

Planning Commission Date: July 11, 2007

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Cindy Maxwell

Public Hearing: Yes: No:

Notices Mailed On: 6/29/07 Published On: 6/28/07 Posted On: 6/29/07

TITLE: REQUEST TO MODIFY BUILDING ELEVATIONS AND SITE PLAN: ASPEN FAMILY- 101 AFFORDABLE APARTMENTS AT 1666 S. MAIN ST.

Permits: "S" Zone Amendment No. SA2007-46
Use Permit Amendment No. UA2007-9

Location: 1666 S. Main St.

APN: 086-22-023

RECOMMENDATION: Close the public hearing. Deny S-Zone Amendment No. SA2007-46 and Use Permit Amendment No. UA2007-9.

Property Owner and Applicant : Global Premier Development, Inc., 5 Park Plaza, Suite 980, Irvine, CA 92614 – Project Manager: Joe Pagano

2007 Approvals: SZ2007-1 & UP2006-22 – Original project approvals
SA2007-18 – 90 day extension for conditions
MM2007-2 – Minor tentative map

Pre-2007 Actions: EIR, GPA, Rezoning for Midtown Specific Plan. 'S' Zone for one of the existing buildings.

General Plan Designation: Multi-Family Very High Density. Located in Midtown Specific Plan area.

Present Zoning: "R4-S" Multi-Family Very High Density, 'S' Zone combining district

Existing Land Use: Two multi-tenant industrial buildings and storage areas

Agenda Sent To: - Applicant and Owner (as noted above)
- Robert Dulalia, Saf-Keep Storage, 1680 S. Main St., Milpitas, CA 95035

Attachments: Letters from Global Premier Development, Inc- May 22 & 23, 2007 Plans
Letter from United Soils Engineering, Inc-dated May 2, 2006

PJ No. 3199

RECOMMENDATION:

Close the public hearing. Deny S-Zone Amendment No. SA2007-46 and Use Permit Amendment No. UA2007-9 with recommended findings.

PROJECT:

- 2.69 acres with existing industrial and commercial service uses at 1666 S. Main Street
- Construct a 101-unit family apartment project with recreation center.
- 100% affordable rental units
- 37.5 dwellings per acre.
- Three four-story buildings with underground garages. New public streets to create smaller blocks

No. of Dwelling Units	Bedrooms	Unit Size (Sq. Ft.)
50	2	950
50	3	1,200-1,255
1 *	2	750

* Manager's unit

HISTORY:

Meeting Date	Action
March 14 and 28, 2007	Planning Commission approval of "S" Zone, Use Permit and Tentative Map. Use Permit provided for: 1. Reduction in the required number of parking spaces. 2. Credit for on-street parking. 3. Modification of required building setbacks.
April 3, 2007	Council approval of Memorandum of Understanding for Redevelopment Agency to negotiate financial assistance for project. Council approval of street names.
April 17, 2007	Council approval of Owner Participation Agreement for \$2.3 million financial assistance.
May 23, 2007	Planning Commission approval of time extension for 90-days (May 9-August 9, 2007) to comply with special conditions.

CURRENT REQUEST:

"S" Zone Amendment: Modify building elevations and site plan to increase the height of the three buildings from four to five stories by building a parking garage at grade.

Use Permit Amendment: (1) Exceed the maximum height limit of four stories and (2) reduce the required building setbacks for the "R4" Very High Density Residential zoning district (Milpitas Municipal Code XI-10-8.05-1).

ANALYSIS:

The proposal would affect the project in the following ways:

Architecture

- Increase the height of the main building structures from 42 feet to 60 feet.
- Replace the existing first floor of each building with windows into the parking garage. The windows would be open and recessed with decorative metal screening.
- Increase the size of the building footprints.
- Decorative lighting fixtures would be located on the exterior first floor walls.

The proposed architectural changes would eliminate at-grade exterior entries, windows, patios and stoops for individual first floor dwelling units. It would also increase building mass and the amount of building encroachment into required building setbacks for the R4 zoning district.

Circulation

- Pedestrian access to residences would be limited to lobby entrances in each building. All exterior entrances into first floor dwelling units would be deleted.
- Vehicular access would not change.

The project would reduce on-site pedestrian circulation and eliminate any pedestrian presence between the buildings and the south property line and emergency vehicle access.

Parking

- The number of parking spaces in the garages would increase by 17 spaces, from 185 to 202.

The additional spaces would allow the project to meet the required parking for residents. Guest parking would remain less than ordinance requirements (33 required: 17 provided).

Landscaping

- The proposal would eliminate the shrubs and groundcover between the two south buildings and the south property line. It would also reduce the landscape areas on the south side of Mihalkis Street, ranging between 6'8" to 10 feet, to a linear three-foot wide planter.
- The landscaped common recreation area, adjacent to the north building, would be moved to the second floor above the first floor garage.
- Vines, tall cylindrical shrubs and benches are proposed along the walls of the first floor parking garages.
- There would be no change to the size and number of trees on the site or the design of the masonry wall on the east property line.

The proposal would reduce the amount of landscaping and the visibility of recreational amenities on the site. The softening effect that landscaping provides for building structures and the overall streetscape would be reduced.

CONFORMANCE WITH PLANS AND ORDINANCES

General Plan

The proposed changes to the project would remain consistent with the Guiding Policies and Implementing Principles of the General Plan.

Midtown Specific Plan

The proposed changes would not be consistent with the Midtown Specific Plan's Circulation Goals 1 and 2, Circulation Policy 4.5, and Community Design Goal 4 in that the approved streetscape would lose a significant portion of its open space, pedestrian orientation and character.

Zoning Ordinance

The proposed changes would need approval of the Use Permit application to exceed the building height limit of five stories. However, the project would not exceed the building height limit of 60 feet.

DISCUSSION

Staff recommends denial of the proposed changes to the Aspen Family Apartment project due to inconsistency with the Midtown Specific Plan and the detrimental effect on the streetscape and pedestrian orientation of the project's streets. The applicant is requesting the approvals based on the existing water table on the site which impacts the construction of the two-story garage level below existing grade. Over the past year, staff has worked with the applicant on the design aspects of the project to meet the Midtown Specific Plan goals and objectives. The applicant's Geotechnical Investigation and Pavement Design letter (dated May 2, 2006) indicates that the water table for the site is at 12-13 feet. The applicant has been aware of this impact on the project for over the past year and is now seeking relief from the City, which would be inconsistent with the Midtown Specific Plan. Staff feels that this matter could be resolved with the appropriate structural engineering and still meet the intent of the design guidelines of the Midtown Specific Plan.

If, however, the Commission desires to approve the proposed project, staff recommends that the public hearing be continued indefinitely to allow time for the applicant to submit a revised utility plan and Storm Water Management Plan and for city staff to review the new information and develop the appropriate special conditions and findings for approval.

P.C. ARS - July 11, 2007
UA2007-9, SA2007-46

RECOMMENDATION

Close the public hearing. Deny S-Zone Amendment No. SA2007-46 and Use Permit Amendment No. UA2007-9.

