



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: April 14, 2010

APPLICATION: **Conditional Use Permit No. UP10-0004, Large Family Childcare Home**

APPLICATION SUMMARY: A request to allow for a Large Family Childcare Home locating within 300 feet from another Large Family Child Care Home.

LOCATION: 255 Balboa (APN: 022-43-042)

APPLICANT: Sukhjit Singh, 255 Balboa Drive, Milpitas, CA 95035

OWNER: Jaskiran Chahal & Sukhjit Singh, 255 Balboa Drive, Milpitas, CA 95035

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 10-021 approving the project subject to conditions of approval.**

PROJECT DATA:
General Plan/
Zoning Designation: Multi-Family High Density Residential (R3)
Any other pertinent info:

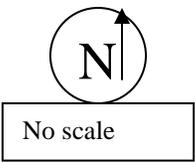
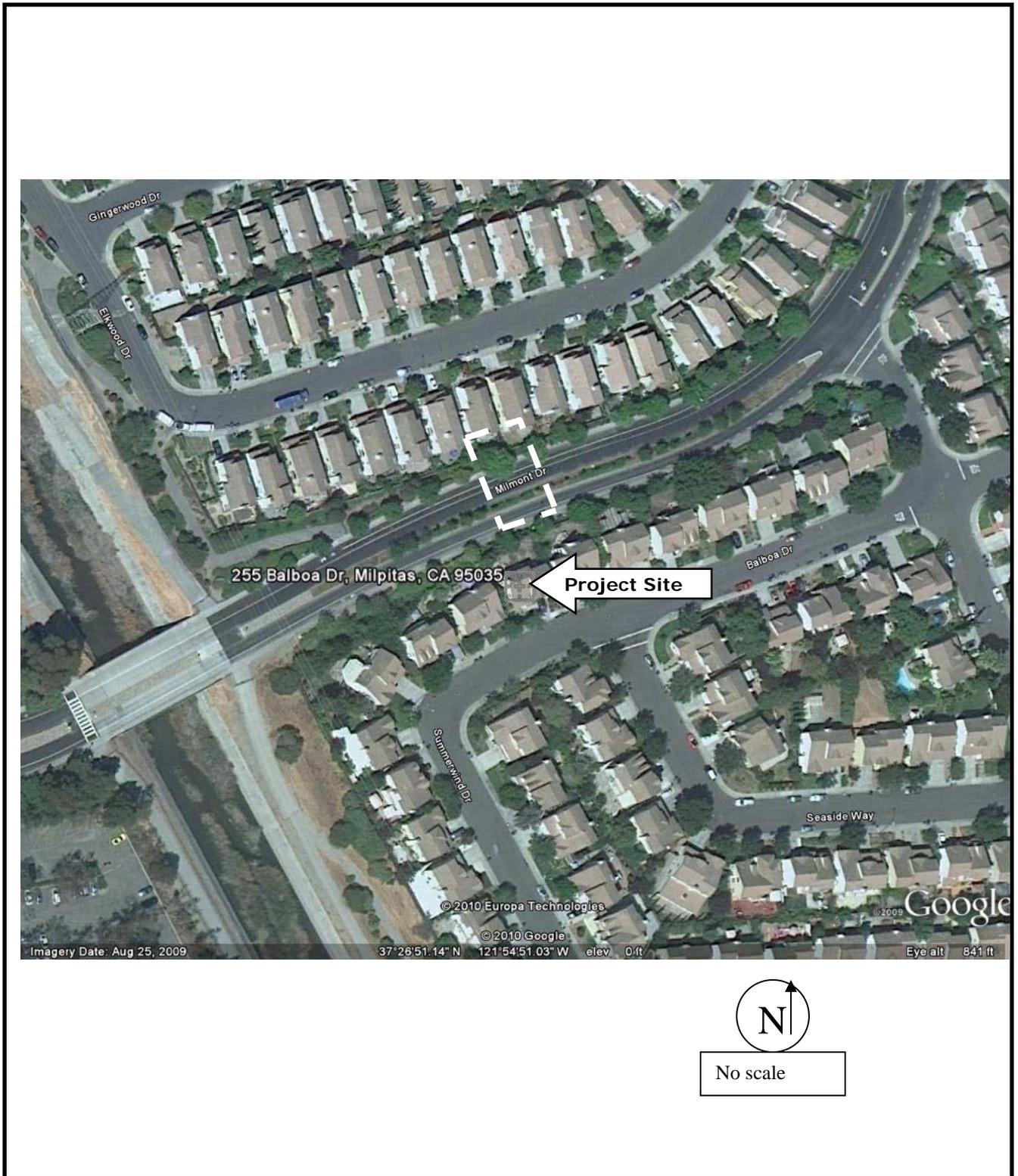
CEQA Determination: Categorically exempt form CEQA pursuant to Section 1530(p) (Existing Facilities)

PLANNER: Janice Spuller, Assistant Transportation Planner

PJ: N/A

ATTACHMENTS:
A. Resolution No. 10-021
B. Site Plans
C. Radius Map

LOCATION MAP



BACKGROUND

On March 12, 2010, Sukhjit Singh submitted an application to locate a large family childcare home within 300 feet of another large family child care home. The application is submitted for a conditional use permit in accordance with the Zoning Ordinance (*Chapter 10, Section 57.01(a)*) because the location of the proposed childcare facility being within 300 feet of an existing childcare facility.

