



# MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: October 8, 2008

**APPLICATION:** Conditional Use Permit No. UP08-0035; Serra Theatres

**APPLICATION SUMMARY:** A request to allow a new cinema operator to occupy the existing vacant theater. The applicant proposes to retain the same name, Serra Theatres, as well as the existing façade and interior.

**LOCATION:** 200 Serra Way (APN: 086-07-032)  
**APPLICANT:** Bhaskararao V. Molakalapalli  
**OWNER:** Serra Way LLC (Lap Tang), 380 N First Street San Jose, CA 95112

**RECOMMENDATION:** Staff recommends that the Planning Commission:  
**1. Close the public hearing following public testimony; and**  
**2. Adopt Resolution No. 08-054 approving the project subject to the conditions of approval.**

**PROJECT DATA:**  
General Plan/  
**Zoning Designation:** General Commercial (GNC/C2)  
**Overlay District:** Site and Architectural Overlay (S) and Gateway Office Overlay District (OO)  
**Specific Plan:** Midtown

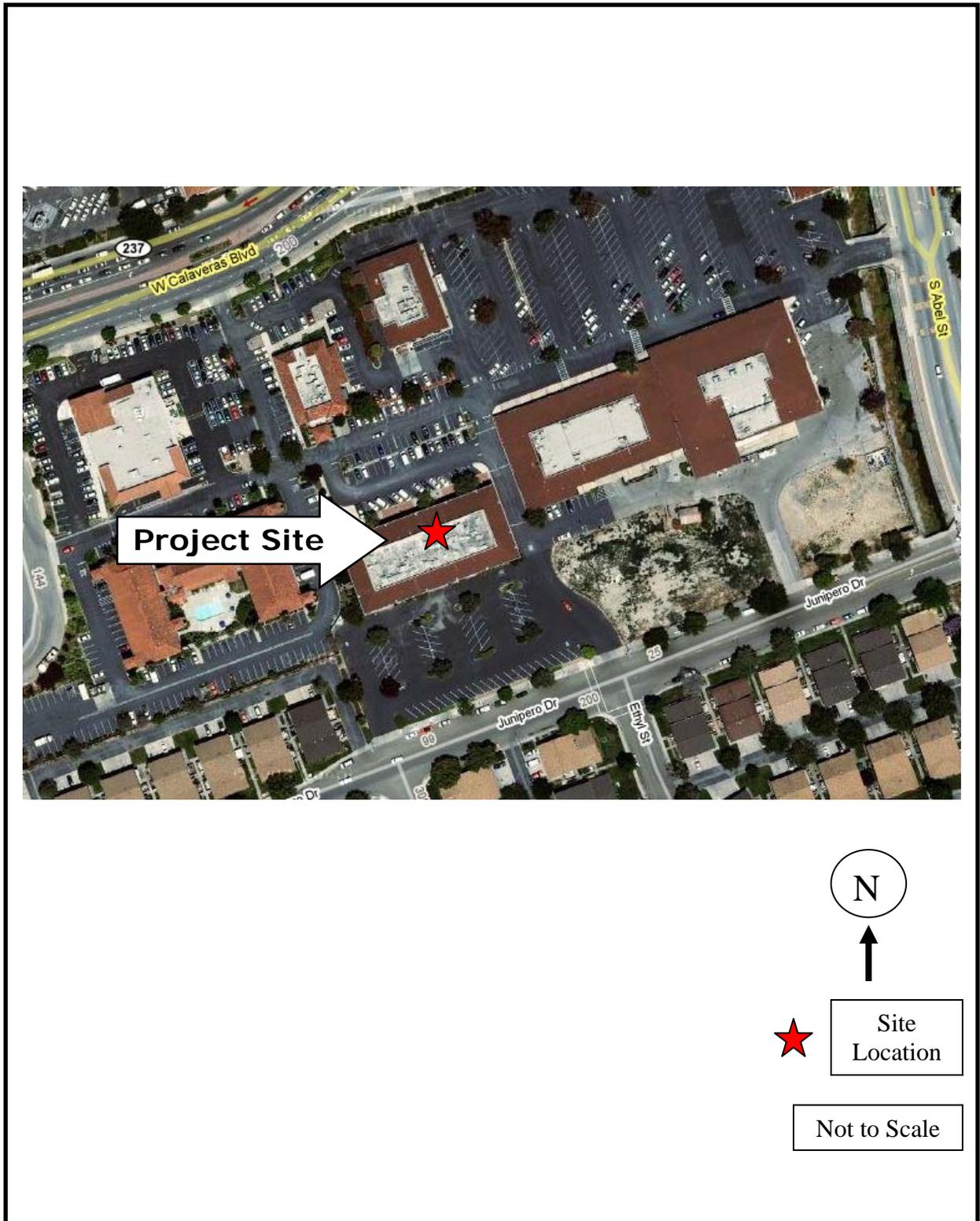
**CEQA Determination:** Categorically exempt pursuant to Section 15301 (Existing Facilities), consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures, facilities, mechanical equipment, involving negligible or no expansion of use. The operator is proposing to occupy the existing facility with no expansion or intensification of use.

