



MILPITAS PLANNING COMMISSION AGENDA REPORT

Meeting Date: April 8, 2009

PUBLIC HEARING

APPLICATION: **CONDITIONAL USE PERMIT NO. UP09-0001**

**APPLICATION
SUMMARY:**

A request to operate a martial arts studio within an existing shopping center.

LOCATION:
APPLICANT:
OWNER:

106 South Park Victoria (APN: 088-04-078)
Tony Tran, 1265 Acadia Ave., Milpitas, CA 95035
Park Victoria Investment Co., P.O. 8464, San Jose, CA 95155

RECOMMENDATION:

Staff recommends that the Planning Commission:
1. Close the public hearing following public testimony; and
2. Adopt Resolution No. 09-018 approving the proposed project, subject to conditions of approval.

PROJECT DATA:

General Plan/Zoning: Neighborhood Commercial/Neighborhood Commercial (C1)
Overlay District: Site and Architectural Overlay (-S)
Project Site Area: 1,000 square feet
Building Area: 5,500 square feet
CEQA Determination: Categorically exempt from CEQA pursuant to Section 15301 (Existing Facilities)

PLANNER: Judie Gilli, Associate Planner

PJ: 2572

ATTACHMENTS:
A. Resolution No. 09-018
B. Project Plans
C. Applicant Proposal Letter

LOCATION MAP



Not to Scale

BACKGROUND

In 1991, the existing 5,500 square foot multi-tenant building was approved and subsequently constructed. Since then, there have been multiple site and tenant improvements to the structure. The subject building currently has five tenant suites.

The applicant submitted an application pursuant to Section 18.03-5.1 of the Milpitas Zoning Ordinance, which requires a Conditional Use Permit (CUP) for commercial athletic facilities. Please see the letter (Attachment C) and plans (Attachment B) from the applicant.

SITE DESCRIPTION

The project site is approximately six acres and contains four buildings. The project site includes Ocean Supermarket, Omega restaurant and other retail and personal service businesses. All the tenant spaces are currently occupied except for the project site. The project site is located at the south east corner of Calaveras Boulevard and South Park Victoria. Commercial uses are located to the north, east and west of the project site. Single-family residential use is located to the south of the site.

PROJECT DESCRIPTION

The applicant is proposing to operate a martial arts studio. The subject tenant space is 1,000 square feet and is currently vacant and was most recently occupied as a retail use. The plans include an open main training area. The waiting area and front counter is near the front and restrooms are located in the rear of the space.

The applicant plans to conduct a martial arts studio. The studio will serve up to five students at a time and each class will be 30 minutes in length. The proposed operating hours are Monday, Wednesday and Friday from 4:00 PM to 8:00 PM and on weekends from 1:00 PM to 5:00 PM.

ANALYSIS

Land Use

The proposed martial arts studio is located in a building with other uses such as a dentist, medical office and a restaurant. The building is also adjacent to other uses such as a grocery store, a bakery, a laundromat and personal services. Given the various mix of uses within the building and its surroundings, the proposed use, a martial arts studio, would be compatible with existing uses.

Parking

The following table summarizes the parking requirement for the project site.

**Table 1:
Parking**

Tenant Use	Square Feet	Req. Parking Ratio	Required Parking
Ocean Market	20,000	1/200	100
Kim Lee Restaurant	35 seats	1 space/ 2.5 seats	16
Liquor Store	2,200	1/200	11
Bakery	2,400	1/200	12
Wireless Comm. Store	1,100	1/200	5.5
Barber Shop	560	1/200	2.8
Office	600	1/200	3
Laundromat	2,200	1/200	11
Optometrist	1,000	1/225	4.4
Office	750	1/200	3.75
Pho 909	83 seats	1 space/ 3 seats	30
Cleaners	1,450	1/200	7.25
Video Store	1,300	1/200	6.5
Video Store	900	1/200	4.5
Print Shop	1,800	1/200	9
Office	1,000	1/200	5
Beauty Salon	900	1/200	4.5
Pizza Hut	80 s.f. counter	1 space/50 s.f. counter	1
Martial Arts - proposed	1,000	1/150	6.6
Chiropractic	850	1/225	3.7
Chiropractic	1,250	1/225	5.5
Dentist	1,000	1/225	4.4
Omega Restaurant	208	1 space/ 3 seats	76
Total Required Parking Spaces			333
Total Parking Provided			348

Based on Section 53, Off-Street Parking Regulations, of the City's Zoning Ordinance, the proposed use requires one space for every 150 square feet of floor area or six spaces. The building was built with a mix of uses in mind. At a minimum, the site provides one space for each 200 square feet of retail space. The proposed use requires six spaces. The entire parcel requires 333 spaces and 348 are provided. Therefore, even with the conversion of the subject tenant space from a less parking intensive use, adequate parking is provided.

