter. For the purpose of compliance with this condition, commencement of construction shall be defined as the construction required improvements.

**II. PERMITTED USE**

- A. This is an approval for two single-story retail buildings at 1550 East 14th Street. The Applicant requested to rezone the subject property to a

Planned District zoning designation, and for the approval of a Planned Development Permit (PLN2011-00039).

- B. No application for amendment of the application or Conditions of Approval may be submitted or accepted for processing by the City unless: (i) there is full compliance with all other legally binding documents regulating development on the Property; (ii) there is full compliance with all terms of the application and Conditions of Approval, or (iii) the Community Development Director has waived compliance with the terms of the application because they are minor in content.
- C. Construction of the project shall remain in substantial compliance with all approved exhibits and plans. Any change to the project design, materials or colors shall be subject to the review and approval of the Community Development Director who may administratively approve minor changes. The Planning Commission and City Council must review any substantive changes as a modification to the Planned Development zone and permit.
- D. The initial anchor tenants will be as follows. These tenants may be the first users of the approved space. All subsequent users must comply with the provisions of this permit and the provisions of the underlying Planned District zoning.
  - 1) Fresh and Easy
  - 2) Chipotle
  - 3) Peet's
  - 4) Other tenants determined by the Community Development Director to be consistent with the "Permitted Uses" section of the Planned District zone.

### **III. ADDITIONAL PLAN SUBMITTALS**

- A. Prior to issuance of building permits, Applicant shall submit a checklist showing that the Project meets the minimum Green Building rating.
- B. Prior to issuance of building permits, the Applicant shall submit final details and specifications including, but not limited to: material samples for driveways, interior sidewalks, and special building features, for review and approval by the Community Development Director.
- C. Prior to issuance of building permits, the Applicant shall submit final landscape and irrigation plans for the review and approval of the Community Development Director. The plans shall include such details as:

1) tree size, species and location; 2) shrubs and groundcovers; 3) installation specifications, including tree staking; 4) irrigation details; 5) water conservation techniques; and 6) maintenance programs. Final landscape and irrigation plans shall conform to the Water Efficient Landscape Ordinance as codified in Article 19 of the Zoning Code.

- D. Prior to issuance of building permits, the Applicant shall submit final plans and details for the perimeter walls, fencing, and site lighting (including submittal of a photometric study) for the review and approval of the Community Development Director. The plans and details shall show location, height, decorative features, and construction details showing materials and finishes to be used for construction. No site lighting may spill offsite.
- E. Prior to issuance of any Certificate of Occupancy for the property, the improvements outlined above shall be completely installed to the satisfaction of the Community Development Director and the City Engineer.

#### **IV. BUILDING AND SAFETY SERVICES CONDITIONS**

- A. All electrical, gas, and water meters shall be located such that they will not be visible from the street, or these units shall be screened or enclosed.
- B. Prior to approval of the final building plans for building permits, the Applicant shall submit evidence of compliance with Title 24 of the California Building Code, to the satisfaction of the City Building Official.
- C. Prior to approval of building permits, the Applicant shall submit evidence of compliance with the California Building Code (CBC) related to the following accessibility requirements:
  - 1) Accessible path of travel from nearest public bus stop to the site is required.
  - 2) The entire site needs to be accessible.
  - 3) Accessible path of travel is required to trash enclosures.
  - 4) Common public areas such as parking area must be accessible as per CBC Chapter 11B.
- D. The Applicant shall employ, at its sole expense, the engineer responsible for the structural design, or another engineer (as designated by the engineer responsible for the structural design) to perform structural observation in accordance with the California Building Code. Structural observation means the visual observation of the structural system, for general conformance to the approved plans and specifications at significant construction stages and at completion of the structural system.

- E. In addition to the inspections required by the Building Code, the Applicant or the engineer or architect of record acting as the Applicant's agent, if required by the Chief Building Official shall employ one or more special inspectors who shall provide inspections during construction as required by the California Building Code. The special inspector shall be approved by the City Building Official. Per City Ordinance, the City reserves the right to impose structural standards that exceed the requirements of the California Building Code.
- F. Final building plans submitted for building permit shall incorporate a range of water conservation measures to substantially reduce average per capita daily use. These measures shall include the use of equipment, devices and methods for plumbing fixtures and irrigation that provide for long-term efficient water use, subject to the review and approval of the City Building Official.