**PLANNER:** Julie Moloney, Associate Planner

**PJ:** 2550

**ATTACHMENTS:** A. Resolution No. 08-054  
Exhibit 1: Conditions of Approval  
B. Site/Floor Plans

# LOCATION MAP



**BACKGROUND**

The Serra Theatres have been located at the Serra Center since its construction. The building is part of the larger center, which also includes Big Lots, multiple hair and nail salons, a Walgreens, a Denny’s Restaurant, and a frozen yogurt shop coming soon. The theaters have been vacant for many years. On August 13, 2008, Bhaskararao V. Molakalapalli applied to reopen Serra Theatres to screen South East Asian films. The application is submitted pursuant to Section 57.04, Conditional Use Permits because indoor theaters require the approval of a Conditional Use Permit from the Planning Commission within the General Commercial (C2) district.

**PROJECT DESCRIPTION**

The project site is located in a free standing building in the parking lot at the Serra Center, at the intersection of Serra Way and West Calaveras Boulevard. Commercial uses and parking surround the site to the north, east and west, and there is a residential neighborhood to the south. See previous page for a vicinity map.

The project proposal consists of occupying the existing theater to screen South East Asian films and provide concessions. The applicant is proposing to clean the theater, paint the inside, and possibly re-carpet. The business is proposing to be open between the hours of 5:00 PM and 12:00 AM (Midnight).

***Parking***

The applicant is not proposing to increase the seating in the theater. Per Section 53.23-5(1) of the Milpitas Zoning Ordinance, a theater requires one parking space for every four seats. Since the use is not changing and the building is not being altered from the original development, staff determined that existing parking on site is adequate to serve the use. Therefore, the proposed project meets the parking requirements.

**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**

Principles/Policies	Consistency Finding
<p><i>2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance</i></p>	<p>Consistent. This application is a business opportunity in a building that has been vacant for many years.</p>
<p><i>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.</i></p>	<p>Consistent. This application is a business opportunity in a building that has been vacant for many years.</p>

**Table 2**  
**Midtown Specific Plan Consistency**

Principles/Policies	Consistency Finding
<i>Goal 1: Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within the Midtown.</i>	Consistent. This application is for a cinema operator to occupy an existing theater, which is compatible with the existing uses at the Serra Center.
<i>Policy 3.16: Provide for the continuation of retail development along the Calaveras Boulevard corridor.</i>	Consistent. This site is at the intersection of Serra Way and West Calaveras Boulevard. The establishment of a new theater use brings patrons to the center and promotes retail development in the area.

The project is consistent with the Milpitas General Plan and the Midtown Specific Plan in that the new theater serves the civic, cultural, business and professional life as well as provides economic opportunities for all Milpitas residents.

***Zoning Ordinance***

The project site is located within the General Commercial Zoning District and within the Site and Architectural Overlay and the Gateway Office Overlay District. The proposed theater is a Conditionally Permitted Use in the General Commercial Zoning District (*Section 19.03-36 of the Zoning Ordinance*) with the approval by the Planning Commission. Although a theater previously existed on the site, there is no record of a Conditional Use Permit on file.

The purpose of the Gateway Office Overlay District is to provide for higher intensity, Class A office development at gateways to the City of Milpitas. This overlay would be applicable should the site redevelop in the future. The application for the theater is compatible with the overlay because the use is proposed in an existing building.