COVER SHEET

SHEET INDEX

- 1 COVER SHEET
- 2 SITE PLAN
60 MIHALAKIS
- 3 PROPOSED FRONT ELEVATION
- 4 EXISTING GARAGE PLANS
- 5 PROPOSED GARAGE PLANS
70 MIHALAKIS
- 6 PROPOSED FRONT ELEVATION
- 7 EXISTING GARAGE PLANS
- 8 PROPOSED GARAGE PLANS
81 MIHALAKIS
- 9 PROPOSED FRONT ELEVATION
- 10 EXISTING GARAGE PLANS
- 11 PROPOSED GARAGE PLANS

SITE

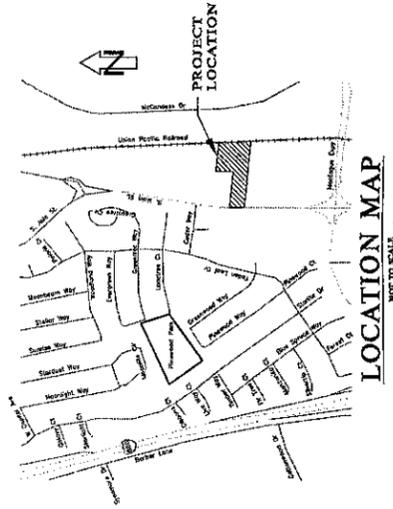
APN Number 086-22-023
 Owner MIL Aspen Associates, A California Limited Partnership
 Owner's Address 5 Park Plaza Suite 980
 Irvine, CA 92614
 Project Address 60, 70 & 81 Mihalakis Street
 (Formerly 1666 South Main Street)
 Milpitas, CA

ACREAGE

TOTAL 2.69 ACRES

UNITS

PLAN 2 (2BD) - 51 (50.5%)
 PLAN 3 (3BD) - 50 (49.5%)
 TOTAL 101
 DENSITY 375 DU/AC



GLOBAL PREMIER DEVELOPMENT, INC.
 5 Park Plaza, Suite 980
 Irvine, California 92614
 Tel: 949-222-9119 Fax: 949-722-9014

06/25/2007

Aspen Family Apartments- Proposed Garage Variance

Milpitas, California

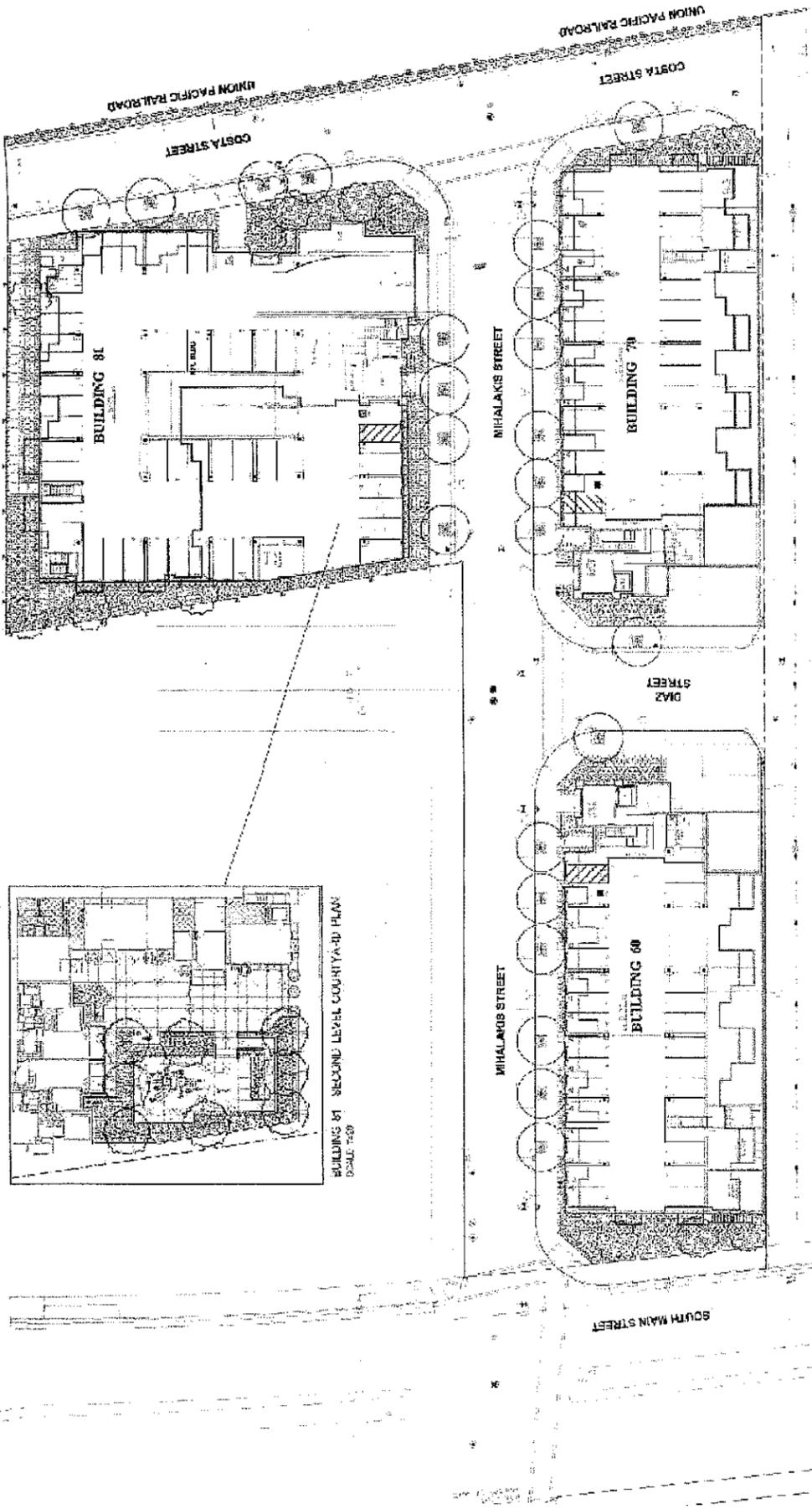
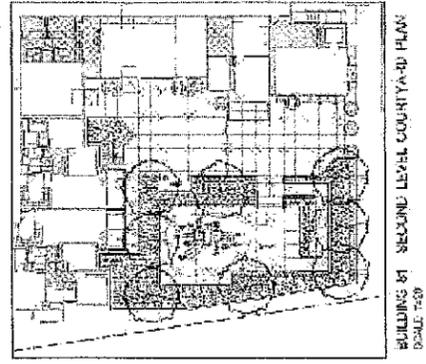


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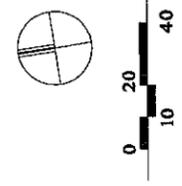
CITY OF MILPITAS
 PLANNING DIVISION



NO.	DESCRIPTION	AREA (SQ. FT.)	PERCENT
1	EXISTING FOOTPRINT	185	100%
2	PROPOSED FOOTPRINT	17	9%
3	TOTAL	202	109%

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1	EXISTING FOOTPRINT	185	100%
2	PROPOSED FOOTPRINT	17	9%
3	TOTAL	202	109%

Building No.	Existing	Proposed
60	50	55
70	48	54
81	87	93
Totals	185	202
Parking Space Change from Existing		+ 17



Red = Existing Footprint
Blue = Proposed footprint

SITE PLAN

Aspen Family Apartments- Proposed Garage Variance
Milpitas, California





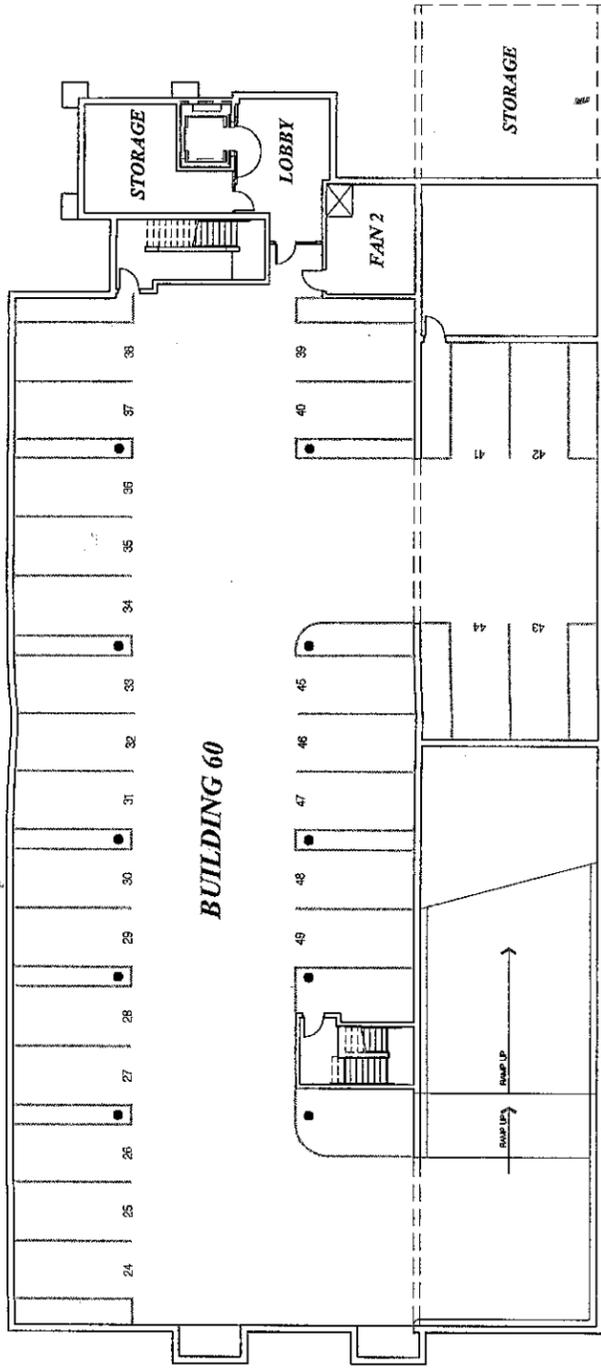
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60 MIHALAKIS - FRONT ELEVATION

