

LOCATION MAP



BACKGROUND

On May 27, 2011, Tony Tran submitted an application for a new martial arts studio in accordance with Chapter 10 Zoning, Table 5.02-1 for Commercial Zone Uses, Group Instruction and Section 10-57.04 for Conditional Use Permits of the Milpitas Municipal Code.

PROJECT DESCRIPTION

The project site is located within the Park Victoria shopping Center. The center is zoned neighborhood commercial with commercial uses to the north and west and residential to the south and east. The property is a 5.95 acre parcel with four buildings built in around 1965. A vicinity map of the subject site location is included on the previous page.

The applicant proposes to locate a 1,525 square foot martial arts studio in the south east building. The hours of operation are Monday, Wednesday, and Friday from 5:00pm to 8:00pm, and Tuesday and Thursdays from 6:00pm to 8:00pm. The studio will be closed on Sundays. Each session will be approximately 45 minutes long with no more than 15 students for each session (16 persons including the instructor).

Parking

Per the zoning code, the tenant space is designated 8 parking spaces and they are required only 5 parking spaces for the martial arts studio. See parking table below.

Table 1
Parking Requirements

| | Zoning Code | Parking |
|---|---|--------------------------------|
| Commercial Tenant Space | 1 parking space per every 200 sq. ft. (1,525 sq.ft. / 200) | Designated 8 parking spaces |
| Instructional Studio (Martial Arts Studio) | 1 parking space per every 150 sq.ft. (806 sq.ft studio area / 150) | Required 5 parking spaces |

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>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> | Consistent |

The new martial arts studio is consistent with the General Plan Policy 2.a-I-5 in that it is an economic opportunity for the business owner of the proposed studio and the location is within an existing commercial center which is within the City's existing environmental, social, fiscal, and land use constraints.

Zoning Ordinance

The proposed martial arts studio is consistent with the Zoning Ordinance in that the use is a conditionally permitted use and will not be detrimental or injurious to the property or the public health, safety, and general welfare.

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" in that the use is locating within an existing tenant space within a shopping center and will require only minor interior alterations if any, and the implementation of new text on existing signage allocations.

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 martial arts studio is a conditionally permitted use and is consistent with both the General Plan and Zoning Ordinance. The studio promotes business within the existing shopping center and provides new opportunities for Milpitas residence.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. 11-037 for permit UP11-0015, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 11-037
- B. Site Plans

RESOLUTION NO. 11-037

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,
CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0015, TO
ALLOW THE OPERATION OF A NEW MARTIAL ARTS STUDIO,
LOCATED AT 76 S. PARK VICTORIA**

WHEREAS, on May 27, 2011, an application was submitted by Tony Tran, 1265 Acadia Ave, Milpitas, CA 95035, to allow the operation of a 1,525 square foot martial arts studio within an existing commercial strip building at 76 S Park Victoria Drive. The property is located within the Neighborhood Commercial with Site and Architectural Review Overlay District (C1-S). (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 exempt; and

WHEREAS, on August 10, 2011, 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 Section 15301 for "Existing Facilities" in that the use is locating within an existing tenant space within a shopping center and require only minor interior alterations.

Section 3: The new martial arts studio is consistent with the General Plan Policy 2.a-I-5 in that it is an economic opportunity for the business owner of the proposed studio and the location is within an existing commercial center which is within the City's existing environmental, social, fiscal, and land use constraints.

Section 4: The proposed martial arts studio is consistent with the Zoning Ordinance in that the use is a conditionally permitted use and will not be detrimental or injurious to the property or the public health, safety, and general welfare.

Section 5: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP11-0015 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 August 10, 2011.

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 August 10, 2011 and carried by the following roll call vote:

| COMMISSIONER | AYES | NOES | ABSENT | ABSTAIN |
|---------------------|-------------|-------------|---------------|----------------|
| Lawrence Ciardella | | | | |
| Sudhir Mandal | | | | |
| Zeya Mohsin | | | | |
| Gurdev Sandhu | | | | |
| Steve Tao | | | | |
| Noella Tabladillo | | | | |
| Mark Tiernan | | | | |
| John Luk | | | | |

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP11-0015**

A request to operate a 1,525 square foot martial arts studio within an existing commercial strip building.

