



MILPITAS PLANNING COMMISSION AGENDA REPORT

NEW BUSINESS

Meeting Date: August 13, 2008

APPLICATION: Time Extension No. TE08-0002, 1880 N. Milpitas Blvd., Mixed Use Building

APPLICATION SUMMARY: A request for an 18-month time extension to the original Site Development Permit (SZ2005-10) and Use Permit (UP2006-19) for a three-story mixed-use building.

LOCATION: 1880 N. Milpitas Blvd. (Northeast corner of N. Milpitas and Dixon Rd.) (APN: 26-25-024)

APPLICANT: Mena Architects, 600 Montgomery St., Suite 4-D, San Francisco, CA 94111

OWNER: Dr. Marlene Mao, 47904 Avalon Heights Terrace, Fremont, CA 94539

RECOMMENDATION: Staff recommends that the Planning Commission:
1. Close the public hearing; and
2. Adopt Resolution No. 08-040 approving the time extension subject to the original conditions of approval.

PROJECT DATA:

General Plan: Mixed Use
Zoning Designation: Mixed Use with the Site and Architectural Overlay District (MXD-S)
Site Area: 0.37 acres
CEQA Determination: Exempt

PLANNER: Cindy Maxwell, Principal Administrative Analyst

PJ: 3196

ATTACHMENTS:
A. Resolution No. 08-040
B. November 8, 2006 Planning Commission Report
C. Elevations

BACKGROUND

On November 8, 2006, the Planning Commission approved Site Development Permit No. SZ2005-10 and Use Permit No. UP2006-19 for 1880 N. Milpitas Blvd., at the northeast corner of N. Milpitas Blvd. and Dixon Rd. The project consists of a three-story mixed use building with retail uses on the first floor, dental offices on the second and three one-bedroom residences on the third floor. The Use Permit approval allowed a parking reduction of 4 spaces for a total of 31, rather than 35, parking spaces on the site.

On July 7, 2008, Mena Architects submitted an application for a time extension under XI-10-64.06 of the Zoning Ordinance.

The 2006 Planning Commission staff report is an agenda attachment for further background information on this application.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 08-040 approving Time Extension No. TE08-0002, providing an eighteen-month time extension of Site Development Permit No. SZ2005-10 and Use Permit No. UP2006-19 for 1880 N. Milpitas Blvd. subject to the previously approved special conditions.

Attachments:

- A. Resolution/Conditions of Approval
- B. November 8, 2006 Planning Commission report
- C. Plans

RESOLUTION NO. 08-040

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING TIME EXTENSION NO. TE08-0002 OF SITE DEVELOPMENT PERMIT NO. SZ2005-10 AND USE PERMIT NO. UP2006-19 FOR A THREE-STORY MIXED USE PROJECT LOCATED AT 1880 N. MILPITAS BLVD.

WHEREAS, on July 7, 2008, an application was submitted by Mena Architects, 600 Montgomery St., Suite 4-D, San Francisco, for a time extension of the original approval of Site Development Permit No. SZ2005-10 and Use Permit No. UP2006-19 for a three-story mixed-use project at 1880 N. Milpitas Blvd. The property is zoned "MXD-S" Mixed Use (APN 26-25-024); and

WHEREAS, the Planning Commission adopted Negative Declaration No.EA2006-9 for this project on November 8, 2006; and

WHEREAS, on November 8, 2006, 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 and approved Site Development Permit No. SZ2005-10 and Use Permit No. UP2006-19.

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: This approval will extend the expiration date for Site Development Permit No. SZ2005-10 and Use Permit No. UP2006-19 to November 8, 2009.

Section 3: The Planning Commission of the City of Milpitas hereby approves Time Extension No. TE08-0002 for a three-story mixed-use building at 1880 N. Milpitas Blvd. subject to the above Findings, and originally approved 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 August 13, 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 August 13, 2008, and carried by the following roll call vote:

EXHIBIT 1

**CONDITIONS OF APPROVAL
TIME EXTENSION NO. TE08-0002**

Request to demolish approximately 4,000 square foot, vacant, fire-damaged commercial retail building and construct an approximately 13,040 square foot, three-story, mixed-use building that includes ground floor retail, second story dental office, and three one-bedroom dwelling units, with site improvements, parking modification, zone change from Neighborhood Commercial (C1) to Mixed-Use, and General Plan Amendment from Retail Sub-Center to Mixed Use.
1880 North Milpitas Boulevard (APN: 026-25-024)

Planning Commission Approval: November 8, 2006

City Council Approval: December 5, 2006

Planning Commission Approval of Time Extension: August 13, 2008

SPECIAL CONDITIONS

1. This 'S' Zone Approval No. SZ2005-10 and Use Permit Approval No. UP2006-19 is for the demolition of an approximately 4,000 square foot commercial building and construction of an approximately 13,040 square foot mixed use building development and parking modification, located on parcel 026-25-024, as depicted on the approved plans, dated November 8, 2007, and as amended by these conditions of approval. *The approvals referenced above will expire on November 8, 2009.* Any modification to the project as proposed will require an "S" Zone Approval-Amendment or Use Permit Approval Amendment by the Planning Commission. Minor modifications can be submitted to the Planning Division for processing, as per Section 42.10 of the zoning code. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
3. If, at the time of submittal for any building permits, 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)
4. If, at the time of building or occupancy permit issuance, there is a project job account balance due to the City for recovery of review fees, permit issuance will not be initiated until the balance is paid in full. (P)
5. Prior to the issuance of permits for any roof-top equipment, detailed architectural plans for the screening of this equipment and/or line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved by city staff in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)
6. Water all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives. (P)

7. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least a 2-foot freeboard level within their truck beds. (P)
8. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. (P)
9. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites. (P)
10. Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets. (P)
11. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. (P)
12. Plant vegetation in disturbed areas as quickly as possible. (P)
13. Suspend excavation and grading (all earthmoving or other dust-producing activities during periods of high winds when watering cannot eliminate visible dust plumes or when winds exceed 25 mph (instantaneous gusts). (P)
14. Project grading and construction activities shall not occur outside the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends, and shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as per the City of Milpitas Noise Ordinance. (P)
15. Prior to building permit issuance, the applicant shall provide the Planning Division specifications for a light shield for the proposed freestanding light adjacent to the residential properties north of the project site. The plans shall also document that no light spill over will occur onto the residential properties. (P)
16. Prior to building permit issuance, the applicant shall submit to the Planning Division for review and approval a stormwater run-off control plan for the site that incorporates all applicable source control Best Management Practices as outlined in Appendix C of the City of Milpitas Stormwater C.3 Guidebook. (P)
17. Prior to building permit issuance, the applicant shall submit an acoustic study to analyze the exterior noise levels with recommendations to ensure exterior noise levels do not exceed 65dB and interior noise levels do not exceed 45dB (P)
18. Prior to building permit issuance, the applicant shall revise the plan trash enclosure details to include sanitary hook up. (P)
19. Prior to occupancy, the applicant shall submit to the City evidence that an adequate level of service for trash and recycling collection has been subscribed to prior to occupancy. (P)
20. Prior to approval of building permits, the applicant shall submit plans for the dental office and dental lab for review by Planning Commission to ensure that the dental office and dental lab do not overly impact parking on the site. (PC)
21. The windows on the north elevation of the building shall be of view-obscuring glass. (PC)

22. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
23. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
24. At the time of building permit plan check submittal, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to building occupancy permit issuance. (E)
25. Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along N. Milpitas Boulevard and Dixon Road, including but not limited to curb, gutter, and sidewalk replacement, pavement/slurry seal, street lights installation, signage and striping, bus pad installation, bus stop improvement, minor signal modification and ADA curb ramp installation, undergrounding of overhead utilities, fire hydrants installation, storm drain, sewer and water services, as shown on the Engineering Services Exhibit "S", dated 11/1/2006. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (E)
26. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
 - A. Storm water connection fee of **\$8,129** based on 0.377 acres @ \$21,562 per acre. The water, sewer and treatment plant fee will be calculated at the time building plan check submittal.
 - B. Water Service Agreement(s) for water meter(s) and detector check(s).
 - C. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)
27. Prior to building permit issuance, the developer shall pay its fair share cost of purchasing adequate public system sewage capacity for the development. Fees shall consist of

treatment plant fees up to the Master Plan level and connection fees. Impact fees for discharges above master plan levels for sewage collection system infrastructure improvements, and regional plant capacity needs (above the master plan capacities), as determined by the City Engineer. This amount is estimated to be \$7,682, as of October 2006, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee. (E)

28. Prior to any building permit issuance, the developer shall provide for adequate sewage pumping capacity at the Milpitas Main Sewage Pump Station for the respective developments. The developer can fulfill this obligation by payment of \$4,408 to the City for this purpose. This amount is as of October 2006, and to be adjusted by ENR at the time of payment. (E)
29. Prior to building permit issuance; the developer shall pay its fair share cost of purchasing adequate public system water for the respective developments, including costs for capacity and storage needs above master plan capacities, as determined by the City Engineer. This amount is estimated to be \$1,523, as of October 2006, to be adjusted by ENR at the time of payment. (E)
30. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, Sewer, storm and water connection fees, sewer treatment plant fees, plan check and inspection deposit. (E)
31. Prior to building permit issuance, the developer shall dedicate necessary public service utility easements, and easements for water and sanitary sewer purposes, as shown on the Engineering Services Exhibit "S", dated 11/1/2006. (E)
32. Except for the transmission lines supported by metal poles carrying voltages of 37.5KV or more that do not have to be undergrounded, the developer shall remove poles 1, 2, 3, and 4 and underground all existing wires supported by these poles, as shown on the Engineering Services Exhibit "S", dated 11/1/2006. All proposed and existing utilities within the development shall also be undergrounded. (E)
33. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The Applicant shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3345 for further information. (E)
34. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:
 - A. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.
 - B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection. (E)

35. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. (E)
36. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
37. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements including but not limited to building overhangs and raised medians, and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
38. Prior to occupancy permit issuance, applicant/property owner shall construct a new trash enclosure to accommodate the required number of bins needed to serve the proposed development. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. City review/approval is required prior to construction of the enclosure. (E)
39. 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)
40. Per Chapter 200, Title V of Milpitas Municipal Code (Ord. No. 48.7) solid waste enclosures shall be designed to limit the accidental discharge of any material to the storm drain system. The storm drain inlets shall be located away from the trash enclosures (a minimum of 25 feet). This is intended to prevent the discharge of pollutants from entering the storm drain system, and help with compliance with the City's existing National Pollution Discharge Elimination System (NPDES) Municipal permit. (E)
41. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
42. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)
43. It is the responsibility of the developer to obtain any necessary encroachment permits and approvals from affected agencies and private parties. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)

44. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. (E)
45. The design of this project shall include adequate Best Management Practices (BMPs) to eliminate pollutant from entering the offsite drainage systems. (E)
46. 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)
47. All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. (E)
48. 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)
49. At the time of building plan check submittal, the developer shall incorporated the changes shown on Engineering Services Exhibit "S"(dated 11/1/2006) in the design plans and submit three sets of civil engineering drawings showing all proposed utilities to the Land Development Engineer for plan check. (E)

(P) = Planning Division

(PC) = Planning Commission

(E) = Engineering Division

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Kim Duncan

Public Hearing: Yes: X No: _____

Notices Mailed On: 10/27/06

Published On: 10/26/06

Posted On: 10/27/06

TITLE: GENERAL PLAN AMENDMENT NO. GP2005-2, ZONE CHANGE NO. ZC2005-1, ‘S’ ZONE APPROVAL NO SZ2005-10, USE PERMIT NO. UP2006-19, AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2006-9.

Proposal: Request to demolish approximately 4,000 square foot, vacant, fire-damaged commercial retail building and construct an approximately 13,040 square foot, three-story, mixed-use building that includes ground floor retail, second story dental office, and three one-bedroom dwelling units, with site improvements, parking modification, zone change from Neighborhood Commercial (C1) to Mixed-Use, and General Plan Amendment from Retail Sub-Center to Mixed Use.