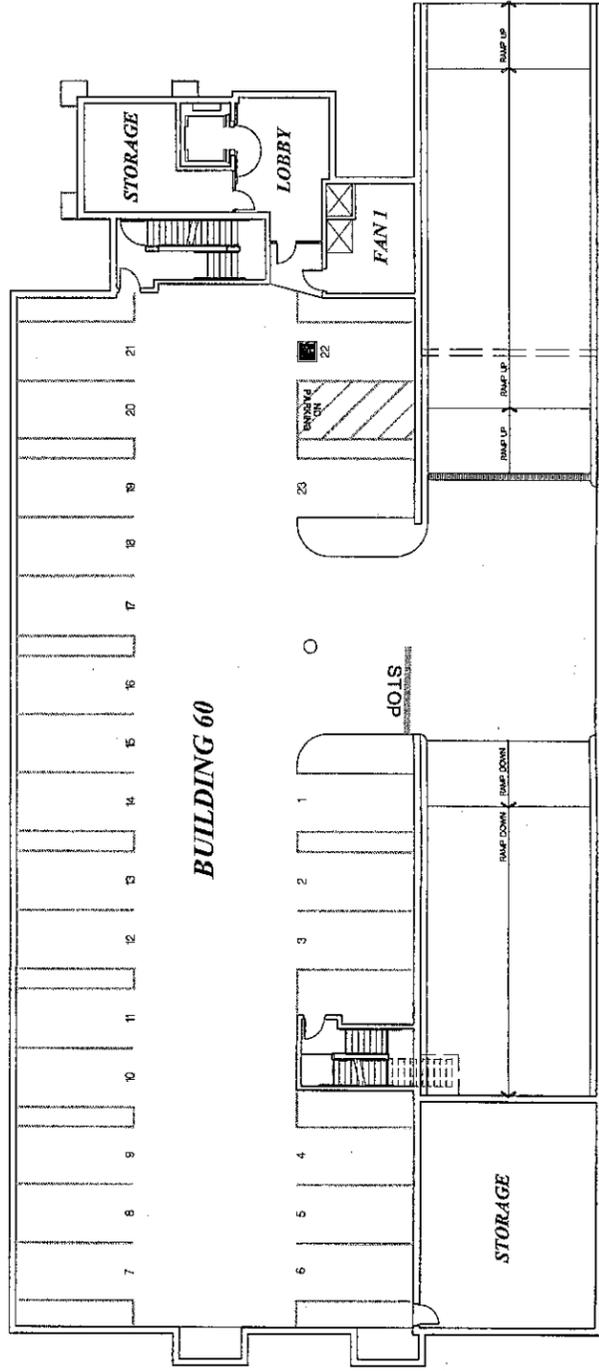
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EXISTING UPPER LEVEL



EXISTING LOWER LEVEL

60 MIHALAKIS - EXISTING GARAGE PLANS
50 PARKING SPACES

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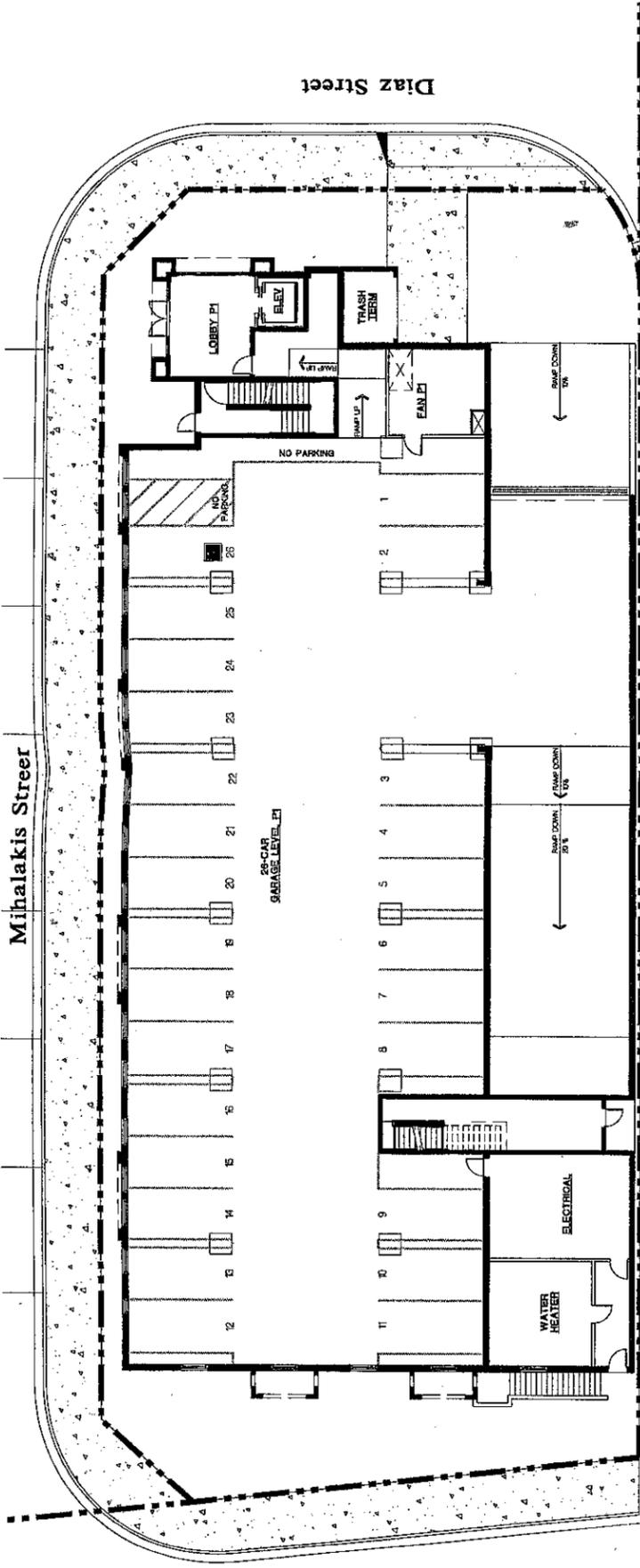
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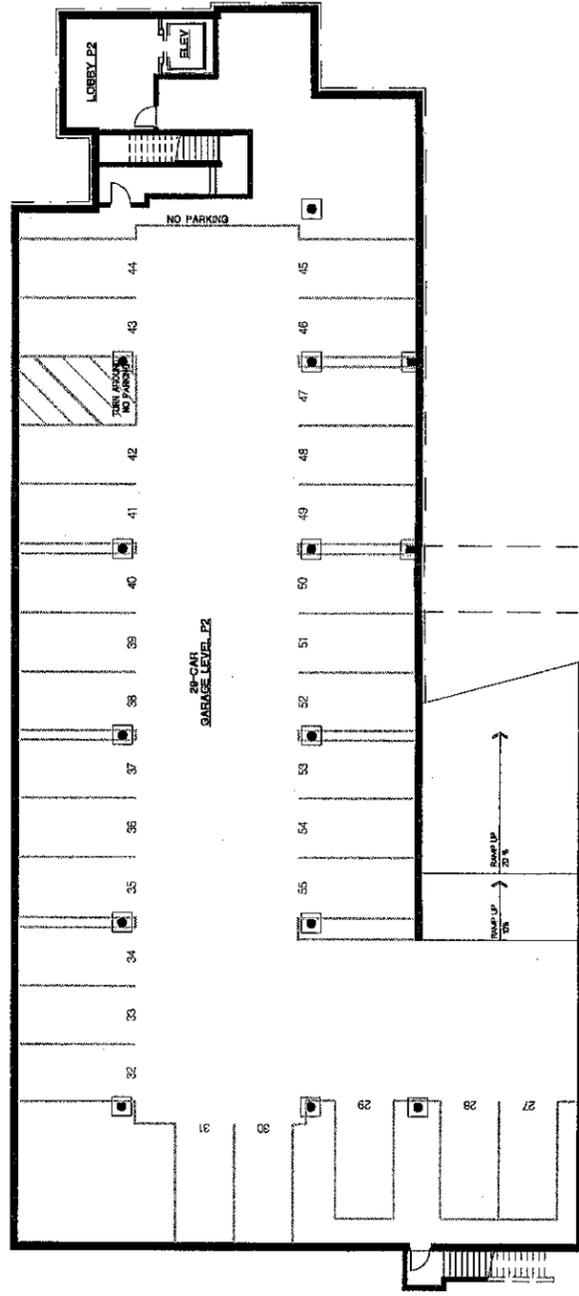
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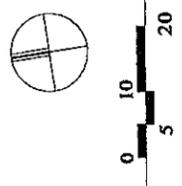


