



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: February 24, 2010

APPLICATION: MINOR TENTATIVE MAP NO. TP10-0001 (formerly MT09-0003) AND CONDITIONAL USE PERMIT NO. UP09-0043

APPLICATION SUMMARY: A request to consider a commercial condominium map for an existing development on a 0.61 acre parcel.

LOCATION: 880 East Capitol. (APN: 086-37-025)

APPLICANT: Colliers International C/O Ara Bezdijian, 450 West Santa Clara Street, San Jose, CA 95113

OWNER: Tan Legacy Investments, LP., California Limited Partner, 744 E. Capitol Ave, Milpitas, CA

RECOMMENDATION: Staff recommends that the Planning Commission: Adopt Resolution No. 10-014 approving the project subject to the attached conditions of approval.

PROJECT DATA:

General Plan/

Zoning Designation: General Commercial / General Commercial (C2)

Overlay District(s): Site and Architectural Review and Transit Oriented Development (-S-TOD)

Specific Plan: Transit Area Specific Plan

CEQA Determination: Categorically exempt from further environmental review pursuant to Section 15301 of the California Environmental Quality Act (CEQA).

Related Permits: UP2003-28 and SZ2003-7

PLANNER: Tiffany Brown

ATTACHMENTS: A. Resolution No. 10-014
B. Site Plans

LOCATION MAP



No scale

BACKGROUND

In September of 2004, the Planning Commission approved a Conditional Use Permit and an “S” Zone permit (UP2003-28, SZ2003-7) to allow for the construction of two commercial buildings (Building A = 1 story, Building B = 2 stories) associated with site improvements and a parking reduction.

On October 7, 2009, HMH submitted an application requesting to approve a commercial condominium map for the existing development at 880 E. Capitol Ave. This application is submitted pursuant to the Milpitas Municipal Code Title XI, Chapter 1, Section 6 for Minor Subdivision-Tentative Map.

PROJECT DESCRIPTION

The 0.61-acre parcel is located at the southwest corner of East Capitol Avenue and Lundy Place which abuts the City’s southern border with San Jose. The General Plan and Zoning Ordinance designate this site and its surrounding uses as General Commercial with Site and Architectural Review and Transit Oriented Development Overlaying Districts. This property is also located within the Transit Area Specific Plan. A vicinity map of the subject site location is included on the previous page.

On August 27, 2004, the Planning Commission reviewed and approved an “S” Zone Permit and Conditional Use Permit (SZ2003-7 and UP2003-28) for the construction of two buildings (one, single story building and one, two story building) associated with site improvements and a parking reduction.

The applicant now requests consideration of a Minor Tentative Map and Conditional Use Permit to subdivide the existing buildings into eight condominiums. Building A will remain as one parcel and Building B will subdivide the first floor into four parcels and the second floor into three parcels. These permits do not propose any exterior alterations/changes to the property or the existing buildings. As conditioned (condition number 2), the applicant will be required to establish a property owner’s association for the purposes of maintaining the parcels (adequate circulation, controlling litter, etc.) See Attachment B for the Site Plans.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

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

Table 1
General Plan Consistency

Policy	Consistency Finding
<i>2.a I-7: Provide opportunities to expand employment, participate in partnerships with local business to facilitate communications, and promote business retention.</i>	Consistent.

The project is consistent with the General Plan in that the subdividing the existing buildings into condominiums will provide opportunities to participate in partnerships with local businesses and promote business retention.

Zoning Ordinance

The project is in conformance with the City of Milpitas Zoning Ordinance Chapter 1, Section 4 for Minor Tentative Maps. The project site is zoned General Commercial with Site and Architectural and Transit Oriented Development Overlay Districts. The project site is also located within the Transit Area Specific Plan. The existing developments conform to the current zoning district and the proposal does not include any changes to the existing site layout, uses, or interior/exterior building improvements.

Transit Area Specific Plan

The existing buildings were designed, built, and approved prior to the Transit Area Specific Plan. However, the existing site layout is consistent with the development standards for density and block size, building height limitations, yard setbacks and parking/auto access.

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 of the California Environmental Quality Act (CEQA) because the project is a condominium that does not include any physical changes to the site.

