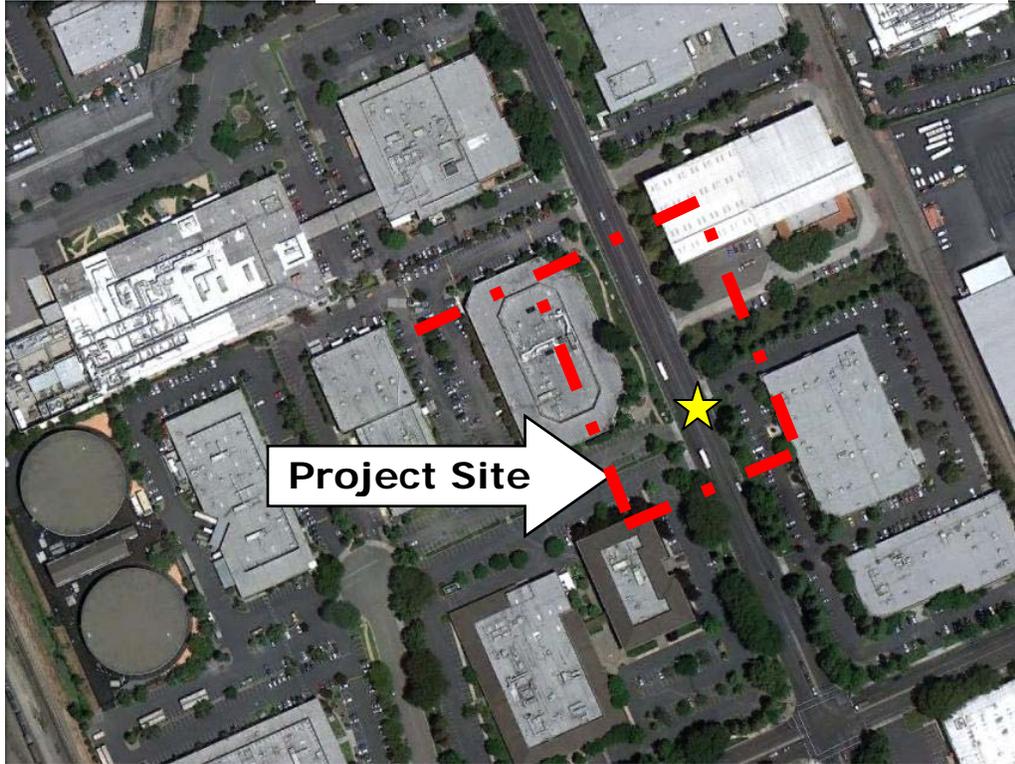




# LOCATION MAP



No scale

**BACKGROUND**

On November 16, 2011, Mark Ligon with Fitness USA submitted an application for the request to locate a new gym at 631 S Milpitas Blvd. The gym is presently located at 1818 Clearlake Drive and wishes to move to the new location. According to Table XI-10-7.02-1, Industrial Zone Uses, a Commercial Athletic Facility (gym) requires the review and approval of a Conditional Use Permit.

**PROJECT DESCRIPTION**

The project site is a 3.78 acre parcel, consisting of a 41,192 square foot building built in the 1980's. The site is located off of Milpitas Boulevard, to the north of the Yosemite and Milpitas Boulevard intersection. The site is adjacent to (and shares the parking lot) with another parcel to the west that has direct access onto Gibraltar Court. The subject property is zoned Heavy Industrial (M2) and abutting properties are also zoned Heavy Industrial (M2). Neighboring uses include Kaiser Medical and Crosspoint Chinese Church of Silicon Valley. A vicinity map of the subject site location is included on the previous page. The application includes a 9,052 square foot gym floor area for workout machines/weights, an aerobic studio, a personal training area, and offices. The proposed hours of operation are Monday through Friday from 5:30am to 10:00pm, Saturday from 5:30am to 7:00, and closed on Sunday. There are no proposed changes to the exterior of the building.