## **V. ENGINEERING AND TRANSPORTATION CONDITIONS**

- A. The proposed development shall comply with all City ordinances, policies and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.
- B. Pursuant to Government Code section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the Applicant for this Project that the 90-day approval period (in which the Applicant may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project by the City Council. If the Applicant fails to file a protest within this 90-day period that complies with all of the requirements of Government Code section 66020, the Applicant will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
- C. Prior to the issuance of building permits for the Project, the Applicant shall obtain an Encroachment Permit from the Engineering and Transportation Department for any work within the public right-of-way, except work on East 14th Street shall require an encroachment permit from Caltrans.
- D. Applicant shall pay Developer Fees for Street Improvements (DFSI) fees currently estimated to be about \$3.76 per gross building square footage, or \$104,016.64.
- E. Applicant shall pay its share of the underground utility conversion costs currently estimated to be \$316.03 per Linear Foot of frontage or \$103,341.

- F. Prior to the issuance of the Building Permit, the Applicant shall pay the Underground Sewer Connection fee, Engineering Review and Inspection Fees, and other fees as required by City Ordinances and regulations.
- G. Prior to the issuance of building permits for the Project, the Applicant shall obtain an Encroachment Permit from Caltrans for any work within the public right-of-way on East 14th Street, except that work on sidewalk shall require City's encroachment permit.
- H. An encroachment permit and annual insurance certificate shall be provided for the life of the awnings or other approved items extending beyond the Property.
- I. The sidewalk on East 14th Street shall be 10 feet wide.
- J. Driveway approaches shall be constructed of concrete as described in City standard 102 as determined by the City Engineer, except that the back of walk shall be depressed as required to maintain ADA compliant cross slope. Curb returns shall not be used at driveways.
- K. Existing water meters along the Juana Avenue frontage shall be relocated to behind the new curb. All utilities under sidewalks shall have 24 inches of minimum cover and utilities under the street shall have 36 inches of minimum cover measured from the lowest lip of gutter. All utilities within the widened street along Juana Avenue shall be lowered such as to have 36 inches of minimum cover measured from the lowest lip of gutter.
- L. Applicant shall create the proposed lots via a lot line adjustment or a parcel map. Applicant shall create easements for drainage and access for the benefit of both parcels.
- M. Site improvement plans shall include the following: Installation of bi-directional pavement arrows on each of the driving aisles to guide traffic flows on site, installation of one pair of inbound and outbound arrows at each of the two driveways on Juana Avenue and Dolores Avenue (type I arrow of Caltrans standard A24A), installation of a minimum of 25 foot long center yellow line at Juana Avenue driveway, and a 50-foot long center yellow line at Dolores Avenue driveway (detail 22 Caltrans standard A20A), installation of a stop sign (sign R-1 of the CAMUTCD) facing exiting traffic and a stop limit line (12 inches to 24 inches wide) crossing the exiting travel lane only with a "STOP" pavement legend (Caltrans

standard A24D) at each of the driveways on Juana Avenue and Dolores Avenue.

- N. Street furniture and vegetation at the southeast corner of the East 14th Street/Juana Avenue intersection shall not obstruct the sight lines for vehicles.
- O. The proposed improvement shall confirm the capacity of existing public sanitary sewer lines to accept the anticipated improvements.
- P. The proposed development shall comply with Municipal Regional Requirement Permit (MRP) Order No. R2-2009-0074 issued by the San Francisco Regional Water Board related to storm water treatment measures.
- Q. Applicant shall execute a Storm Water Treatment Operation and Maintenance Agreement prior to the issuance of the final building permits.
- R. All trash areas shall have CMU or concrete walls to prevent pest entry into the tenant spaces.
- S. All trash enclosures shall be roofed. Trash enclosures shall be constructed so that water neither drains into the enclosure nor from the enclosure.
- T. Storm water from the truck well for the specialty grocery building shall be treated before it leaves the site.
- U. Roof drainage shall be treated in accordance with MRP and shall not be drained directly into the storm line drainage system.

## **VI. FENCING AND SCREENING REQUIREMENTS**

- A. All fencing and walls on the Project Site shall be structurally sound, graffiti-free and well maintained at all times. Graffiti-proof type paint/coating to be applied to walls as needed as determined by the City's graffiti unit.
- B. Barbed or razor wire shall not be installed on any fence, wall or building on the Project Site.
- C. Electrical transformers shall be vaulted underground. In the event that the transformer cannot be undergrounded, it shall be screened from view consistent with the access requirements of PG&E. Details for screening shall be subject to the review and approval of the Community Development Director.

