



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: September 14, 2011

APPLICATION: **CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0006,
HONEY THAI RESTAURANT**

APPLICATION SUMMARY: A request to add sales of beer and wine for an existing restaurant.

LOCATION: 57 N. Milpitas Boulevard (APN 28-22-132)
APPLICANT: Nick Poopat, 57 N. Milpitas Blvd., Milpitas, CA 95035
OWNER: Shapell Industries, 100 N. Milpitas Blvd., Milpitas, CA 95035

RECOMMENDATION: **Staff recommends that the Planning Commission:
Adopt Resolution No. 11-044 approving the conditional use permit
subject to conditions of approval.**

PROJECT DATA:
General Plan/
Zoning Designation: Town Center (TWC)/ Town Center (TC)
Overlay District: Site and Architectural Overlay (-S)
Specific Plan:

Tenant Square footage: 1,525 square feet
Dining Area: 652

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: 2746

ATTACHMENTS:
A. Resolution No. 11-044
B. Plans
C. Project Letter

LOCATION MAP



No scale

BACKGROUND

On July 26, 2011, Nick Poopat, of Honey Thai Restaurant submitted an application to add beer and wine sales for on-site consumption with the existing food service. The project proposes no other changes to the existing floor plan or hours of operation. The application is submitted pursuant to Milpitas Municipal Code XI-10-5.02-1 (Restaurant with on-site service of alcohol).

PROJECT DESCRIPTION

The project is a restaurant tenant space located within Beresford Shopping Center located at 57 N. Milpitas Boulevard. The Beresford Shopping Center is a 55,844 square foot one-story multi-tenant commercial building on a 7.79 acre site with surface parking. The project site is bounded by Calaveras Boulevard to the south, Milpitas Boulevard to the east, Beresford Court to the north, and the Terrace Garden Senior Housing community to the west. Surrounding land uses includes residential uses to the west, commercial uses to the north, northeast, and south of the project site. Milpitas City Hall, Milpitas Community Center, and Senior Center are located to the east. An aerial photo of the project site and vicinity is shown on the previous page.

The project site is located within the Town Center Zoning District. The applicant requests an amendment to their existing conditional use permit to allow for on-site consumption of beer and wine in conjunction with the existing food service. The existing operating hours for the restaurant are from 11:30am to 9:30pm seven days a week. The applicant does not propose any other changes in conjunction with this amendment.

Development Standards

There are no proposed changes to the site or building. A change in the alcohol license does not affect parking standards.

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-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.</i>	Consistent. The project provides the city with a dining destination within the Milpitas Town Center District.
<i>2.a-I-7 Provide opportunities to expand employment, participate in partnerships with local businesses</i>	Consistent. The project would promote business retention in that it would allow the restaurant to capture a larger customer base and increase the vitality of the retail strip center

Policy	Consistency Finding
<i>to facilitate communication, and promote business retention.</i>	

Zoning Ordinance

The project is consistent with the Milpitas Zoning Ordinance in terms of land use and development standards. Restaurants with alcohol service are conditionally permitted in the Town Center Zoning District. The project proposes no site or building modifications and the change in alcohol license does not require additional parking.

The sale of beer and wine would be ancillary to the food service and would not be detrimental or injurious to property, improvements, public health, safety, and general welfare in that the project site is located within an existing shopping center. To ensure responsible serving of alcohol, staff recommends as a condition of approval that the restaurant operator and its employees receive responsible alcohol beverage training.

Department of Alcoholic Beverage Control’s “Undue concentration of Liquor License” Regulations

According to the Department of Alcohol and Beverage Control, the project site is located within Census Tract 5044.13 which authorizes three (3) on-sale permits. Currently, there are no active on-sale licenses. Therefore, the project is not within an undue concentration area.

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. The addition of on-site consumption of beer and wine in conjunction with food service is considered a negligible change in operation of an existing restaurant use.

PUBLIC COMMENT/OUTREACH

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

CONCLUSION

The service of beer and wine in conjunction with existing restaurant would be an ancillary use that would be consistent with the Milpitas General Plan in that it encourages economic pursuits, business retention, and continuation of commercial development in the Calaveras Boulevard Corridor. The project conforms to the Town Center Zoning in terms of land use and development standards. As conditioned, the project will not be detrimental to property, improvements, or public health, safety, and general welfare.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing and adopt Resolution No. 11-044 approving Conditional Use Permit Amendment No. UA11-0006, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 11-044
- B. Plans
- C. Project Description

RESOLUTION NO. 11-044

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0006, HONEY THAI RESTAURANT, A REQUEST TO ADD BEER AND WINE SALES TO AN EXISTING RESTAURANT LOCATED AT 57 N. MILPITAS BLVD.

