



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: June 11, 2008

APPLICATION: Conditional Use Permit No. UP08-0014, Large Family Childcare Home

APPLICATION SUMMARY: A request to allow for a Large Family Childcare Home locating within 300 feet from another Large Family Child Care Home.

LOCATION: 255 Sylvia Ave (APN: 086-09-067)
APPLICANT: Blaziel Cepillo, 225 Sylvia Ave, Milpitas, CA
OWNER: Oscar Carbonell and Blaziel Cepillo, 225 Sylvia Ave, Milpitas, CA

RECOMMENDATION: Staff recommends that the Planning Commission:
1. Close the public hearing; and
2. Adopt Resolution No. 08-024 approving the project subject to conditions of approval.

PROJECT DATA:
General Plan/
Zoning Designation: Single Family Low Density/ Single Family Residential (R1-6)
Any other pertinent info: located within 300 feet of another Large Family Child Care Home

CEQA Determination: Categorically exempt form CEQA pursuant to Section 15301 (Existing Facilities)

PLANNER: Tiffany Kunsman, Jr. Planner

PJ: N/A

ATTACHMENTS:
A. Resolution No. 08-024/Conditions of Approval
B. Site Plans
C. Radius Map

LOCATION MAP



No scale

BACKGROUND

On April 1, 2008, Blaziel Cepillo submitted an application to locate a large family childcare within 300 feet of another large family child care home. The application is submitted for a conditional use permit in according with the Zoning Ordinance (*Chapter 10, Section 57.01(a)*) in that the application requires a permit issued by the city to allow a particular land use which would not otherwise be permitted due to the location of the proposed childcare facility being within 300 feet to an existing childcare facility.

PROJECT DESCRIPTION

The project site is a 6,000 square foot lot with a 2,016 square foot home, designating 261 square feet to the daycare area. The outdoor play area consists of 1,234 square feet. The property is zoned Single Family Residential (R1-6) with abutting zoning to the north, west, and east Single Family Residential (R1-6) and to the south Multifamily Very High Density Residential (R3). A vicinity map of the subject site location is included on the previous page.

A large family childcare home is defined as a home in which family child care is provided to a minimum of nine (9) children and a maximum of (14) children. This includes children under the age of ten (10) who reside at the home (*Chapter 10 Section 2.38-1*). The hours of operation will be no earlier than 6:30 A.M. and end no later than 7:30 P.M. Two off-street parking spaces in the driveway are provided for persons using the childcare facilities in accordance with the Zoning Ordinance (*Chapter 10, Section 54.16-4.3*).

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 1
General Plan Consistency

Policy	Consistency Finding
<p><i>2.a-I-24:</i> Encourage the establishment of day care facilities consistent with State standards, including the issuance of use permits for large day care facilities where compatible with surrounding neighborhoods and commercial uses, particularly in public facilities such as community centers, churches, schools and in employment centers and large housing developments.</p>	<p>Consistent.</p>
<p><i>2.b-I-4:</i> Support jobs/housing balance programs at the regional scale that reduce in-and-out comminuting from Milpitas.</p>	<p>Consistent.</p>

Zoning Ordinance

Large Family Childcare Homes are a permitted use within the Single Family Zoning District as long as they meet the Development Standards. This application does not meet the development standards in that it is within 300 feet of another Large Family Childcare Facility (*Chapter 10, Section 54.16-4.1*). However, with approval of a conditional use permit, the project would be consistent.

Childcare Master Plan

The project is consistent with applicable Childcare Master Plan Principals and Implementing Policies in that it provides multiple opportunities in helping assist residents when in need of childcare.

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 from further environmental review pursuant to Class 1, Section 15031 (“Existing Facilities”).