Location: 1880 North Milpitas Boulevard (APN: 026-25-024)

RECOMMENDATION: **Approve the ‘S’ Zone and Use Permit with conditions, recommend adoption of the Initial Study and Negative Declaratio and approval of the Zone Change and General Plan Amendment to City Council.**

Applicant: David Mena, Mena Architects, 600 Montgomery Street, 4th Floor, Ste. D, San Francisco, CA 94111.

Property Owners: Marlene Mao, 47904 Avalon Heights Terrace, Fremont, CA 94539.

Environmental Info: Initial Study and Negative Declaration No. EA2006-9

General Plan Designation: Retail Sub-Center

Present Zoning: Neighborhood Commercial-‘S’ Zone Overlay (C1-S).

Existing Land Use: Vacant Commercial Retail

Agenda Sent To: Applicant/owner

Attachments: Plans, architect’s statement, Initial Study and draft Negative Declaration, Traffic Impact Study, Parking Study, Phase I Assessment Update (dated October 2005), light fixture details, acoustic calculations.

PJ No. 3196

BACKGROUND

On February 7, 1980, the Planning Commission approved an ‘S’ Zone application for the demolition of a previously approved gasoline station and construction of an approximately 4,000 square foot commercial retail building, located on the northeast corner of North Milpitas Boulevard and Dixon Road. Prior to the construction of the commercial retail building, underground storage tanks were removed from the site. Subsequently, a sign program for the multi-tenant building was approved in May, 1980. In November 2004, the existing commercial building sustained fire damage and has remained vacant.



1880 North Milpitas Boulevard

Site Description

The project site is a 16,420 square foot parcel located at the northeast corner of North Milpitas Boulevard and Dixon Road. Currently, the parcel is surrounded by security fencing and occupied by a vacant, fire-damaged building. Surrounding zoning is Neighborhood Commercial (C1) to the east, west, south, and southwest, with single-family residential (R1-3) directly to the north. Two vacant parcels are located directly east of the project site. Surrounding commercial uses include Lions Market, McDonald’s, photo, dental, beauty, video, and optometry shops, as well as numerous restaurants (City Square and Sunnyhills Shopping Centers) to the south, Walgreen’s, Q-Cup, restaurants, and retail shops to the southwest (Crescent Square), a gas station to the west, and liquor store and commercial retail stores to the east. Primary vehicular access is provided by two 2-way driveways located on the southwest and northwest portions of the project site.

THE APPLICATION

The applicant is requesting ‘S’ Zone Approval pursuant to Section 42.00 (Site and Architecture Review), Use Permit Approval pursuant to Section 57.02-18 (Modification to Automobile

Parking Spaces), Zoning Map Amendment pursuant to Section 62 (Amendments) of the Milpitas Zoning Ordinance, and a General Plan Amendment pursuant to Section 65400 California Government Code. Pursuant to Section 38, retail stores and commercial services less than 10,000 square feet, medical/dental offices, and multi-family housing are permitted uses within the Mixed-Use (MXD) zoning district.

The applicant is requesting 'S' Zone Approval for one new 3-story mixed use building with related site improvements, a Use Permit for a parking modification, a Zoning Map Amendment to rezone an existing Neighborhood Commercial (C1) zoning district to Mixed-Use, and an amendment to the General Plan from Retail Sub-Center to Mixed-Use.

Project Description

The applicant is proposing to demolish an approximately 4,000 square foot, vacant one-story commercial retail building and construct an approximately 13,040 square foot, three-story mixed-use building. The project includes approximately 2,835 square feet of 1st floor commercial retail space, a 4,650 square foot 2nd floor dental office, and three one-bedroom residential units (1,510 sq. ft., 1,590 sq. ft., and 1,735 sq. ft.-inclusive of mezzanine areas) on the 3rd floor. The new building footprint would be located on the southwest portion of the parcel with building street fronts facing North Milpitas Boulevard and Dixon Road, creating a street presence on the corner. Surface parking would be located along the parcel perimeter, as well as covered parking adjacent to the east and north building elevations. The existing 2-way driveways would be relocated to the southeast and northwest portions of the parcel to provide right-in/right-out access to North Milpitas Boulevard and Dixon Road.

Site improvements include new landscaping, streetscape, lighting, and parking. The applicant is not requesting approval for signage, a sign program, or tree removals as part of this application. In addition, the applicant is not proposing the residential units for individual ownership.

GENERAL PLAN AMENDMENT

On March 9, 2005, Planning Staff provided the Planning Commission with a report on several anticipated General Plan Amendments, which included the north side of Dixon Road (east of North Milpitas Boulevard), and requested initial comments. The Planning Commission requested that projects accompany future proposed General Plan Amendments.

The applicant is proposing to amend the General Plan Map from Retail Sub-Center to Mixed Use and develop a three story Mixed Use building for ground floor retail, 2nd floor dental office, and three 1-bedroom residential dwelling units. According to the Milpitas General Plan Land Use Map, the project site, as well as lands directly to the east, are designated as Retail Sub-Center.

According to Implementation Policy B-I-4 of the Housing Element (pg. 92), the properties located along the north side of Dixon Road, between North Milpitas Boulevard and Arizona Avenue, are designated as marginal commercial areas to be rezoned from Neighborhood Commercial (C1) to Mixed-Use (MXD) by 2004 to allow multi-family housing on these sites and allow most of the existing uses to remain as legal, conforming uses.

ZONE CHANGE

The project site is located on the northeast corner of the heavily travelled North Milpitas Boulevard and Dixon Road intersection. Surrounding uses include single family residential adjacent to the north, a gas station across North Milpitas Boulevard to the west, a neighborhood commercial shopping center (Walgreens) to the southwest, City Square and Sunnyhills Shopping Centers to the south, with two vacant lots, liquor store, and additional commercial shopping to the east. Given the location and surrounding uses of the project site, as well as the transitional nature of a Mixed Use development at this location, staff is confident the proposed zone change would be compatible with surrounding zoning districts and uses.