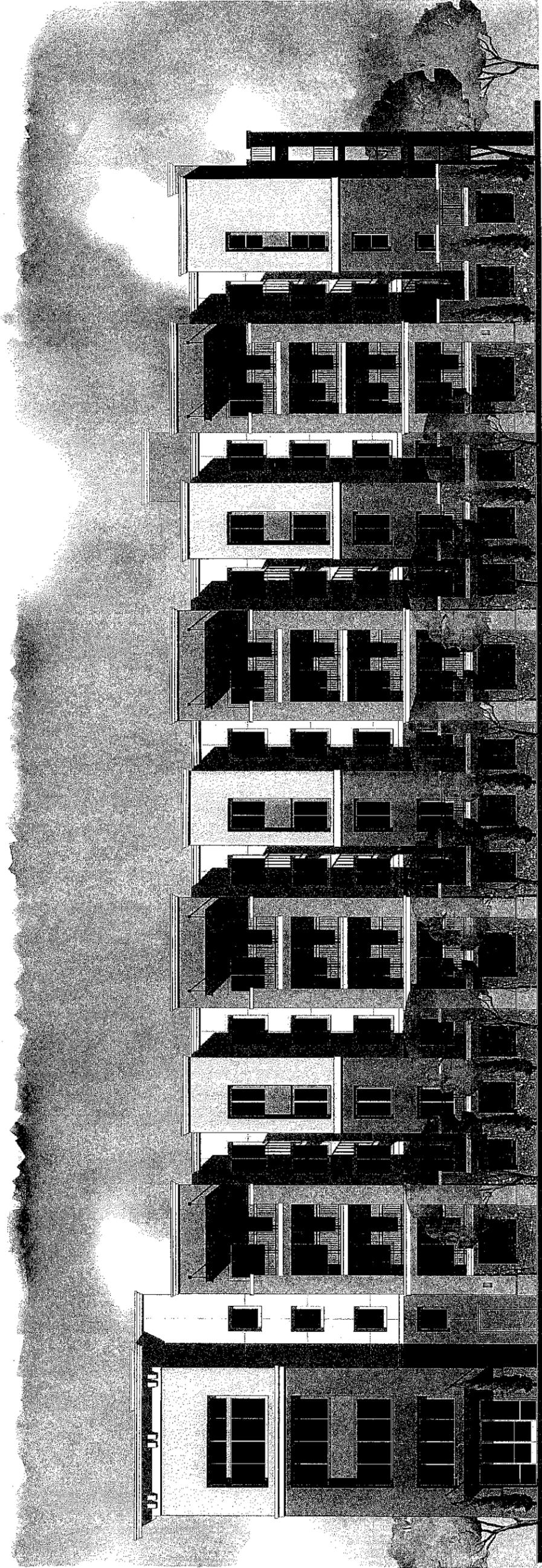
LOWER LEVEL

60 MIHALAKIS - PROPOSED GARAGE PLANS
 55 PARKING SPACES (5 MORE THAN EXISTING)
Aspen Family Apartments- Proposed Garage Variance
 Milpitas, California

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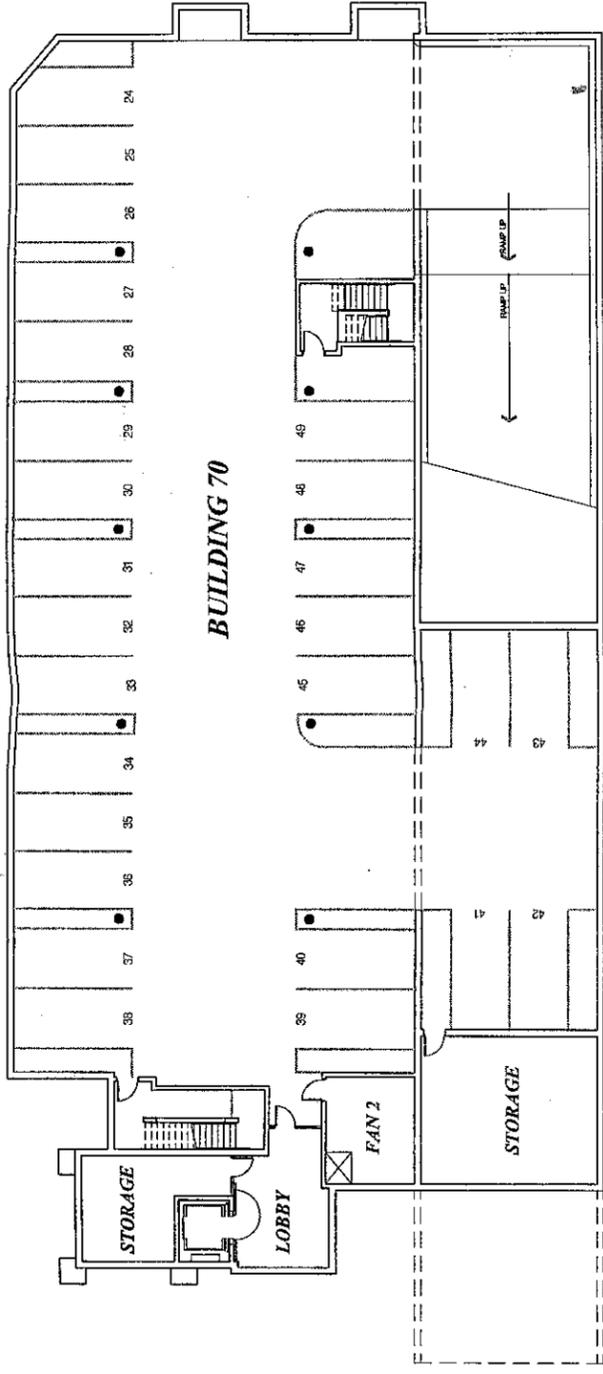
70 MIHALAKIS - FRONT ELEVATION