WHEREAS, on July 26, 2011, an application was submitted by Nick Poopat with Honey Restaurant, 57 N. Milpitas, Blvd., Milpitas, CA 95035, a request to allow for ancillary sale of beer and wine to an existing restaurant. The property is located at 57 N. Milpitas, Blvd (APN 28-22-132) within the Town Center 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 environmental review; and

WHEREAS, on September 14, 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 Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act. The addition of on-site consumption of beer and wine in conjunction with food service is considered a negligible change in the operation of an existing restaurant use.

Section 3: The service of beer and wine in conjunction with the existing restaurant is consistent with the Milpitas General Plan policies in that it encourages economic pursuits, business retention, and continuation of commercial development in the Town Center District.

Section 4: The project conforms to the General Commercial Zoning in that the restaurant with alcohol beverage service is a conditionally permitted use.

Section 5: As conditioned, the project will not be detrimental or injurious to property, improvements, public health, safety and general welfare in that restaurant operator and its employees shall receive responsible alcohol beverage training.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit Amendment No. UA11-0006, Honey Thai Restaurant, 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 September 14, 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 September 14, 2011, and carried by the following roll call vote:

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

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0006
A request to allow beer and wine sales to an existing restaurant
57 N. Milpitas Blvd.**

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 July 28, 2010, in accordance with these Conditions of Approval.

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. **(P)**

2. Conditional Use Permit Amendment No. UA11-0006 shall become null and void if the project is not commenced within two (2) years from the date of approval. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas:
 - 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.
3. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Conditional Use Permit Amendment No. UA11-0006 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
4. The project shall be operated in accordance with all local, state and federal regulations. **(P)**
5. 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)**
6. The operator shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the

training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request. (P)

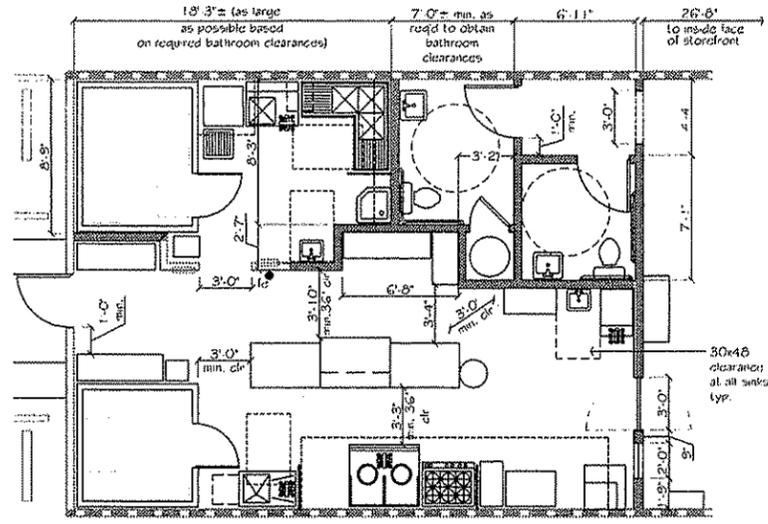
7. Comply with all Department of Alcoholic Beverage Control licensing requirements pertaining to the sale of beer, wine and distilled spirits. (P)