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 proposed Minor Tentative Map for condominiums is consistent with the Milpitas General Plan and Zoning Ordinance. The project will not change the existing site plan or layout of the property and therefore will have no affect on existing/future tenants or neighboring properties.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve Minor Tentative Map No. TP10-0001 (formerly MT09-0003) and Conditional Use Permit No. UP09-0043, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 10-014
- B. Site Plans

RESOLUTION NO. 10-014

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING MINOR TENTATIVE MAP NO. TP10-0001 (FORMERLY MT09-0003) AND CONDITIONAL USE PERMIT NO. UP09-0043, CONDOMINIUM MAP, TO ALLOW FOR A ONE LOT COMMERCIAL CONDOMINIUM MAP FOR AN EXISTING DEVELOPMENT ON A 0.61 ACRE PARCEL LOCATED AT 880 E. CAPITOL AVENUE.

WHEREAS, on October 7, 2009, an application was submitted by Colliers International C/O Ara Bezdijian, 450 West Santa Clara Street, San Jose, CA 95113, to allow a one lot commercial condominium map for an existing development on a 0.61 acre parcel. The property is located within the General Commercial with Site and Architectural Review and Transit Oriented Development Overlaying Districts. This property is also located within the Transit Area Specific Plan. (APN 086-37-025); 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 exempt.

WHEREAS, on February 24, 2010, 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: Categorically exempt from further environmental review pursuant to Section 15301 of the California Environmental Quality Act (CEQA) because the project is a condominium that does not include any physical changes to the site.

Section 3: The project is consistent with the General Plan Implementation Policy 2.a I-7 in that the subdividing the existing buildings into condominiums will provide opportunities to participate in partnerships with local businesses and promote business retention.

Section 4: The project is in conformance with the City of Milpitas Zoning Ordinance Chapter 1, Section 6 for Minor Tentative Maps in that the existing development conforms to the current zoning district and the proposal does not include any changes to the existing site layout, uses, or interior/exterior building improvements.

Section 5: The existing buildings were designed, built, and approved prior to the Transit Area Specific Plan. However, the project is consistent with the Transit Area Specific Plan in that

the existing site layout is consistent with the development standards for Density and Block Size, Building Height limitations, Yard Setbacks and Parking/Auto access.

Section 6: The Planning Commission of the City of Milpitas hereby approves Minor Tentative Map No. TP10-0001 (formerly No. MT09-0003) and Conditional Use Permit No. UP09-0043, Condominium Map, 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 February 24, 2010.

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 February 24, 2010, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Lawrence Ciardella				
Sudhir Mandal				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
Erik Larsen				

EXHIBIT 1

**CONDITIONS OF APPROVAL
MINOR TENTATIVE MAP NO. TP10-0001 AND CONDITIONAL USE PERMIT NO.
UP09-0043:**

A request to approve a commercial condominium map for an existing development on a 0.61 acre parcel located at 880 E. Capitol Avenue.
Address (APN: 086-37-025)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the plans approved by the Planning Commission on February 24, 2010, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, condominium plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

2. TP10-0001 and UP09-0043 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.06(2) of the Zoning Ordinance of the City of Milpitas: If the project requires the issuance of a building permit, the project shall be deemed to have commenced when the date of the building permit is issued and/or a foundation is completed, if a foundation is a part of the project. If the project does not require the issuance of a building permit, the project shall be deemed to have commenced when dedication of any land or easement is required or complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of TP10-0001 and UP09-0043 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**

2. Prior to parcel map approval, the developer shall establish a property-owner association. The property-owner association shall be responsible for the maintenance of all common private facilities including but not limited to, access, parking, private utilities (drainage, sewer, and water), landscaping, pavement, trash enclosures, walls, private lightings, and any other common area facilities and shall have assessment power. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer. **(E)**

3. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires along the project frontage and remove the related poles, as shown on the tentative map with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Prior to parcel map recordation applicant shall pay an in-lieu fee of \$150,000 for the future undergrounding of the overhead utilities and removal of one pole. **(E)**
4. The developer shall dedicate on the parcel map necessary public service utility easements (PSUE) along Capitol Avenue frontage, and easements for water and sanitary sewer purposes. **(E)**
5. Prior to parcel map recordation, developer shall secure an easement for the City of Milpitas from, or process a license use agreement with, the City of San Jose for the installed publicly maintained water line on Lundy Place. **(E)**
6. Prior to building occupancy permit issuance, developer shall prepare and record a condominium plans. Submit the condominium plan to the City for review. **(E)**
7. Prior to recordation of any parcel map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. **(E)**
8. It is the applicant'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)**
9. Make changes as noted on Engineering Services Exhibit "T"(dated 2/4/2010) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the parcel map or improvement plans will be accepted until this condition is satisfied. **(E)**
10. Premises Identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. California Fire Code Section 505.1, amended by MMC V-300-2.17 **(F)**
11. Key Box. The Fire Code Official is authorized to require a key box to be installed in an approved location if necessary for life saving or fire-fighting purposed. (When required, the Knox box location shall be at 6 feet above finished floor, or fire access walkway or road). California Fire Code Section 506.1 **(F)**
12. Construction, if required, as part if the condominium conversion shall be submitted for building permits process. **(F)**

