

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Kristine Lowe

Public Hearing: Yes: No:

Notices Mailed On: 1/12/07 Published On: 1/11/07 Posted On: 1/11/07

TITLE: USE PERMIT NO. UP2006-23

Proposal: A request for a coffee café (Peet's Coffee and Tea) to occupy an approximate 1,600 square foot tenant space within the existing Town Center Shopping Center, adjacent to the Safeway supermarket. The project includes 26 indoor seats and six (6) outdoor seats.

Location: 543 E. Calaveras Boulevard

APN: 028-12-019

RECOMMENDATION: Approve with Conditions

Applicant: Jeff Haywood, Peets Coffee and Tea, 1400 Park Avenue, Emeryville, CA 94608

Property Owner: Shapell Industries, 100 N. Milpitas Boulevard, Milpitas, CA 93535

Previous Action(s): Site and Architectural Review for Commercial and Residential uses, Conditional Use Permits for a supermarket (with alcoholic beverages sales), residential density below 21 du/ac and 3 freestanding signs, and a Mitigated Negative Declaration (Permit Nos. SZ2003-12 and -13, UP2002-42 and -43, UP2003-57 and -58, UP2004-1 and EA2002-12).

General Plan Designation: Town Center

Present Zoning: TC-S (Town Center with "S" overlay zone)

Existing Land Use: Shopping Center

Agenda Sent To: Applicant and owner (as noted above)

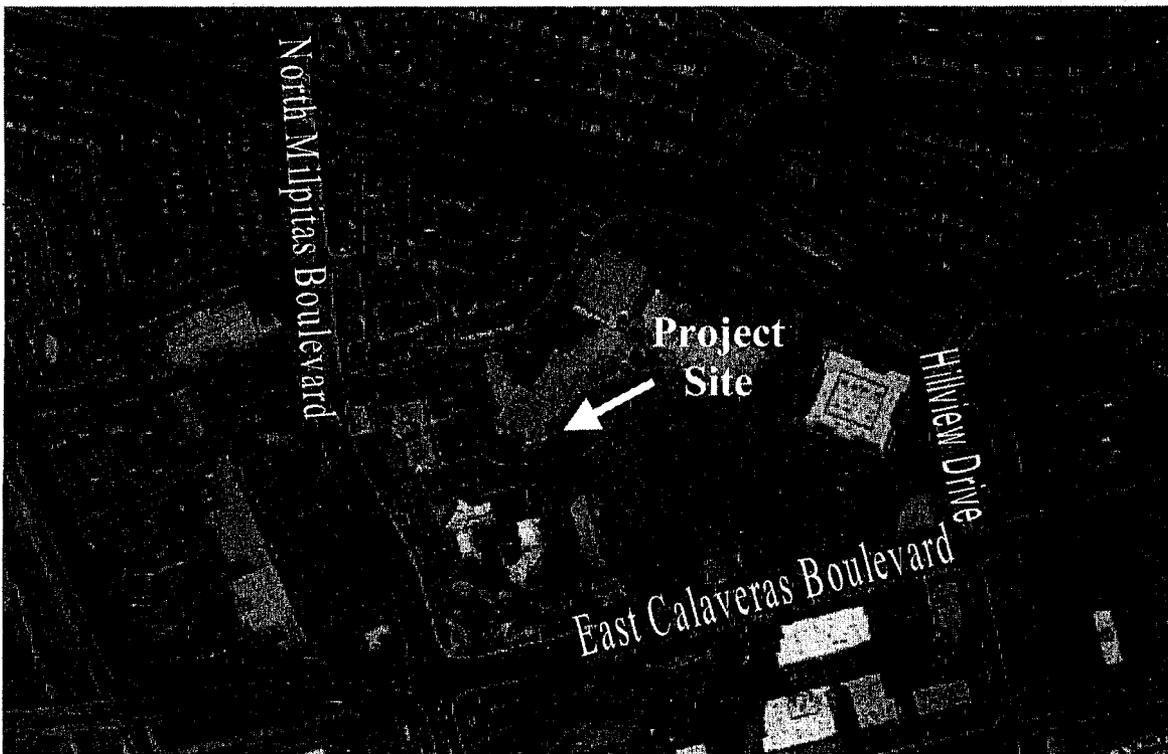
Attachments: Site and Floor Plans

BACKGROUND

On March 24, 2004 the Planning Commission approved the redevelopment of the 34-acre Town Center site that includes the addition of 65 residential units, a new supermarket, new commercial areas, freestanding signs and a new sign program (under Permit Nos. SZ2003-12 and -13, UP2002-42 and -43, UP2003-57 and -58, UP2004-1 and EA2002-12).