(P) = Planning

(B) = Building

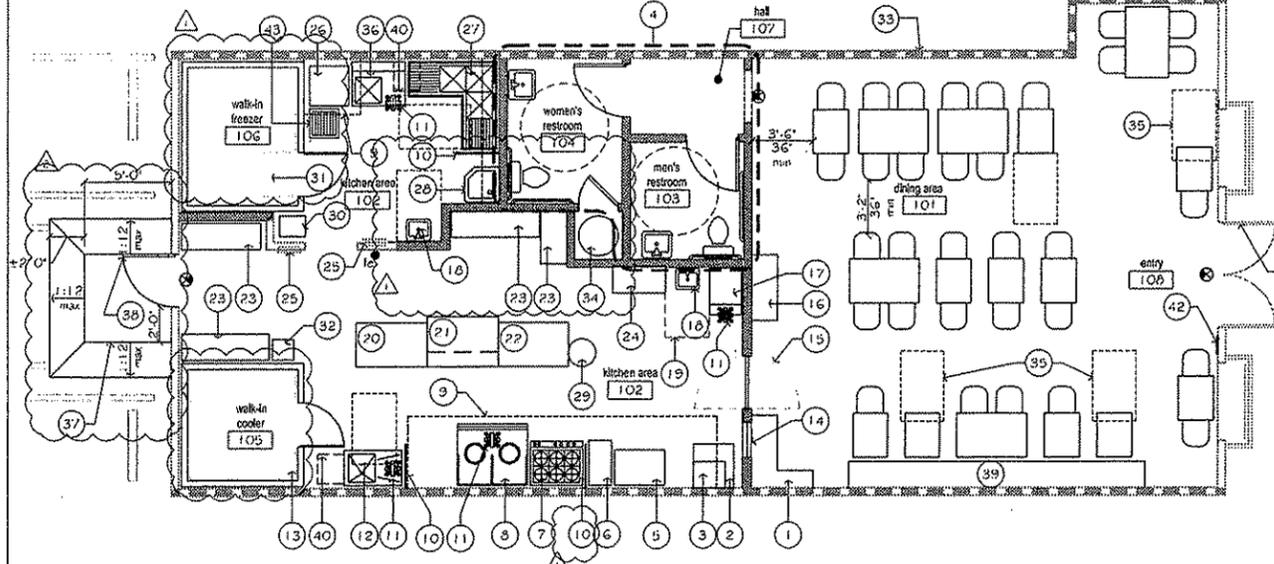
(E) = Engineering

(F) = Fire Prevention



Dimensioned Floor Plan - partial

1/4" = 1'-0"



Floor plan

1/4" = 1'-0"



Floor Plan Wall Legend

- Existing wall construction to remain
- (N) ceiling height partition. See det #1 & 2 on A5.0.
- Existing demising wall to remain
- Align surfaces, typical
- Wall mounted fire extinguisher

General Door Notes

- A. Verify max. 1/2" threshold transitions at all exterior doors, typical.
- B. Doors shall be operable with a single effort by lever type hardware per current California Building Code and ADA requirements.
- C. All door hardware to be ADA compliant lever type hardware (new and existing doors). Verify existing and replace as required.
- D. All new doors shall match (c) building standard finishes, u.o.n.
- E. Egress doors shall be readily openable from the egress side without the use of a key, thumb turn, or any special knowledge or effort. Manually operated flush bolts or surface bolts are not permitted.
- F. All door glazing is to be tempered per section 2406.
- G. Minimum door opening efforts to be 5 lbs. at exterior and interior doors, per CBC 1133B.2.5.
- H. All doors are to be equipped with single effort, non-glazing hardware centered between 30" and 44" above floor.
- I. Only the main exterior door(s) are permitted to be equipped with key operated locking devices from the egress side provided:
 - I.A. The locking device is readily distinguishable as locked.
 - I.B. A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letter 1 inch on a contrasting background.

Floor Plan General Notes

- Patch and repair all areas which are affected during construction.
- Provide fire extinguishers as required throughout space per code and per inc. partition layout with travel distance not to exceed 50'-0"
- The construction shall be performed and installed to meet all applicable codes and regulations. In general, follow all typical construction standards as set forth by the building owner and the City of Milpitas building ordinances.
- Dimensions shall not to be scaled from architectural prints. All measurements must be field verified prior to construction. Notify architect of any discrepancies.
- New mechanical and electrical controls to be mounted at accessible heights. Refer to detail #17 on A5.0.
- All new outlets in restrooms and kitchen to be GFI
- All new glazing shall conform to CBC requirements.
- Emergency exit illumination shall operate on two sources of power.
- Interior wall and ceiling finish shall comply with 2010 CBC Chapter 5.
- Awlcs serving as a portion of the exit access in the means of egress system shall be in accordance with 2010 CBC section 1014.4.

