



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: May 13, 2009

APPLICATION: **CONDITIONAL USE PERMIT NO.UP09-0003, INDIAN THEMED GROCERY STORE**

APPLICATION SUMMARY: A request to operate a 1,600 square foot Indian themed grocery store within an existing multi-tenant commercial building.

LOCATION: 1291 S. Park Victoria Drive (APN 88-36-036)

APPLICANT: Anita Singh, 3681 Rowley Drive, San Jose, CA 95132

OWNER:

RECOMMENDATION: **Staff recommends that the Planning Commission:**
1. Close the public hearing; and
2. Adopt Resolution No. 09-022 approving the project subject to conditions of approval.

PROJECT DATA:

General Plan/

Zoning Designation: General Commercial (GNC)/General Commercial (C2)

Overlay District: Site and Architectural Overlay (-S)

Specific Plan: N/A

Site Area: .59 Acres

Building Square Footage: 6,728 square feet

Tenant Square Footage: 1,600 square feet

Parking Spaces: 35 spaces provided, 33 required

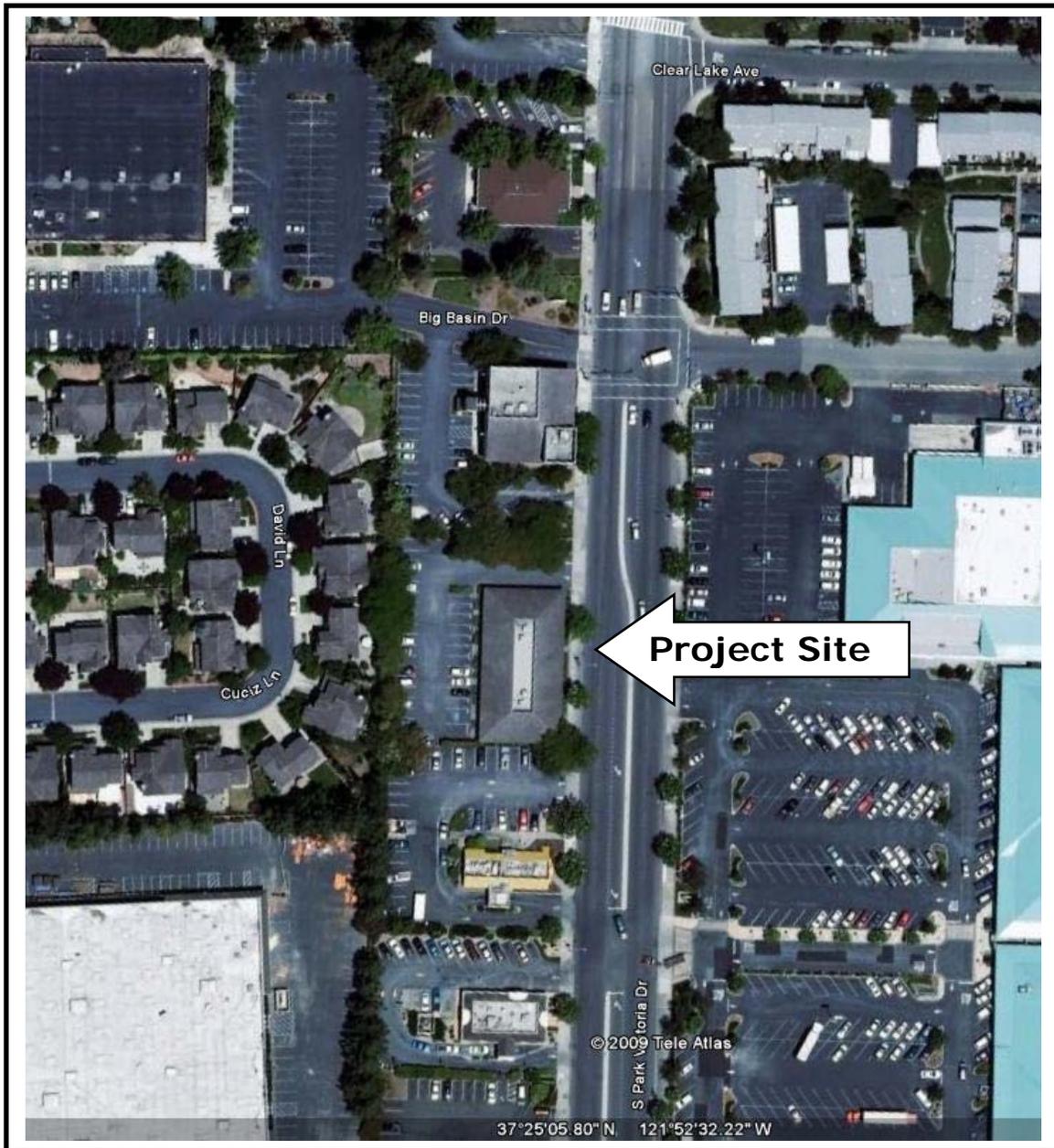
CEQA Determination: Categorically Exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