The proposed use will not be detrimental or injurious to the property or improvements in the vicinity in that the use is proposed in an existing building which was previously used as a theater. Furthermore, the use will not be detrimental or injurious to the public health safety or general welfare because the project will be consistent with the Milpitas Building and Safety codes and the Santa Clara County Health Department regulations.

The site is substantially surrounded by commercial uses and parking, however, the parking lot at the rear of the building may impact the residential neighborhood to the south. Theater patrons utilizing the rear parking lot may congregate before, after and between movies, which may cause noise disturbances. Staff proposes that complaints be documented and the Conditional Use Permit be reviewed in six months to determine if the use is causing excessive noise. This condition is reflected in the Conditions of Approval as Exhibit 1 to the Resolution.

**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 Section 15301 for "Existing Facilities," which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures, facilities, mechanical equipment, involving negligible or no expansion of use. The operator is proposing to occupy the existing facility with no expansion or intensification of use.

**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 project is consistent with the General Plan, Midtown Specific Plan and the Zoning Ordinance and meets the parking requirements. The proposal will serve the neighboring uses and will provide an alternate type of entertainment in the area for residents and visitors.

**RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission adopt Resolution No. 08-054 approving Conditional Use Permit No. UP08-0035, subject to the attached Conditions of Approval.

*Attachments:*

- A. Resolution No. 08-054  
Exhibit 1: Conditions of Approval
- B. Site/Floor Plans

## RESOLUTION NO. 08-054

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP08-0035; SERRA THEATRES, TO ALLOW FOR A NEW CINEMA OPERATOR TO OCCUPY AN EXISTING VACANT THEATER IN THE SERRA CENTER AT 200 SERRA WAY

**WHEREAS**, on August 13, 2008, an application was submitted by Bhaskararao V. Molakalapalli, 1132 Chancery Way, San Ramon, CA 94582, to occupy the existing vacant movie theater at 200 Serra Way (APN 086-07-032) and to screen South East Asian films. The property is located within the General Commercial Zoning with a Site and Architectural Overlay and a Gateway Office Overlay District (C2-S-OO) and is within the Midtown Specific Plan Area; 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 is categorically except pursuant to Section 15301 for "Existing Facilities" of the California Environmental Quality Act Guidelines; and

**WHEREAS**, on October 8, 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 except pursuant to Section 15301 of the California Environmental Quality Act Guidelines for "Existing Facilities" consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures, facilities, mechanical equipment, involving negligible or no expansion of use. The operator is proposing to occupy the existing facility with no expansion or intensification of use.

**Section 3:** The project is consistent with the Milpitas General Plan Implementation Policies and Guidelines, the Midtown Specific Plan and the Zoning Ordinance in that the new theater use serves the civic, cultural, business and professional life as well as provides economic opportunities for all Milpitas residents and conforms to the development and operational standards for the zone.

**Section 4:** 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 in that the use, including the hours of operation, is conducted within a commercial center, and will be consistent with the Milpitas Building and Safety codes.

**Section 5:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP08-0035, Serra Theatres, 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 October 8, 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 October 8, 2008, and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>	<b>OTHER</b>
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. UP08-0035**

**General Conditions**

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on October 8, 2008, in accordance with these Conditions of Approval. (P)
2. Any deviation from the approved site plan, floor plans, elevations, 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)
3. Conditional Use Permit No. UP08-0035 shall become null and void if the project is not commenced within 18 months from the date of approval. (P)
4. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of UP08-0035 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
5. This Conditional Use Permit is to allow a new cinema operator to occupy and show films at the existing vacant theater at 200 Serra Way. (P)
6. 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)
7. The cinema operator, in conjunction with the screening of films, is permitted to sell concessions. All food and beverage service shall comply with the Santa Clara County Department of Environmental Health regulations.
8. The theater 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)