Floor Plan Keynotes

1. (N) ADA/Accessibility compliant service counter.
2. (N) undercounter freezer, refer equipment plan A2.2.
3. (N) commercial microwave, refer equipment plan A2.2.
4. (N) Accessible restrooms. See enlarged plan on A4.0.
5. (E) char-ock broiler, refer to equipment plan, A2.2.
6. (N) fryer, refer to equipment plan A2.2.
7. (N) 36" range with oven below, refer to equipment plan A2.2.
8. (N) chinese range, refer to equipment plan A2.2.
9. (N) Ansul hood system, connects and rates (c) duct shaft.
10. (N) stainless steel partition, refer to equipment plan AP.2.
11. (N) floor drain, refer to equipment plan A2.2. See det#8 on A5.0.
12. (N) prep sink, refer to equipment plan A2.2.
13. (N) 7' 0" by 7' 0" walk in cooler, refer to equipment plan AP.2. Provide in wall condensation line and daylight at nearest floor sink.
14. (N) 2'-0" by 3'-0" tempered glass window with sill at 4'-0" all.
15. (N) 3' 0" by 7' 0" full swing wood door.
16. (N) ADA/Accessibility compliant service bus station.
17. (N) ice maker with storage bin, refer to equipment plan A2.2.
18. (N) hand sink, refer to equipment plan A2.2.
19. (N) 30x48" clearance space in front of sink.
20. (N) stainless steel work surface, refer to equipment plan A2.2.
21. (N) Salad prep station with smoking above, refer to equipment plan A2.2.
22. (N) undercounter refrigerator, refer to equipment plan A2.2.
23. (N) two-high chrome shelves, refer to equipment plan and storage cases A2.2.
24. (N) storage for clean linen, refer to equipment plan A2.2.
25. (E) electrical circuit panels at 48" a.f.f. (contractor to verify).
26. (N) commercial dishwasher, refer to equip. plan A2.2.
27. (N) three compartment sink with two 18" drainboards, refer to equipment plan AP.2.
28. (N) mop sink with shelf above for cleaning supplies, refer to equipment plan AP.2. See det #7 on A5.0.
29. (N) 20 gallon trash can, refer to equipment plan A2.2.
30. (N) 3-high employee's lockers, refer to equipment plan A2.2.
31. (N) 7' 0" by 8' 6" walk in freezer with raised floor, refer to equipment plan AP.2. Provide in wall condensation line and daylight at nearest floor sink.
32. (N) Storage bin for soiled linen, refer to equipment plan A2.2.
33. (E) demising wall.
34. (N) or (E) water heater, refer to equipment plan AP.2 and detail #2 on A5.0.
35. Accessible seating area, typical.
36. (N) Scaled dishes reuse sink connecting to dishwasher. Refer to equipment plan AP.2.
37. Provide a min. 5' level landing at door exterior with flared sides to lot (max slope 1:12). Drop from door to asphalt is approx. 2". 1/2" max. threshold at door. Contractor to verify all accessible level landing requirements. Coordinate finish and color with building association prior to installation.
38. (N) accessible hardware on (c) exterior door.
39. (N) built-in bench at 18" a.f.f. Coordinate with owner.
40. (N) underfloor 70 lb grease trap below sink area, refer to equipment plan AP.2., and mechanical plans.
41. (E) storefront double door to remain. Contractor to verify door to be fully accessible. See general door notes #1 on this sheet.
42. Sign with occupant load of the room shall be posted in a conspicuous place near the exit. Posted sign shall be of an approved legible permanent design and shall be maintained by the owner or authorized agent. (2010 CBC 1004.3)
43. (N) drainboard at end of dishwasher. Refer to equipment plan A2.2.

RECEIVED

JUL 26 2011

CITY OF MILPITAS
PLANNING DIVISION

Jeanelle Coran Architects
architectural-planning-interiors

2096 Lincoln Avenue
San Jose, California 95125
v.408-978-2096 f.408-978-2099
jeanelle@jca-architects.com

Tenant Improvements For:

Honey Thal Restaurant
57 N. Milpitas Blvd.
Milpitas, CA 95035

Submital:

01 26 11
Equipment of Health Authority
05 10 11
Health Department
03 10 11
Building Division 1, 2