PROJECT DESCRIPTION

The project site is a 3,800 square foot lot with a 1,767 square foot home, designating 1,500 square feet to the daycare area, including 630 square feet of outdoor play area. The property is zoned Multi-Family High Density Residential (R3) and is surrounded by other residential development. A vicinity map of the subject site location is included on the previous page.

A large family childcare home is defined as a home in which family child care is provided to a minimum of nine (9) children and a maximum of (14) children. This includes children under the age of ten (10) who reside at the home (*Chapter 10 Section 2.38-1*).

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
<p><i>2.a-1-24:</i> Encourage the establishment of day care facilities consistent with State standards, including the issuance of use permits for large day care facilities where compatible with surrounding neighborhoods and commercial uses, particularly in public facilities such as community centers, churches, schools and in employment centers and large housing developments.</p>	<p>The applicant is consistent with State standards and the use is compatible with the surrounding residential neighborhood.</p>

Zoning Ordinance

Large Family Childcare Homes are a permitted use within the Multi-Family High Density Zoning District as long as they meet the Development Standards. This proposal does not meet the development standards in that it is within 300 feet of another Large Family Childcare Facility (*Chapter 10, Section 54.16-4.1*). However, with approval of a conditional use permit, the project would be consistent. The closest existing large family childcare facility located at 247 Balboa Drive has been notified and has not objected the location of the new subject childcare facility locating within 300 feet of them. In addition, this existing large family childcare facility is working with the County Community Care Licensing Child Care Department to surrender their license. This is subject to hearing by the Administrative Law Judge in June 2010.

The hours of operation will be no earlier than 8:00 A.M. and end no later than 6:00 P.M. Two off-street parking spaces in the driveway and street frontage parking are provided for persons using the

childcare facilities in accordance with the Zoning Ordinance (*Chapter 10, Section 54.16-4.3*) to allow for safe loading and unloading of children. The outdoor play area is enclosed with a six-foot high fence compatible with neighboring properties.

Childcare Master Plan

The project is consistent with applicable Childcare Master Plan Principals and Implementing Policies in that it provides multiple opportunities in helping assist residents when in need of childcare.

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 15031(p), "Existing Facilities" which determines single-family residences as a small family daycare as not having a significant effect on the environment.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. One voicemail was received by an anonymous resident [on April 6, 2010] who advised against the staff recommendation citing an existing daycare facility and other home businesses on this street as well as concern for increased parking and traffic issues.

CONCLUSION

Staff's position is that the proposed childcare facility is a compatible use with the surrounding residential development. The project's operation will be consistent with the zoning ordinance's provisions. The project provides an additional convenient source of child care in Milpitas.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing following public testimony and adopt Resolution No. 10-021 approving Conditional Use Permit No. UP10-0004, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 10-021
- B. Site Plans
- C. Radius Map

RESOLUTION NO. 10-021

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP10-0004, BALBOA LARGE FAMILY CHILDCARE HOME, TO ALLOW FOR A LARGE FAMILY CHILDCARE HOME TO LOCATE WITHIN 300 FEET FROM ANOTHER LARGE FAMILY CHILDCARE HOME, LOCATED AT 255 BALBOA DRIVE

WHEREAS, on March 12, 2010, an application was submitted by Sukhjit Singh, 255 Balboa Drive, to allow for a large family childcare center to locate within 300 feet from another large family childcare home. The property is located within the Multi-Family High Density Residential (R3) zoning district (APN: 022-43-042); 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 categorically exempt from CEQA.

WHEREAS, on April 14, 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: The project is categorically exempt from further environmental review pursuant to California Environmental Quality Act (CEQA) Section 15301 (p) (Existing Facilities) which characterizes the use of a single-family residence as a small family daycare as not having a significant effect on the environment.

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 because the use provides the surrounding residence opportunities offering childcare.

Section 4: The proposed use is consistent with the Milpitas General Plan policy 2.a-I-24 in that the facility is compatible with surrounding neighborhoods and commercial uses

Section 5: The proposed use is consistent with the Milpitas Zoning ordinance pursuant to Title XI, Chapter 10, Section 4.03-6 (Single Family Residential, Accessory Uses, Large family childcare home and Section 57 (Conditional Use Permitted by Commission) in that the proposed use meets the development standards for Large Family Childcare home including parking, and hours.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit UP10-0004, Large Family Childcare, 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 14, 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 April 14, 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
CONDITIONAL USE PERMIT NO. UP10-0004**

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 April 14, 2010, in accordance with these Conditions of Approval.