***Parking***

The project site includes a total of 209 parking spaces. In August of 2003, an easement was approved with the neighboring property (628 - 638 Gibraltar court) to allow for the joint use of 43 more parking spaces, giving the property a total of 252 parking spaces. Kaiser has the approval to utilize 183 parking spaces. This leaves 69 parking spaces for the project site. The proposed gym requires 81 parking spaces, requiring 12 more parking spaces. See table below for calculations.

**Table 1**  
**Parking Ordinance Regulations and Consistency**

<b>Use</b>	<b>Square Feet</b>	<b>Parking Ratio</b>	<b>Parking Required</b>
Medical Office	41,192	1 per 225 square feet	183
Fitness USA	Gym 11,995 Office 480	Gym =1 per 150 square feet Office =1 per 350 square feet	80 1
<b><i>Existing Parking</i></b>			252
<b><i>Net Deficit</i></b>			12

The applicant obtained a shared parking agreement with Crosspoint Chinese Church of Silicon Valley, allowing them to utilize 15 more parking spaces. This agreement supplies the project site enough parking to allow the Gym facility to operate in compliance with the Milpitas Zoning Ordinance (See Attachment D.) The shared parking agreement is for three years. Staff has

conditioned the project so the owner or designee of the gym is required to obtain a new shared parking agreement or reduce the size of their main Gym floor area in order to meet the parking requirements.

**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**

<b>Policy</b>	<b>Consistency Finding</b>
<i>2.a-I-6: Endeavor to maintain a balanced economic base that can resist downturns in any one economic sector.</i>	<b>Consistent.</b>
<i>2.a-I-7: Provide opportunities to expand employment, participate in partnerships with local businesses to facilitate communication, and promote business retention.</i>	<b>Consistent.</b>

The proposed project is consistent with the General Plan Policies 2.a-I-6 and 2.a-I-7 in that the gym has a balanced economic base that can resist downturns and also provides opportunities for neighboring businesses within the industrial area to participate in a partnership with the gym for their employees.

***Zoning Ordinance***

The proposed project at the proposed location is consistent with the Zoning Ordinance in that the gym will not be detrimental or injurious to the property or neighboring facilities, it will maintain the building façade which fits in with the character of the industrial area, and it is consistent with the development standards for the Heavy Industrial Zone and Parking Requirements.

**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 as proposed is categorically exempt from further environmental review pursuant to Section 15301 for “Existing Facilities” of the California Environmental Quality Act Guidelines (CEQA).

**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**

Fitness USA is an existing facility within the city and wishes to stay in business in the city by relocating to 613 S Milpitas Blvd. The use is a conditionally permitted use within the Heavy

Industrial Zoning district and the project is consistent with the General Plan and Zoning Ordinance.

**RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. approving Conditional Use Permit No. UP11-0040, Fitness USA, subject to the attached Resolution and Conditions of Approval.

*Attachments:*

- A. Resolution No. 11-056
- B. Site Plans
- C. 2003 Parking Easement
- D. 2011 Shared Parking Agreement

**RESOLUTION NO. 11-056**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,  
CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0040, FITNESS  
USA, TO LOCATE A NEW GYM AT  
613 SOUTH MILPITAS BLVD.**

**WHEREAS**, on November 16, 2011, an application was submitted by Mark Ligon with Eastern Capital Corp., 7091 Orchard Lake Road #300, West Bloomfield, MI 48322, to locate a gym within an existing 18,072 square foot tenant space. The property is located within the Heavy Industrial Zoning District with Site and Architectural Overlay (M2-S) (APN 086-42-029); 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 December 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" of the California Environmental Quality Act Guidelines (CEQA) because....

**Section 3:** The proposed project is consistent with the General Plan Policies 2.a-I-6 and 2.a-I-7 in that the gym has a balanced economic base that can resist downturns and also provides opportunities for neighboring businesses within the industrial area to participate in a partnership with the gym for their employees.

**Section 4:** The proposed project at the proposed location is consistent with the Zoning Ordinance in that the gym, and it is consistent with the development standards for the Heavy Industrial Zone and Parking Requirements with the approval of the shared parking agreement.