Conformity of Existing Uses

As stated above, the project site is designated by the General Plan Housing Element to be rezoned as Mixed Use to allow for future multi-family housing and allow most of the existing uses to remain as legal, conforming uses. Staff conducted an analysis of the existing uses in this area and determined the proposed Mixed-Use zoning would not create new non-conformities. It should be noted there are tenants that do not have use permits under the existing zoning and that legal non-conformity would continue under the new zoning.

“S” ZONE APPROVAL APPLICATION

A. Site and Architecture

1) Site Layout

The proposed building will be flush to the corner of North Milpitas Boulevard and Dixon Road and oriented north-south. The building's 1st floor footprint would be set back 8 feet from the back of the sidewalk on North Milpitas Boulevard and Dixon Road, approximately 65-feet from the interior side, and approximately 62-feet from the rear. The 2nd floor footprint would project approximately 10-feet from the 1st floor exterior walls, creating covered parking areas to the north for residential units, as well as for commercial uses on the east elevation. The 3rd floor setbacks are proposed to be within the proposed 2nd floor setbacks. A circular element is proposed to anchor the corner of North Milpitas Boulevard and Dixon Road. A trash enclosure and bicycle parking rack are proposed at the northeast corner of the parcel adjacent to a landscaped area.

Direct vehicular access would remain off North Milpitas Boulevard and Dixon Road, however the driveway on Dixon Road would be relocated to the southeast portion of the parcel to provide access to the reconfigured site. Circulation throughout the site is provided by a surface driveway that provides a connection from Dixon Road to North Milpitas Boulevard. Parking is provided adjacent to the new 3-story building on the north and east, as well as on the parcel's north and east perimeter.

Landscaping is proposed along the north and east perimeters of the project site, within parking areas, and raised planters at the building's Dixon Road entrance. In addition, street trees and landscaped berms are proposed along the street frontage. Plantings include street trees, shade

trees (Crape Myrtle, Canary Island Pine), vines, and groundcovers. No existing trees are proposed for removal.

2) Floor Layout

As stated above, the proposed mixed use building development would consist of approximately 2,835 square feet of 1st floor commercial retail space, a 4,650 square foot 2nd floor dental office, and three one-bedroom residential units on the 3rd floor. The 1st floor commercial retail is proposed for two tenants with 1,400 square feet and 1,000 square feet of tenant space. The 2nd floor dental office would have an approximately 135 square foot office area with the remaining space used for the applicant's dental practice. The residential units would vary from 1,510 square feet to 1,735 square feet, with each unit consisting of one bedroom, kitchen, bathroom, living and dining rooms, laundry room, elevated ceilings, and mezzanine areas. Two of the three residential units would include outdoor deck areas facing the east foothills. Access to the 2nd and 3rd floor is provided by two stairways, located on the north and south portion of the building, and an elevator located on the south elevation. Access to the two ground floor commercial tenant spaces is provided by entry doors located off North Milpitas Boulevard.

2) Building Architecture

The project site is located at a prominent intersection (North Milpitas Boulevard and Dixon Road) and Staff has worked with the applicant to provide compatible architecture in relation to surrounding development in the project area. Subsequently, the applicant has worked extensively with City staff and numerous revisions to the proposed architecture were made as a result of outside architectural peer review.

The proposed 45-foot tall, 3-story building would be constructed of stone tile, cement plaster, galvanized metal, as well as metal composite panels. The primary architectural feature of the proposed building is a circular corner element facing the southwest corner of North Milpitas Boulevard and Dixon Road, providing a strong street presence at the intersection.

Vertical and horizontal articulation is provided by awnings, horizontal siding, stone tile and a metal panel cladding system, and complemented by blue-green glass windows and storefront systems. The exterior finish schedule consists of Serengeti Safari and Golden Mist siding, Olive Grove trim, silver metal (brushed), galvanized steel, and stone tile (refer to material sample/color perspectives).

North Elevation

The north elevation faces adjacent two-story single-family residences approximately 50 feet to the north of the building and provides access to the residential covered parking area. Two square windows are provided on the 2nd and 3rd floors, as well as horizontal siding, metal panel cladding system, roof screen, and the top of the residential mezzanine areas.

East Elevation

The east elevation provides access to covered handicap accessible parking areas, walkway, stairway, and rear access to the two commercial tenant spaces. The facade is similar to that of the north elevation in that windows, roof screen, horizontal siding, metal panel cladding system and top of the residential mezzanine areas are visible. In addition, this elevation reveals proposed exterior decks for two residential units.

South Elevation

The south elevation faces Dixon Road with a distinctive 1st and 2nd story circular element wrapping around the corner to North Milpitas Boulevard. Exterior access to the 1st floor commercial space, stairwell, and elevator is provided by a person door. Architectural treatments include metal awnings, stone tile, galvanized steel and horizontal siding, as well as above-ground landscape planters and street trees. Future tenant signage space would be located above the 1st floor commercial space and 2nd floor dental office, however no signage is proposed with this application.

West Elevation

The west elevation faces North Milpitas Boulevard and provides street front pedestrian access to the commercial retail spaces. In addition to a wrap-around corner element from Dixon Road, treatments include metal awnings, horizontal siding, stone tile, metal panel cladding system, and storefront glazing window and door treatment systems, planter boxes, walkways, and street trees. Future tenant signage space would be located above the 1st floor commercial space and 2nd floor dental office, however no signage is proposed with this application.

3) Landscaping

The applicant is proposing to retain portions of the existing landscaping on the northeastern portion of the project site, including an approximately 30-inch circumference pine tree. New and enhanced landscaping consists of Canary Island Pine and Water Mellow Red Crape Myrtle trees along the perimeter of the site, Blood Red and Yellow Trumpet Vines, and annual plantings, such as Lily of the Nile, Lavender Star Flower, Mexican Sage, and Pink Lady Hawthorn. In addition, enhancement plantings of annuals are proposed in above ground planters located outside the building main entry (Dixon Road). Proposed new street trees along North Milpitas Boulevard and Dixon Road would be provided per the City's Treescape Master Plan.