Aspen Family Apartments- Proposed Garage Variance
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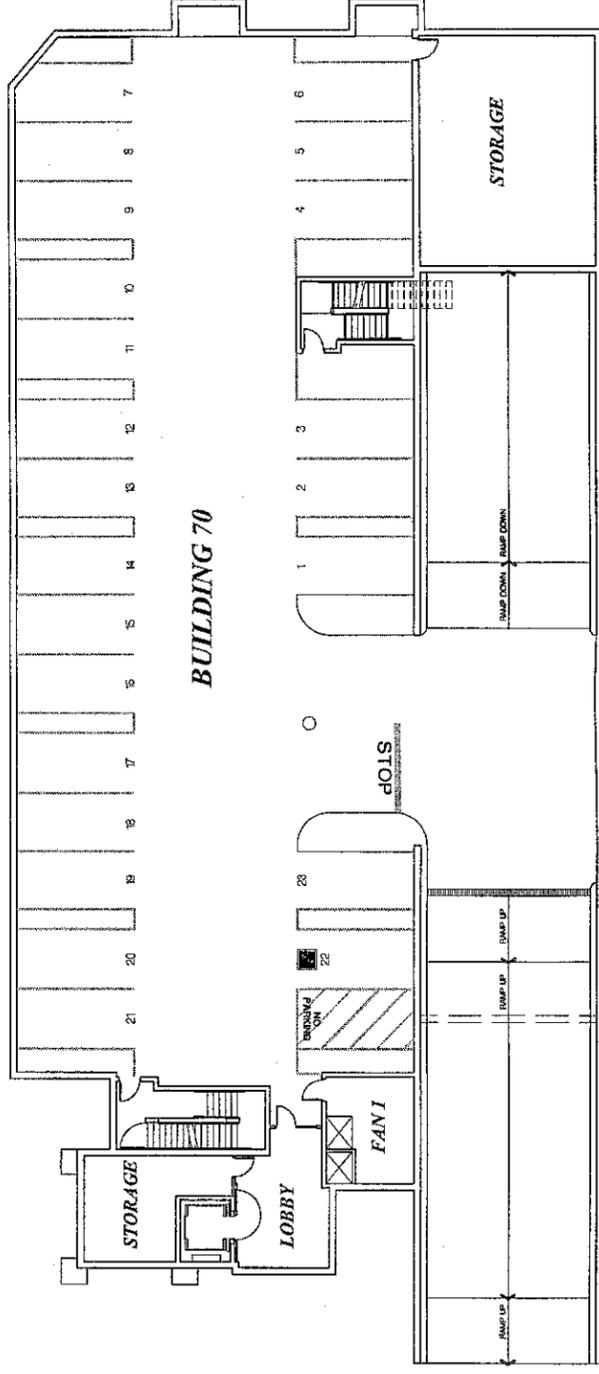


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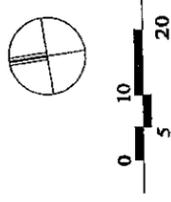


EXISTING UPPER LEVEL



EXISTING LOWER LEVEL

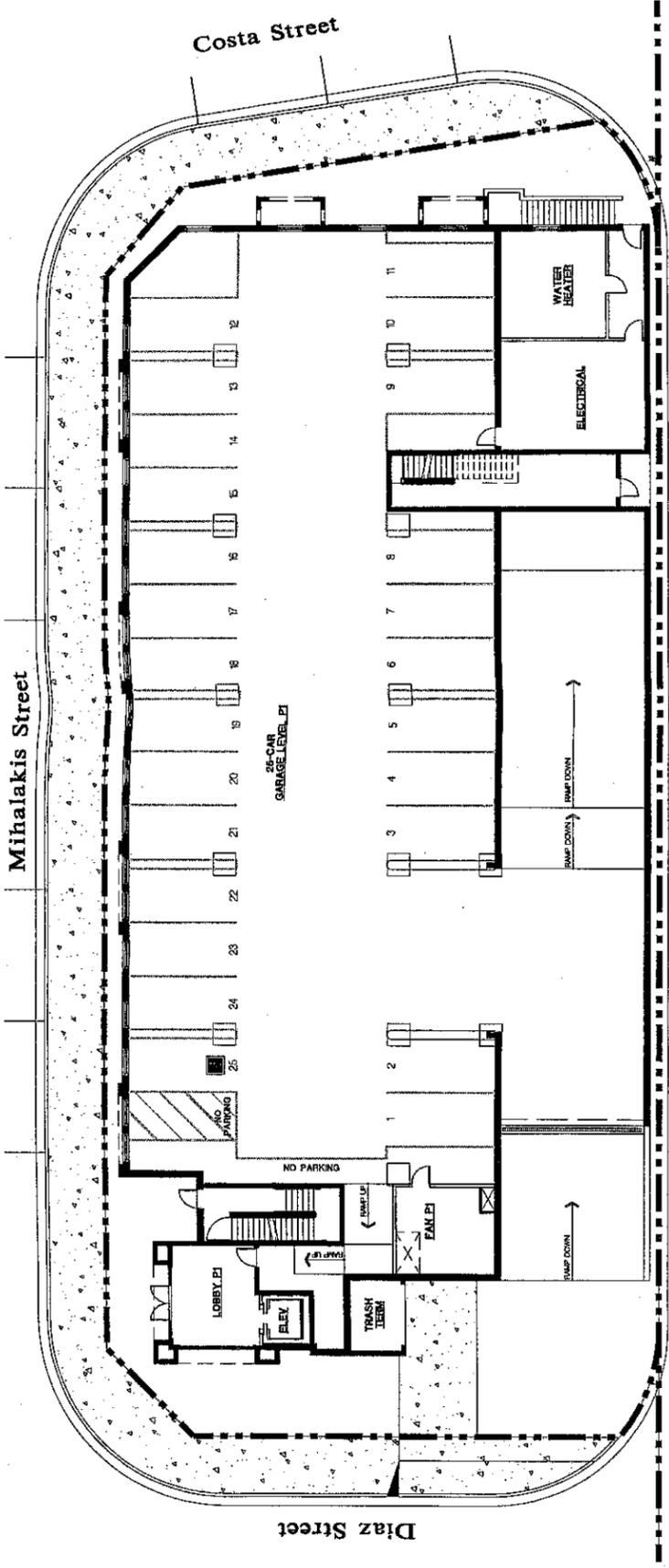
70 MIHALAKIS - EXISTING GARAGE PLANS
48 PARKING SPACES



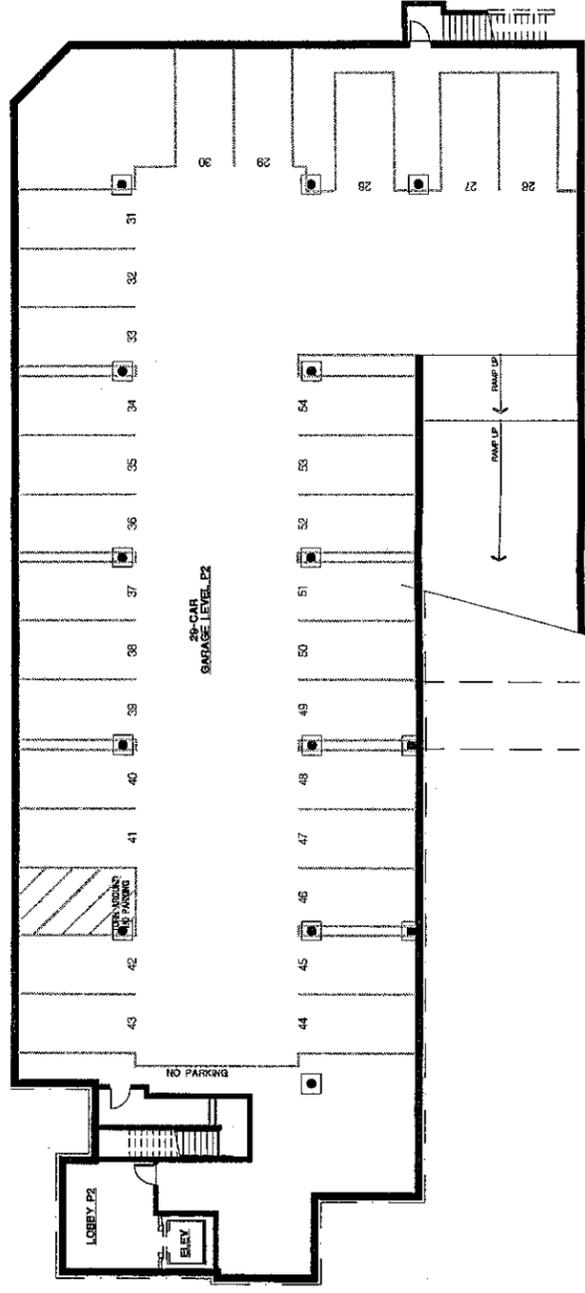
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Milpitas, California