**Section 5:** The project will not be detrimental or injurious to the property or neighboring facilities in that it will maintain the building façade which fits in with the character of the industrial area,

**Section 6:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP11-0040, Fitness USA, 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 December 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 December 14, 2011, and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Lawrence Ciardella				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
John Luk				

## EXHIBIT 1

**CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT NO. UP11-0040**

A request to locate a new gym with shared parking agreement within an existing 18,072 square foot tenant space at  
613 S. Milpitas Blvd. (APN: 086-42-029)

**General Conditions**

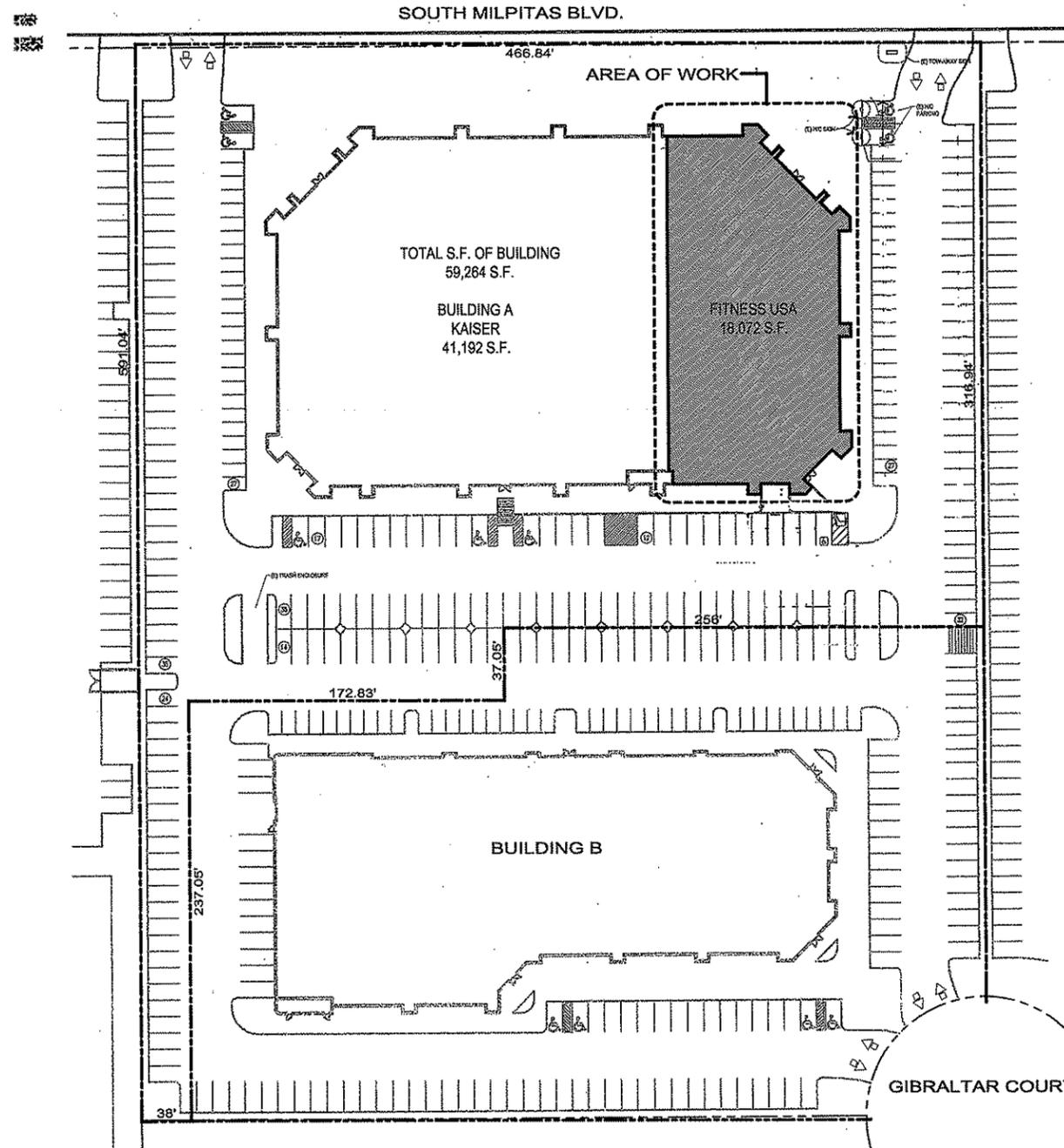
1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on **December 14, 2011**, in accordance with these Conditions of Approval.