PLANNER: Cindy Hom, Assistant Planner

PJ: 2573

ATTACHMENTS: A. Resolution/Conditions of Approval
B. Project Plans
C. Description of Business Operations

LOCATION MAP



No scale

BACKGROUND

In December 1974, the Planning Commission approved Site and Architectural review to allow for the construction of a one story, 6,728 square foot commercial office building and related site improvements that included landscaping and slumpstone wall along the rear property line.

On February 19, 2009, Anita Singh submitted an application to operate a 1,600 square foot Indian themed grocery store located at 1291 S. Park Victoria. The application is submitted pursuant to Milpitas Municipal Code XI-10-19.03-17 (Food Store) and XI-10-57.04 (Conditional Use Permit) which allows grocery stores within 1,000 feet of residential uses with Planning Commission approval of a Conditional Use Permit.

PROJECT DESCRIPTION

The project site is located on a 0.59 acre site located at the southwest corner of the intersection at South Park Victoria and Big Bend Drive across from Parktown Shopping Center. The site is currently developed with a 6,728 square foot multi-tenant commercial building designed with a heavy cedar shake mansard roof and rustic vertical siding walls. The site has one two-way driveway entrance that is accessed from S. Park Victoria Drive. At the rear of the lot is a parking lot area that provides thirty-five (35) parking spaces. There is existing landscaping throughout the site. A vicinity map of the subject site location is included on the previous page.

The project site is zoned and designated General Commercial. Surrounding land uses include commercial and professional office uses to the north and south, commercial retail to the west, and residential homes to the immediate east (approximately 93-feet from the building to building).

The project proposal is to operate a 1,600 square foot Indian themed grocery store that offer items such as fresh produce; dry food items like Indian spices, flours, rice, dried fruits, nuts, tea bags; pre-packaged food items including frozen food, Indian Nan's, pickled Indian snacks, packed lentils, cookies, noodles; and other miscellaneous items such as beauty products and henna. As proposed, the project does not intend to sell any type of alcohol.

The proposed grocery store would operate seven days week with store hours listed below:

- Monday to Friday: 10:30am-9:30pm
- Saturday: 9:00am-9:30pm
- Sunday: 10:00am-8:30pm

Floor Plan

The proposed layout consists of sales display area with a cashier service counter, shelving, and four swing door refrigerators. The back area of store will provide storage, store office and break area for employees. *Staff recommends* as a conditional approval that windows in the storage room, office and break room areas are blinded to conceal stored materials and supplies and to maintain the existing color and style of the storefront window glazing to match existing conditions. The main customer storefront entrance is located on the rear of the building. There is a second employee entrance that is located at the front of the building that faces S. Park Victoria Drive. Given the proposed use is a small scale specialty grocery store; shopping baskets will be used in lieu of shopping carts.

Development Standards

Parking

The site was original parked at a ratio of one space per 197 square feet of gross floor area. Based on the Milpitas Parking Ordinance the project site requires a total of 33 parking spaces. The site currently provides 35 parking spaces. The proposed grocery store is parked at a parking ratio of one space per 200 square feet of retail which requires eight parking spaces. The project satisfies the parking requirement by providing the eight required spaces. The parking requirements are summarized below:

Table 1:
Parking Summary

Tenant	Parking Ratio	Tenant Square Footage	Required Parking
Tutoring Center	1 space per 500 sq. ft.	848	2
Martial Arts Studio	1 space per 150 sq. ft.	1,650	11
Dental Office	1 space per 225 sq. ft.	2,700	12
Proposed Grocery Store	1 space per 200 sq. ft/	1,600	8
Total Required			33
Total Provided			35

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

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

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>Implement Policy 2.a-I-6 Endeavors to maintain a balanced economic base that can resist downturns in any one economic sector.</i>	Consistent. The project is located in a mix commercial building that would be compatible and be neighborhood serving to the adjacent land uses that include a dental office, martial arts studio, tutoring center, and residents.
<i>Implementing Policy 2.a-I-7 Provides opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.</i>	Consistent. The project will expand employment opportunities and allows for the promotion of local business.

