



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: March 12, 2008

APPLICATION: Conditional Use Permit No. UP08-0002, Subway

APPLICATION SUMMARY: A request to locate a new take-out restaurant with parking reduction within the Victoria Square Shopping Center.

LOCATION: 1243 E Calaveras Boulevard (APN: 029-13-041)

APPLICANT: Subway, David J. Elliott, 17800 WNAH lane, Salinas, CA 930907

OWNER: Victorian Square Associates, LLC; Richard B. Collins

RECOMMENDATION: **Staff recommends that the Planning Commission:**
1. Close the public hearing; and
2. Approve the project subject to the attached Resolution and conditions of approval.

PROJECT DATA:
General Plan/
Zoning Designation: General Commercial / General Commercial (C2)
Overlay District: "S" Zone Overlay
Specific Plan: N/A
Proposed Seating: 24 Seats
Provided Parking: 6 spaces

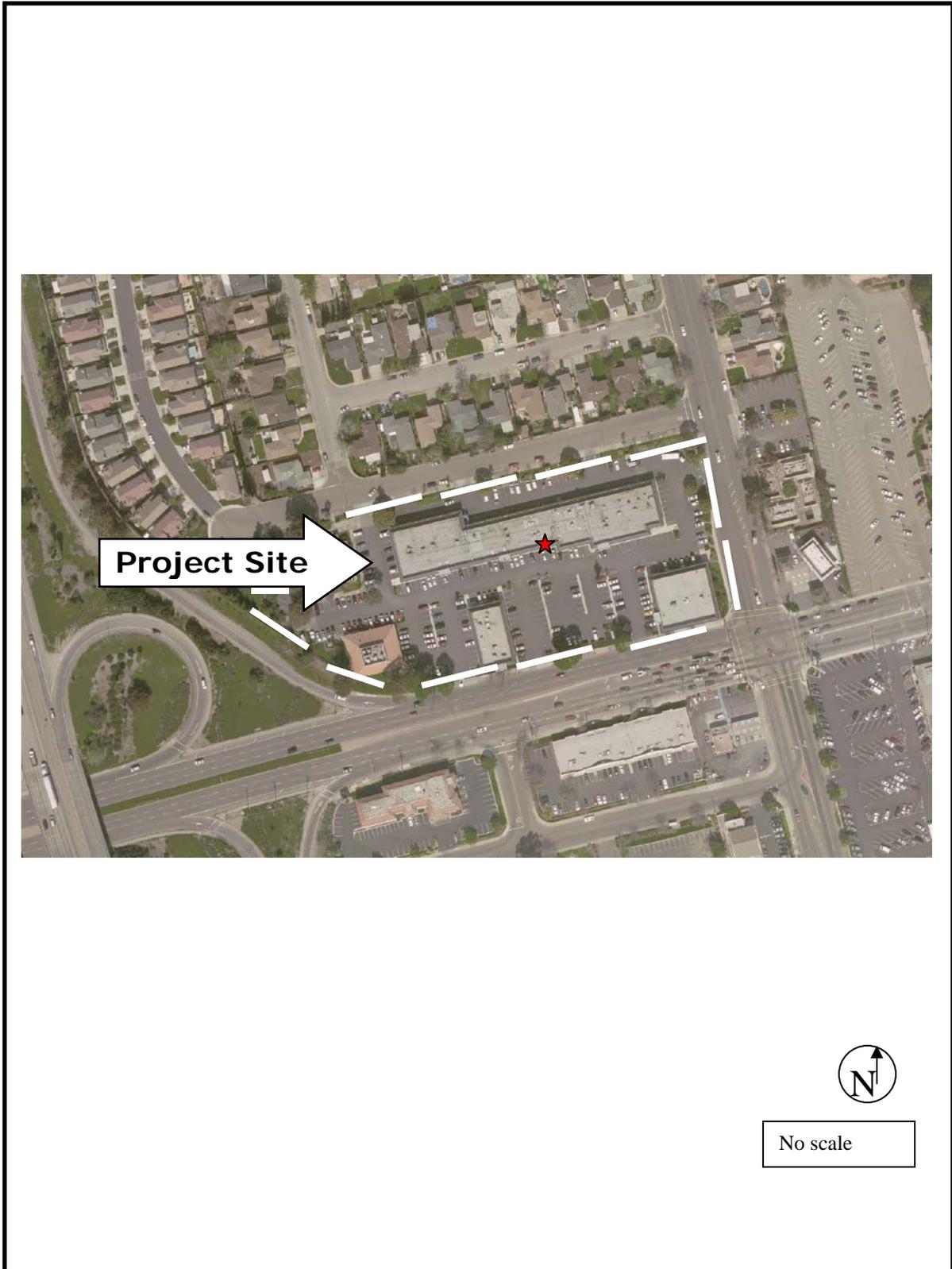
CEQA Determination: Categorically exempt pursuant to Class 1, Section 15301 ("Existing Facilities") of the California Environmental Quality Act (CEQA) Guidelines.