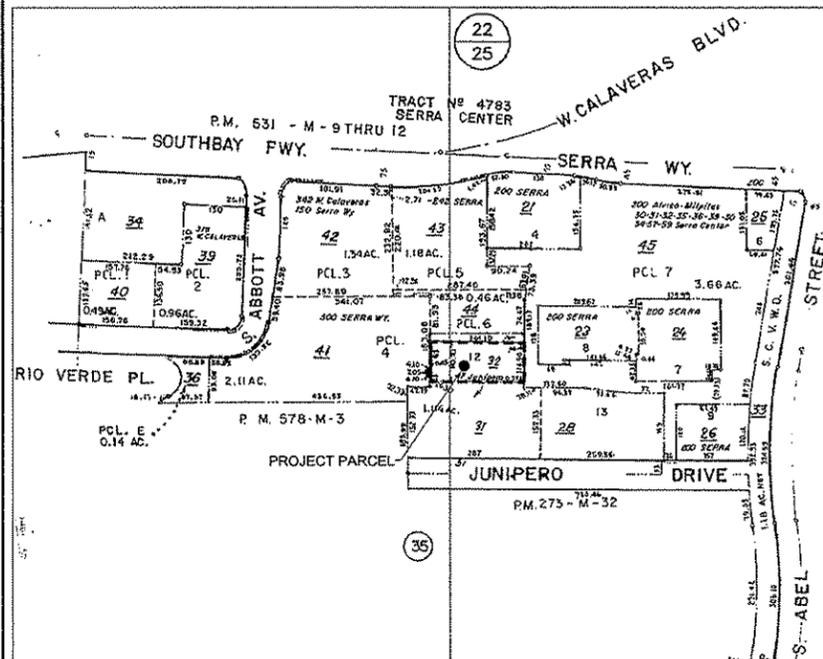
9. The business owner shall hold training sessions to instruct their employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all State and local health and sanitation standards (refer to the County of Santa Clara Department of Environmental Health at (408) 729-5155 for their guidelines). (P)
10. Washing of containers and equipment shall be conducted in an area such that wash water may drain into the sanitary sewer. (P)
11. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
12. No sign(s) are approved with this use permit. All signs shall comply with the Approved Sign Program for the Serra Center. (P)
13. The Conditional Use Permit shall be reviewed in six months time from approval to ensure there are no noise concerns regarding the parking lot adjacent to residential uses.

# SERRA THEATRE

Milpitas, California

REV. DATE	NO.
9/12/08	1

## ACCESSOR'S PARCEL MAP - SANTA CLARA COUNTY



## SITE PLAN WITH EXISTING PARKING SHOWN



## PROJECT DATA DESCRIPTION

APN:	086-07-032
ZONING:	△ GENERAL COMMERCIAL W/ GATEWAY OFFICE COMBINING DISTRICT (C2-00); △ SITE IS LOCATED IN THE MIDTOWN SPECIFIC PLAN
Building - Project Area:	GROUND FLOOR - 8,230 SQ. FT. INTERIOR 2ND FLOOR - 1,500 SQ. FT. INTERIOR TOTAL - 9,730 SQ. FT. INTERIOR
Construction Type:	TYPE V-N, 2 STORY
Sprinkler System:	EXISTING
Parking:	EXISTING - STRIP MALL PARKING LOT
Existing Use:	THEATRE
Proposed Use:	THEATRE
Title 24:	LIGHTING TO REMAIN THE SAME
Occupancy:	A-2

**RECEIVED**  
SEP 15 2008  
CITY OF MILPITAS  
PLANNING DIVISION

## SCOPE OF WORK - AS BUILT & SITE PLANS ONLY

THE NEW OWNER INTENDS TO REOPEN THE EXISTING SERRA THEATRE. THESE PLANS ARE PRODUCED ONLY TO PROVIDE CITY WITH RECORD OF THE EXISTING THEATRE'S FLOOR & SITE PLAN; NO CHANGES OR MODIFICATIONS (ASIDE FROM MINOR REPAIRS & RECONDITIONING) OF EXISTING THEATRE ARE PLANNED.