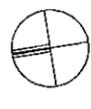




UPPER LEVEL



LOWER LEVEL



70 MIHALAKIS - PROPOSED GARAGE PLANS
 54 PARKING SPACES (6 MORE THAN EXISTING)

Aspen Family Apartments- Proposed Garage Variance
 Milpitas, California



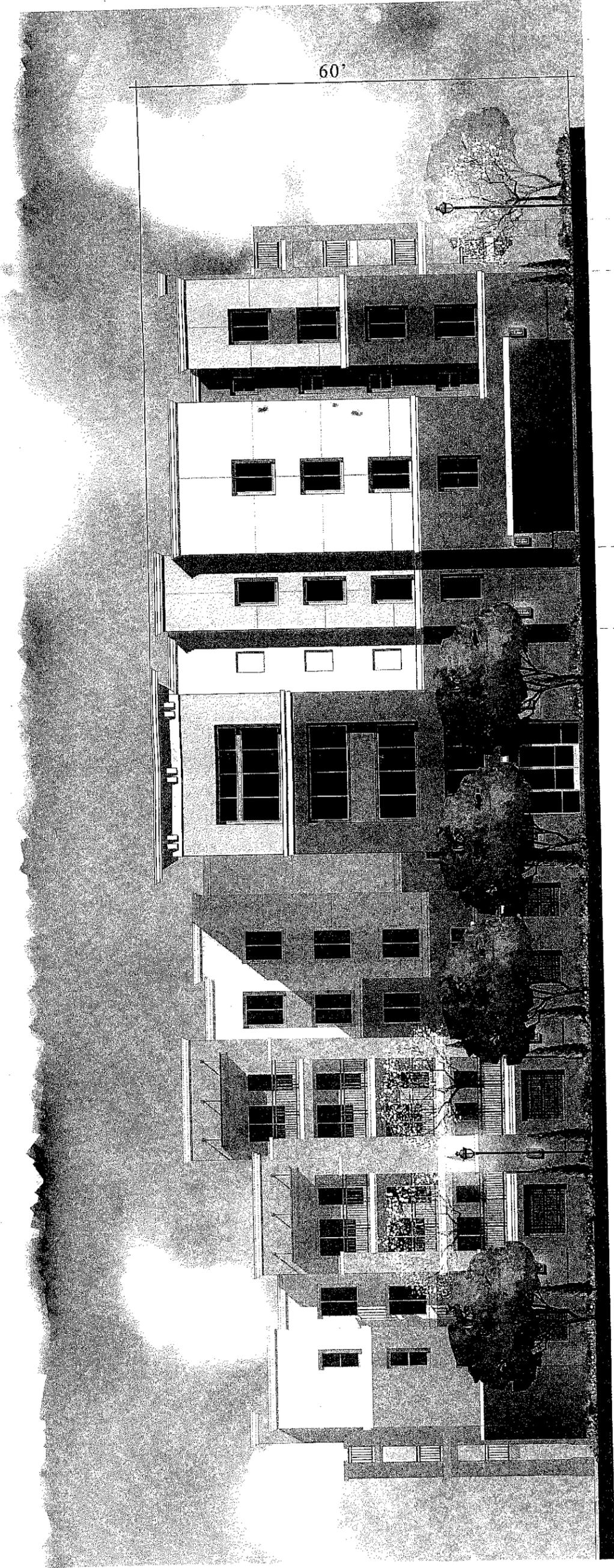
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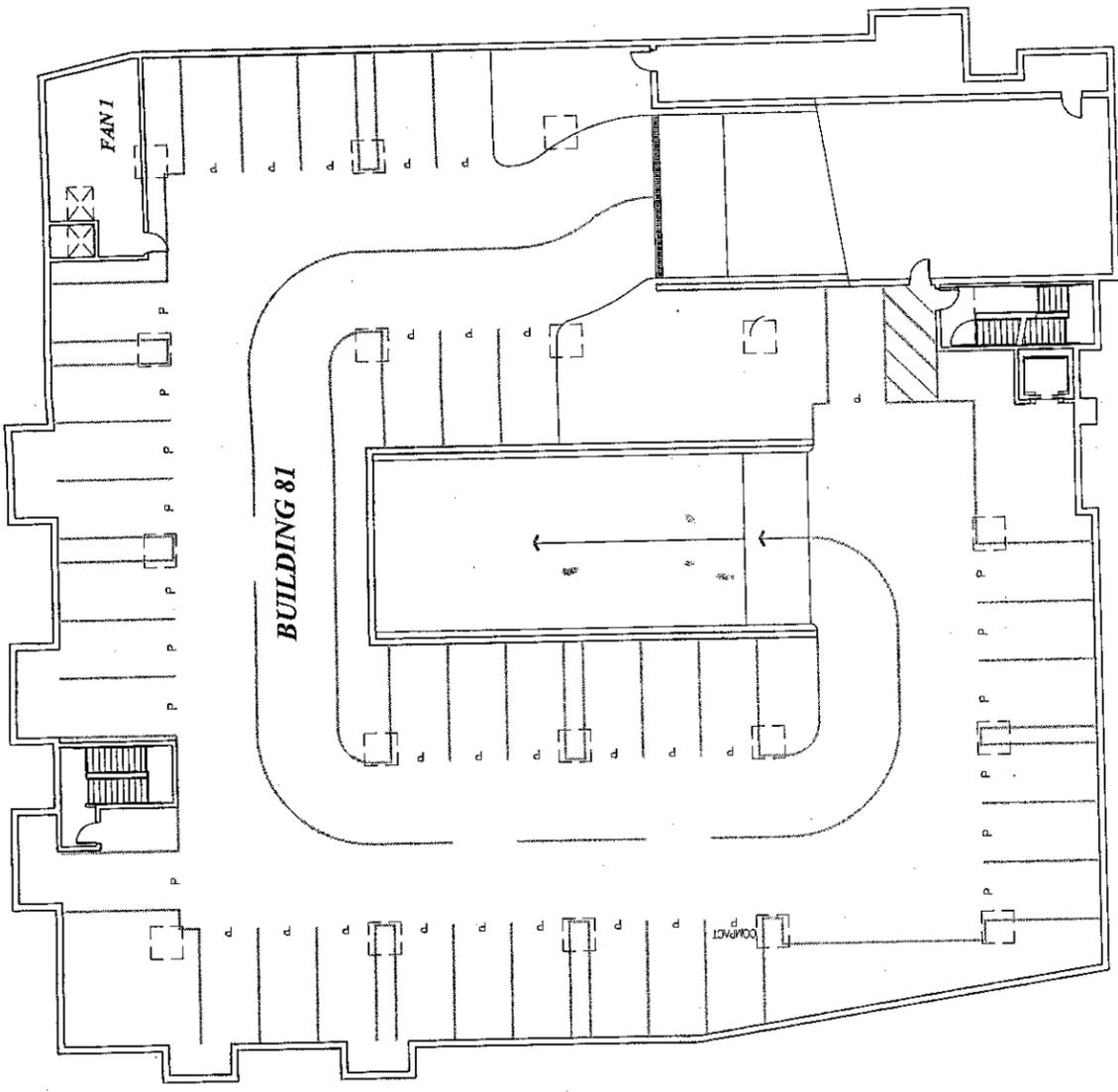
81 MIHALAKIS - FRONT ELEVATION
 Aspen Family Apartments- Proposed Garage Variance
 Milpitas, California