76 S Park Victoria Drive (APN: 088-04-078)

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 **August 10, 2011**, 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)**

UP11-0015 shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:

- a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. 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 **UP11-0015** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
 3. Based on the square footage of the classroom space, the maximum occupant load for classes shall be 16 persons. **(P,F)**

(P) = Planning

(F) = Fire Prevention

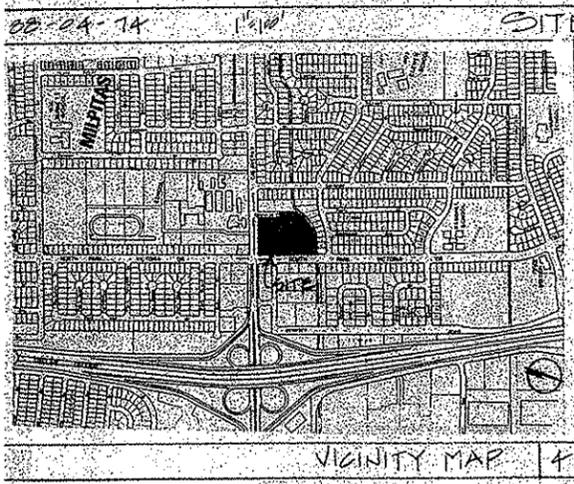
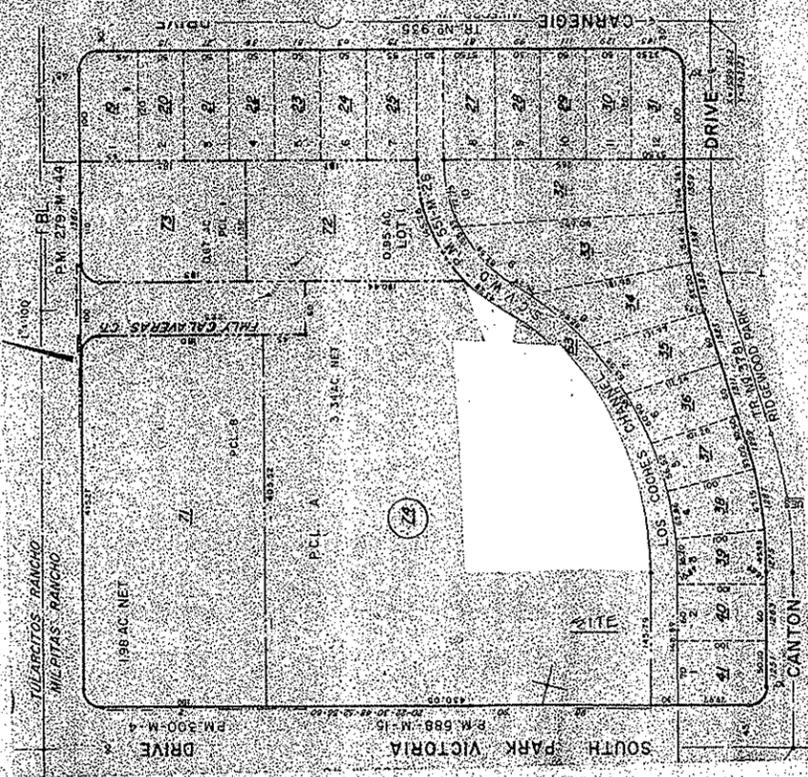
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WC HIDDEN DRAGON
 76 S. PARK VICTORIA DR