Zoning Ordinance

The proposed Indian themed grocery store is consistent with the purpose and intent of the General Commercial Zoning District in that it provides for general commercial needs of the community. The proposed project is conditionally permitted in the General Commercial zoning district and in compliance with the development standards and parking requirements. The project does not propose any exterior modifications and intends to maintain the existing architectural character of the building.

The proposed grocery store will not adversely impact properties, improvements, or the public health, safety and general welfare of neighboring residents within the area, in that the intended use and hours of operation are compatible with surrounding uses.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA). The project request is to operate a 1,600 square grocery store within an existing commercial service building.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

Staff believes that operating a grocery store in this commercial center would be in accordance with the purpose and intent of the C2 zoning district. The project offer commodities and services to residents of the surrounding neighborhood and employees working in nearby businesses. The proposed conditions of approval would give the City the appropriate controls to ensure that the use does not have any negative impacts on the surrounding businesses and properties. Staff believes that the proposed store would be an enhancement to the vitality of the commercial center.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 09-022 approving Conditional Use Permit No.UP09-0003, Indian Themed Grocery Store, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 09-022
- B. Project Plans

RESOLUTION NO. 09-022**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP09-0003, INDIAN THEMED GROCERY STORE, A REQUEST TO LOCATED A 1,600 SQUARE FOOT GROCERY STORE LOCATED AT 1291 S. PARK VICTORIA DRIVE.**

WHEREAS, on February 19, 2009, an application was submitted by Anita Singh, 3681 Rowley Drive, San Jose, CA 95132, to allow for a 1,600 square foot Indian themed grocery store with an existing multi-tenant commercial building. The property is located at 1291 S. Park Victoria Drive (APN 88-36-036), within the General Commercial Zoning District; 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 from further environment review pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act.

WHEREAS, on May 13, 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 from further environment review pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act in that project request is to operate a 1,600 square grocery store within an existing commercial building.

Section 3: The project is consistent with the policies and goals of General Plan in that it would expand employment opportunities and allows for the promotion of local business. The proposed use and location would be compatible and neighborhood serving to the adjacent land uses that includes commercial and residential uses.

Section 4: The project conforms to the General Commercial Zoning in terms of land use, development standards, and parking. The proposed Indian themed grocery store is consistent with the purpose and intent of the General Commercial Zoning District in that it provides for general commercial needs of the community. The proposed project is conditionally permitted in the General Commercial zoning district, complies with the development standards and parking requirements, and maintains the existing architectural character of the building.

Section 5: The proposed grocery store will not adversely impact properties, improvements, or the public health, safety and general welfare of neighboring residents within the area, in that the intended use and hours of operation are compatible with surrounding uses.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP09-0003, Indian Themed Grocery Store, 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 May 13, 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 May 13, 2009, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Aslam Ali				
Lawrence Ciardella				
Alexander Galang				
Sudhir Mandal				
Gurdev Sandhu				
Noella Tabladillo				
Mark Tiernan				

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP09-0003**

A request to operate a 1,600 square foot Indian themed grocery store within an existing multi-tenant commercial building.

1291 S. Park Victoria Drive (APN 88-36-036)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on May 13, 2009, in accordance with these Conditions of Approval. (P)

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance.
2. Conditional Use Permit No. UP09-0003 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued and a foundation is completed. (P)
3. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of UP09-0003 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
4. The proposed grocery store would operate seven days week with store hours listed below: (P)
 - Monday to Friday: 10:30am-9:30pm
 - Saturday: 9:00am-9:30pm
 - Sunday: 10:00am-8:30pm
5. No alcohol sales permitted with this use. (P)
6. Windows in the storage room, office and break room areas shall be blinded to conceal stored materials and supplies. (P)
7. The use shall be operated in accordance with all local, state, and federal regulations. (P)
8. Private Job Account - If at the time of application for building permit 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)

9. Private Job Account - 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)
10. It is the developer's responsibility to obtain any necessary permits or approvals from affected agencies or private parties. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
11. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to plan check and inspection deposit, and 2.5% building permit automation fee. (E)
12. 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, including but not limited to construction activities, 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)
13. 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)
14. The developer shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance. Contact the Land Development Section at (408) 586-3329 to obtain the form(s). (E)
15. 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 "D". (E)