13. Impact to fire protection systems due to construction (if needed). The Milpitas Fire Department shall approve new installation and/or modifications to existing fire protection, alarm or monitoring system(s). **(F)**

14. A separate submittal is required to the Milpitas Fire Department, for review and approval, prior to the commencement of any work. CFC Section 901.2 **(F)**

(P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention

CONDITIONAL USE PERMIT FOR **ST. LOUIS PLAZA**

AN EXISTING COMMERCIAL CENTER
LOCATED AT 774 E. CAPITOL AVENUE, MILPITAS, CA



CONDITIONAL USE PERMIT
"ST. LOUIS" PLAZA
744 E. CAPITOL AVE, MILPITAS, CA

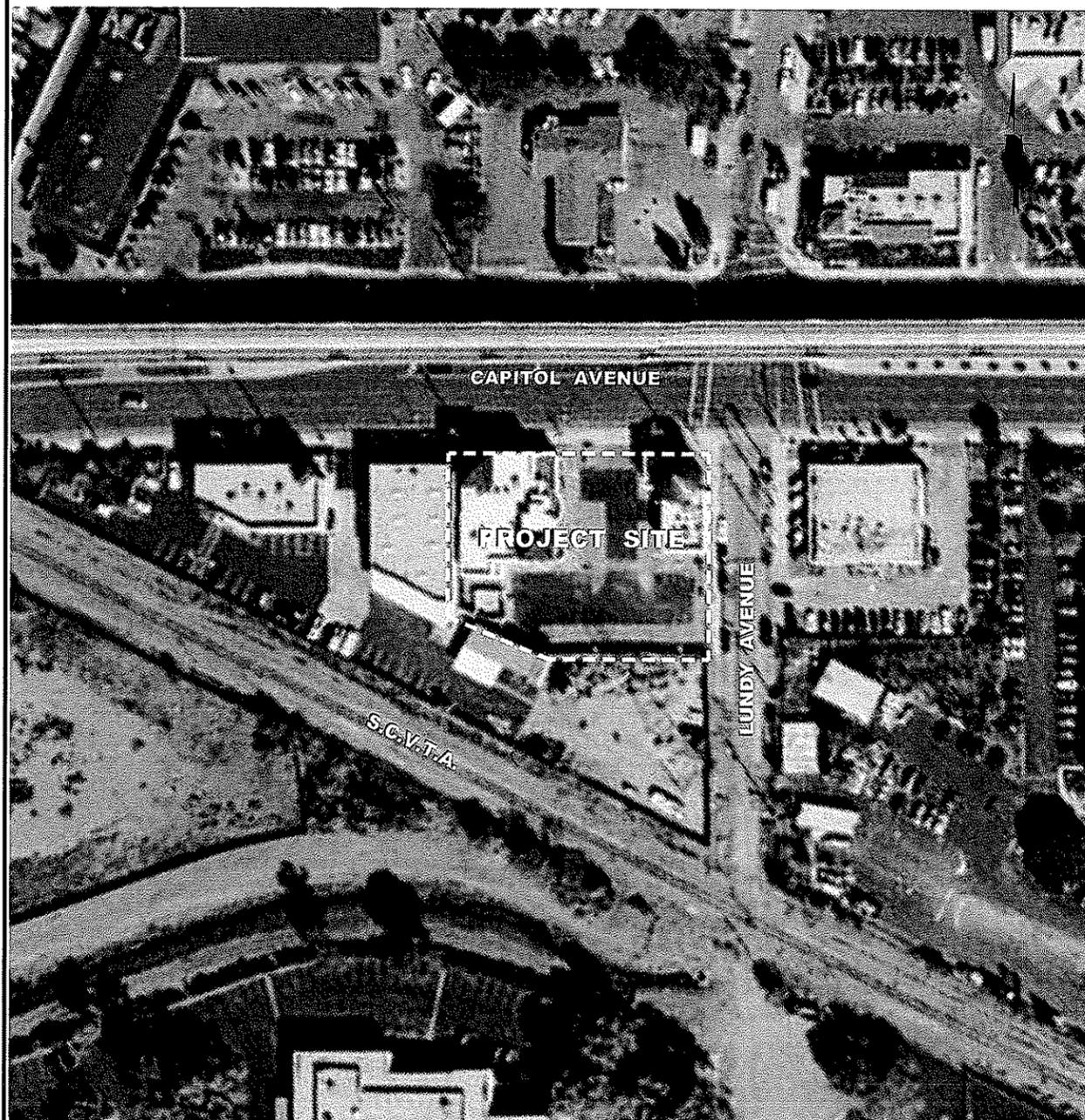


TABLE OF CONTENTS

1	TITLE SHEET
2	CONDOMINIUM EXHIBIT
T1-2	EXISTING SITE PLAN / FIRST FLOOR PLAN

PROJECT INFORMATION

ASSESSOR'S PARCEL NUMBER:	086-37-025
PROJECT ADDRESS:	744 E. CAPITOL AVENUE