## PROJECT DIRECTORY

<b>OWNER:</b> BHASKARARAO MOLAKALAPALLI 5100 HOPYARD ROAD PLEASANTON, CA 94588 (510) 396-4699 E-mail: vinu.sur@gmail.com	<b>PLAN DRAFTING:</b> GLENN CUNNINGHAM 1710 LIBERTY ST. EL CERRITO, CA 94530 510-301-3005 CELL 866-847-0296 FAX glenn3co@sbglobal.net
---	---

## APPLICABLE CODES

ALL WORK SHALL CONFORM TO ALL APPLICABLE CODES, ORDINANCES, AND REGULATIONS AS PRESCRIBED BY THIS CITY OF MILPITAS. CODES SHALL INCLUDE BUT ARE NOT NECESSARILY LIMITED TO:

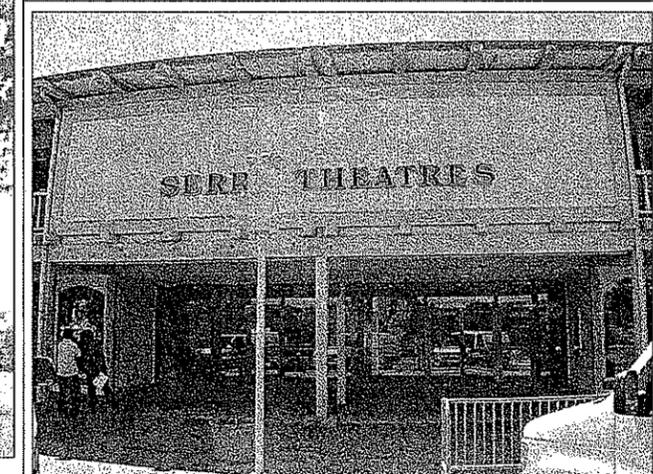
2007 CALIFORNIA PLUMBING CODE	2007 CALIFORNIA FIRE CODE W/ CITY AMENDMENTS
2007 CALIFORNIA BUILDING CODE	2004 CALIFORNIA ELECTRICAL CODE
2007 CALIFORNIA MECHANICAL CODE	2005 CALIFORNIA ENERGY EFFICIENCY STANDARDS

FEDERAL AND STATE DISABILITY GUIDELINES AND REGULATIONS AND ANY OTHER STATE REGULATIONS, CODES, & ORDINANCES AS AMENDED BY THE STATE OF CALIFORNIA AND THE CITY OF MILPITAS THAT ARE APPLICABLE TO THIS PROJECT.

## SHEET INDEX

- A-0 COVER SHEET, VICINITY MAP, PARCEL MAP, SITE-PARKING PLAN, PROJECT DATA
- A-1 EXISTING THEATRE FLOOR PLAN - LOBBY, HALL-RESTROOMS, 2ND FLOOR.
- A-2 EXISTING THEATRE FLOOR PLAN - EAST & WEST THEATRE WINGS\*