Site Description

The Town Center shopping center serves as a community neighborhood shopping center providing a variety of retail and commercial services. Tenants within the Town Center shopping center include Mervyns, Safeway supermarket (currently under construction and adjacent to the subject site), Staples, and numerous restaurants, retail and personal service uses. The project site is located north of East Calaveras Boulevard. Land uses surrounding the shopping center include residential units to the north, commercial uses to the east, offices to the south and City Hall and Public Library to the east of the shopping center.



THE APPLICATION

This Use Permit application is submitted pursuant to Title XI, Chapter 10, Section 22.04-9 (Town Center District, Conditional Uses – restaurant) and Section 57 (Conditional Uses Permitted by Commission) of the Milpitas Zoning Ordinance. The applicant is requesting approval of 26 indoor seats and six (6) outdoor seats for a total of 32 seats. No exterior changes to the previously-approved exterior structure is proposed.

Project Description

The proposed hours of operation are Monday through Sunday 5:30 a.m. – 9:00 p.m. The applicant is requesting approval of 26 indoor seats and six (6) outdoor seats for a total of 32 seats. Staff calculated that the take-out area to be approximately 86 square feet. Therefore the required parking for this use would be 14 spaces. As discussed in the parking section below, 27 excess parking spaces remain for the shopping centre.

Conformance with the General Plan

The project conforms to the General Plan in terms of land use. The proposed use does not conflict with any General Plan Principles and Policies, and is consistent with the following General Plan Implementing Policies.

Implementing Policy 2.a-I-3 Encourage economic pursuits which will strengthen and promote development through stability and balance.

Implementing Policy 2.a-I-7 Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.

The proposed coffee café will add to the City's economic vitality by generating more business in its location and increased patronage of the shopping center.

Conformance with the Zoning Ordinance

The proposed project is located in the Town Center (TC) zoning district and is permitted with the approval of a Conditional Use Permit. Staff does not anticipate the project will be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

In addition, the purpose of the Town Center district is to "be considered as the chief administrative business, entertainment and cultural center of the town as a whole." This project is consistent with the purpose of the Town Center district because the proposed coffee café is a restaurant use.

ISSUES

Parking

The number of seats proposed under this Conditional Use Permit is 32. The City requires one (1) space per 2.5 seats for the seating or table / dining area (indoor and outdoor) plus one (1) space for 50 square feet of net floor area for the ordering / take-out area. The total number of parking spaces required for the restaurant is 14 parking spaces calculated below

- 32 seats divided by 2.5 parking spaces per seat = 12.8 = 13 parking spaces; plus
- 85.78 square feet divided by 50 square feet take-out area = 1.71 = 1 parking space
- **13 + 1 = 14 parking spaces required**

The shopping center has 1,457 parking spaces. A parking summary table for the various uses in the center is provided and an analysis of the data shows that 1,430 spaces are required and 1,457 spaces are allocated for uses in the center, leaving an excess of 27 spaces.

Table 1 - Town Centre Commercial Parking Table

	Square Feet	Parking Ratio, per square feet	Number of Seats	Parking Ratio per seats	Parking Required
Commercial	206,264	1/200			1,031
Restaurants					
Coffee cafe in Safeway	53	1/50	32	1 per 2.5 seats	14
Giorgio's	106	1/50	189	1 per 3 seats and 10% for employees	71
Sushi Lover's			53	1 per 3 seats and 10% for employees	19
Erik's Deli			112	100 seats at 1 per 3.5 seats and 12 at 1 per 3 seats plus 10% for employees	36
El Torito			352	1 per 3.5 seats	100
New Tung Kee			160	116 seats at 1 per 3.5 seats and 44 at 1 per 3 seats plus 10% for employees	52
Red Lobster			262	1 per 3.5 seats	75
Peets Coffee	86	1/50	32	1 per 2.5 seats	14
Medical Use	4,068	1/225			18
Total Parking Required					1,430
Parking Provided					1,457
Excess Parking					27

The project site conforms to the parking requirement of the Milpitas Zoning Ordinance and therefore no request for a parking reduction is required.