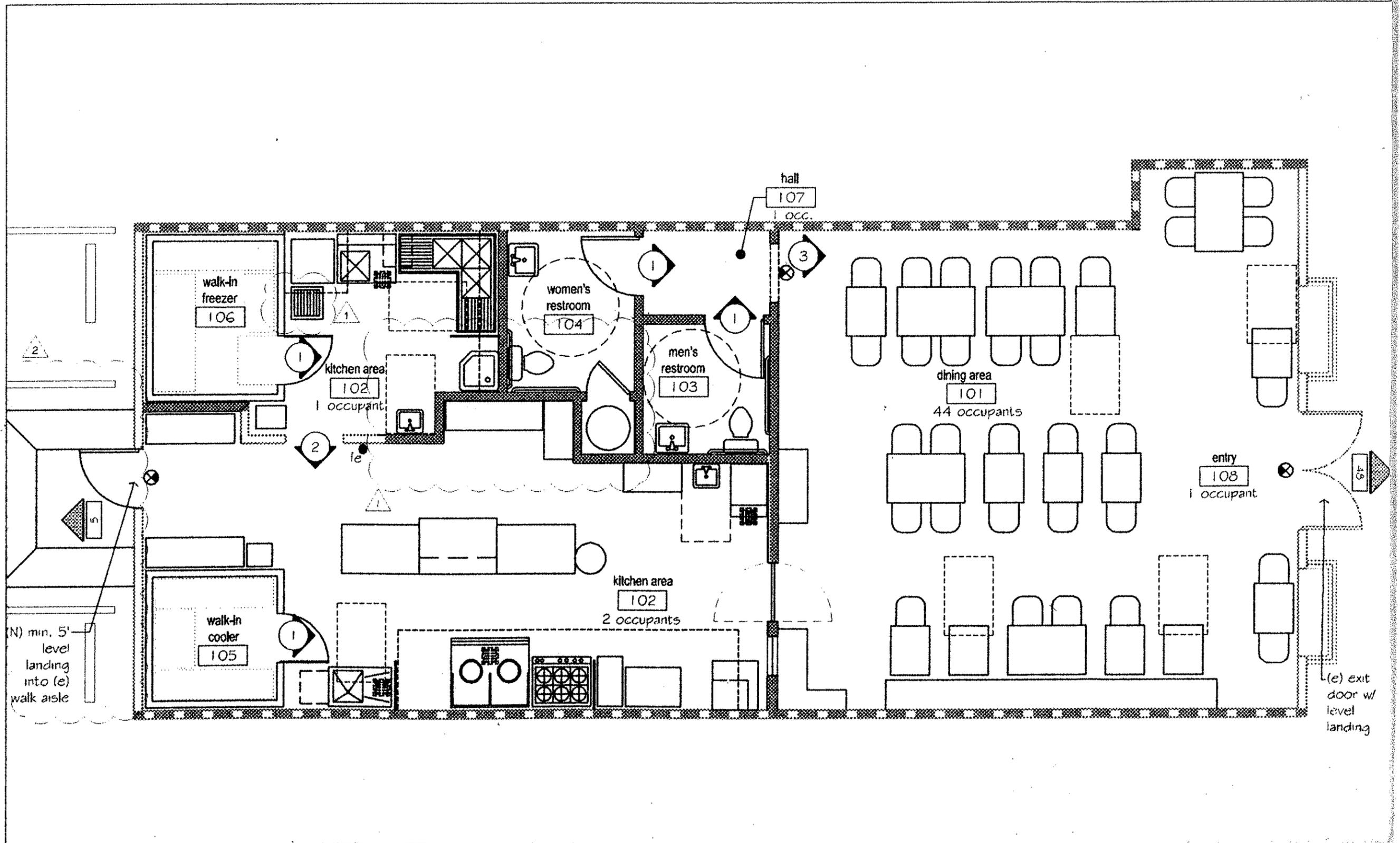


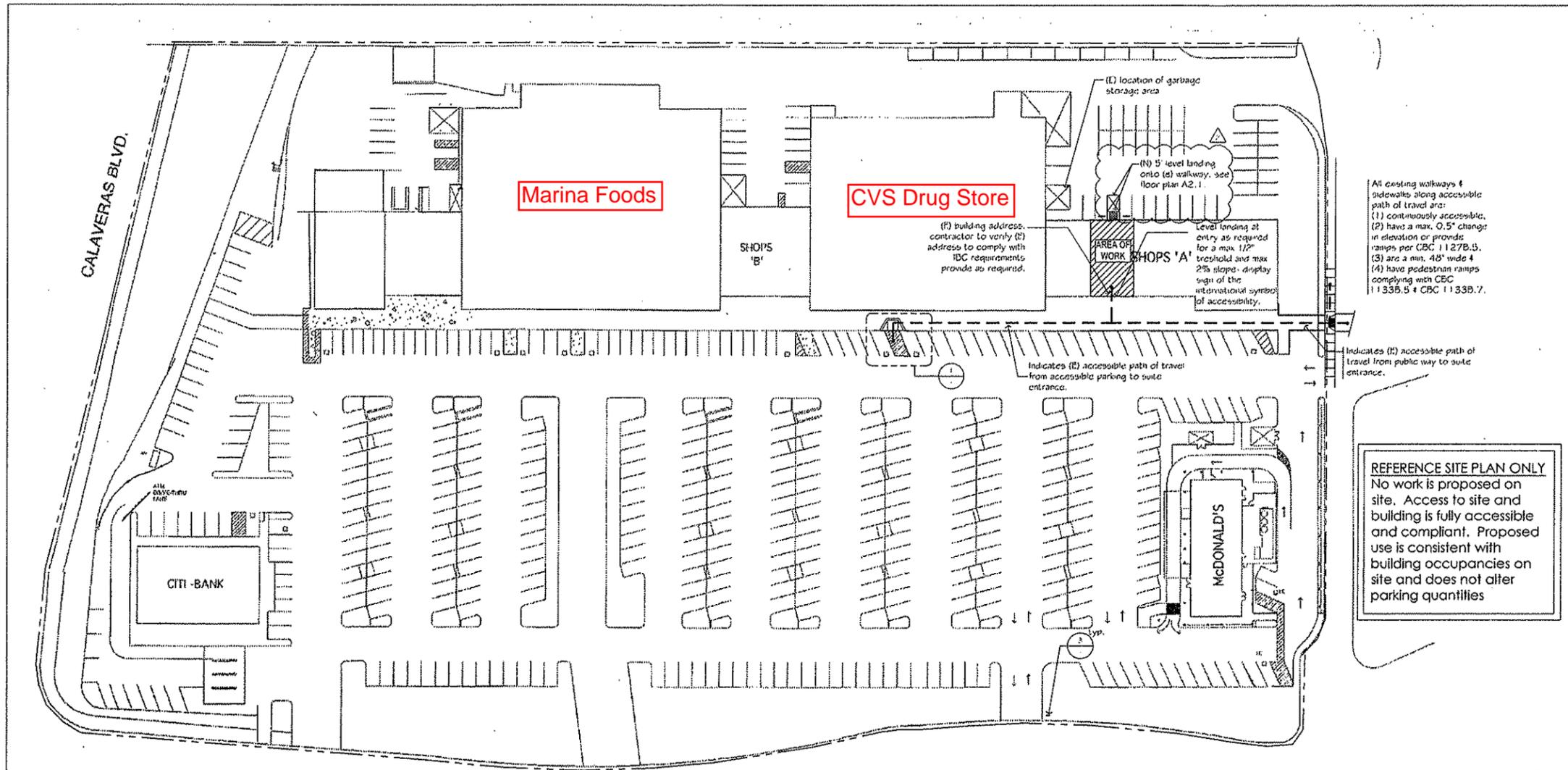
Jeanelle S. Coran Architect

Sheet Title
Proposed Floor Plan

Project No. 2010-05
Date: 1.3.11
Sheet No.

A2.1





Reference Site Plan

Jeanette Coran Architects
architecture-planning-interiors

2096 Lincoln Avenue
San Jose, California 95125