EXISTING GENERAL PLAN DESIGNATION:	GENERAL COMMERCIAL (GNC)
EXISTING ZONING DESIGNATION:	GENERAL COMMERCIAL - C2
PROPOSED USE:	UP TO 8 CONDOMINIUM UNITS FOR RETAIL, MEDICAL, AND OFFICE USES
GROSS SITE AREA:	±0.6 ACRES (±26,579 SF)
TOTAL BUILDING AREA:	±10,154 SF
PROVIDED PARKING:	37 SPACES

PROJECT DESCRIPTION

CONDITIONAL USE PERMIT TO ALLOW FOR UP TO 8 CONDOMINIUM UNITS FOR RETAIL, MEDICAL, AND OFFICE USES IN TWO EXISTING BUILDINGS IN CONJUNCTION WITH THE MINOR TENTATIVE MAP, FILE # _____

DEVELOPMENT TEAM

APPLICANT:	COLLIERS INTERNATIONAL CONTACT: ARA BEZDIJIAN 450 WEST SANTA CLARA ST. SAN JOSE, CA 95113	PLANNER:	HMH ENGINEERS CONTACT: RAY HASHIMOTO 1570 OAKLAND ROAD SAN JOSE, CA 95131 (408)487-2200
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NO.	DATE	DESCRIPTION
PROJECT NO:	3937.00	
CAD DWG FILE:	00000018.DWG	
DESIGNED BY:	ML	
DRAWN BY:	ML	
CHECKED BY:	RTH	
DATE:	10/7/2009	
SCALE:	NOT TO SCALE	
© HMH		