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. **(P)**

UP10-0004 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.

2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of UP10-0004 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
3. Hours of Operation. For large family childcare homes, hours of operation shall not occur before 6:30 A.M. or after 7:30 P.M., in order to maintain compatibility with neighboring properties and limit noise during night-time hours. **(P)**
4. If any large family large family childcare home is operating in a manner that constitutes a nuisance, the childcare facility operator shall work with the Planning Division to address the nuisance, through such actions as adjusting hours of operation, adjusting hours of outdoor play, staggering times for child drop-off and pick-up, and the like. If any childcare center is operating in a manner which constitutes a nuisance, the Planning Commission shall reopen the Use Permit to add or change conditions of approval addressing the issue(s) or take such other action as allowed by law. Prior to operation of the Day Care, applicant shall obtain review and approval from California State DSS-Community Care Licensing. **(F)**
5. Fire Department will review for applicable Fire Code requirements upon receiving application from DSS Community Care Licensing. **(F)**

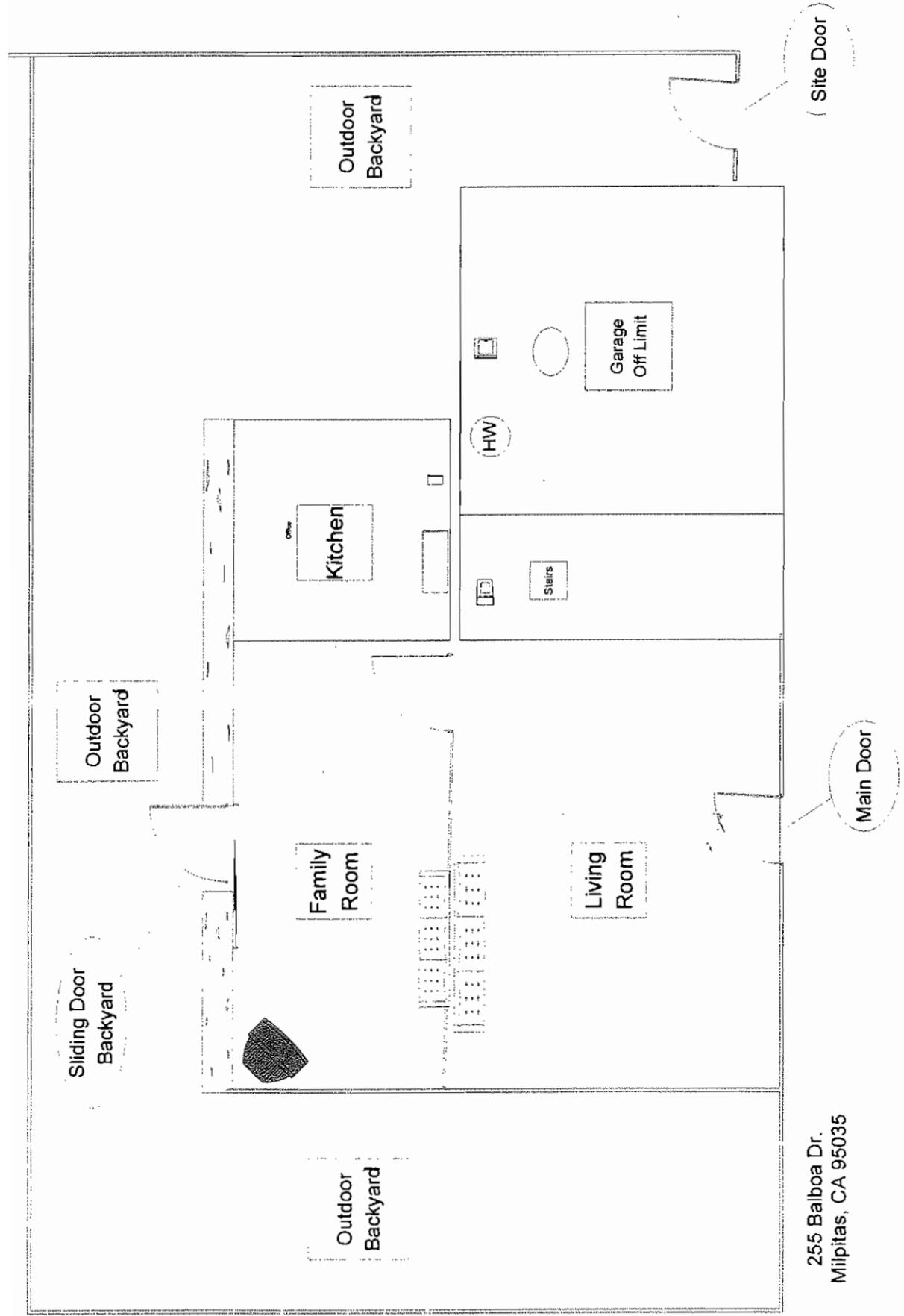
6. It is mandated to obtain Business license and Certificate of occupancy prior to start of business operation. (B)
7. Fire alarm system shall be provided as per 2007CBC sec.310.3. (B)