Conformance with CEQA

Environmental issues were addressed in the Mitigated Negative Declaration for the Town Center Shopping Center approved by the Planning Commission on March 24, 2004.

Neighborhood/Community Impact

The coffee café is expected to have a positive community impact by generating additional business and increase patronage in the shopping center. Based on this, staff concludes that this proposal will not have a negative community impact because the project is located within an existing shopping center and does not exceed parking requirements.

RECOMMENDATION

Close the Public Hearing. Approve Conditional Use Permit No. UP2006-23 based on the Findings and Special Conditions of Approval listed below.

FINDINGS

1. The proposed coffee café is consistent with the City of Milpitas Zoning Ordinance because the proposed use is a conditionally permitted use in the Town Center zoning district.
2. The proposed use is consistent with the City of Milpitas General Plan in terms of land use because the business is compatible with neighboring service businesses, encourages economic pursuits and promotes business within the City.
3. As conditioned, the proposed coffee café will not be detrimental or injurious to the public health, safety, and general welfare to adjacent future tenants or the surrounding community because the proposed use will not produce negative effects on the community.
4. Environmental issues were addressed in the Mitigated Negative Declaration for the Town Center Shopping Center approved by the Planning Commission on March 24, 2004.

SPECIAL CONDITIONS

1. This Use Permit No. UP2006-23 approval is to allow 26 indoor seats and 6 outdoor seats and 86 square feet of take-out area within a 1,600 square foot tenant space. Any expansion or change in nature of the operation shall require review and approval by the Planning Commission of an amendment to this Use Permit. Minor changes as per Section 42 of the Milpitas Zoning Ordinance, to approved plans may be approved by the Planning Division staff. (P)
2. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations. (P)
3. If at the time of application for building permit, there is a past due project job account balance owed to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)

4. If at the time of application for certificate of occupancy there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
5. The maximum approved seating for this restaurant is 26 indoor seats and 6 outdoor seats. Prior to issuance of a certificate of occupancy for this use, a sign measuring at least 8 1/2 inches by 11 inches, with a lettering height of at least 3 inches, shall be placed in a conspicuous location near the café's front entrance stating "Maximum dining room seating: 32, as per Use Permit No. UP2006-23 granted by the Planning Commission on January 24, 2007. (P)
6. Prior to the certificate of occupancy, the business owner shall post signs (in English and in Vietnamese, Chinese, Filipino or Spanish or other applicable language) inside the premises for all employees, which identify procedures for food delivery and disposing of garbage. The signs shall be displayed for the life of the business. (P)
7. Prior to building permit issuance, the applicant shall submit tenant improvement plans that incorporate an indoor mat and equipment washing area that drains to the sanitary sewer. In addition, all floor drains and trash compactors shall drain to the sanitary sewer. (P)
8. Prior to issuance of a certificate of occupancy, the business owner shall submit a report detailing a program assigning restaurant staff perpetual responsibility for complying with the following guidelines:
 - A. Keep garbage dumpsters clean inside and out; replace dirty or leaking dumpsters with new, clean ones.
 - B. Double or triple bag waste to prevent leaking.
 - C. Place, do not drop or throw, waste-filled bags, to prevent leaking.
 - D. Keep the ground under and around the garbage dumpsters swept.
 - E. Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.
 - F. It is expected that Best Management Practices for solid waste handling will advance over time, thus it is the expectation that the applicant will modify their practices in accordance with future standards. (P)
9. Washing of containers, equipment, and floor mats shall be conducted in the kitchen area so that wash water may drain into the sanitary sewer in perpetuity. (P)
10. Proposal of new signage requires a separate application. (P)
11. 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. Prior to occupancy permit issuance (start of operation), the applicant shall submit evidence to the City that a minimum level of refuse service has been secured using a Service Agreement with Allied Waste