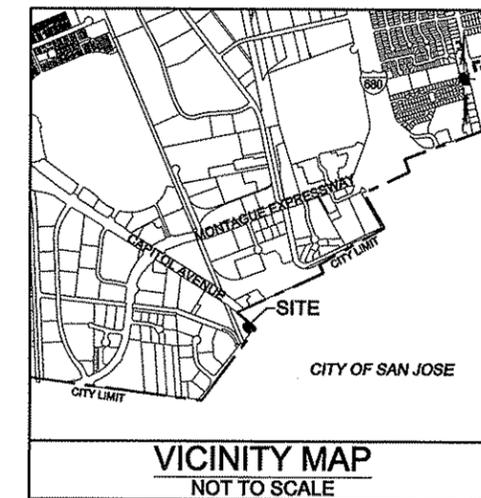
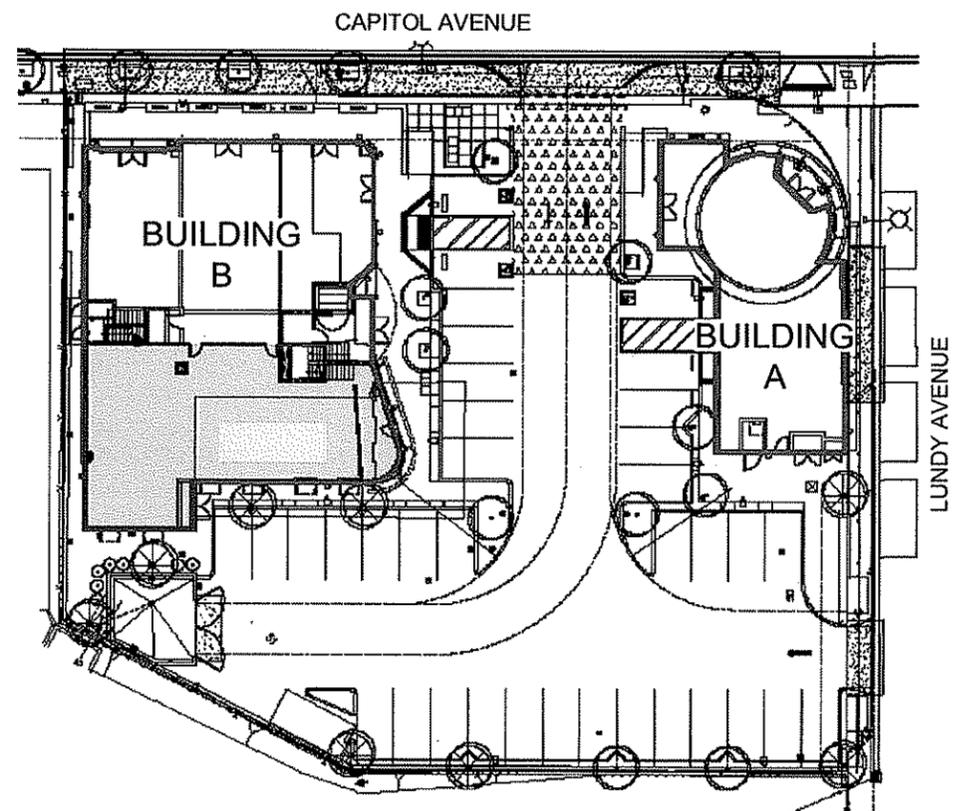
RECEIVED
 OCT 07 2009
 CITY OF MILPITAS
 PLANNING DIVISION

TITLE SHEET

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND HMH HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE CONTRACTOR/HM.

PROJECT: 03937001/PL/PERMIT/00000018.DWG

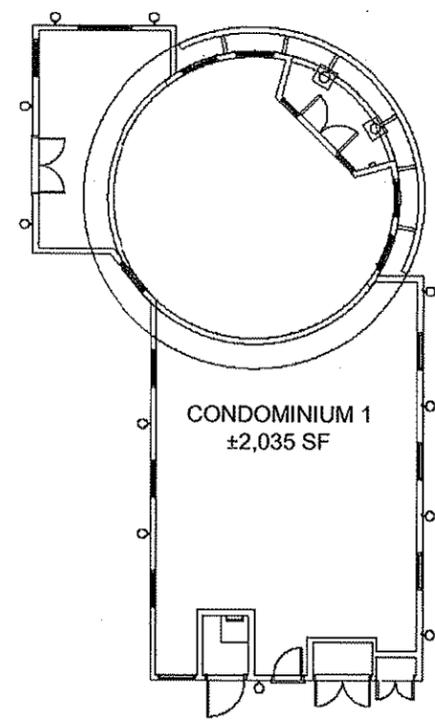
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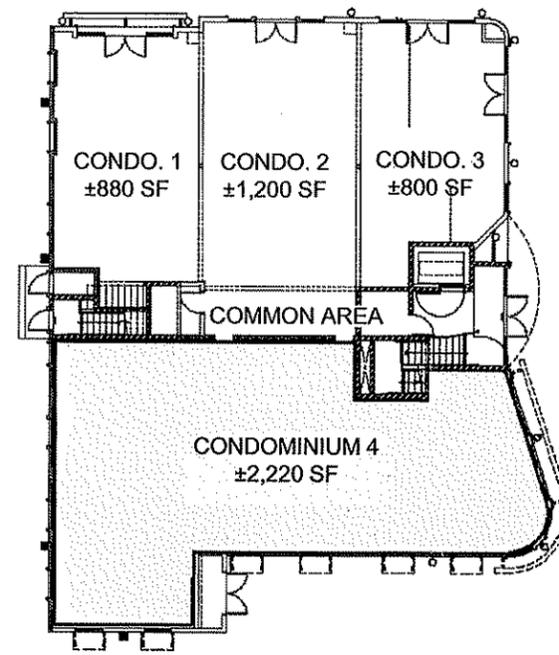
HMMH
 Land Use Entitlements
 Land Planning
 Landscape Architecture
 Civil Engineering
 Utility Design
 Land Surveying
 Stormwater Compliance
 1570 Oakland Road (408) 487-2200
 San Jose, CA 95131 HMMH.com