Legend

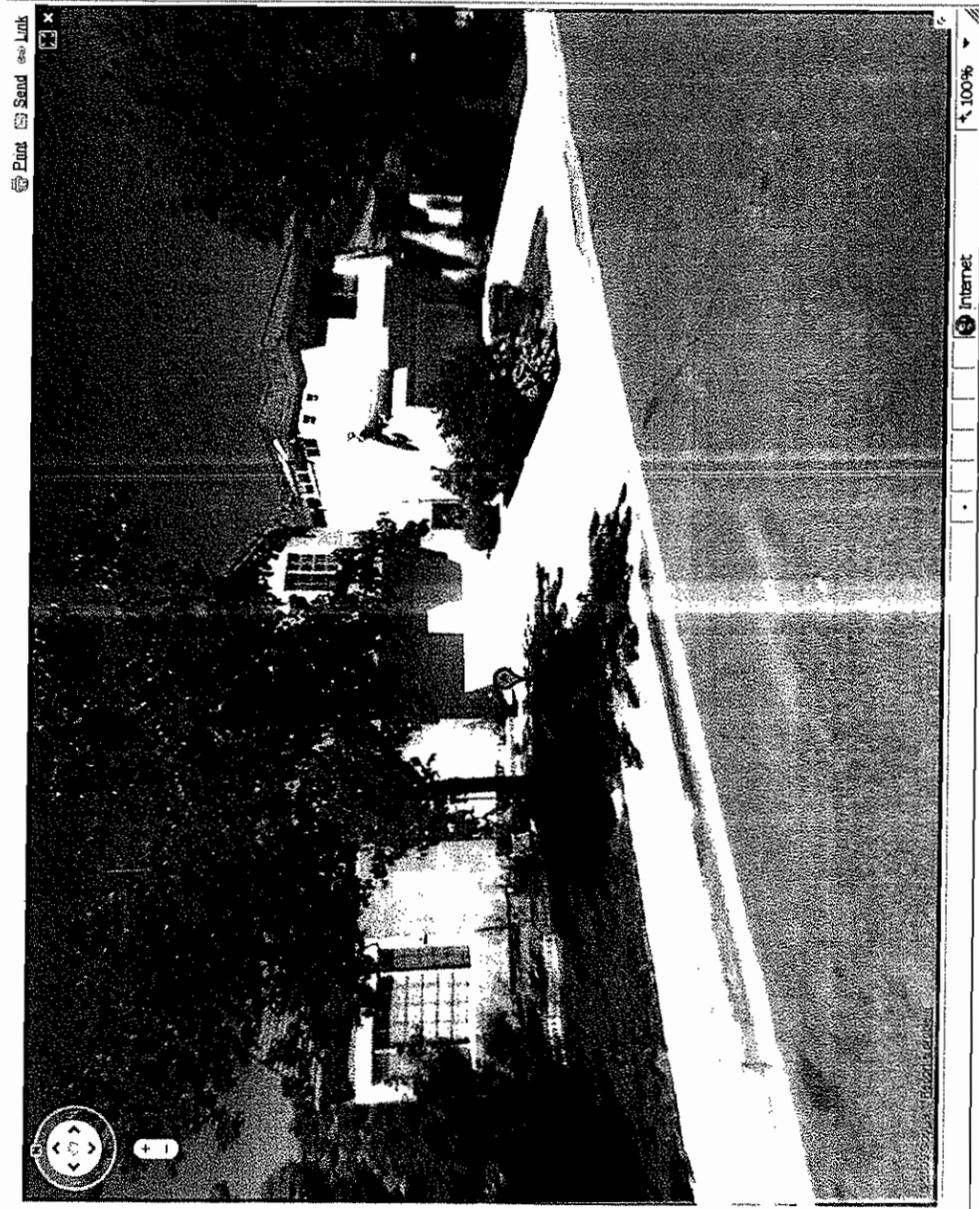
Planning Division = (P)

Fire Prevention Department = (F)

Building Department = (B)



255 Balboa Dr.
Milpitas, CA 95035



**Conditional Use Permit No. UP10-0004
255 Balboa Drive
300-Foot Radius Map**

- Legend
- 300-FOOT RADIUS
 - EXISTING LARGE FAMILY HOME CHILDCARE FACILITY
 - PROJECT SITE