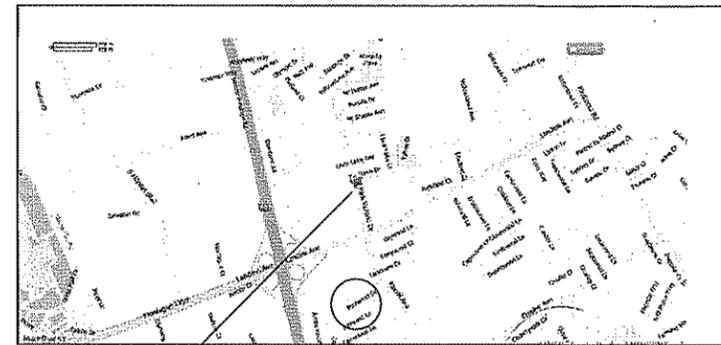
PROJECT INFORMATION:

DESIGNER: TOMMY TRAN
 360 MERIDIAN AVE # 119
 SAN JOSE, CA 95126
 PHONE: (408) 903-7072
 EMAIL: TRANS_CONSTRUCTION@YAHOO.COM
 JOB LOCATION: 1291 S. PARK VICTORIA
 MILPITAS, CA
 NAME OF TENANT: ANITA SINGH
 SQUARE FOOTAGES: 1,600.00.
 BUILDING CONSTRUCTION TYPE: III-N
 OCCUPANCY GROUP: B
 NUMBER FLOOR OF BUILDING: 1
 FIRE SPRINKLER: 0

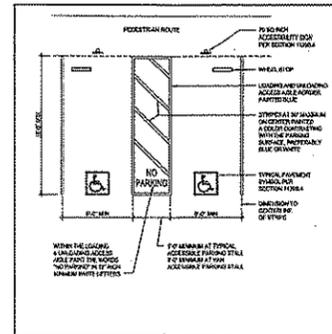
PROJECT INDEX:

A.1 SITE MAP, SITE PLAN
 A.2 FLOOR PLAN INCLUDED PLUMBING
 AND ELECTRICAL

 APPLICABLE FOR PLAN REVIEW APPROVAL
 2007 UNIFORM BUILDING CODE
 2007 NATIONAL ELECTRICAL CODE
 2007 CALIFORNIA ENERGY CODE
 2007 CUNIFORM PLUMBING CODE
 2008 MILPITAS MUNICIPAL CODE



SITE VINCINITY MAP



PARKING SUMMARY:
 PARKING REQUIRED FOR THE SITE
 - TUTORING 2
 - DENTAL CENTER 12
 - MARTIAL ART 11
 - GROCERY STORE 8
 TOTAL PARKING PROVIDED: 35
 NO SHOPPING CART USED

