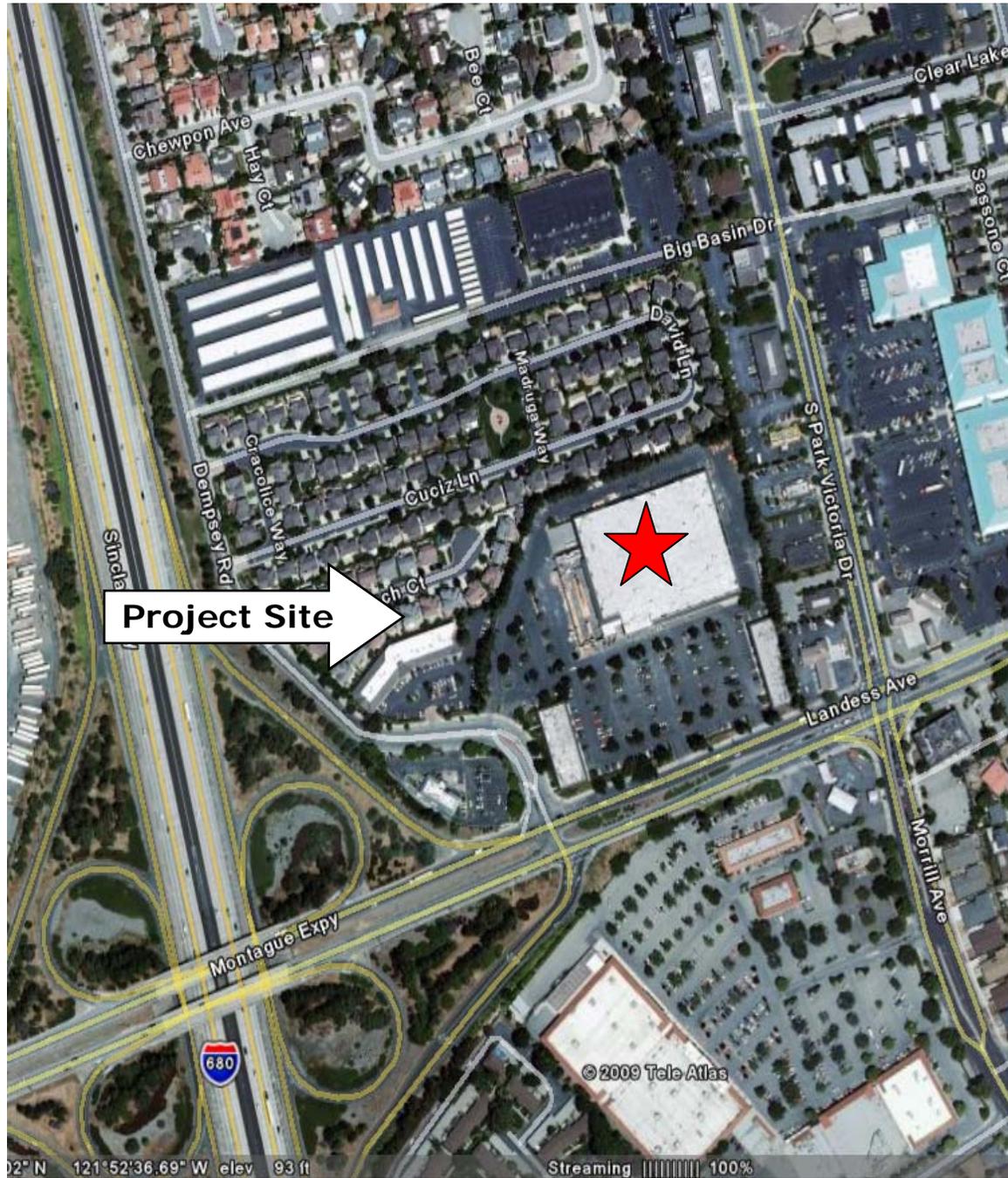


LOCATION MAP



No scale

BACKGROUND

On August 16, 2011, Christian Cruz submitted a conditional use permit application to operate a new 1,104 square foot Tae Kwon Do martial arts studio within an existing shopping center. The application is submitted pursuant to Milpitas Municipal Code XI-10-5.02-1 (7) (Group Instruction).