General Plan

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

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>Implementing Policy 2.a-1-5 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>	Consistent. The proposed use adds to the mix of uses within the neighborhood.
<i>Implementing Policy 2.a-1-6 Endeavor to maintain a balance economic base that can resist downturns in any one economic sector.</i>	Consistent. The proposed use adds to the economic base for the City of Milpitas.

Zoning Ordinance

The project is consistent with Section 18, “C-1” Neighborhood Commercial District the Milpitas Zoning Ordinance. The proposed use is appropriate because it is compatible with the surrounding uses and with the approval of this CUP will meet all the requirements of the Zoning Ordinance. The land use, with added conditions of approval, will add to the variety mix of uses within the building and within the area, which better serves the community.

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 per Section 15301, (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines because the proposed use is located within an existing building and no new construction is proposed beyond the existing tenant space.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, no inquiries were received.

CONCLUSION

The primary consideration of a CUP relates to compatibility of the proposed use with surrounding land uses. The applicant proposes to operate a martial arts studio in a building that has many types of commercial uses. The proposed use is compatible with the uses within the building because it is a commercial business, specifically an instructional studio for the advancement of personal enrichment in addition to other existing uses within the building. Staff’s position is that the proposed use is compatible with the existing surrounding uses.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve UP09-0001 subject to the attached Resolution.

ATTACHMENTS:

- A. Resolution No. 09-018
- B. Project Plans
- C. Applicant Project Letter

RESOLUTION NO. 09-018

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT UP09-0001, TO ALLOW THE OPERATION OF A MARTIAL ARTS STUDIO, LOCATED AT 106 SOUTH PARK VICTORIA DRIVE

WHEREAS, on February 19, 2009, an application was submitted by Tony Tran, 1265 Acadia Ave., Milpitas, CA 95035, to allow the operation of a martial arts studio. The property is located within Neighborhood Commercial (C-1-S) Zoning district with APN (088-04-078); 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 exempt per Section 15301, (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.

WHEREAS, on April 8, 2009, 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 per Section 15301, (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines because the proposed use is located within an existing building and no new construction is proposed beyond the existing tenant space.

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 in that it meets all requirements of the City's Zoning Ordinance and General Plan.

Section 4: The proposed use is consistent with the Milpitas General Plan in that it meets General Plan Policy 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 in that the proposed use adds to the mix of uses within the neighborhood.

Section 5: The proposed use is consistent with the Milpitas General Plan in that it meets General Plan Policy 2.a-1-6: Endeavor to maintain a balance economic base that can resist downturns in any one economic sector in that the proposed use adds to the economic base for the City of Milpitas. The proposed instructional studio offers a unique personal enrichment use.

Section 6: The proposed use is consistent with the Milpitas Zoning Ordinance in that the proposed use meets all the requirements set forth by the Zoning Ordinance and an adequate amount of parking is provided for the site, even with the conversion of the tenant space from a less intensive parking requirement.

Section 7: The Planning Commission of the City of Milpitas hereby approves conditional use permit UP09-0001, martial arts studio, 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 April 8, 2009.

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 April 8, 2009, and carried by the following roll call vote:

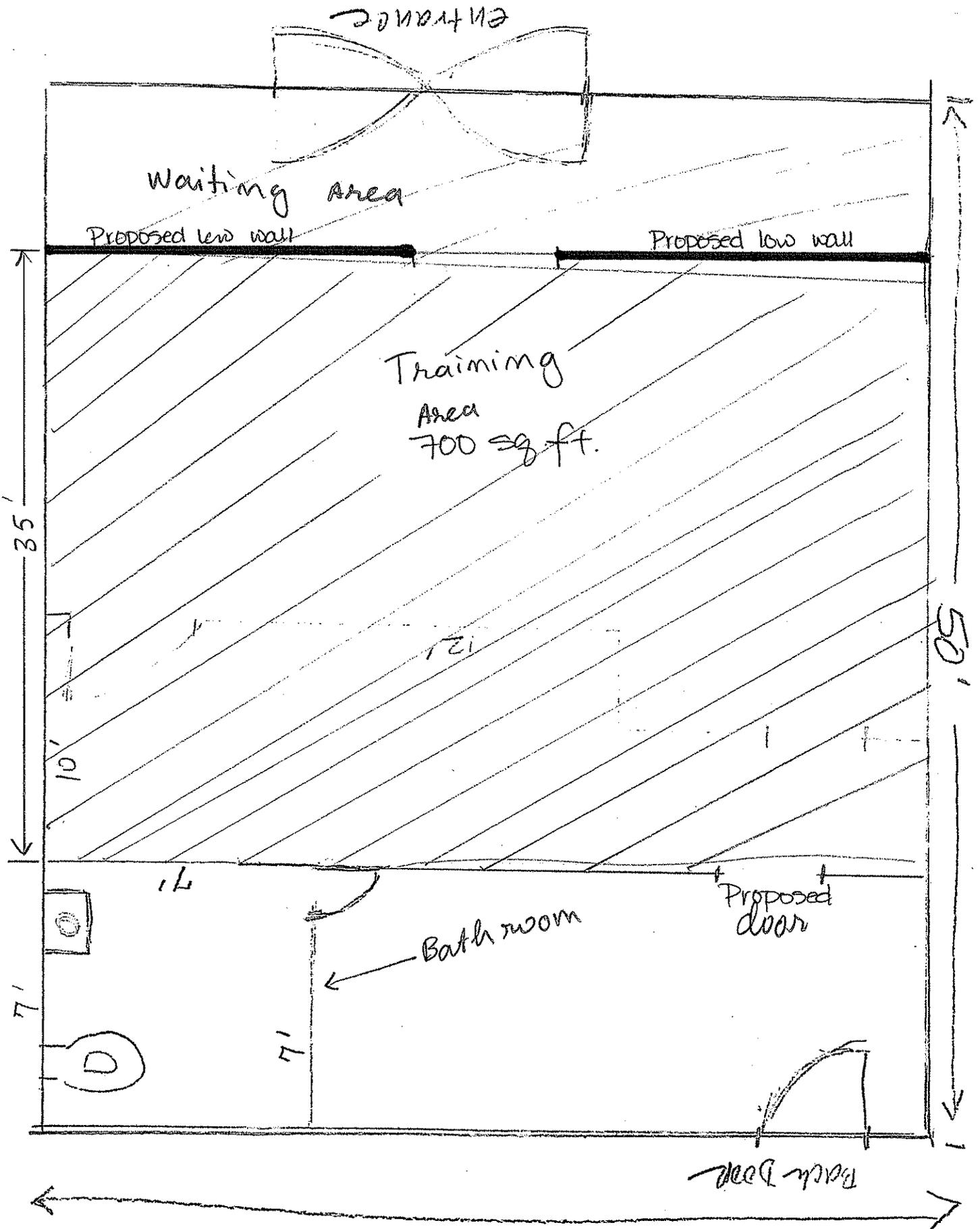
COMMISSIONER	AYES	NOES	OTHER
Cliff Williams			
Lawrence Ciardella			
Alexander Galang			
Sudhir Mandal			
Gurdev Sandhu			
Noella Tabladillo			
Aslam Ali			

EXHIBIT 1

**CONDITIONS OF APPROVAL
Martial Arts Studio UP09-0001**

Planning Division

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on April 8, 2009, in accordance with these Conditions of Approval.
2. Any deviation from the approved site plan, floor plans, 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.
3. Conditional Use Permit UP09-0001 shall become null and void if the project is not commenced within 18 months from the date of approval.
4. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of 18 months if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein.
5. PJ ACCOUNT: If at the time of application for business license issuance, there is a project job account balance due to the City for recover of review fees, review of permits will not be initiated until the balance is paid in full.