v:408-978-2096 f:408-978-2099
jeanette@jca-architects.com

Tenant Improvements For:

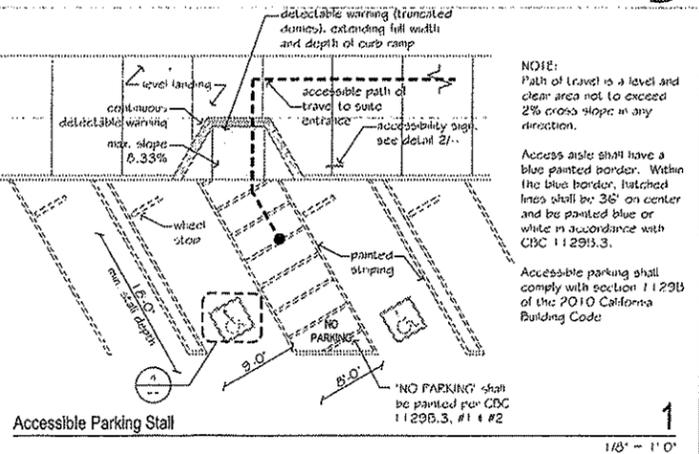
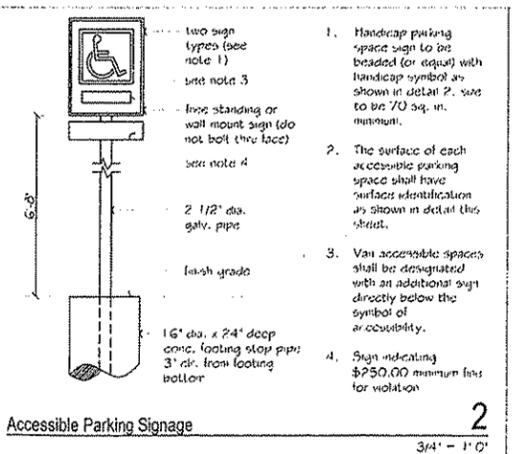
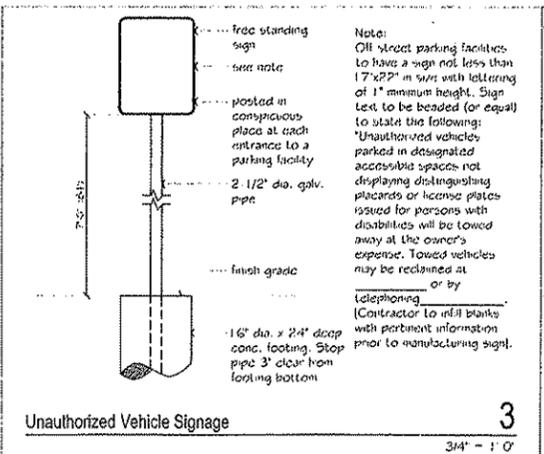
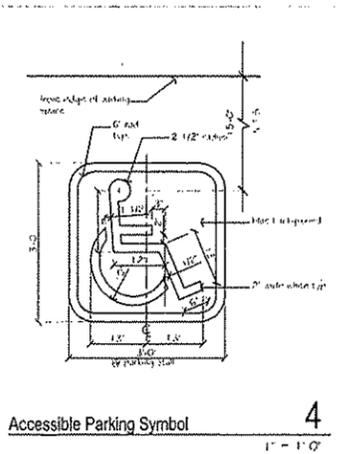
Honey Thai Restaurant
57 N. Milpitas Blvd.
Milpitas, CA 95035