## VIEW OF EXISTING THEATRE FRONT ENTRANCE



## VICINITY MAP



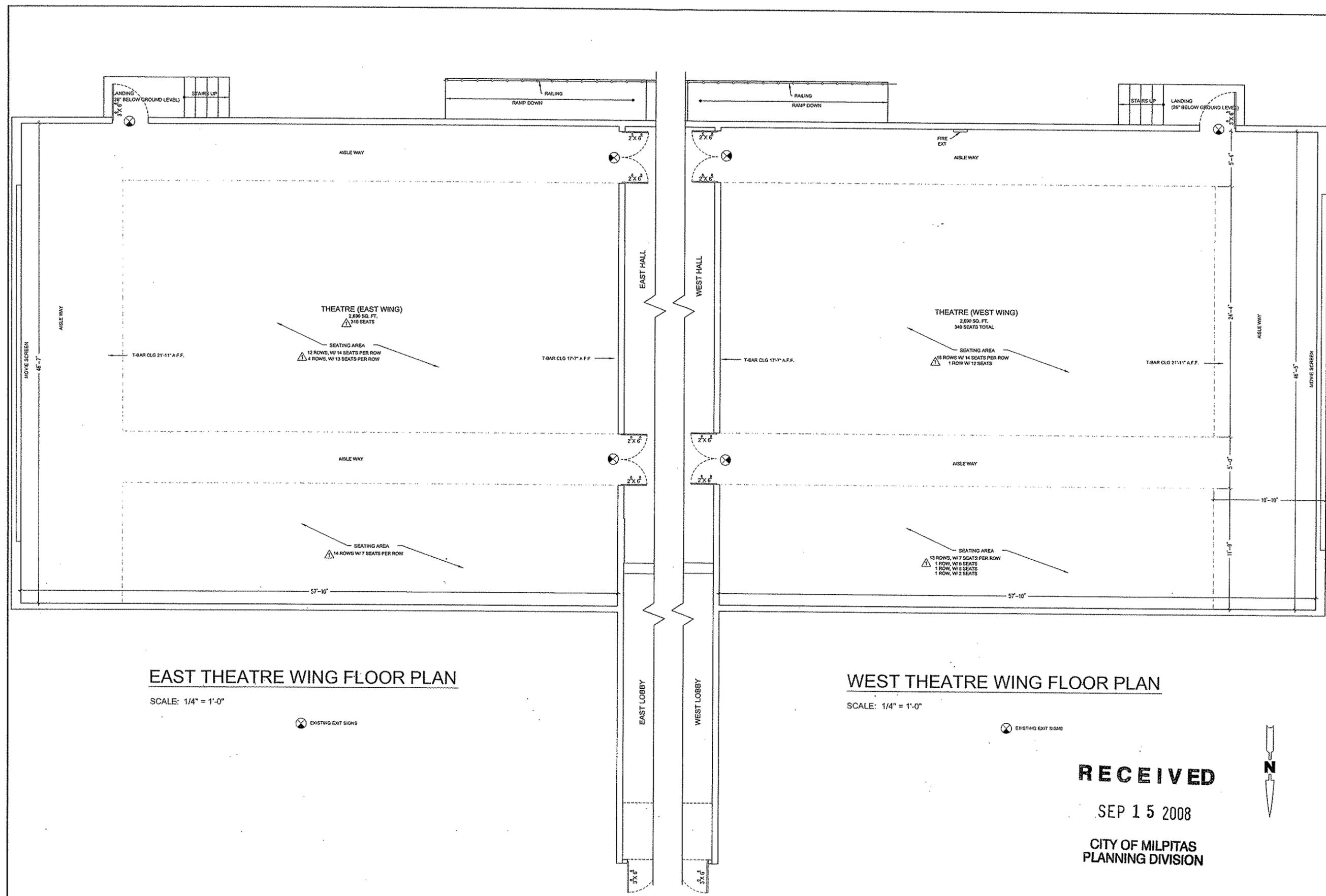
**BULL'S EYE CADD**  
GLENN CUNNINGHAM, DESIGNER  
1710 LIBERTY STREET  
EL CERRITO, CA 94530  
E-MAIL: glenn3co@sbglobal.net

THE DRAWINGS ON THIS SHEET AND SPECIFICATIONS AND IDEAS, DESIGN AND ARRANGEMENTS REPRESENTED THEREBY ARE, AND SHALL REMAIN THE PROPERTY OF DESIGNER, AND NO PART THEREOF SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.

**SERRA THEATRE**  
(SERRA CENTER)  
200 SERRA WAY  
MILPITAS, CA

Date:	8/12/2008
Scale:	1/4"=1'-0"
Drawn:	GCC
DWG #:	-
Sheet:	A-0
Of	Sheets

REV.	DATE	NO.
9/12/08		1



**EAST THEATRE WING FLOOR PLAN**

SCALE: 1/4" = 1'-0"

⊗ EXISTING EXIT SIGNS

**WEST THEATRE WING FLOOR PLAN**

SCALE: 1/4" = 1'-0"

⊗ EXISTING EXIT SIGNS



**RECEIVED**

SEP 15 2008

CITY OF MILPITAS  
PLANNING DIVISION

**BULL'S EYE CADD**  
GLENN CUNNINGHAM, DESIGNER  
1710 LIBERTY STREET  
EL CERRITO, CA 94530  
E-MAIL: glenn3c@sbglobal.net

THE DRAWINGS ON THIS SHEET AND SPECIFICATIONS ARE THE PROPERTY OF THE DESIGNER AND NO PART THEREOF SHALL BE COPIED, DISCLOSED TO OTHERS OR USED IN CONNECTION WITH ANY WORK OR PROJECT OTHER THAN THAT FOR WHICH THEY WERE PREPARED AND DEVELOPED WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.

**SERRA THEATRE**  
200 SERRA WAY  
MILPITAS, CA

Date:	8/12/2008
Scale:	1/4"=1'-0"
Drawn:	GCC
DWG #:	-
Sheet:	A-2
Of	Sheets