PROJECT DESCRIPTION

The project site is situated on a 7.89-acre parcel located at the northeast corner of the Dempsey Road and Landess Avenue intersection. The site is developed as a 76,894 square foot indoor shopping mall consisting of a 34,321 square foot food store, restaurants, and various retail uses. The site is zoned General Commercial with a Site and Architectural Overlay (C2-S). Neighboring land uses include the Stonegate Development PUD (89 single-family homes) and the French Court PUD (20 single-family homes) both located north of the project site. Commercial retail buildings are located to the west, south and east. A vicinity map of the project site is shown on the previous page

The applicant proposes to operate the martial arts studio Monday through Friday from 1:00pm to 8:00pm, Saturdays from 10:00am to 1:00pm, and on Sundays from 1:00pm to 4:00pm. Each session will be approximately one hour long with one hour breaks in between each session. The proposed ages groups for the youth instruction range from three to twelve years old. Although the proposed martial arts studio has not marketed to adult instruction, in the future it would be class with no more than twenty adult students at any given time.

Parking

The project complies with the Milpitas Parking Ordinance for instructional studios in that required parking is satisfied with the existing on-site parking as demonstrated in Table 1 below.

Table 1
Parking Requirements

Uses	Area	Ratio	Parking
Proposed Martial Arts	1,104	1/150 s. f.	7
Retail	18,501	1/200 s. f.	93
Food Store	34,321	1/200 s. f.	172
Restaurant			
Dining Area	4033	1/39 s. f.	103
Seats	232	1/2.5 seats	93
Take Out	1854	1/60 s. f.	31
Total number of parking spaces required			499
Total number of spaces provided			519

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 proposed a new martial arts facility would provide a new business to the city and adds to economic vitality of the Seasons Marketplace.

Zoning Ordinance

The proposed martial arts studio is consistent with the Zoning Ordinance in that the use is a conditionally permitted use (Group Instruction) and complies with the development standards for the General Commercial zone and parking requirements (instructional studios).

The proposed use will not be detrimental or injurious to the property or the public health, safety, and general welfare in that the use will occupy an existing tenant space and will not generate any objectionable noise, odors, or create any safety hazards.

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.

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 new business, employment opportunities; add to the economic vitality of the Seasons Marketplace shopping center.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 11-043 for permit UP11-0029, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 11-043

- B. Project Plans
- C. Project Description



RESOLUTION NO. 11-043

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,
CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0029, TO
ALLOW THE OPERATION OF A NEW MARTIAL ARTS STUDIO,
LOCATED AT 1535 LANDESS AVE.**

WHEREAS, on August 16, 2011, an application was submitted by Christian Cruz, 4487 Martin Street, Union City, CA 94507, to allow the operation of a 1,104 square foot martial arts studio within the Seasons Marketplace shopping center. The property is located at 1535 Landess Avenue (88-35-017), zoned General Commercial Zoning District with Site and Architectural Review Overlay District (C2-S); 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 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 Section 15301 for “Existing Facilities” in that the project proposes a martial art studio that entails minor interior tenant improvements within an existing commercial tenant space within a shopping center.

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 a new business to locate in the city and adds to the economic vitality of the Seasons Marketplace shopping center.

Section 4: The proposed martial arts studio is consistent with the Zoning Ordinance in that the use is a conditionally permitted 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. UP11-0029 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 Mohsin				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
John Luk				

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP11-0029**

A request to operate a 1,104 square foot martial arts studio within an existing commercial building.
1535 Landess Avenue (88-35-017)

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 September 14, 2011, in accordance with these Conditions of Approval.