5) Lighting

Lighting for the new mixed-use building development includes exterior building wall mounted fixtures and freestanding parking lot lights. The proposed wall mounted light fixtures consist of 2 styles (included in packet): KVR2-to provide covered parking lot lighting; Quatrix-square shaped lights to provide exterior wall lighting. Proposed freestanding parking lot lights will match the KVR2 wall mounted parking lot fixtures in that they would be cylindrically shaped, dark bronze aluminum housing with rotating optics that redirect light. The proposed freestanding parking lot lights would be located on the east and north property lines. According to a site lighting plan provided by the applicant, the parking areas, driveways, and exterior building perimeter would be well-lit, therefore staff is confident there will be sufficient lighting on site. It should be noted that one freestanding parking lot light is proposed on the north property line, adjacent to existing residential development, therefore *staff recommends* a light shield be installed on the freestanding light, to the satisfaction of the Planning Division, to ensure there is no light spillover onto the adjacent residential properties.

7) Parking/Circulation

Parking

Pursuant to Sections 38.06 (Mixed Use Off-Street Parking) and 53.23 (Parking Schedule) of the Milpitas Zoning Ordinance, required parking for retail uses is calculated at 1 space for every 250 square feet of gross floor area (GFA), dental offices at 1 space for every 225 GFA, 1.5 spaces for each 1-bedroom residential unit, 15% guest parking, with 1 parking space credit for every 8 bicycle parking spaces. Based on the zoning ordinance parking requirements the required parking for this project is 35 spaces. According to the site plan, the applicant is proposing 31 parking spaces on site, which creates a 4 parking space deficit and, therefore, a parking reduction is required for this project. See page 8 of this staff report for further discussion of the parking modification.

The applicant is proposing 31 parking spaces located along the north and east property lines, as well as adjacent to the building. Handicap accessible parking would be located adjacent to the building's east elevation with ramp access to the main entryway. Residential parking is proposed to be covered compact parking located adjacent to the building's north elevation. Residential parking will be marked as compact and marked for residential use only.

Circulation

As mentioned above, direct vehicular access would remain off North Milpitas Boulevard and Dixon Road, however the driveway on Dixon Road would be relocated to the southeast portion of the parcel to provide access to the reconfigured site. Circulation throughout the site is provided by a surface driveway that provides a Dixon Road-North Milpitas Boulevard access.

8) Stormwater Runoff

According to the Grading and Drainage Plans, the proposed storm water flow line will run north along the eastern portion of the project site and then west to a proposed catch basin. **Staff recommends** the applicant submit a stormwater run-off control plan for the site that includes storm drain "no dumping" signage, regular trash receptacle inspections, inspect and pick up litter daily, and sweeping of sidewalks and parking lots, to the approval of the Planning Division.

9) Rooftop Equipment

As part of this application, seven (7) new mechanical rooftop equipment units are proposed on the building rooftop, above the 3rd floor residential units. According to mechanical specifications provided by the applicant, the new rooftop equipment is approximately 3-feet 8-inches in height. In addition, according to the proposed details, the proposed roof screen is 5-feet in height, therefore staff is confident the proposed air conditioning units will not exceed the height of the roof screen and, therefore will not be visible from surrounding views. However, **staff recommends** a standard condition that any future rooftop equipment meet the requirements of Section 42 of the Milpitas Zoning Ordinance.

10) Signage

No signage is proposed for the project at this time. Prior to the approval of any signage for the multi-tenant, mixed-use development, a sign program shall be required and an ‘S’ Zone application will need to be submitted for Planning Commission approval.

11) Noise

As stated above, according to the plans, seven new roof top mechanical units are proposed to be located behind a roof screen above the residential units. The applicant submitted acoustic information of the equipment that indicates the noise emitted from the mechanical units is 73dB at the source. As shown in Table 1 below, the Milpitas General Plan Land Use Compatibility for Community Noise (Table 6-1), normally acceptable noise levels for Single Family Residential district (R1) are 50 to 60dB and normally acceptable noise levels for Multiple Family Residential are 50dB to 65dB. It should be noted that the normally acceptable noise levels for Commercial areas are 50dB to 70dB.

Table 1: Noise Emissions of Proposed Mechanical Equipment

General Plan Normally Acceptable Levels	Proposed Decibels	Complies?
Single Family: 50dB-60dB	38dB	Yes
Multi Family: 50dB-65dB	60dB	Yes
Commercial Retail: 50dB-70dB	55 dB	Yes

According to the acoustic information provided by the applicant, the proposed mechanical units are 56-feet from the north property line. An acoustic calculation demonstrates the attenuation at the property line would be -35dB, therefore the noise at the property line would be 38dB. In addition, the proposed mechanical units are 5-feet from the closest mezzanine wall of the building. The acoustic calculation demonstrates the attenuation of the wall would be -12dB, therefore the sound level at the closest residential wall would be 60dB. Staff is confident the proposed mechanical units would not increase noise levels for adjacent property owners or project residential renters in excess of the General Plan normally acceptable levels. However, the provided noise calculations do not address noise generated from the nearby North Milpitas Boulevard/Dixon Road intersection, therefore *staff recommends* the applicant submit an acoustical study containing current and accurate data on the intersection with recommendations to ensure conformance with the General Plan Noise Element.

12) Solid Waste

An approximately 316-square foot trash enclosure is proposed to be located in the northeast portion of the site, adjacent to parking. Within this enclosure would be self-contained containers for recycling and trash. The split face concrete masonry enclosure would be approximately 8-feet tall with a metal roof and gates. The enclosure is proposed to be painted a light tan to match the proposed building stone exterior and would be screened by a landscaped area with climbing vines. It should be noted the trash enclosure details indicate the enclosure pad will be sloped, however no connection to the sanitary sewer is provided, therefore *staff recommends* the applicant submit revised trash enclosure details to include sanitary hook up. In addition, as a condition of approval, the applicant will be required to submit to the City evidence that an adequate level of service for trash and recycling collection has been subscribed to prior to occupancy.

USE PERMIT APPLICATION

Parking Modification

According to the Parking Schedule (Section 53) of the Milpitas Zoning Ordinance, required parking for retail uses is calculated at 1 space for every 250 square feet of gross floor area (GFA), dental offices at 1 space for every 225 square feet GFA, residential parking at 1.5 covered spaces for every one bedroom unit, with 15% of residential for guest parking. It should be noted there is a 1 parking space reduction for every 8 bicycle parking spaces provided. According to the plans, the applicant is proposing a total of 2,835 square feet of ground floor retail, a 4,650 square foot 2nd floor dental office, and 3 one-bedroom residential units. Based on the zoning ordinance parking requirements the required parking for this project is shown in Table 2. below.