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

Staff’s position is that the proposed childcare facility is a good is compatible with the new multifamily residences locating just south of the project site. The closest existing large family childcare facility located at 284 Corning Ave has been notified and has not objected the location of the new subject childcare facility locating within 300 feet of them.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 08-024 approving Conditional Use Permit No. UP08-0014, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution/Conditions of Approval
- B. Site Plans
- C. Radius Map

RESOLUTION NO. 08-024

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 08-024, LARGE FAMILY CHILDCARE HOME, TO ALLOW FOR A LARGE FAMILY CHILDCARE HOME TO LOCATE WITHIN 300 FEET FROM ANOTHER LARGE FAMILY CHILDCARE HOME, AT 225 SYLVIA AVENUE

WHEREAS, on April 1, 2008, an application was submitted by Blaziel Cepillo, 255 Sylvia Ave, to allow for a large family childcare center to locate within 300 feet from another large family childcare home. The property is located within the Single Family Residential (R1-6) zoning district (APN: 086-09-067); 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 categorically exempt from CEQA pursuant to Section 15301 (Existing Facilities)

WHEREAS, on June 11, 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 categorically exempt from further environmental review pursuant to California Environmental Quality Act (CEQA) Section 15301 (Existing Facilities)

Section 3: The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare because the use provides the surrounding residence opportunities offering childcare.

Section 4: The proposed use is consistent with the Milpitas General Plan policy 2.a-I-24 and 2.b-I-4, in that the facility is compatible with surrounding neighborhoods and commercial uses, and supports the job/housing balance program by locating a business within close proximity to the potential users in need of the facility.

Section 5: The proposed use is consistent with the Milpitas Zoning ordinance pursuant to Title XI, Chapter 10, Section 4.03-6 (Single Family Residential, Accessory Uses, Large family childcare home and Section 57 (Conditional Use Permitted by Commission) in

that the proposed use meets the development standards for Large Family Childcare home including parking, hours, and code enforcement procedures.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit UP08-0014, Large Family Childcare, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on June 11, 2008

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on June 11, 2008, and carried by the following roll call vote:

COMMISSIONER AYES NOES OTHER

Cliff Williams			
Gunawan Ali-Santosa			
Lawrence Ciardella			
Alexander Galang			
Sudhir Mandal			
Gurdev Sandhu			
Noella Tabladillo			
Aslam Ali			

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP08-0014**

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on June 11, 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. (P)

2. Conditional Use Permit NO. UP08-0014 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 business license, the project shall not be deemed to have commenced until the date of the business license issuance. (P)

Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of UP08-014 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)

3. There shall be provided off-street parking spaces for automobiles in accordance with the requirements of Section 53. All such parking spaces shall be improved as provided for in Subsection 54.03 (P)
4. Hours of Operation. For large family childcare homes, hours of operation shall not occur before 6:30 A.M. or after 7:30 P.M., in order to maintain compatibility with neighboring properties and limit noise during night-time hours. (P)
5. If any large family large family childcare home is operating in a manner that constitutes a nuisance, the childcare facility operator shall work with the Planning Division to address the nuisance, through such actions as adjusting hours of operation, adjusting hours of outdoor play, staggering times for child drop-off and pick-up, and the like. If any childcare center is operating in a manner which constitutes a nuisance, the Planning Commission shall reopen the Use Permit to add or change conditions of approval addressing the issue(s). If the nuisance continues, the Planning Commission may review the Use Permit with a recommendation to the City Council pursuant to Section 63.06 (Revocation Suspension and Modification.) (P)