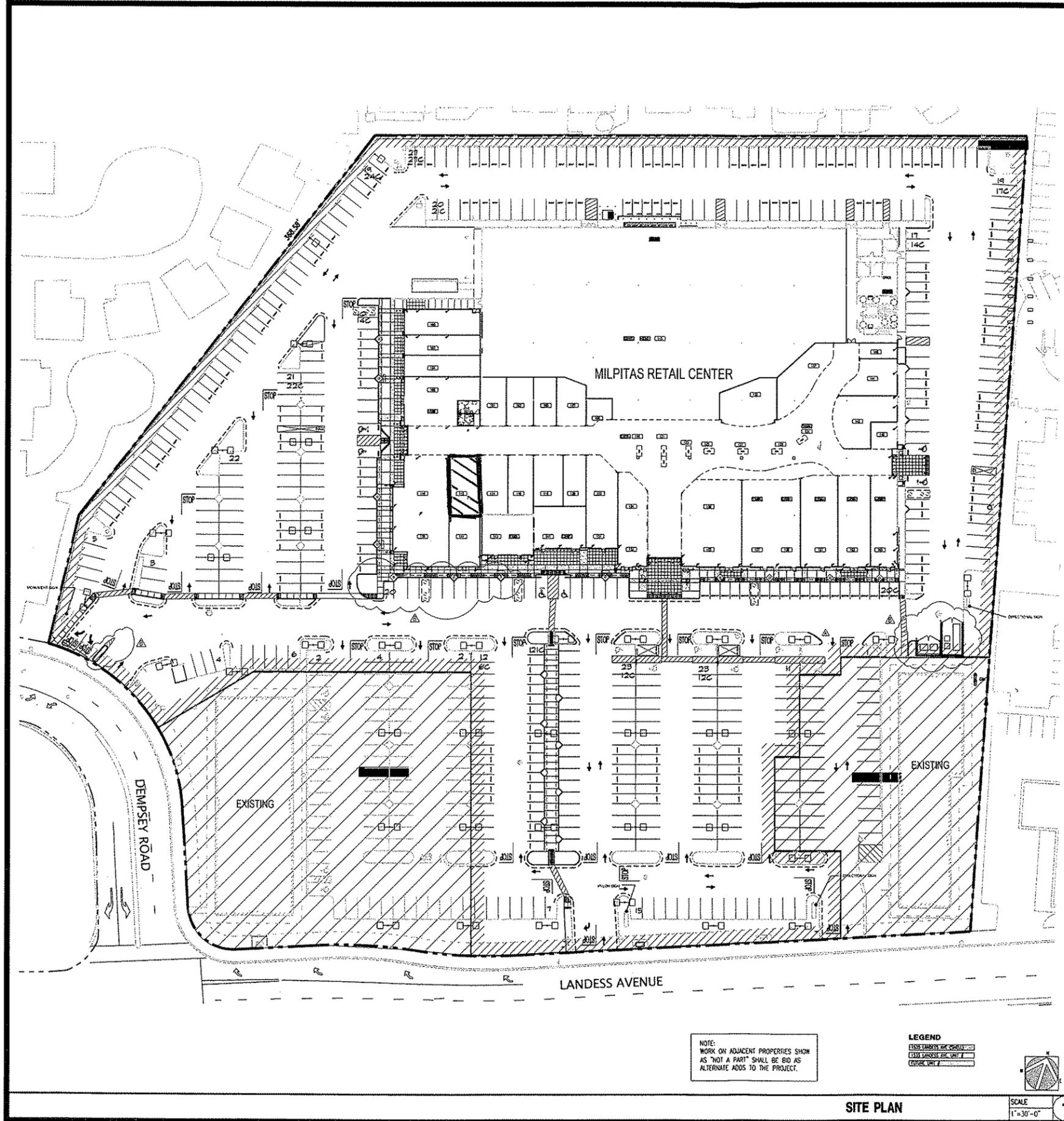
Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City 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)**

Conditional Use Permit No. UP11-0029 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 Conditional Use Permit No. UP11-0029 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
 3. The use shall be operated in accordance with all local, state, and federal regulations.
 4. 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)

(P) = Planning

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE THE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT. NO PART OF THIS DRAWING SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.



NOTE:
WORK ON ADJACENT PROPERTIES SHOW
AS 'NOT A PART' SHALL BE BID AS
ALTERNATE AIDS TO THE PROJECT.