- D. All walls, fences, and landscaping within 25 feet of any street intersection or driveway shall be maintained at a height of not more than 36 inches above the top of the nearest adjacent curb and gutter to allow for adequate sight distance, or unless otherwise approved by the City's Transportation Engineer.

## **VII. MAINTENANCE**

- A. The Project Site shall be well maintained and shall be kept free of litter, debris and weeds at all times; during construction, the site shall be well maintained and shall be kept free of litter, debris and weeds.
- B. Any graffiti shall be promptly removed from building walls, perimeter soundwalls and/or fences at the Applicant's sole expense. The Applicant and its successors in interest shall comply with the rules and regulations of the City's graffiti removal program and shall grant a license and right of entry as requested to enforce the terms of such program.
- C. All landscaping improvements shall be maintained in a healthy, growing condition at all times.
- D. During the construction phase, the Project Site shall be enclosed with a security fence and shall be well maintained in a neat manner, free of weeds, litter and debris.

## **VIII. CONSTRUCTION PROVISIONS**

- A. Construction on the Project Site shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m., Monday through Friday, and shall not commence prior to 8 a.m. and shall cease by 7 p.m. Saturday and Sunday, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. Interior construction such as sheet rock taping and texturing, painting, tile installation and similar activity shall be permitted outside the above hours provided that construction noise shall not be detectable outside of the buildings under construction or renovation.
- B. Construction activity shall not create dust, noise or safety hazards for adjacent residents and properties. Dirt and mud shall not be tracked onto E 14th Street from the Project Site during construction. Standard construction dust control procedures, such as wetting, daily road washing and other maintenance functions to control emissions, shall be implemented at all times during outdoor construction. Dust generating activities such as grading, excavation, paving etc., shall be scheduled the early morning and other hours when wind speeds are low. All construction

activities entailing soil disturbance shall cease when winds exceed 30 miles per hour as an hourly average.

- C. The Applicant shall prepare a construction truck route plan that would restrict trucks to arterial streets that have sufficient pavement section to bear the heavy truck traffic, thereby minimizing noise and traffic impacts to the community. The construction truck route plan shall be reviewed and approved by the City Transportation Administrator prior to receipt of the grading permit.
- D. Truck hauling activities shall be restricted to 8:00 a.m. to 5:00 p.m. There shall be no truck hauling activity on Saturdays, Sundays and Federal holidays.
- E. Procedures with the highest noise potential shall be scheduled for daylight hours, when ambient noise levels are highest.
- F. The contractor(s) shall be required to employ the quietest among alternative equipment or to muffle/control noise from available equipment.
- G. All construction contracts shall include the following requirements: 1) Unpaved construction sites shall be sprinkled with water at least twice per day; 2) Trucks hauling construction materials shall be covered with tarpaulins or other effective covers; 3) Streets surrounding demolition and construction sites shall be swept at least once per day; and 4) Paving and planting shall be done as soon as possible. The City shall charge Applicant, and Applicant shall pay, for all costs of sweeping City streets in the vicinity of the Project as necessary to control dust and spillage.
- H. The Project Site shall be secured during construction with a 6-foot tall chain link fence and any other security measures in accordance with recommendation of the San Leandro Police Department.

## **IX. POLICE DEPARTMENT REQUIREMENTS**

- A. All trees planted must be mature and located far enough away from the sidewalk so their branches are at least 8 feet above the sidewalk area and 14 feet above the roadway.
- B. All building addresses shall be placed in such a position as to be plainly visible and legible from the street. Said numbers shall contrast with their background and be visible at night. Details including number size and location shall be submitted for the review and approval of the City of San Leandro Police Department, Fire Marshal and the Community Development Director, prior to issuance of building permits. Street names shall be approved by the City of San Leandro Police Department, Fire Marshal and the Community Development Director. Specific property

addresses will be assigned by the Building Division of the Community Development Department.