Submittal:

01.25.11
2. Department of Health Services
02.10.11
Health Services
03.10.11
Building Services



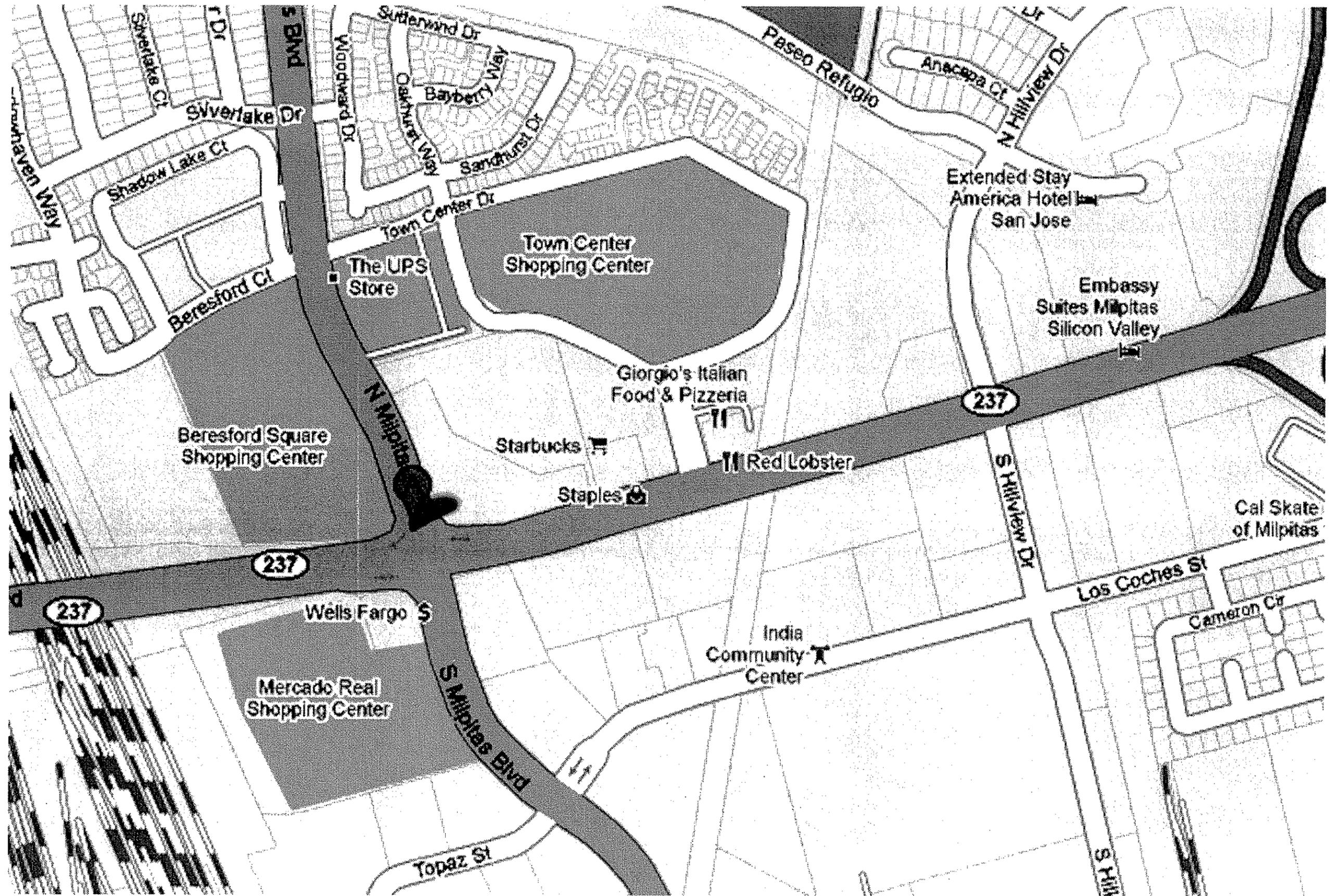
Jeanette S. Coran, Architect



Sheet Title
Reference Site Plan & Details

Project No. 2010.05
Date 1.3.11
Sheet No.