Table 2.-Required Parking

Use/Requirement	Required Parking
Retail: 1/250 s.f.	11
Dental Office: 1/225 s.f.	21
Residential: 1.5/1 bedroom unit	4
Residential Guest Parking: 15% of residential	0
Bicycle credit: 1 parking space/8 bicycle parking provided	-1
Total Required Parking	35

According to the site plan, the applicant is proposing 31 parking spaces on site, which creates a 4 parking space deficit and, therefore, a parking reduction is required, pursuant to Section 57.02-18 (Modification to Automobile Parking Space), for this project.

The City Principal Transportation Planner reviewed this application and prepared a Parking Analysis (dated October 18, 2006) for the project. According to the Parking Analysis, due to the nature of a mixed-use project, the parking demand for the different uses is expected to peak during different times of the day. The analysis indicates the parking demand will peak between 10:00 a.m. and 12:00 noon at 29 parking spaces, therefore the proposed supply of 31 parking spaces would be adequate to accommodate the peak parking demands of the project.

CONFORMANCE WITH LOCAL PLANS AND ORDINANCES

Conformance with the General Plan

As proposed, the mixed use building development is consistent with the General Plan in that the Housing Element designates the project location as an opportunity site for Mixed Use development, allowing for future multi-family housing and commercial retail. In addition, the propose project is consistent with Implementation Policy 2.a-I-3 which encourages economic pursuits that will strengthen and promote development through stability and balance. The proposed mixed-use building development will provide for additional commercial retail space, dental office, and three new residential units, thereby promoting economic growth.

Conformance with the Zoning Ordinance

As proposed, the project does not conflict with the Zoning Ordinance and is in conformance in terms of land use and development standards. The applicant is proposing to construct a new three (3)-story mixed-use building development for commercial retail, dental office, and residential units, which are permitted uses in the Mixed Use (MXD) zoning district.

Pursuant to Section 38.05 (Development Standards) of the Zoning Ordinance, the proposed project conforms with the development standards of the Mixed Use (MXD) district in the following ways:

Table 2.-Mixed-Use (MXD) Development Standards

Zoning Code Development Standards	Proposed Project	Complies?
Building Height: 45 feet	35 feet, 3-story	Yes
Setbacks Front & Street Side: minimum 8 feet & maximum 15 feet (from back of sidewalk) Interior Side: 10 feet Rear: 10 feet Buildings face onto street they front Landscaped or paved to allow seating Canopy 5' projection	8 feet 49 feet, 7 inches 48 feet, 3 inches Yes Yes Yes	Yes Yes Yes
FAR (non-residential): 75 %	45%	Yes
Parking Requirement: 35	31	No (see page 8)
Density: 21-30 dwelling units per acre	7.96 du/ac	Yes*
Compact Parking: 40 % maximum	12%	Yes

*Pursuant to Section 38.05-4, the minimum number of multi-family residential units may be reduced for parcels less than 20,000 square feet.

Staff reviewed the project within the context of the surrounding area and determined the application is consistent with Sections 38.00 (Mixed Use District) and 42.03 (“S” Zone Review Requirements). Properties on the west, southwest, south and east sides of the project site are zoned Neighborhood Commercial (C1) and developed with one-story commercial retail businesses. Properties located directly north of the project site are zoned Single-Family Residential (R1-3). Change of zoning from Neighborhood Commercial (C1) to Mixed-Use (MXD) would allow similar commercial and residential uses of the surrounding area on the project site. In addition, the layout of the site and landscaping are compatible and aesthetically harmonious with adjacent surrounding development in that the proposed building is set back approximately 50-feet from residential uses to the north, located on a prominent corner, and set back from North Milpitas Boulevard and Dixon Road to allow for easy access of bus and pedestrian users.

Environmental Review

An Initial Study and a draft Negative Declaration (EA2006-9) were prepared for this project. The twenty-day public review period was from October 19, 2006 to November 7, 2006. No comments have been received at the time of this staff report preparation. Any comments received will be presented at the public hearing for this project. The environmental assessment determined there would be no significant impacts related to this project. Further discussion of potential impacts is included in the attached Environmental Assessment No. EA2006-9. As conditioned, the proposed project is not anticipated to create any significant environmental impacts as defined by the California Environmental Quality Act (CEQA).

Long Term Impacts

As proposed, the project is for the demolition of a vacant, fire-damaged commercial retail building and construction of one new three-story mixed use building, site improvements, parking modification, change of zoning from Neighborhood Commercial (C1) to Mixed Use (MXD), and amend the General Plan from Retail Sub-Center to Mixed Use. The applicant is proposing to continue the existing commercial retail and dental office uses and include three new one-bedroom residential units within a new three-story building, thereby providing opportunities to promote economic growth by providing new residential units for local residents and businesses.

Neighborhood/Community Impact

Based on the analysis and conclusions of this report, the proposed project, as conditioned, is not anticipated to have any adverse impacts on parking, traffic, noise, odors, or be detrimental to the health and safety of the public. In addition, the project will not have adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction, loss of privacy, or increase in ambient noise.

RECOMMENDATION

Close the public hearing. Adopt the Initial Study and draft Negative Declaration No. EA2006-9, approve 'S' Zone Approval No. SZ2005-10 and Use Permit No. UP2006-19, and recommend to the City Council adoption of Zone Change No. ZC2005-1 and General Plan Amendment No. GP2005-2 based on the Findings and Recommended Special Conditions below.

FINDINGS

CEQA

- 1) The Initial Study and draft Negative Declaration (No. EA2006-9) prepared for this project represents the independent review of the City of Milpitas Planning Staff and Planning Commission.
- 2) As conditioned, the proposed project will not create any significant environmental impacts, as defined by the California Environmental Quality Act (CEQA).