Services (formally BFI) for commercial services to maintain an adequate level of service for trash and recycling collection. After the applicant has started its business, the applicant 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 applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. (E)

12. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to plan check and inspection deposit, and 2.5% building permit automation fee. (E)
13. The developer shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance. Contact the Land Development Section at (408) 586-3329 to obtain the form(s). (E)
14. To minimize public contact of the recycled irrigation water, Title 22 of the California Code of Regulations and Milpitas recycled water guidelines requires that outdoor eating areas must be protected from overspray or wind drift of irrigation water. Use of recycled water shall be limited to irrigation purposes and shall not be used for washing of eating areas, walkways, pavements, etc. (E)
15. 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. 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)
16. It is the applicant's responsibility to obtain any necessary permits or approval from affected agencies or private parties. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
17. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone "X". (E)
18. No change shall be made in the character of occupancies or use of any building that would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of the California Building Code for such division or group of occupancy. California Building Code Section 3405. (F)
19. Fire safety during construction, alteration or demolition of the building shall meet the requirements of Article 87, CFC and the Standards for Construction Site Fire Safety (un-024) by "unidocs" organization (<http://www.unidocs.org>). (F)
20. Fire apparatus access road(s) shall not be obstructed in any manner and shall be maintained at all times. CFC 902.2.4. (F)

21. Approved numbers or addresses shall be provided for all buildings (and tenants) in such a position as to be plainly visible and legible from the street or road fronting the property. CFC Section 901.4.4. (F)
22. Portable fire extinguishers shall be installed in occupancies and locations as set forth in the code, California Code of Regulations Title 19, Division 1, and Chapters 1 and 3 and as required by the Milpitas Fire Chief. California Fire Code (CFC) Section 1002.1. (B)
23. No approval for any hazardous materials under this review. (F)
24. The Milpitas Fire Department shall approve new installation and/or modifications to existing fire protection, alarm or monitoring system(s). A separate submittal is required to the Milpitas Fire Department, for review and approval, prior to the commencement of any work. CFC Section 1001.3. (F)
25. An automatic fire extinguishing (sprinkler) system shall be installed per CFC 1003, and CFC 1003.2.2, as amended by the Milpitas Municipal Code V-300-2.01. In all buildings hereafter constructed three or more stories or 35 feet in height, or 10,000 square feet or more in area or having a Fire Flow of greater than 2,000 gallons per minute. Appendix III-A shall be used as the basis for determining Fire Flow. (F)
26. The automatic fire sprinkler system shall be electrically monitored. Alarm and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station, remote station or proprietary monitoring station. UFC Section 1003.3. (F)
27. An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. A single approved audible sprinkler flow alarm shall be provided in the interior of the building in a normally occupied location. Section 1003.3.2, CFC. (F)
28. No parking is permitted in front of fire hydrants. Hydrants located on street (public street) or private drives shall have an unobstructed clearance of not less than 30 feet per Vehicle Code 22513, California Fire Code Section 901.4.3. Fire hydrants shall be clearly identified in an approved manner to prevent obstruction by parking and other obstructions. 901.4.3, 903.4.2 CFC. (F)
29. Obstructions, including storage, shall not be placed in the required width of a means of egress, except projections as allowed by the Building Code. Means of egress shall not be obstructed in any manner and shall remain free of any material or matter where its presence would obstruct or render the means of egress hazardous. CFC Section 1203. (F)
30. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort. Manual operated edge- or surface-mounted flush bolts and surface bolts are prohibited. CFC Section 1207.3. (F)
31. Means of egress illumination shall be provided and maintained in accordance with the Building Code. Means of egress shall be illuminated when the building or structure is occupied. CFC Section 1211.1. (F)