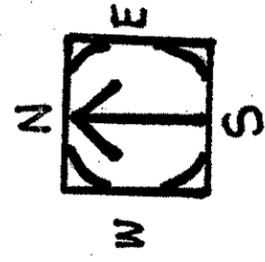
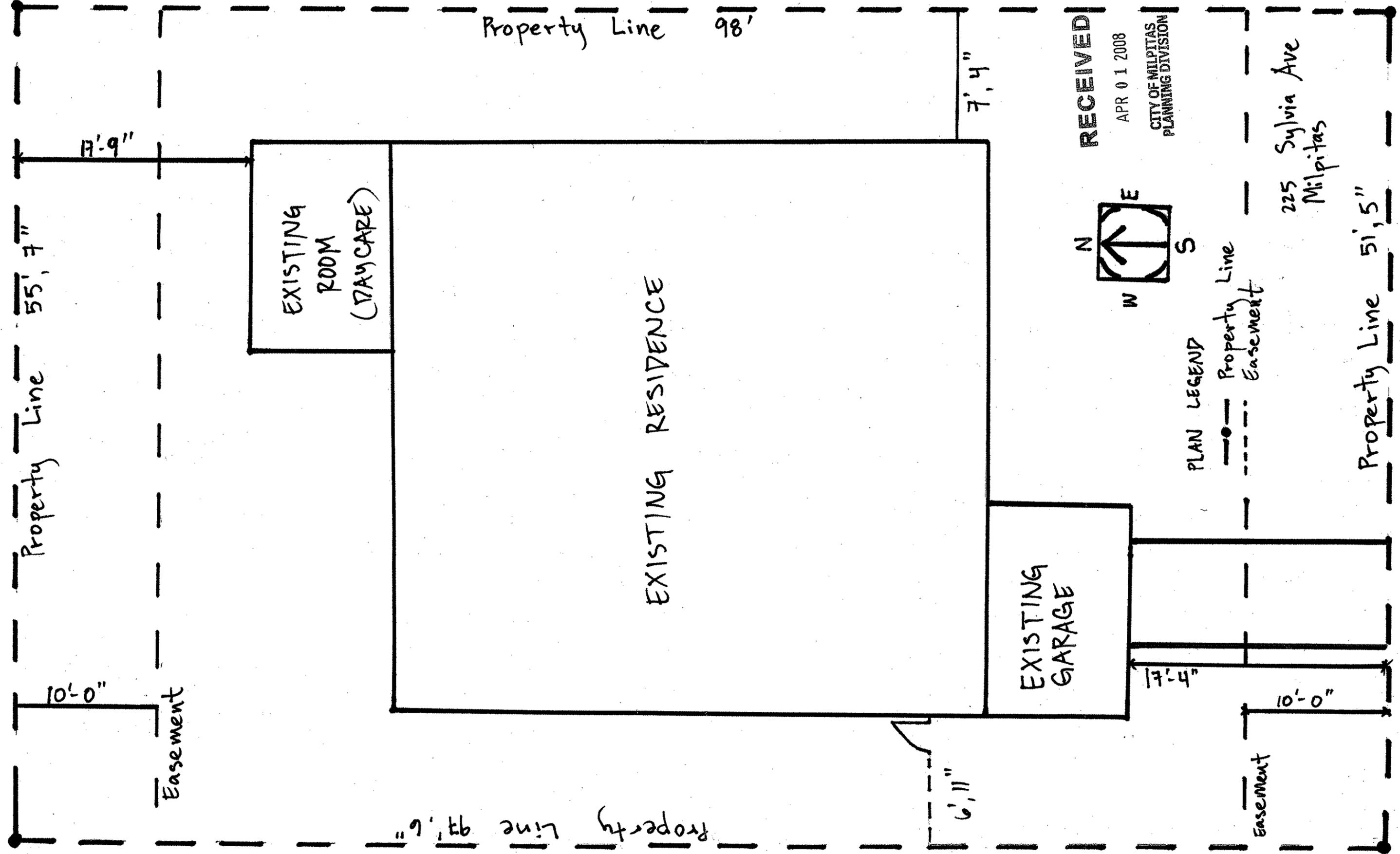
6. Prior to operation of the Day Care, applicant shall obtain review and approval from California State DSS-Community Care Licensing. (F)
7. Fire Department will review for applicable Fire Code requirements upon receiving application from DSS Community Care Licensing. (F)
8. It is mandated to obtain Business license and Certificate of occupancy prior to start of business operation. (B)
9. Fire alarm system shall be provided as per 2007CBC sec.310.3. (B)

Legend

Planning Division = (P)

Fire Prevention Department = (F)