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)**

**UP11-0040** 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:

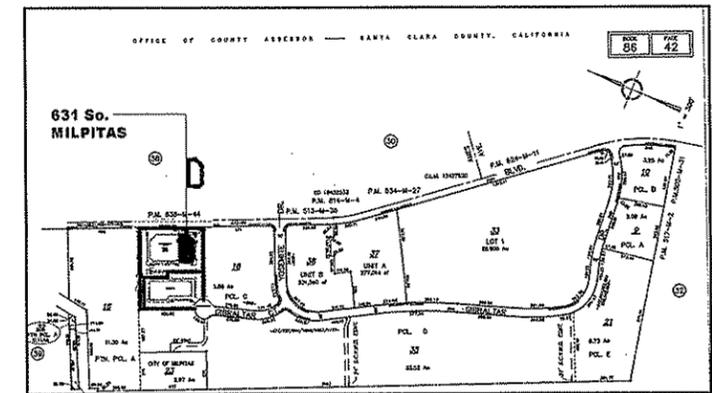
- a. Completes a foundation associated with the project; or
  - b. Dedicates any land or easement as required from the zoning action; or
  - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **UP11-0040** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
  3. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
  4. The gym shall maintain a shared parking agreement or reduce the size of the gym floor area to meet the required parking per the Zoning Ordinance. **(P)**
  5. Youth activities or on-site child care for adult customers shall require a conditional use permit amendment along with the review of a Risk Assessment. **(P)**

(P) = Planning



1 REFERENCE SITE PLAN  
SCALE: 1" = 30'-0"

PROJECT ANALYSIS	
(E) LAND AREA:	13.783 ACRES 594,792 SQ. FT.
(E) BUILDING AREA:	
1 STORY BUILDING	FIRST FLOOR ± 59,284 SQ. FT. TOTAL AREA ± 59,284 SQ. FT.
TENANT AREA:	FIRST FLOOR ± 18,072 SQ. FT. TOTAL AREA ± 18,072 SQ. FT.
(E) BUILDING COVERAGE:	10.1%
(E) PARKING STALLS:	(E) STANDARD 212 STALLS (E) HC (1) VAN 8 STALLS TOTAL 220 STALLS
PARKING RATIO:	(E) SQ. FT.
TYPE OF CONSTRUCTION:	H.S.
OCCUPANCY:	B
ZONING:	M2
FIRE SPRINKLER SYSTEM:	YES
<b>APPLICABLE CODES</b> • 2010 California Building Code • 2010 California Mechanical Code • 2010 California Plumbing Code • 2010 California Electrical Code • 2010 California Green Building Code (CALGreen) • 2010 California Fire Code (with local amendments) • 2010 State of California Title 24 Energy Regulations • 2010 State of California Title 24 Handicap Accessibility Regulations • MILPITAS Code (including local amendments to the above requirements) City of Milpitas LOCAL CODES and ORDINANCES.	



KEY PLAN

All ideas, designs, arrangements and plans indicated or represented by this drawing are owned by and the property of DENNIS KOBZA & ASSOCIATES, INC. and shall remain the property of DENNIS KOBZA & ASSOCIATES, INC. and its successors. No part of this drawing shall be used or reproduced in any form or by any means without the written permission of DENNIS KOBZA & ASSOCIATES, INC. Written dimensions on these drawings shall have precedence over noted dimensions. Contractor shall verify all dimensions and conditions on the job and the client must be notified of any variations from the dimensions and conditions shown by these drawings. Shop details must be submitted to this office for review before proceeding with fabrication.