General Plan

- 3) The proposed project, as conditioned, does not conflict with the General Plan and is consistent with Implementing Policy 2.a-I-3, which encourages economic pursuits that will strengthen and promote development through stability and balance. The construction of a

mixed-use building development will provide for additional commercial retail spaces, dental office, and three new residential units, thereby promoting economic growth.

Zoning Ordinance

- 4) As conditioned, the proposed project does not conflict with the Zoning Ordinance in terms of land use in that commercial retail, dental office, and multi-family residential are permitted uses within the Mixed Use (MXD) zoning district.
- 5) As conditioned, the proposed project does not conflict with the Zoning Ordinance in terms of development standards in that the proposed mixed-use building development conforms with setbacks, height requirements, and landscape requirements of the Mixed Use (MXD) zoning district. In addition, parking modifications may be granted with Planning Commission approval.

'S' Zone

- 6) As conditioned, the layout of the site, design of the proposed building, and landscaping would be compatible and aesthetically harmonious with adjacent and surrounding development. The proposed building would be located within a Mixed Use (MXD) zoning district with 'S' Zone overlay. Materials include stone tile, metal cladding system, plaster, horizontal recesses, entrance canopy, corner tower-element, and awnings that reflect a mix of residential, retail, and commercial services uses within a pedestrian-oriented streetscape that serves multiple purposes.

SPECIAL CONDITIONS

1. This 'S' Zone Approval No. SZ2005-10 and Use Permit Approval No. UP2006-19 is for the demolition of an approximately 4,000 square foot commercial building and construction of an approximately 13,040 square foot mixed use building development and parking modification, located on parcel 026-25-024, as depicted on the approved plans, dated November 8, 2007, and as amended by these conditions of approval. Any modification to the project as proposed will require an "S" Zone Approval-Amendment or Use Permit Approval Amendment by the Planning Commission. Minor modifications can be submitted to the Planning Division for processing, as per Section 42.10 of the zoning code. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
3. If, at the time of submittal for any building permits, 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)
4. If, at the time of building or occupancy permit issuance, there is a project job account balance due to the City for recovery of review fees, permit issuance will not be initiated until the balance is paid in full. (P)
5. Prior to the issuance of permits for any roof-top equipment, detailed architectural plans for the screening of this equipment and/or line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and

- approved by city staff in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)
6. Water all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives. (P)
 7. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least a 2-foot freeboard level within their truck beds. (P)
 8. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. (P)
 9. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites. (P)
 10. Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets. (P)
 11. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. (P)
 12. Plant vegetation in disturbed areas as quickly as possible. (P)
 13. Suspend excavation and grading (all earthmoving or other dust-producing activities during periods of high winds when watering cannot eliminate visible dust plumes or when winds exceed 25 mph (instantaneous gusts)). (P)
 14. Project grading and construction activities shall not occur outside the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends, and shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as per the City of Milpitas Noise Ordinance. (P)
 15. Prior to building permit issuance, the applicant shall provide the Planning Division specifications for a light shield for the proposed freestanding light adjacent to the residential properties north of the project site. The plans shall also document that no light spill over will occur onto the residential properties. (P)
 16. Prior to building permit issuance, the applicant shall submit to the Planning Division for review and approval a stormwater run-off control plan for the site that incorporates all applicable source control Best Management Practices as outlined in Appendix C of the City of Milpitas Stormwater C.3 Guidebook. (P)
 17. Prior to building permit issuance, the applicant shall submit an acoustic study to analyze the exterior noise levels with recommendations to ensure exterior noise levels do not exceed 65dB and interior noise levels do not exceed 45dB (P)
 18. Prior to building permit issuance, the applicant shall revise the plan trash enclosure details to include sanitary hook up. (P)
 19. Prior to occupancy, the applicant shall submit to the City evidence that an adequate level of service for trash and recycling collection has been subscribed to prior to occupancy. (P)

20. Prior to approval of building permits, the applicant shall submit plans for the dental office and dental lab for review by Planning Commission prior to approval of the building permit to ensure that the dental office and dental lab do not overly impact parking on the site.
21. The windows on the north elevation of the building shall be of view-obscuring glass.
22. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
23. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
24. At the time of building permit plan check submittal, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to building occupancy permit issuance. (E)
25. Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along N. Milpitas Boulevard and Dixon Road, including but not limited to curb, gutter, and sidewalk replacement, pavement/slurry seal, street lights installation, signage and striping, bus pad installation, bus stop improvement, minor signal modification and ADA curb ramp installation, undergrounding of overhead utilities, fire hydrants installation, storm drain, sewer and water services, as shown on the Engineering Services Exhibit "S", dated 11/1/2006. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (E)
26. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
 - A. Storm water connection fee of **\$8,129** based on 0.377 acres @ \$21,562 per acre. The water, sewer and treatment plant fee will be calculated at the time building plan check submittal.
 - B. Water Service Agreement(s) for water meter(s) and detector check(s).

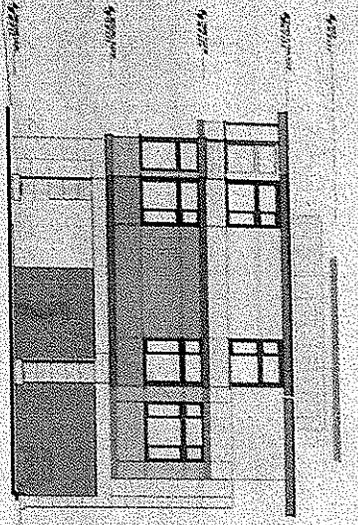
C. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)