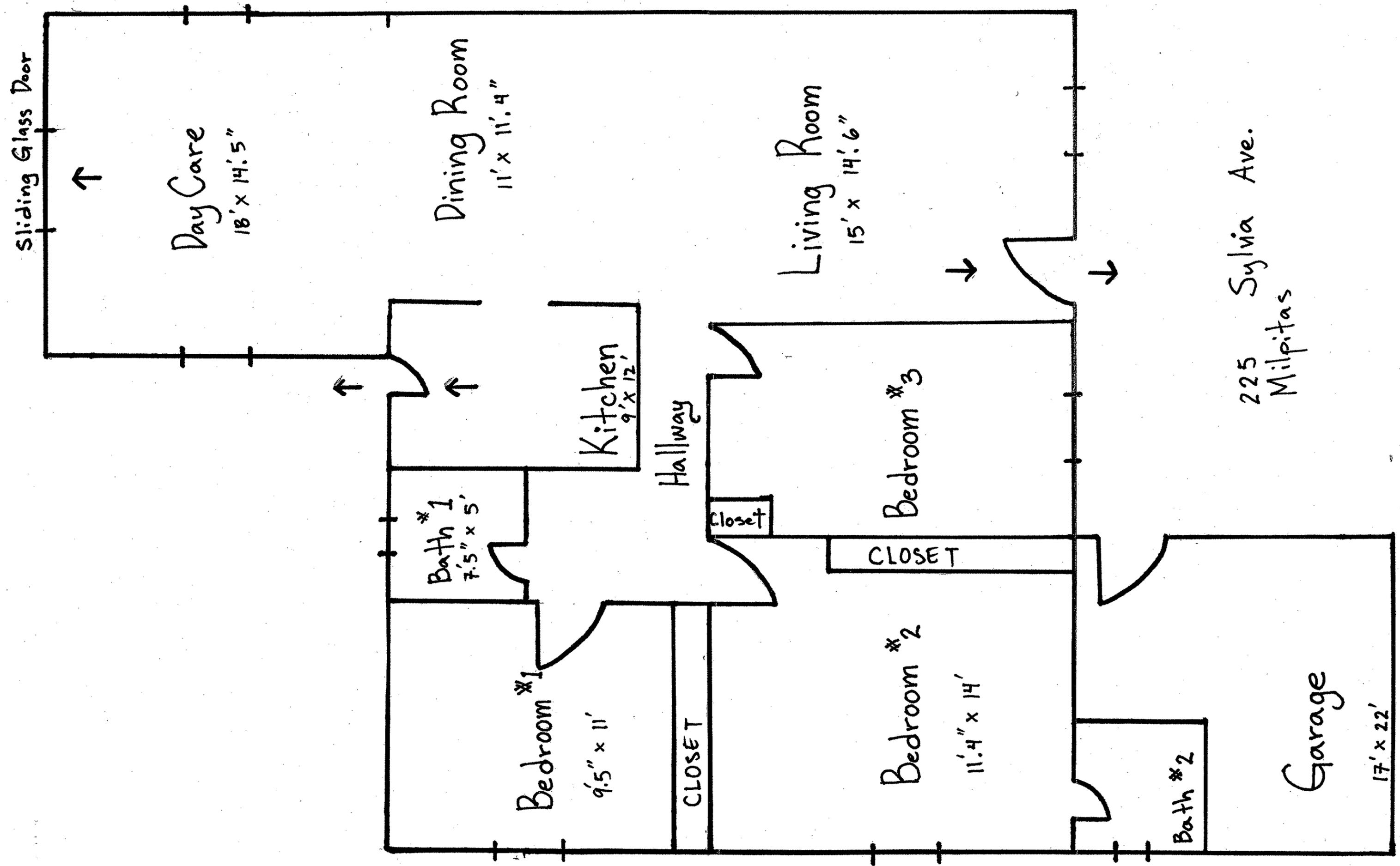
Building Department = (B)



RECEIVED
 APR 01 2008
 CITY OF MILPITAS
 PLANNING DIVISION

PLAN LEGEND
 - - - - - Property Line
 - - - - - Easement

225 Sylvia Ave
 Milpitas



225 Sylvia Ave.
Milpitas

Garage

17' x 22'

LARGE FAMILY CHILDCARE
RADIUS MAP