LEGEND
 [Symbol] FENCE
 [Symbol] [Symbol] [Symbol] [Symbol]
 [Symbol] [Symbol] [Symbol] [Symbol]

SITE PLAN

SCALE
1"=30'-0"

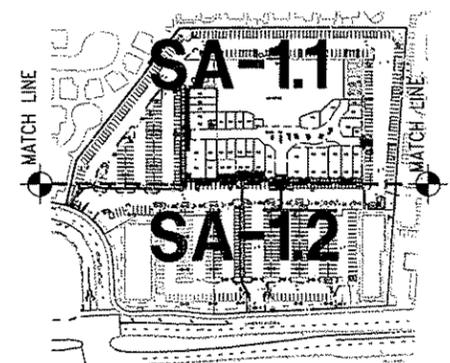
PROJECT SUMMARY				
AREAS				
SITE AREA	343,991 SF (+7.89 ACRES)			
BUILDING AREA				
AREA OF EXISTING BUILDING	80,704 SQ. FT.			
AREA OF NEW ADDITION	15,041 SQ. FT.			
TOTAL BUILDING AREA	95,745 SQ. FT.			
PARKING ANALYSIS				
AREA OF BUILDING	USE	CALC./OCC.	AREA	STALLS
RETAIL	RETAIL	1/200	16,600 SQ. FT.	83
FOOD MARKET	RETAIL	1/200	34,321 SQ. FT.	172
RESTAURANT & FOOD USE (BASED ON TENTATIVE LAYOUTS)		GROSS FLOOR AREA		
	DINING AREA	1/30	8,996 SQ. FT.	230
	TAKE OUT AREA	1/60	1,921 SQ. FT.	32
COMMON AREA			20,113 SQ. FT.	-
TOTAL NUMBER OF PARKING REQUIRED				517
TOTAL PARKING PROVIDED				523
PARKING STALLS				REQUIRED PROVIDED
STANDARD STALLS: 90' STALLS (9'x18'-0") 25' DRIVE AISLE				300
COMPACT STALLS: 90' STALLS (7.5'x15'-0") 20' DRIVE AISLE				40% MAX. 210
(4001 - 500) 9 SCC. STALLS ACCESSIBLE 2% OF TOTAL BETWEEN (500 - 1000)				10
ACCESSIBLE PARKING (VAN)				3
TOTAL				523

RECEIVED
 AUG 15 2011
 CITY OF MILPITAS
 PLANNING DIVISION

LEGEND

SYMBOLS	DESCRIPTION
[Symbol]	PROPERTY LINE
[Symbol]	CENTER LINE OF STREET
[Symbol]	(N) LIGHT POLE, SEE ELECTRICAL DWGS.
[Symbol]	(E) LIGHT STANDARD ON A BASE MTD. POLE TO BE REMOVE
[Symbol]	(H) HANDICAPPED PARKING SIGN
[Symbol]	NOT A PART OF CONTRACT
[Symbol]	SITE/ BUILDING WORK LIMIT LINE

KEY PLAN



Date: 7/20/09
 Job No.: 70076
 Drawn: [Name]
 Checked: [Name]
 Scale: AS SHOWN

a division of gkkworks
 155 S Fair Oaks Avenue, Pasadena, CA 91105
 626 685 9500 / 626 685 3940 fax / www.gkkworks.com