PLANNER: Tiffany Kunsman, Jr. Planner

PJ: #2513

ATTACHMENTS:
A. Resolution No. 08-010
B. Plans
C. Traffic Study, Hexagon Transportation Consultants, Inc.

LOCATION MAP



BACKGROUND

On January 30, 2008, David J. Elliott submitted an application proposing a new take-out restaurant (Subway) with a parking reduction, located at the Victoria Square Shopping Center in suite 1243 E Calaveras Boulevard. The application requires a Conditional Use Permit approved by the Planning Commission in accordance to the City of Milpitas Municipal Code. (Section

PROJECT DESCRIPTION

The project location is an existing commercially developed 4.30 acre parcel. Currently located on the site are four buildings built in 1979. Zoning abutting the north and east of the property is Single Family Residential (R1-6); to the south is Neighborhood Commercial (C1), and to the west is Highway 680. A vicinity map of the subject site location is included on the previous page. The proposed restaurant, Subway, will be open seven days a week from 10:00 a.m. to 10:00 p.m.

Parking

The Victoria Square Shopping Center has 47,875 sq. ft. of gross floor area (GFA) and includes a mix of restaurants and retail. The site provides a total of 262 parking spaces. However, since the proposed takeout restaurant requires more parking then the base commercial parking provided, Subway is requesting for a parking reduction on there required parking for a take-out restaurant. *See parking table below:*

Table 1
Parking Calculations

	Square Feet	Use	Parking Ratio Ordinance Section 53.23	Total Spaces Required
SUITE 1255 Proposed Site	1,200	Commercial Land Use	1 parking space per 200 square feet 1,200 / 200 = 6	6
Subway Suite 1255	1,200	Take-out Restaurant	1 Parking space per every 2.5 sets 1 parking space per every 50sq.ft. of ordering area 24seats / 2.5 = 9.6 56sq.ft. / 50 = 1.12	10

The chart shows that the proposed location has six designated parking spaces and the proposed use requires 10 parking spaces leaving the take-out restaurant four parking spaces short.

According to Section 53.07, joint use (of parking), up to 50% of off-street parking maybe provided for by other uses on site. The applicant submitted a Traffic Impact Study prepared by Hexagon Transportation Consultants, Inc. (see attachment B.) The study was completed to determine whether there is a sufficient amount of parking at the Victoria Square Shopping Center to support the new Subway without the extra three parking spaces. The study was completed on Saturday January 19th 2008 and Thursday January 24th 2008 between the hours of 12:00 p.m. and 2:00 p.m., which is the peak parking time for the shopping center. The peak parking demand for Saturday occurred at noon with a total of 157 vehicles. The peak parking for Thursday occurred around noon with a total of 166 parking spaces. In summary, the shopping center at its peak period still has a surplus of 100 parking spaces and will have an adequate amount of parking with the parking reduction for the new Subway.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

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

Table 2
General Plan Consistency

Policy	Consistency Finding
2.a-I-3	Encourage economic pursuits which will strengthen and promote development through stability and balance.
2.a-I-5	Maintain policies that promote a strong economy which provides economic opportunities for all Milpitas residents within existing environmental, social fiscal and land use constraints.
2.a-I-6	Endeavor to maintain a balanced economic base that can resist downturns in any one economic sector.