## **X. ENVIRONMENTAL SERVICES DIVISION REQUIREMENTS**

- A. The storage of hazardous materials in quantities equal to or greater than 55 gallons, 200 cubic feet or 500 pounds and generating any amount of hazardous waste requires submittal of a Hazardous Materials Business Plan (HMBP). Prior to issuance of a certificate of occupancy or final of a business permit, whichever occurs first, a HMBP shall be submitted to the City's Environmental Services Department for the storage and use of planned hazardous materials and/or generation of hazardous waste. The HMBP is subject to the review and approval of Environmental Services.
- B. The storage of hazardous materials in quantities equal to or exceeding permit amounts listed in California Fire Code Section 105, Tables 105.6.8, 105.6.10 or 105.6.20, but below HMBP quantities above or generating any amount of hazardous waste requires submittal of a Small Quantity Registration. Prior to issuance of a certificate of occupancy or final of a business license, whichever occurs first, a Small Quantity Registration shall be submitted to Environmental Services for the storage and use of planned hazardous materials and/or generation of hazardous waste. The registration is subject to the review and approval of Environmental Services.
- C. All fees and charges related to Environmental Services programs shall be paid promptly in full. Failure to keep accounts current shall be grounds for revocation of the conditional use permit.
- D. All hazardous waste generated on the Project Site shall be handled and disposed of pursuant to applicable local, state and federal law.
- E. Discharge of anything other than rainwater to the stormwater collection system, including street curb and gutter, is strictly prohibited.
- F. The elimination of exposure of materials, processes or equipment to the maximum extent practicable is necessary to prevent contamination of rainwater. Exposures that cannot be eliminated may require the use of Best Management Practices (BMPs), both engineered and policy/procedural, to prevent remaining exposures from impacting rainwater, creating illicit discharges or contaminating receiving surface waters.
- G. The storage of materials, installation of processes and/or equipment outdoors may place the facility into the Industrial/Commercial Facility Stormwater program and require submittal of a Notice of Intent (NOI) to the Regional Water Quality Control Board. The elimination of exposure to stormwater by relocating indoors, covering or utilizing other engineered

controls is highly recommended. If an NOI filing is required it must be submitted prior to finalizing of the building permit or issuance of certificate of occupancy. A copy of the NOI shall be provided to the City's Environmental Services office.

- H. The generation or discharge of wastewaters, other than domestic sewerage, may require a pretreatment permit for discharge to the sanitary sewer. If a permit is required, submittal of an application to the City's Environmental Services office is required prior to finalizing of the building permit or commencing the discharge; whichever shall occur first.
- I. A facility/site subject to installation of structural stormwater treatment BMPs per section C3 of the Municipal Regional Permit must complete a Stormwater Structural Treatment BMP Operation & Maintenance Data Form. The form shall be submitted to the City's Engineering Division prior to finalizing the grading permit.
- J. Changes to ownership, operator, maintenance contractor, Structural Treatment BMPs installed, the O&M plan, or any other information contained in the Data Form must be provided to the City by submittal of a revised Data Form 30 days prior to the effective date of the change. Revised Data Forms shall be submitted to the Environmental Services Section.
- K. Properly-sized grease interceptors shall be installed and maintained to pre-treat discharges from food handling facilities to the sanitary sewer. No domestic wastewater may discharge through grease interceptors.

## **XI. ALAMEDA COUNTY FIRE DEPARTMENT REQUIREMENTS**

- A. The Project shall comply with the applicable building and fire codes as adopted by the City of San Leandro. Site, building and fire protection system plans shall be provided for review and approval by the Fire Department.
- B. Each building shall be provided with an automatic sprinkler system.

## **XII. GENERAL CONDITIONS**

- A. Prior to issuance of building permits, a lighting plan and specific street lighting details regarding location, candle power, and light levels (by submittal of a photometric study) shall be reviewed and approved by the City Engineer and Community Development Director.
- B. Applicant shall pay its City development, permitting, and plan checking fees in accordance with the fee schedules in effect at the time of the approval of each final map for development per the Development Agreement.

- C. All exterior mechanical equipment such as air conditioning/heating units and radio/television antennas shall be screened from view so as not to be visible from adjacent properties or streets to the satisfaction of the Community Development Director. This condition shall not apply to wireless cable receivers that do not exceed three feet in diameter.
- D. Prior to issuance of building permits, the Applicant shall pay school fees as mandated by the State of California.
- E. Outdoor vending machines require an outdoor facilities permit and a separate business license.
- F. Shopping carts placed outside shall be screened to the satisfaction of the Community Development Director.
- G. The approvals granted by the City as a result of this application, as well as the Conditions of Approval, shall be recorded in the Office of the County Recorder of Alameda County.