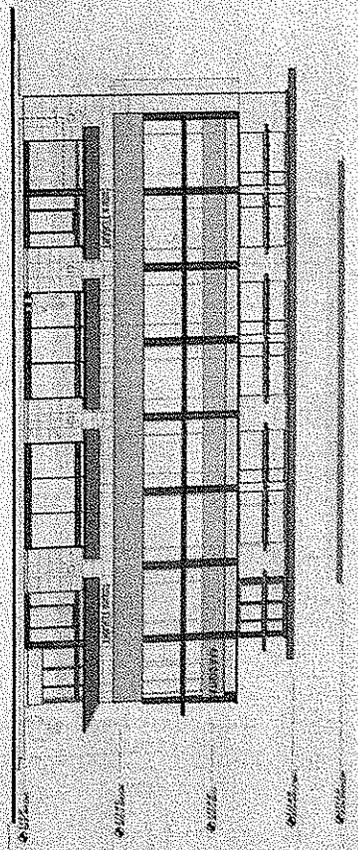
27. Prior to building permit issuance, the developer shall pay its fair share cost of purchasing adequate public system sewage capacity for the development. Fees shall consist of treatment plant fees up to the Master Plan level and connection fees. Impact fees for discharges above master plan levels for sewage collection system infrastructure improvements, and regional plant capacity needs (above the master plan capacities), as determined by the City Engineer. This amount is estimated to be \$7,682, as of October 2006, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee. (E)
28. Prior to any building permit issuance, the developer shall provide for adequate sewage pumping capacity at the Milpitas Main Sewage Pump Station for the respective developments. The developer can fulfill this obligation by payment of \$4,408 to the City for this purpose. This amount is as of October 2006, and to be adjusted by ENR at the time of payment. (E)
29. Prior to building permit issuance; the developer shall pay its fair share cost of purchasing adequate public system water for the respective developments, including costs for capacity and storage needs above master plan capacities, as determined by the City Engineer. This amount is estimated to be \$1,523, as of October 2006, to be adjusted by ENR at the time of payment. (E)
30. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, Sewer, storm and water connection fees, sewer treatment plant fees, plan check and inspection deposit. (E)
31. Prior to building permit issuance, the developer shall dedicate necessary public service utility easements, and easements for water and sanitary sewer purposes, as shown on the Engineering Services Exhibit "S", dated 11/1/2006. (E)
32. Except for the transmission lines supported by metal poles carrying voltages of 37.5KV or more that do not have to be undergrounded, the developer shall remove poles 1, 2, 3, and 4 and underground all existing wires supported by these poles, as shown on the Engineering Services Exhibit "S", dated 11/1/2006. All proposed and existing utilities within the development shall also be undergrounded. (E)
33. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper water supply (potable or fire services). The Applicant shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3345 for further information. (E)
34. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:
 - A. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.

- B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection. (E)
35. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. (E)
36. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
37. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements including but not limited to building overhangs and raised medians, and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
38. Prior to occupancy permit issuance, applicant/property owner shall construct a new trash enclosure to accommodate the required number of bins needed to serve the proposed development. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. City review/approval is required prior to construction of the enclosure. (E)
39. 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)
40. Per Chapter 200, Title V of Milpitas Municipal Code (Ord. No. 48.7) solid waste enclosures shall be designed to limit the accidental discharge of any material to the storm drain system. The storm drain inlets shall be located away from the trash enclosures (a minimum of 25 feet). This is intended to prevent the discharge of pollutants from entering the storm drain system, and help with compliance with the City's existing National Pollution Discharge Elimination System (NPDES) Municipal permit. (E)
41. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)

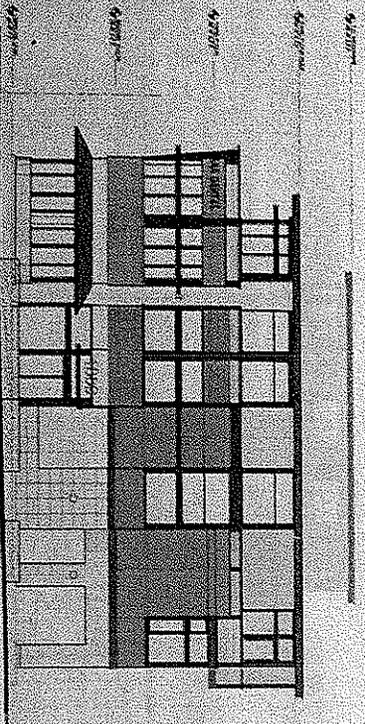
42. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)
43. It is the responsibility of the developer to obtain any necessary encroachment permits and approvals from affected agencies and private parties. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
44. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms. (E)
45. The design of this project shall include adequate Best Management Practices (BMPs) to eliminate pollutant from entering the offsite drainage systems. (E)
46. 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)
47. All utilities shall be properly disconnected before the building can be demolished. Show (state) how the water service(s), sewer service(s) and storm service(s) will be disconnected. The water service shall be locked off in the meter box and disconnected or capped immediately behind the water meter if it is not to be used. The sanitary sewer shall be capped off at the clean out near the property line or approved location if it is not to be used. The storm drain shall be capped off at a manhole or inlet structure or approved location if it is not to be used. (E)
48. 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)
49. At the time of building plan check submittal, the developer shall incorporated the changes shown on Engineering Services Exhibit "S"(dated 11/1/2006) in the design plans and submit three sets of civil engineering drawings showing all proposed utilities to the Land Development Engineer for plan check. (E)



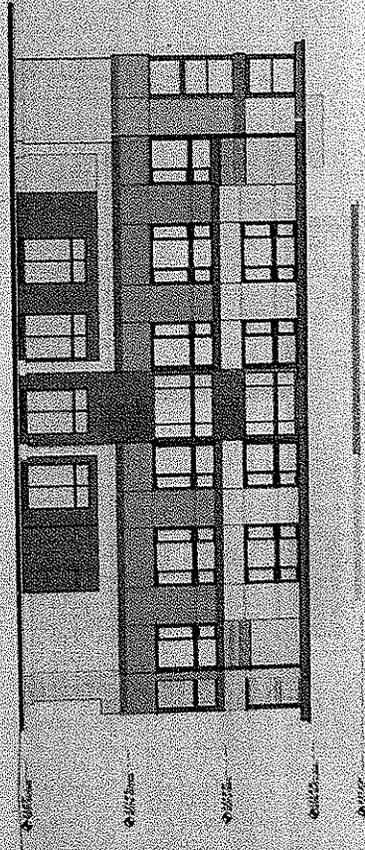
NORTH ELEVATION



WEST ELEVATION - MILPITAS BLVD.



SOUTH ELEVATION - DIXON ROAD



EAST ELEVATION

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