AYALAFIL (US) CO., INC.
 275 SHORELINE DRIVE, SUITE # 428
 REDWOOD CITY, CALIFORNIA 94065

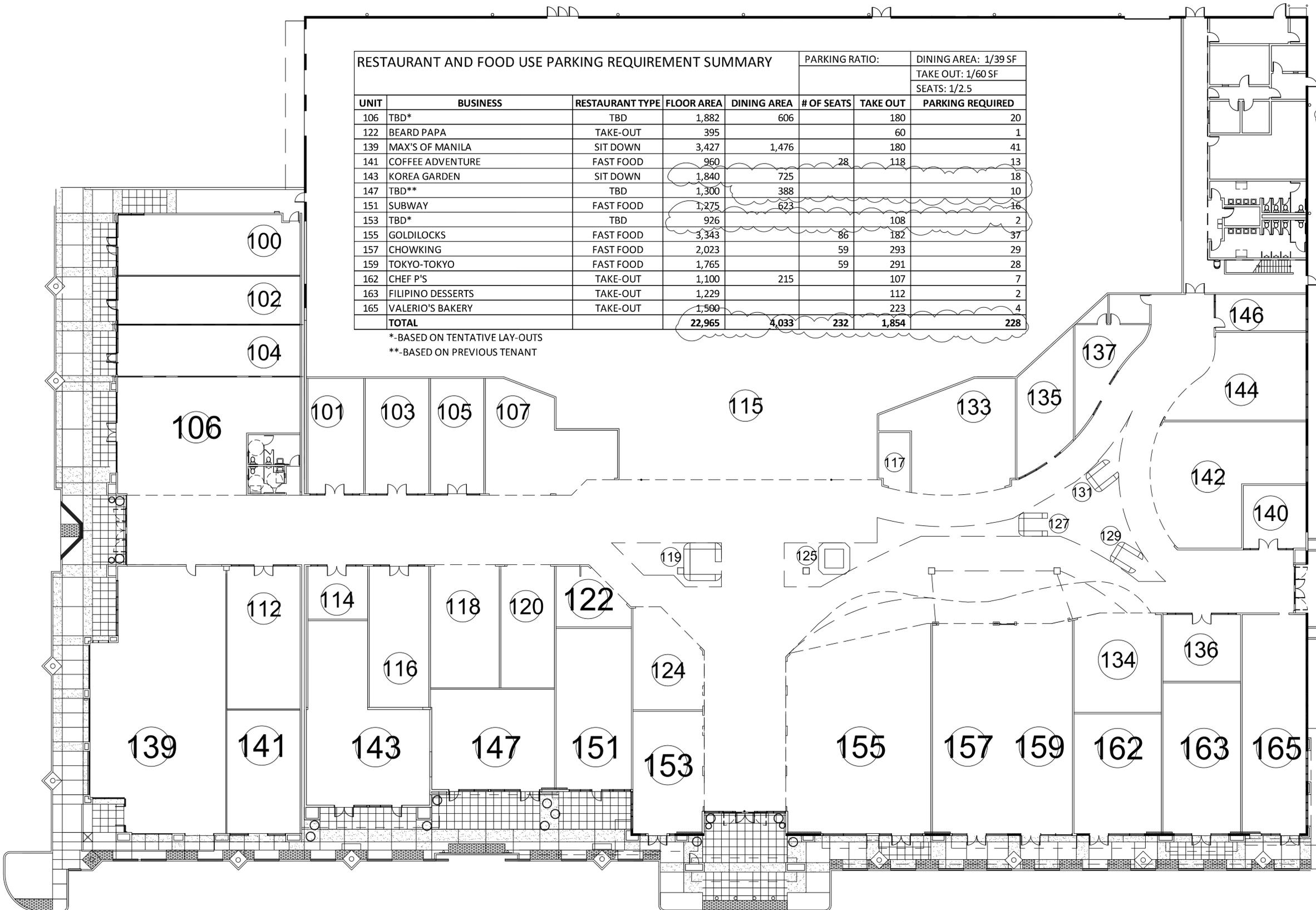
SITE PLAN
 MILPITAS RETAIL CENTER

SA-10

RESTAURANT AND FOOD USE PARKING REQUIREMENT SUMMARY					PARKING RATIO:		DINING AREA: 1/39 SF	
							TAKE OUT: 1/60 SF	
							SEATS: 1/2.5	
UNIT	BUSINESS	RESTAURANT TYPE	FLOOR AREA	DINING AREA	# OF SEATS	TAKE OUT	PARKING REQUIRED	
106	TBD*	TBD	1,882	606		180	20	
122	BEARD PAPA	TAKE-OUT	395			60	1	
139	MAX'S OF MANILA	SIT DOWN	3,427	1,476		180	41	
141	COFFEE ADVENTURE	FAST FOOD	960		28	118	13	
143	KOREA GARDEN	SIT DOWN	1,840	725			18	
147	TBD**	TBD	1,300	388			10	
151	SUBWAY	FAST FOOD	1,275	623			16	
153	TBD*	TBD	926			108	2	
155	GOLDILOCKS	FAST FOOD	3,343		86	182	37	
157	CHOWKING	FAST FOOD	2,023		59	293	29	
159	TOKYO-TOKYO	FAST FOOD	1,765		59	291	28	
162	CHEF P'S	TAKE-OUT	1,100	215		107	7	
163	FILIPINO DESSERTS	TAKE-OUT	1,229			112	2	
165	VALERIO'S BAKERY	TAKE-OUT	1,500			223	4	
TOTAL			22,965	4,033	232	1,854	228	