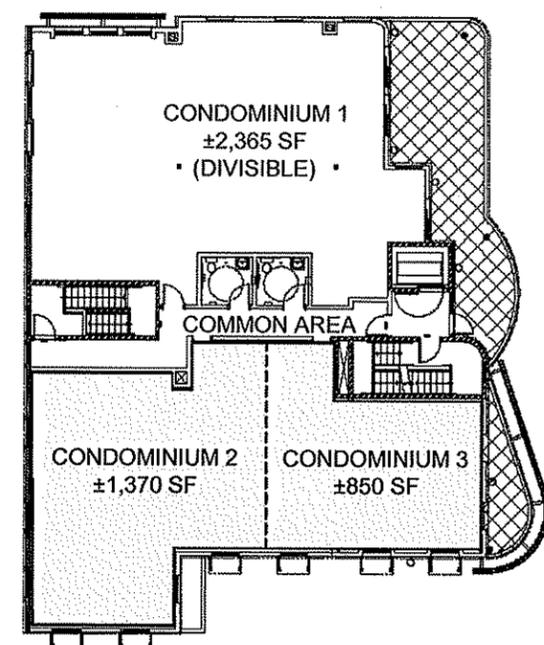
CONDITIONAL USE PERMIT
"ST. LOUIS" PLAZA
 744 E. CAPITOL AVE, MILPITAS, CA



BUILDING A
 ±2,035 SF
 1 CONDOMINIUM



BUILDING B
 (FIRST FLOOR)
 ±5,375 SF
 4 CONDOMINIUMS



BUILDING B
 (SECOND FLOOR)
 ±4,779 SF
 3 CONDOMINIUMS

NO.	DATE	DESCRIPTION

PROJECT NO: 3937.00
 CAD DWG FILE: 3637005P.DWG
 DESIGNED BY: ML
 DRAWN BY: ML
 CHECKED BY: RTH
 DATE: 10/7/2009
 SCALE: NOT TO SCALE
 © HMMH

CONDOMINIUM EXHIBIT

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND HMMH HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR HMMH.

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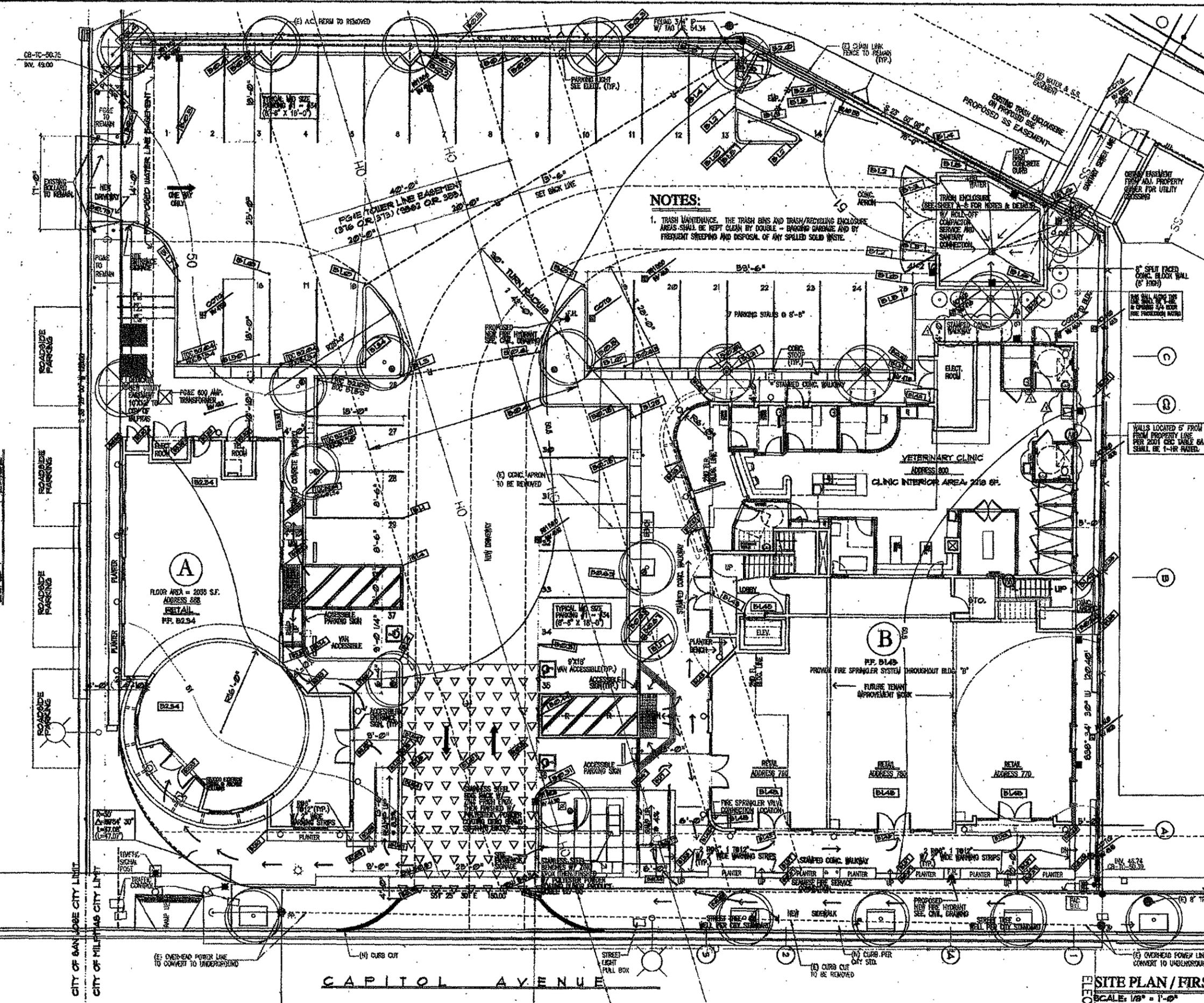
- ⊙ AREA LIGHT LIGHT POLE (TYP)
- ⊙ UNDER TREE LIGHT
- WALL LIGHT
- WALL LIGHT
- TREE
- NEW ELEVATION
- ⊖ (E) ELEVATION TO BE CHANGED
- ⊖ (E) BLDG. TO BE REMOVED
- ⊖ (E) ELEVATION
- ARROWS INDICATE ACCESSIBLE PATH OF TRAVEL TO BLDG ENTRANCES