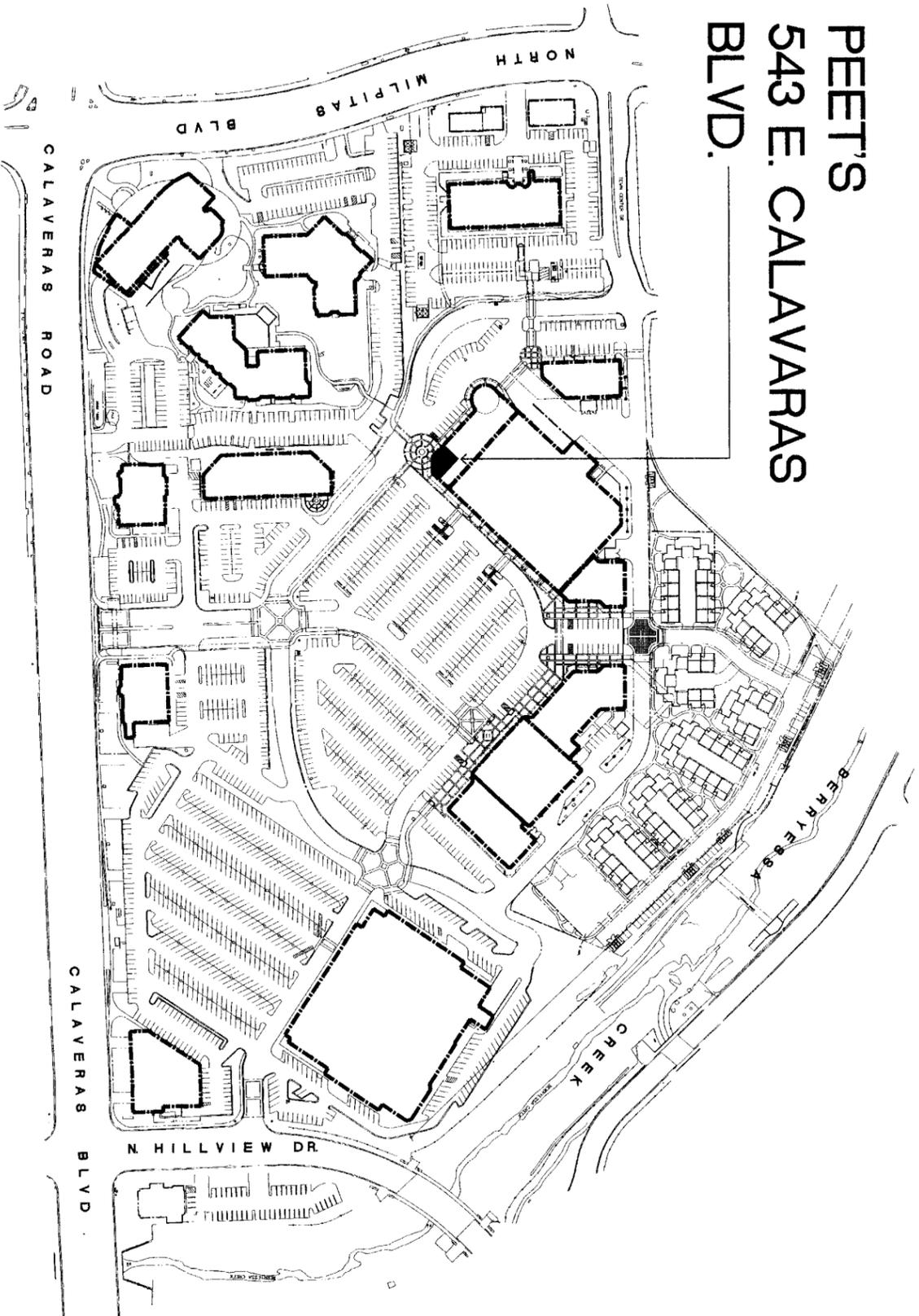
32. Complete plans and specifications for all aspects of Fire-Protection systems shall be submitted to the Fire Department for review and approval prior to system installation. Section 1001.3, CFC. (F)
33. Combustible rubbish kept or accumulated within or adjacent to a building shall be stored in approved containers or in rooms or vaults constructed of noncombustible materials. Section 1001.3, California Fire Code (CFC). (F)

(P) = Planning Division

(E) = Engineering Division

(F) = Fire Department

**PEET'S
543 E. CALAVARAS
BLVD.**



VICINITY MAP



CONDITIONAL USE PERMIT

FOR

PEET'S COFFEE & TEA
543 E. CALAVARAS BOULEVARD
MILPITAS, CALIFORNIA

A.P.N.: 028-12-019

OWNER/PROJECT MANAGER:

PEET'S COFFEE & TEA
1400 PARK AVENUE
EMERYVILLE CA 94608
FAX: (510) 594-2180

CONTACT: JEFF HAYWOOD
PHONE: (510) 594-3250

ARCHITECT:

THE CHARLES DOERR GROUP
611 VETERANS BLVD, SUITE 217
REDWOOD CITY, CA 94063
FAX: (650) 366-0831
CONTACT: ELISE SOLA
PHONE: (650) 366-8215

LIST OF DRAWINGS:

- CS-1 COVER SHEET
- P-1 PRELIMINARY FLOOR PLAN
- P-2 EXTERIOR ELEVATIONS
- SP-1 SITE PLAN
- AI1 INFORMATIONAL SITE PLAN
- A22 INFORMATIONAL ROOF PLAN
- A31 INFORMATIONAL ELEVATIONS

RECEIVED

NOV 16 2006

CITY OF MILPITAS
PLANNING DIVISION

NO.	DATE	REVISION



THE CHARLES DOERR GROUP
ARCHITECTURE & PLANNING
611 VETERANS BLVD, SUITE 217
REDWOOD CITY, CA 94063
650 366-8215 TEL
650 366-0837 FAX

COVER SHEET
PEET'S COFFEE & TEA
543 E. CALAVARAS BLVD.
MILPITAS, CA

BY: EKS
JOB: 6084
DATE: 9/11/06
CS-1

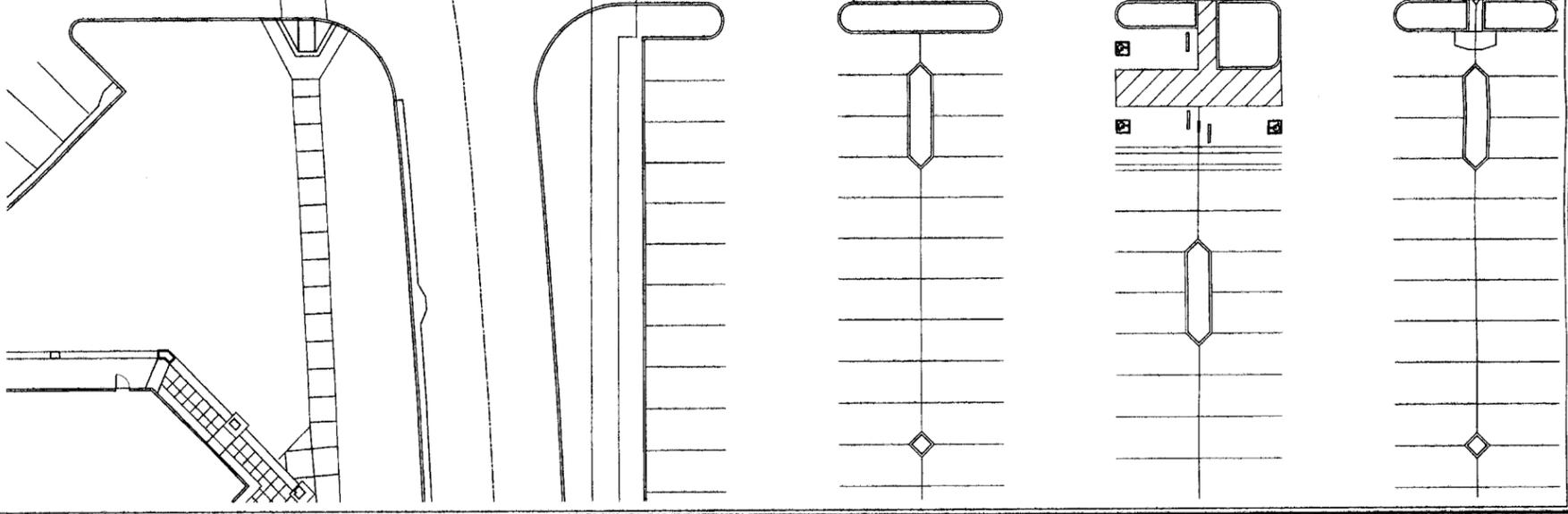
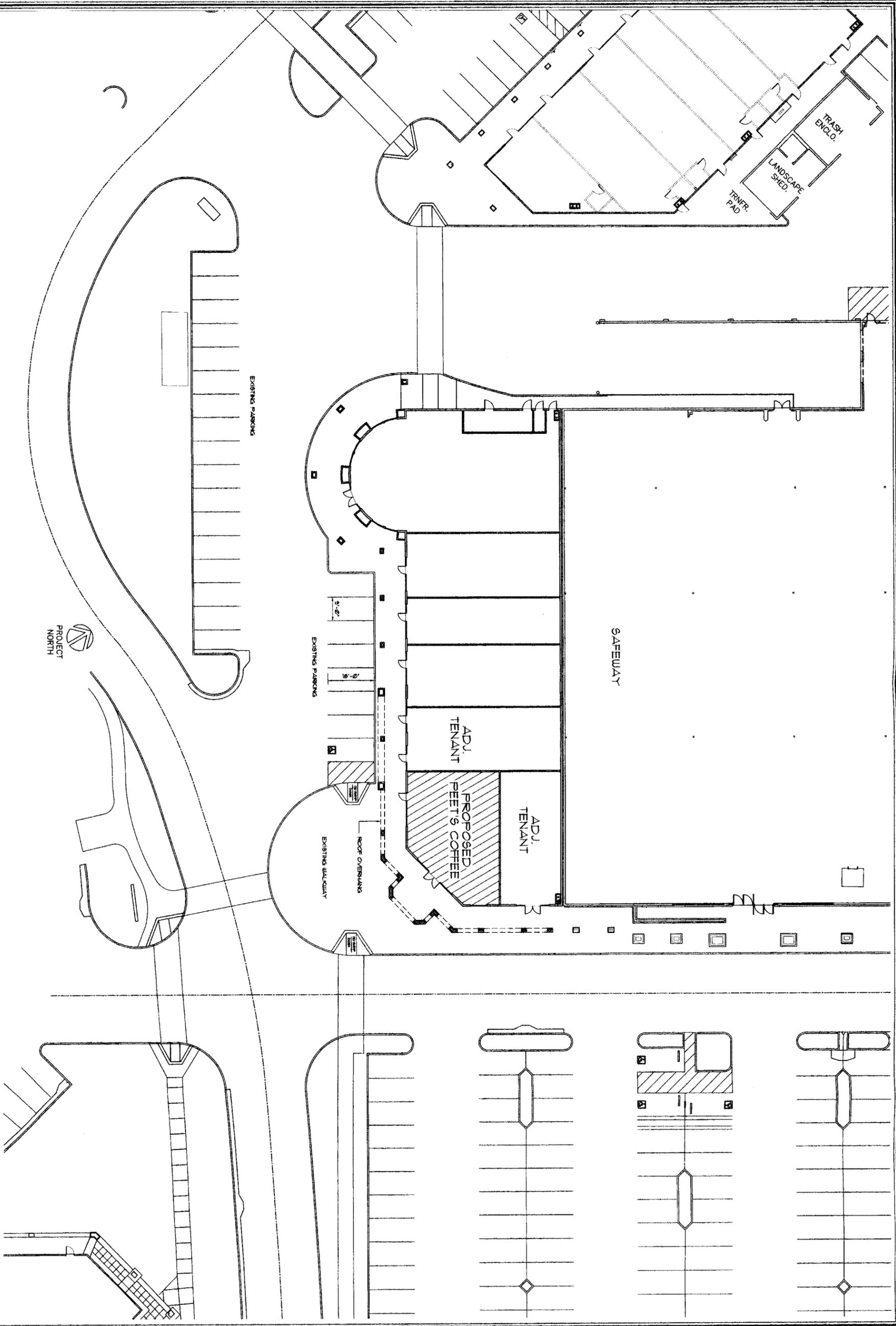
SITE PLAN



PROJECT NORTH

1/16" = 1'-0"

4



SP-1

SITE PLAN
 PEET'S COFFEE & TEA
 543 E. CALAVERAS BLVD.
 MILPITAS, CA



THE CHARLES DOERR GROUP
 ARCHITECTURE & PLANNING
 611 VETERANS BLVD, SUITE 217
 REDWOOD CITY, CA 94063
 650 366-8215 TEL
 650 366-0837 FAX



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