Zoning Ordinance

This application is pursuant to the Title XI, Chapter 10, Section 19.03-36 (General Commercial District, Uses Permitted Subject to a Conditional Use Permit) of the Milpitas Zoning Ordinance.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt pursuant to Class 1, Section 15301 (“Existing Facilities”) of the California Environmental Quality Act (CEQA) Guidelines.

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.

CONCLUSION

The proposed location for the new Subway restaurant will promote development and provides economic strength for the shopping center. Although the take-out restaurant requires a parking reduction, staff finds that the Victoria Square has sufficient amount of parking due to the mix uses, and the amount of available parking spaces the center has at its peak hours for the weekends and weekdays.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve Conditional Use Permit No. UP08-0002, Subway, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution/Findings/Conditions of Approval
- B. Plans
- C. Traffic Study, Hexagon Transportation Consultants, Inc
- D. City of Milpitas Transportation Planning

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RESOLUTION NO. 08-010

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP08-0002, SUBWAY TO ALLOW FOR THE REQUEST TO LOCATE A NEW TAKE-OUT RESTURANT WITHIN THE VICTORIA SQUARE SHOPPING CENTER LOCATED AT 1243 E CALAVERAS BLVD.

WHEREAS, on January 30, 2008, an application was submitted by Subway, 17800 WNAH lane, Salinas, CA 930907, to allow for a new Subway restaurant within the Victoria Shopping Center. The property is located within the General Commercial (C2) zoning district (APN: 029-13-041); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt pursuant to Class 1, Section 15301 ("Existing Facilities") of the California Environmental Quality Act (CEQA) Guidelines.

WHEREAS, on March 12, 2008, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

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

Section 2: The project is exempt from further environmental review pursuant to Class 1, Section 15301 ("Existing Facilities") of the California Environmental Quality Act (CEQA) Guidelines.

Section 3: Staff finds the project in conformance with the City of Milpitas General Plan implementation policies 2.a-I-3, 2.a-I-5, and 2.a-I-6 due to the promotion of development, providing economic opportunities, and maintaining a balanced economic base.

Section 4: Staff finds the project in conformance with the City of Milpitas Zoning Ordinance pursuant to Title XI, Chapter 10, Section 19.03-36 where it states that "restaurants" are a conditionally permitted use in the General Commercial (C2) zoning district provided that they obtain an Conditional Use Permit approved by the Planning Commission.

Section 5: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP08-0002, Subway, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP08-0002**

Planning Division

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on March 12, 2008, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance.

2. Conditional Use Permit No. UP08-0002 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued.

Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of the Conditional Use Permit if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein.

3. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved plans. (P)
4. Prior to building permit issuance, the applicant shall submit to the Planning Division a program assigning restaurant staff responsibility for complying with the following guidelines. The restaurant shall adhere to the following guidelines in perpetuity:
 - a. Keep garbage dumpsters clean inside and out; replace very dirty 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. (P)
5. The business owner shall hold training sessions to instruct their employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying

the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234.



HEXAGON TRANSPORTATION CONSULTANTS, INC.

MEMORANDUM

TO: David J. Elliott, David J. Elliot & Associates

FROM: Gary K. Black *GB*
Marco Palmeri

DATE: January 29, 2008

SUBJECT: Parking for Proposed Subway Restaurant at 1243 Calaveras Boulevard

Hexagon Transportation Consultants, Inc., has completed this study to determine whether there is sufficient parking to convert 1,170 square feet of retail space to a Subway restaurant in an existing shopping center at 1243 Calaveras Boulevard in Milpitas, California. The existing shopping center has a total of 293 parking spaces.

Existing Parking Demand

The shopping center was surveyed for parking demand on Saturday January 19th, 2008 and Thursday January 24th 2008 between the hours of 12:00 PM and 2:00 PM, which is the time that parking peaks at shopping centers. The parking lot was counted for demand every fifteen minutes. The peak parking demand was found to be 157 vehicles on Saturday (occurred at noon) and 166 vehicles on Thursday (occurred at 12:15 PM).