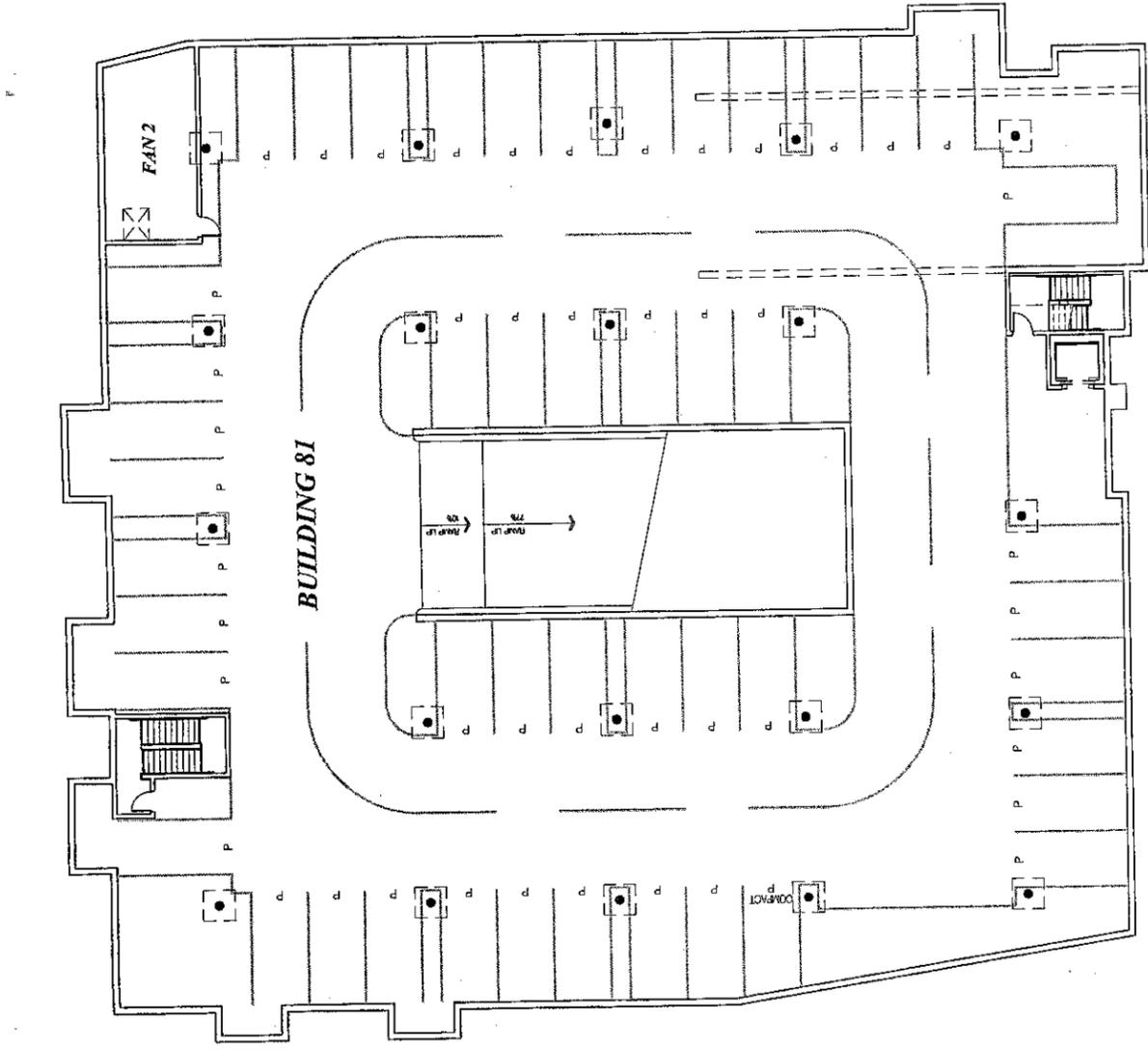
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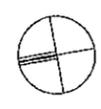
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LOWER LEVEL



UPPER LEVEL



81 MIHALAKIS - EXISTING GARAGE PLANS
87 PARKING SPACES

10



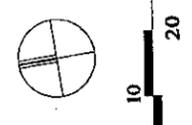
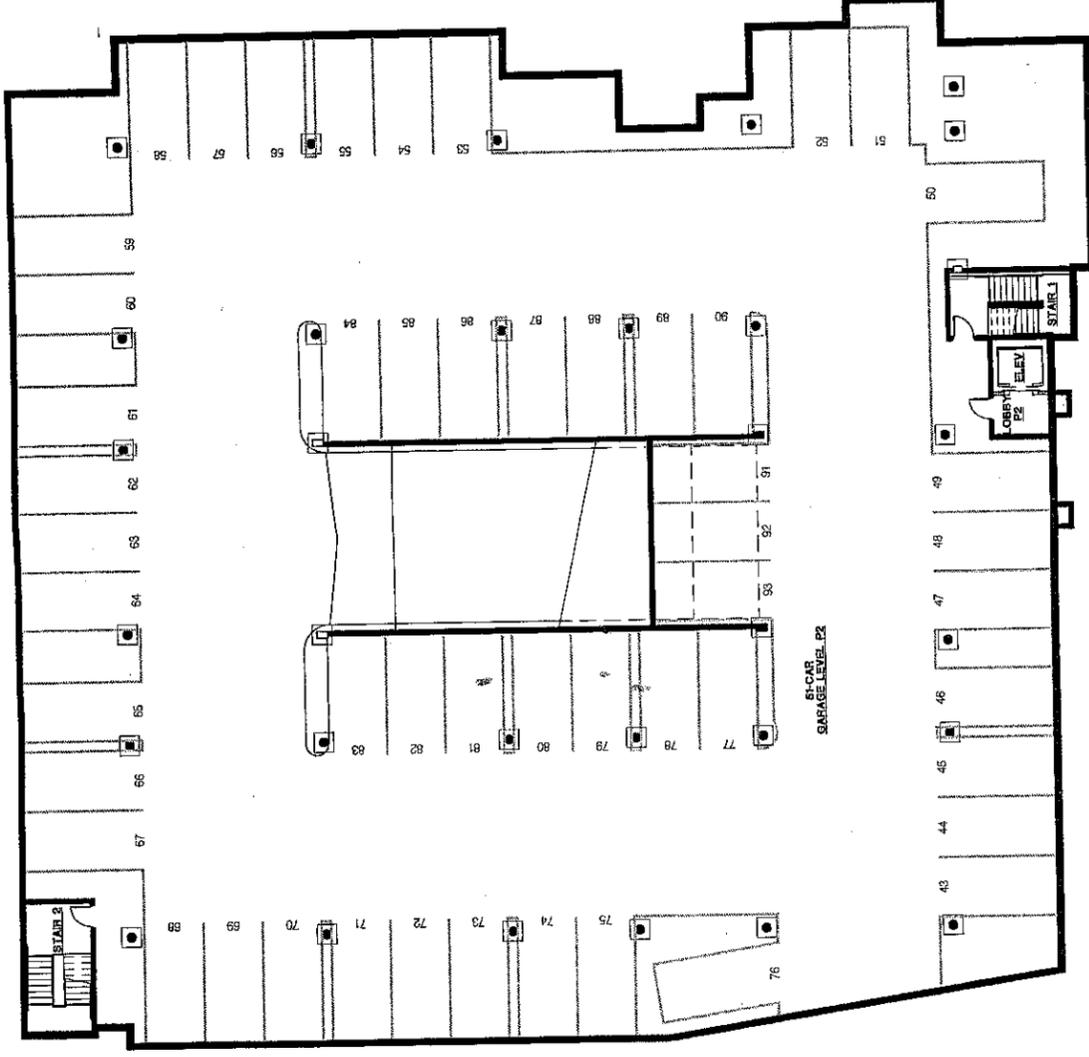
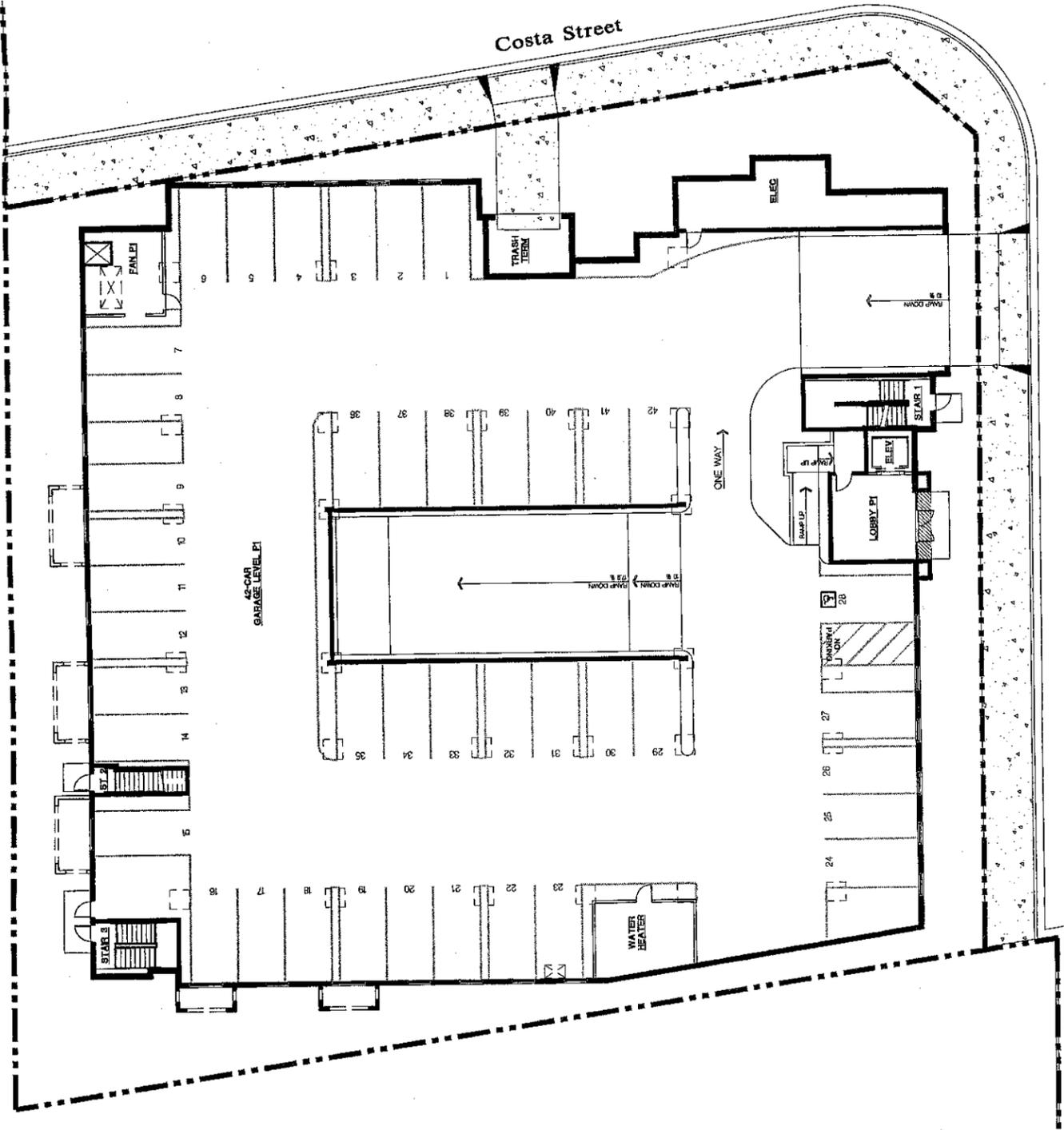
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Milpitas, California