*-BASED ON TENTATIVE LAY-OUTS
 **-BASED ON PREVIOUS TENANT

PARKING ANALYSIS				
AREA OF BUILDING	USE	AREA	RATIO	CARS
MARTIAL ARTS	ASSEMBLY	1,104	1/150	7
RETAIL	RETAIL	18,501	1/200	93
FOOD MARKET	RETAIL	34,321	1/200	172
RESTAURANT AND FOOD USE	GROSS FLR AREA	22,965		
	DINING AREA	4,033	1/39	103
	SEATS	232	1/2.5	93
	TAKE OUT	1,854	1/60	31
TOTAL NUMBER OF PARKING REQUIRED				499
TOTAL PARKING PROVIDED				519



- NOTE:
1. ALL RESTAURANTS WITH TYPE 1 HOOD SHALL PROVIDE ODOR CONTROL EQUIPMENT.
 2. ALL ROOF TOP EQUIPMENT SHALL FULLY SCREENED FROM PUBLIC RIGHT-OF-WAY AND PRIVATE PROPERTIES AS REQUIRED PER MMC XI-10-54. 16D.

AYALAFIL (US) CO., INC.
 1065 E. Hillside Blvd.
 SUITE 105
 FOSTER CITY, CALIFORNIA 94404
 T. 650.288.3930, F. 650.288.3916/3917
 DEVELOPER

SEASONS MARKET PLACE @ LANDESS

MILPITAS, CALIFORNIA

1535 LANDESS AVENUE, MILPITAS, CA 95035

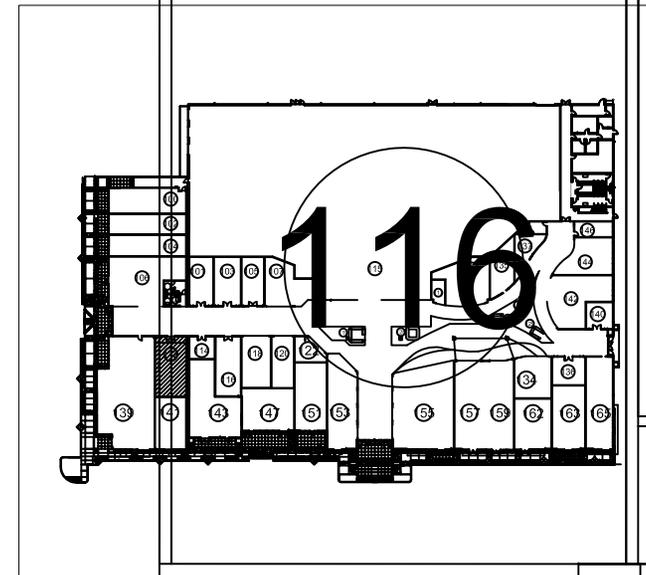
NOTE:

112

23'-4"

45'-4"

114



KEY PLAN

SUITE 112
SEASONS MARKET PLACE @ LANDESS
1535 LANDESS AVENUE, MILPITAS, CA 95035

AYALAFIL (US) CO., INC.

1065 E. Hillsdale Blvd.
SUITE 105
FOSTER CITY, CALIFORNIA 94404
T. 650.288.3930, F. 650.288.3916/3917





MANILA TAE KWON DO

Manila Tae Kwon Do 2 is an extension of our existing studio, Manila Tae Kwon Do Head Quarters located in 32639 Alvarado Boulevard, Union City. We have been operating since September 1996. In Manila Tae Kwon Do 2, Christian Chino Cruz, owner/head instructor, will be instructing the martial art Olympic Tae Kwon Do.

Olympic Tae Kwon Do is a full medal Olympic sport. It has worldwide popularity and is a major sport for most universities and armed forces around the world.

The staff of Manila Tae Kwon Do are certified black belts and have national level coaches who are certified by USA Tae Kwon Do, the official governing body of the sport in the United States. The coaches are also certified and recognized by the world governing body of the WTF (World Tae Kwon Do Federation).

We have 30 years of experience of which 15 years has been, and still is, in the Union City head quarters. We are very successful in our chosen profession, most notably for:

- Multiple State and National champions
- 10 USA National Team members representing the USA in the Pan-Am and World Championships
- Pan-Am and current World Champions
- California State coach
- Top 10 instructor/coach in the nation

We appreciate all your courtesy and promise to be a valuable part of the City of Milpitas.

Sincerely,

Christian Chino Cruz