There is an existing restaurant in the center that is unoccupied, which is contributing to the low parking demand. The restaurant size is about 5,700 square feet. Based on Institute of Transportation Engineers (ITE) parking demand rates, this restaurant would create a peak parking demand of about 98 spaces (5,700 s.f @ 17.2 spaces per 1,000 s.f.). (Note that the City of Milpitas parking code requirement cannot be calculated for this restaurant without knowing the number of seats.) Therefore, assuming occupancy of the vacant restaurant, the existing peak parking demand calculates to 264 spaces. This leaves 29 vacant parking spaces (293-264=29).

Subway Restaurant Parking Demand

The City of Milpitas parking code specifies one space for every 2.5 seats for fast food restaurants plus one space for every 50 square feet of ordering area. The proposed restaurant would have 27 seats plus about 50 square feet of ordering area. This calculates to a parking requirement of 12 spaces.

Conclusion

The existing shopping center has at least 29 vacant parking spaces, and the Subway restaurant would require 12 spaces. Therefore, parking at the center is adequate to support the proposed Subway restaurant.

MEMORANDUM

Engineering



To: Tiffany Kunsman, Planning Division
From: Janice Spuller, Assistant Transportation Planner
Subject: Proposed Subway Restaurant, 1243 Calaveras Boulevard
Date: March 6, 2008

This memorandum is intended to summarize the findings contained in the Parking Study Memorandum prepared by Hexagon Transportation Consultants, Inc. Per direction by the City, Hexagon surveyed the shopping center on a weekend day and weekday to gather the average existing parking during peak usage, 12:00 pm – 2:00pm.

The memorandum took a conservative approach of accounting for an unoccupied 5700 square feet restaurant located in the shopping center to determine the potential maximum occupancy, with a peak parking demand of 98 spaces, leaving a total of 29 vacant parking spaces in the entire center.

The parking survey was performed prior to knowledge of the number of proposed seating. The applicant is requesting 24 seats, requiring 9 parking spaces and 56 square feet of ordering/takeout area requiring 1 parking space. (*Section 53.23(7) 'Restaurants which are of the fast-food or take-out type,' City of Milpitas Zoning Ordinance*) The total amount of parking required is 10 spaces. With the proposed location previously occupied as retail, 6 parking spaces were allotted, leaving the Subway Restaurant short 4 parking spaces.

From the parking survey performed by Hexagon Transportation Consultants, the 4 parking space deficit would be adequately met within the shopping center.

Should you have any questions, please contact me at x3291

David J. Elliott & Associates

Planning
Architecture
Interiors

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TENANT
IMPROVEMENTS

SUBWAY
Fastfood

1255 Calaveras Blvd.
Milpitas, CA

**VICTORIA
SQUARE**

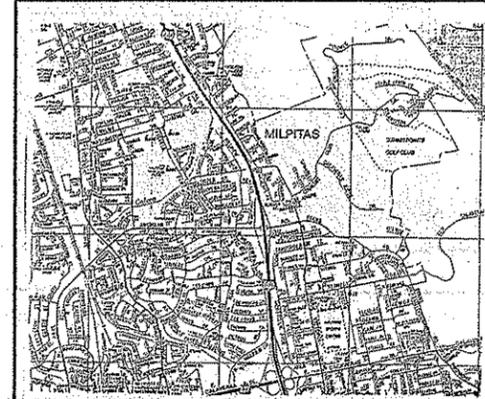
Use of these plans and specifications is restricted to the original site for which they were prepared and publication thereof is expressly limited to such use. Resale, reproduction or publication by any method in whole or in part is prohibited. This to plans and specifications herein with the architect, and should not be used without the written consent of the architect. Plans shall indicate evidence of the acceptance of these restrictions.