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81 MIHALAKIS - PROPOSED GARAGE PLANS
 93 PARKING SPACES (6 MORE THAN EXISTING)

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UNITED SOIL ENGINEERING, INC.
Geotechnical and Environmental Consultants

File No. 5655-S1
May 2, 2006

Global Premier Development, Inc.
5 Park Plaza, Suite 980
Irvine, CA 92614

Attention: Ms. Gina McAskill

Subject: Proposed Residential Buildings
Aspen Family Apartments
APN 086-22-023
1666 South Main Street
Milpitas, California
**GEOTECHNICAL INVESTIGATION AND
PAVEMENT DESIGN**

Dear Ms. McAskill:

We are pleased to transmit herein the results of our geotechnical investigation and pavement design for the proposed residential buildings. The subject site is located at 1666 South Main Street in Milpitas, California.

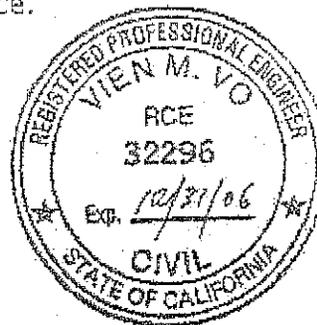
Our findings indicate that the site is suitable for the proposed development provided the recommendations contained in this report are carefully followed. Field reconnaissance, drilling, sampling, and laboratory testing of the surface and subsurface material evaluated the suitability of the site. The following report details our investigation, outlines our findings, and presents our conclusions based on those findings.

If you have any questions or require additional information, please feel free to contact our office at your convenience.

Very truly yours,
UNITED SOIL ENGINEERING, INC.

Sean A. Deivert
Sean A. Deivert
Project Manager

5655.GIPD/Copies: 4 to Global Premier Development, Inc.



Vien Vo
Vien Vo, P.E.

Logged By: V.V. Date Drilled: 4/25/06 EXPLORATORY BORING LOG Boring No. B-5

Dry Density P.C.F.	Moisture Content %	Penet. Resist. Blows/ft.	Direct Shear Test		Clay Content in Percentage	Liquid Limit	Sample Number	Depth in Feet	Boring Log	File No. S655-S1
			"C" k.s.f.	"D" Degree						DESCRIPTION
104.1	20.4	15*					5-1	3		2" Asphalt Concrete / 6" Baserock
100.6	22.8	19*					5-2	5		Black Silty CLAY (CH) ## Color Changed to Tan Brown
103.3	21.9	22*					5-3	10		Color Changed to Olive Brown
106.4	22.1	25*					5-4	15		Color Changed to Dark Gray
105.9	23.0	30*					5-5	20		Color Changed to Olive Brown
										WATER TABLE 12-13 FT.
										Boring terminated at 20 feet

Remarks: * Standard Penetration Test (S.P.T.), A.S.T.M. Standard D1586



Global Premier Development, Inc.

May 23, 2007

Felix Reliford
City of Milpitas

Re: **Request for Variance**

Dear Mr. Felix Reliford:

Global Premier Development, Inc., Administrative General Partner of MIL Aspen Associates, a California Limited Partnership (the "Partnership"), is writing to you with respect to our project located at 1666 S. Main Street, Milpitas, CA (the "Project"). The Project will consist of 101 apartment units over a two level podium structure.

The City of Milpitas has provided conditional approval of the construction documents. However, there are some issues pertaining to the subterranean parking structure, which warrant some concern over a potential negative exposure. Pursuant to the report from our consultant, SCS Engineers, there is a potential for contaminated water to penetrate our waterproofing membrane, thus allowing direct human contact to any man, woman and child or pet walking through the garage structure. The deeper the structure lies below the surface the greater the hydrostatic pressure becomes, increasing the likelihood of a waterproofing failure over time. Thus, by mitigating this foreseen exposure would allow a safer long term living environment for all future tenants. Additionally, we feel that ownership of this building for 55 years minimum serves as good reason to deviate from municipal code limiting buildings to four story structures and allow five floors to be above grade while staying below the sixty foot height requirement.

As a result, the Partnership now respectfully requests that the City issue variance only to allow the Partnership to bring our structure out of the ground another level to allow a five story building..

Should you have any questions with respect to the foregoing, please feel free to contact me.

Sincerely,

Andrew Hanna
President

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JUN - 8 2007

5 Park Plaza, Suite 980 * Irvine * California * 92614
Office (949) 722-8000 Fax (949) 722-9014

**CITY OF MILPITAS
PLANNING DIVISION**

SCS ENGINEERS

May 22, 2007

MIL Aspen Associates, A California Limited Partnership
c/o Global Premiere Development
5 Park Plaza Suite 980
Irvine, CA 92614

Subject: Subterranean Parking Excavation Depth
1666 S. Main Street
Milpitas, California

Gentlemen:

The purpose of this letter is to comment on the issue regarding depth of subsurface structures to be constructed at the subject site from an environmental engineering standpoint. It would be prudent to limit the depth of subsurface construction because of the following:

1. The water table is encountered at about 35 feet below the ground surface and is semi-confined. Therefore, it rises to within 15 feet of the ground surface in bore holes indicating it is under a pressure head. According to the project geotechnical report, the highest expected groundwater is 7 feet below the ground surface. Any excavation below 7 to 15 feet deep could encounter groundwater as a result of geologic discontinuities between strata or time of year. Dewatering with pumps and discharge would be necessary if water is encountered.
2. Two gasoline stations are located within 600 to 700 feet and one NPL site is located within a mile of the site. Potentially, future chemical releases from these could impact groundwater under this site thus adversely impacting a deep parking structure and public safety.
3. Santa Clara Valley historically has undergone subsidence from deep well pumping. The district reduces the demand on groundwater and minimizes subsidence through the conjunctive use of surface water and groundwater. A major component of the district's conjunctive use program is recharging the groundwater basin to replenish the groundwater that is withdrawn. The water district discourages dewatering.
4. From a construct ability standpoint, deep excavation, shoring, bottom stability and dewatering have inherently higher worker and public safety issues that are removed or reduced with less deep excavations.

Sincerely,


Leonard D. Long, P.E.
Vice President
SCS ENGINEERS

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JUN - 8 2007

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PLANNING DIVISION