A1.0



Waverly Way

Silverlake Ct

RD

S Blvd

Woodward Dr

Sutterwind Dr

Bayberry Way

Sandhurst Dr

Oak Street Way

Town Center Dr

Paseo Refugio

Anacapa Ct

N Hillview Dr

Shadow Lake Ct

Beresford Ct

Extended Stay America Hotel San Jose

Embassy Suites Milpitas Silicon Valley

Town Center Shopping Center

The UPS Store

Giorgio's Italian Food & Pizzeria

Beresford Square Shopping Center

N Milpitas

Starbucks

Staples

Red Lobster

237

237

Wells Fargo

Mercado Real Shopping Center

India Community Center

237

S Hillview Dr

Los Coches St

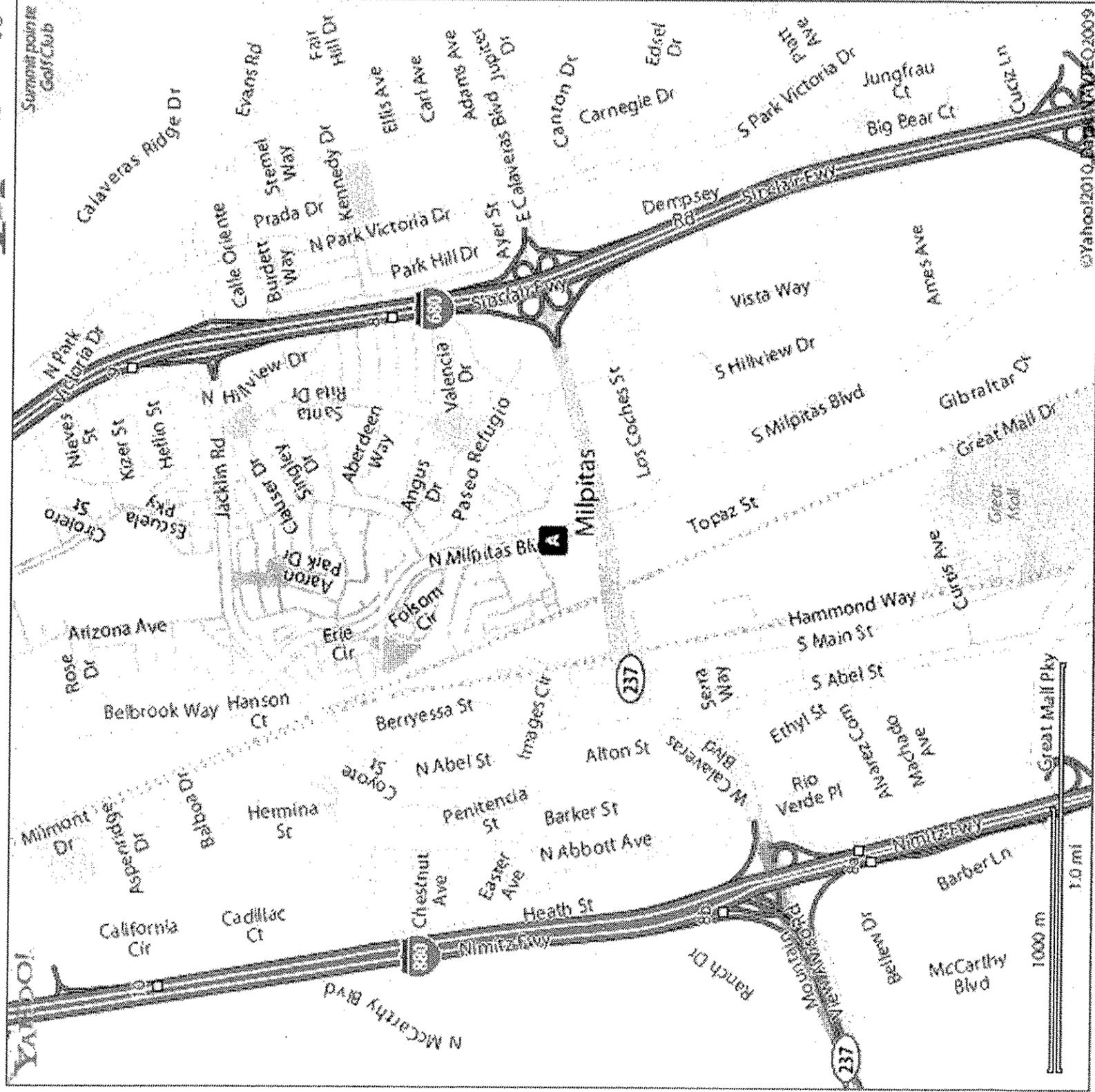
Cal Skate of Milpitas

Cameron Cir

Topaz St

S Hillview Dr

S Hillview Dr



When using any driving directions or map, it's a good idea to do a reality check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning.

July 26, 2011

Dear City Planner,

Honey Thai Restaurant is a full service restaurant, serving customers who dine - in on premises as well as take out foods.

We are in a process of applying for an on sale beer and wine license at the Alcoholic Beverage Control and the City of Milpitas use permit for alcohol sales is required.

Sincerely,



Nick Poopat
Manager
Honey Thai Restaurant
57 N. Milpitas Blvd.
Milpitas, CA 95035
Cell (510) 938-5951
Work (408) 719-8200

RECEIVED

JUL 26 2011

**CITY OF MILPITAS
PLANNING DIVISION**