Revisions		
No.	Description	Date
1		

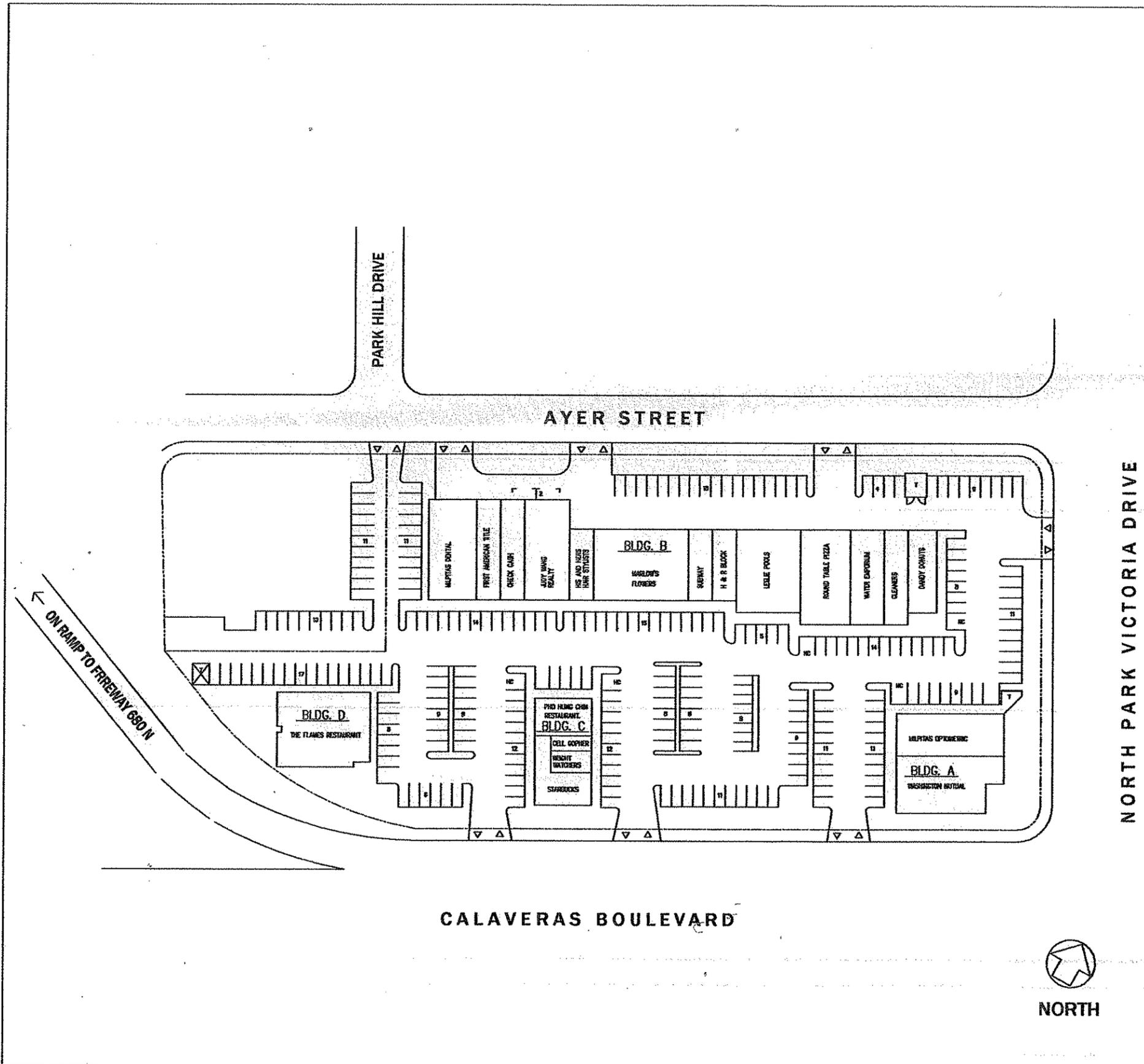
Issue Date	01/07/08
Drawn By	DJE/CCP
Project Number	2745
Sheet Title	Site Plan

Sheet Number **A1.1**

BUILDING AREA	
BLDG. A	= 7,144 SF.
BLDG. B	= 31,432
BLDG. C	= 4,512
BLDG. D	= 4,787
TOTAL	= 47,875 SF.
SITE AREA	= 4.33 ACRES
TOTAL PARKING	= 266 CARS



Vicinity Map (NTS)



Site Plan 1"=40'-0"



NORTH