NOTES:

1. THIS SITE IS IN SPECIAL FLOOD ZONE (A-1).
2. THIS SITE IS IN SPECIAL FLOOD ZONE (A-1) AND IS SUBJECT TO FLOODING. THE FLOODING HAZARD IS INDICATED BY THE SHADING ON THE FLOOR PLAN. THE FLOODING HAZARD IS BASED ON THE CITY'S FLOODING HAZARD MAP AND ANY WORK ON THIS SITE SHALL BE 1-HR RATED.
3. THE AREA IS IN A SEISMIC ZONE AND ALL STRUCTURES SHALL BE SEISMICALLY RETROFITTED TO MEET THE LATEST EDITION OF THE CALIFORNIA BUILDING CODE.
4. PROVIDE TACTILE SURFACE INDICATORS AT ALL ENTRANCES AND EXITS.

NOTES:

1. TRASH MAINTENANCE: THE TRASH BINS AND TRASH/RECYCLING ENCLOSURE AREAS SHALL BE KEPT CLEAN BY DOUBLE-BAGGING GARBAGE AND BY FREQUENT SHEEPING AND DISPOSAL OF ANY SPILLED SOLID WASTE.



A
FLOOR AREA = 2030 S.F.
ADDRESS 688
RETAIL
PF. B2.34

B
PF. B1.45
PROVIDE FIRE SPRINKLER SYSTEM THROUGHOUT BLDG. BY FUTURE TENANT APPROVAL WORK

VETERINARY CLINIC
ADDRESS 690
CLINIC INTERIOR AREA: 218 SF.

JOB COPY
JUN 1 2 2006
CITY OF MILPITAS
BUILDING DIVISION

DATE: 05/08/07
SCALE: AS SHOWN
DRAWN:
JOB:
SHEET: TI-2

LHA
LUNG HWA ASSOCIATES
ARCHITECTS ENGINEERS
1000 CALIFORNIA STREET, SUITE 200
SAN JOSE, CA 95128
TEL: 408.261.1111

**TENANT IMPROVEMENT @
800 E. CAPITOL AVENUE
MILPITAS, CALIFORNIA**

CONTENTS:
SITE PLAN
FLOOR PLAN

SITE PLAN / FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"