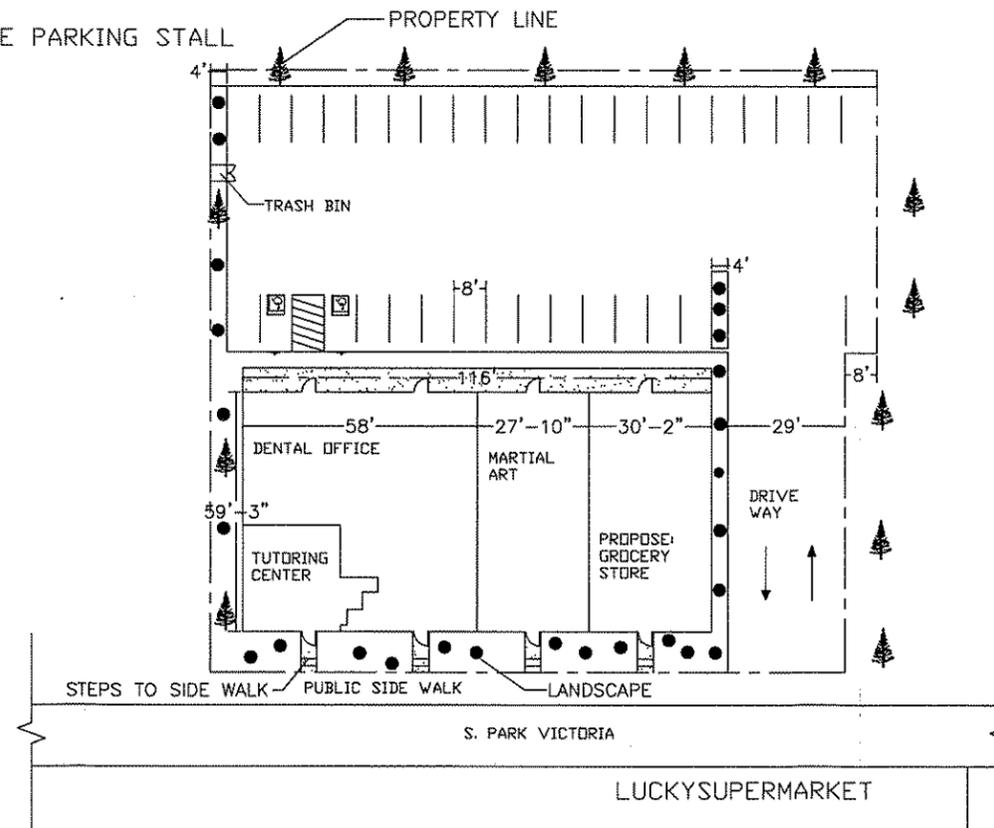
PROJECT SCOPE

PROJPROPOSE TENANT IMPROVEMENT: GROCERY STORE
 UPGRADE (E) RESTROOM TO BECOME HANDICAPE ACCESIBLE.
 ADD 1 MOP SINK, A DOUBLE WORKING SINK, AND AN OFFICE.

GENERAL NOTE

1. ALL INTERIOR DOOR SHALL BE BUILDING STANDARD UNLESS OTHERWISE NOTED REFER TO OWNER BUILDKONG STANDARD FOR CLARIFICATION.
2. ALL REQUIREMENT EXITS SHALL BE OPENABLE FROM INSIDE WITHOUT A USE OF A KEY OR ANY SPECIAL EFFORT OF KNOWLEGE. PROVIDE EXIT SIGNS AS REQUIRED PER C.B.C
3. NEW SUSPENDED ACCOUSTIC CEILING SYSTEM SHALL BE IN ACCORDANCE WITH THE LASTEST REQUIREMENT OF C.B.C, C.E.C., AND OTHER APPLICABLE CODES AND ORDERS INCLUDING SEISMIC BRACING REQUIREMENTS OF C.B.C STANDARDS.
4. ALL INTERIOR FINISHES IN ONE HOUR AREA SHALL BE CONSTRUCTED WITH CLASS 2 MATERIALS . ALL OTHER MATERIALS SHALL BE CLASS 3 FIRE RESITANCE MATERIALS.
5. LIGHTING AND VENTILATION SHALL BE PER C.B.C., C.E.C., AND C.M.C.,
6. ALL INERDOR PARTITIONS SHALL MEET THE REQUIREMENTS OF C.B.C., 2007.
7. PLUMBING INSTALLATION SHALL MEET THE REQUIREMENTS OF C.P.C., 2007.
8. ELECTRICAL INSTALLATION SHALL MEET THE REQUIREMENTS OF C.E.C., 2007
9. FIELD VERIFIES ALL. FIELD CONDITIONS AND DIMENSIONS PRIOR TO PROCEEDING WITH WORK. INFORM THE DESIGNERS OF ANY DISCREPANCIES PRIOR TO PROCEEDING. NO CONSTRUCTION SHELL START UNTILL FIELD CONDIONTIONS ARE VERIFIED.
10. TOILET FACILITIES SHALL CONFORM TO CALIFORNIA TITLE 24 AND THE AMERICAN DISABILLITIES ACT REQUIREMENTS.

DOUBLE PARKING STALL



SCALE: 1/2"=10'



RECEIVED
 APR 13 2009
 CITY OF MILPITAS
 PLANNING DIVISION

No.	Revision/Issue	Date

Firm Name and Address
 TRAN'S CONSTRUCTION
 360 MERIDIAN AVE # 119
 SAN JOSE, CA 95126
 (408) 903-7072
 trans_construction@yahoo.com

Project Name and Address
 ANITA GROCERY
 1291 S. PARK VICTORIA
 MILPITAS, CA 95136

Project	Sheet
Date	A.1
Scale	

Cindy Hom

From: anita singh [anita_s67@yahoo.com]
Sent: Tuesday, March 17, 2009 9:56 PM
To: Cindy Hom
Subject: Business Plan

**PROJECT DESCRIPTION FOR THE INDIAN GROCERY STORE
BUSINESS PLAN**

*Hours of operation: Mon-Fri 10:30am-9:30pm
 Sat 9:00am-9:30pm
 Sun 10:00am-8:30pm

*Deliveries: No Deliveries will be there, We will go and pick-up the products.

*We do not have plan for deli service yet.

*No shopping carts will be used only shopping baskets will be used inside the store.

*Only Indian spices, flours, Rice, Dried fruits, Nuts, tea bags,
All packed products, Utensils, Frozen Food, Indian Nan's, Pickle's
Indian snacks, drinks, Packed Lentils, Cookies, Noodles, Beauty Products, Fresh Produce, Henna,
Oil.etc.

*No alcohol will be sold.

Signage: Grand Opening Sign will be there on the front side.
And on the side. Store box sign will be on the front.

Here is the Business Plan you asked for.

Thanks, Anita