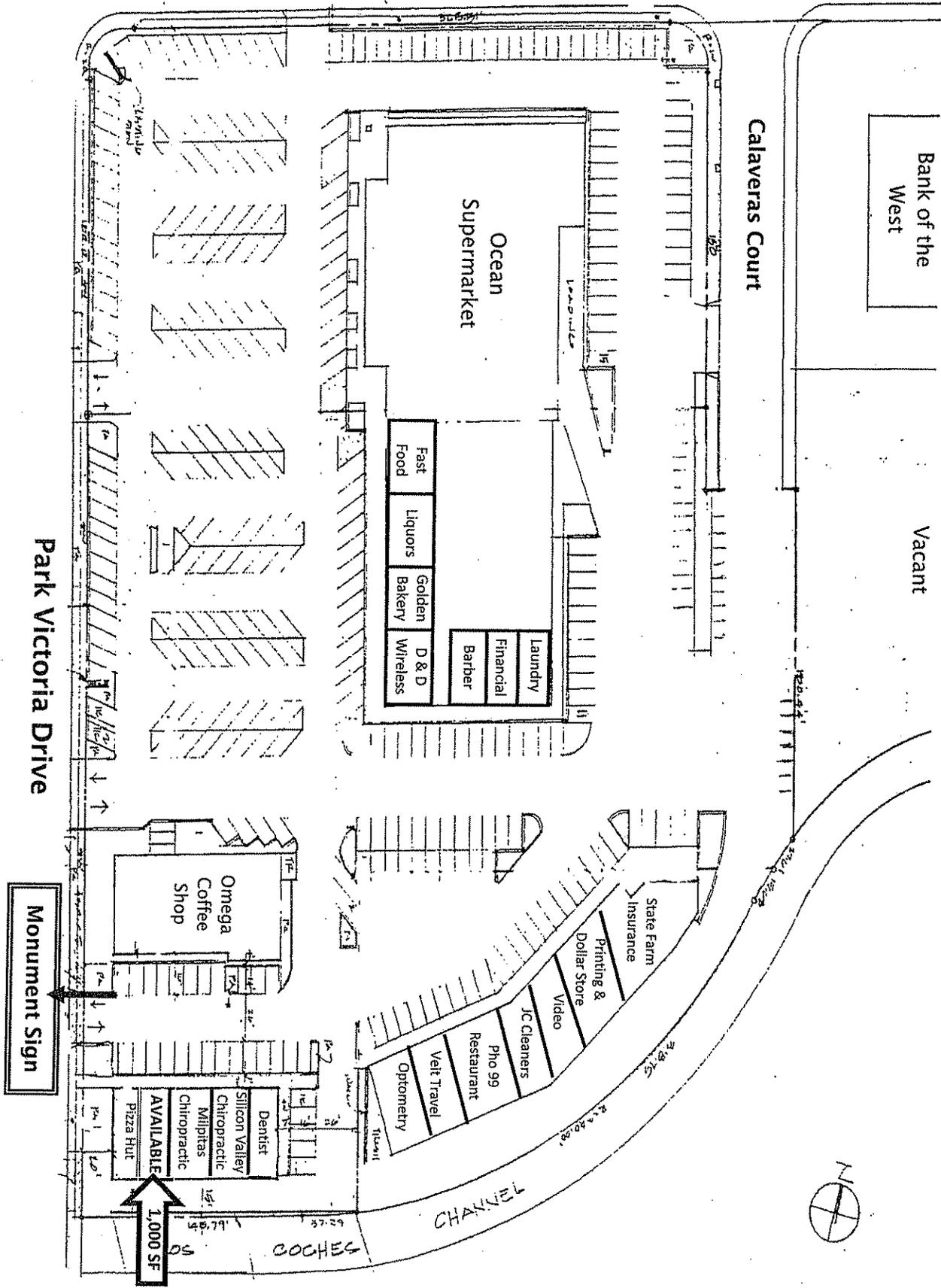


Judge Gille
201 106 S. Park Victoria Dr

106 S. PARK VICTORIA DRIVE
MILPITAS, CALIFORNIA

RECEIVED
FEB 19 2009
CITY OF MILPITAS
PLANNING DIVISION

Calaveras Boulevard



Park Victoria Drive

Monument Sign

1,000 SF

February 19, 2009

City of Milpitas Planning Division
455 E. Calaveras Blvd
Milpitas, CA 95035

**REFERENCE: MARTIAL ARTS TRAINING CENTER
PARK VICTORIA SHOPPING CENTER
MILPITAS, CALIFORNIA**

To whom it might concern:

I plan to open a martial arts training center at 106 S. Park Victoria Drive. The operating hours will be:

Monday, Wednesday, Friday 4:00pm – 8:00pm
Saturday and Sunday 1:00pm – 5:00pm

I will be teaching the multiple sessions during those days above. Each session will be for 30 minutes. I will be teaching between 4 and 5 students for each session.

Regards,

Tomy Tran

2/19/2009
DATE:

RECEIVED

JAN 23 2009

CITY OF MILPITAS
PLANNING DIVISION

RECEIVED

FEB 19 2009

CITY OF MILPITAS
PLANNING DIVISION