SEE CIVIL DRAWINGS
 1" = 40'
 SITE PLAN

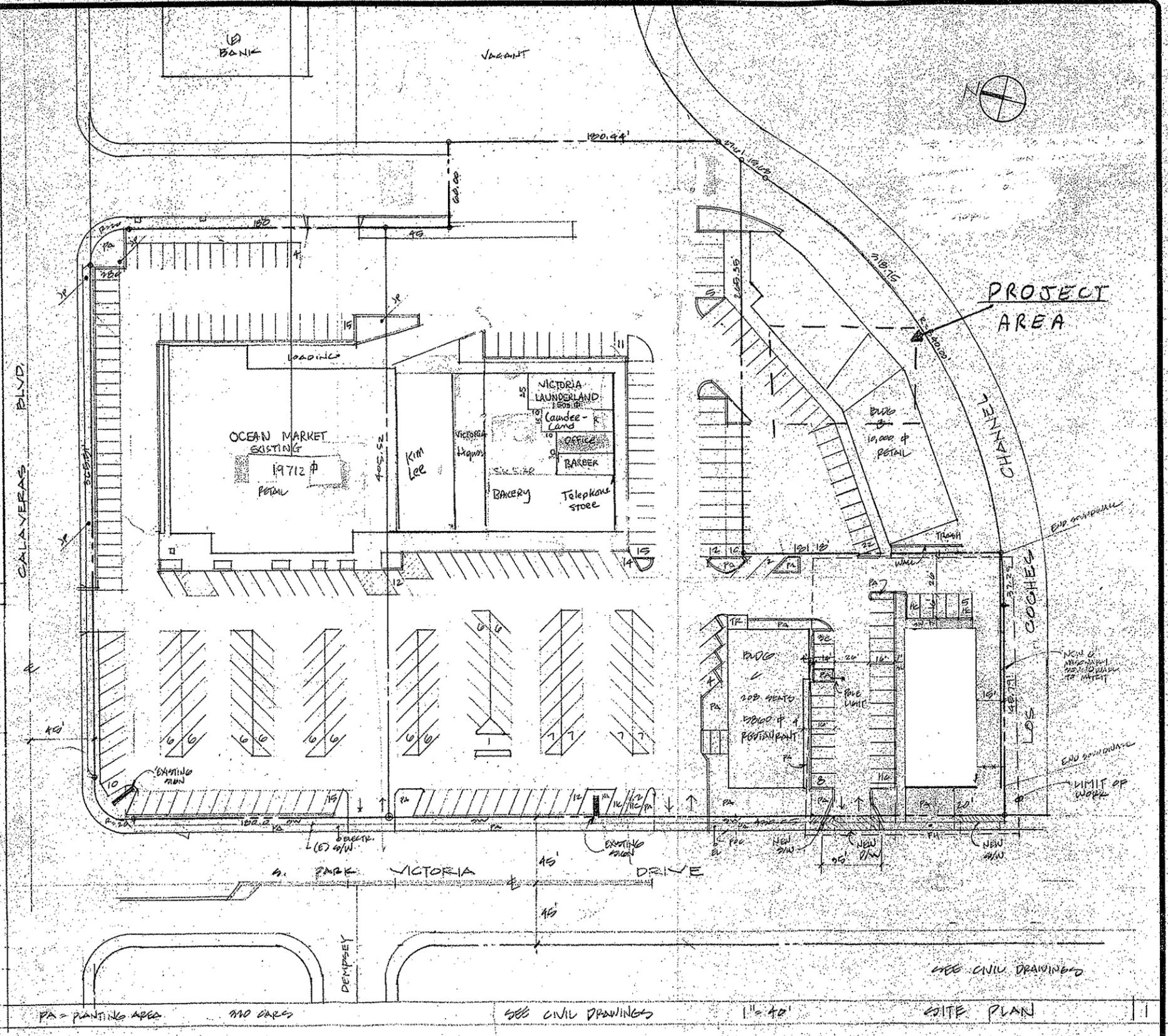
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| 1" = 40' - 011 |
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| PERLS |



00-24-74

SITE PLAN 2

| | |
|----------------|------------------------|
| BLDG A | 26,442 SF / 1,200 = 22 |
| BLDG B | 10,000 SF / 1,200 = 8 |
| BLDG C | 208 SEATS / 1,200 = 17 |
| BLDG D | 4,500 SF / 1,200 = 4 |
| TOTAL SEATS | 220 |
| TOTAL SHOWING | 220 |
| NUMBER COMPACT | 10% |



PA = PAINTING AREA
 NO CARP
 SEE CIVIL DRAWINGS
 1" = 40'
 SITE PLAN

RECEIVED

MAY 27 2011

WC HIDDEN DRAGON
76 S. PARK VICTORIA DR
MILPITAS, CA 95035
FLOOR PLAN

RECEIVED

JUN 22 2011

CITY OF MILPITAS
PLANNING DIVISION