DENNIS KOBZA & ASSOCIATES, INC.  
A.I.A. ARCHITECT  
2033 OLD MIDDLEFIELD WAY MOUNTAIN VIEW, CA 94043  
PHONE: 650-961-6109 FAX: 650-961-6039  
EMAIL: DKARCH@KOBZA.COM WEB: WWW.KOBZA.COM  
C-4505

REVISION 1  
REVISION 2  
REVISION 3

REVISION 4  
REVISION 5  
REVISION 6

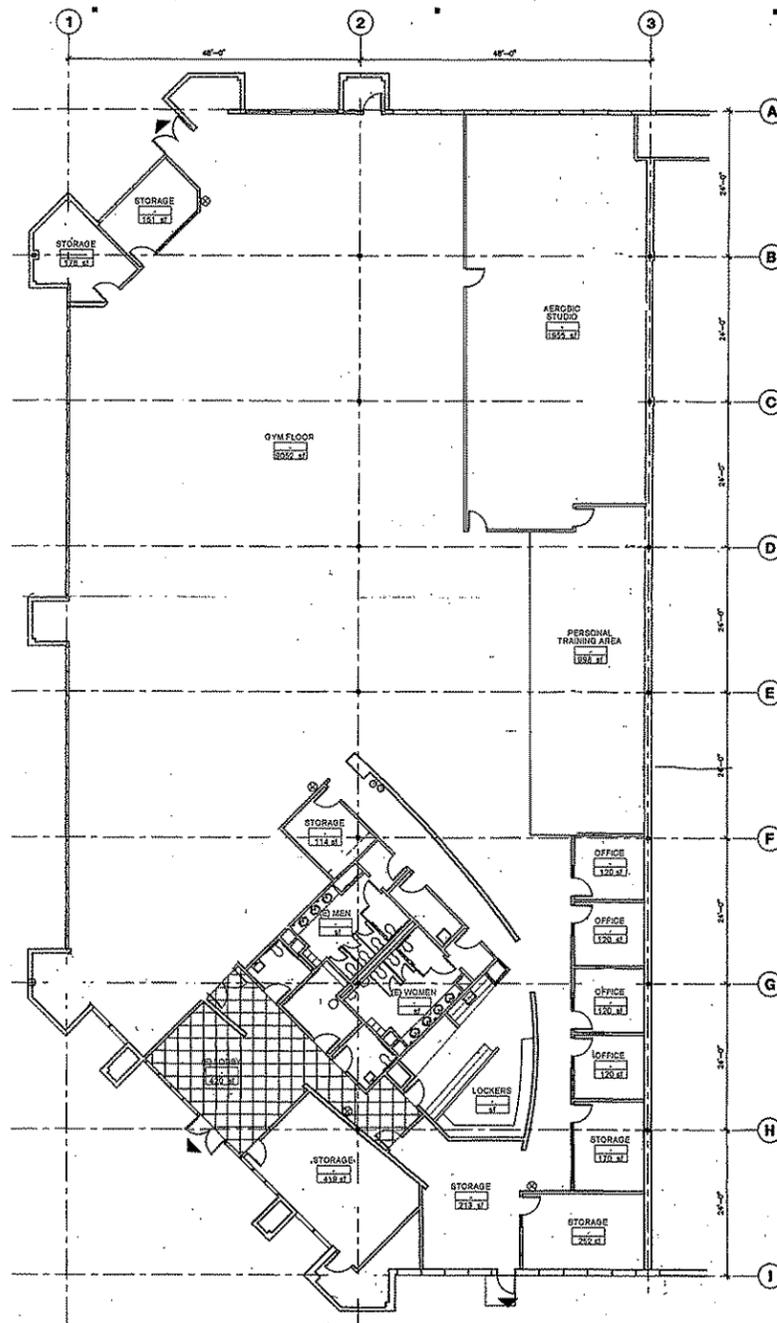


TENANT IMPROVEMENT FOR:  
**FITNESS USA**  
631 So. MILPITAS BLVD. MILPITAS, CA

SHEET TITLE  
**REF. SITE PLAN**

JOB NO. 118102  
DATE 11.19.11  
DRAWN BY BUD/ARA

SHEET NO. A-1



**TOTAL 18,072 S.F.**

**GYM FLOOR = 9,052 S.F.**  
**AEROBICS AREA = 1,955 S.F.**  
**PERSONAL TRAINING AREA = 998 S.F.**  
**OFFICE = 480 S.F.**  
**STORAGE = 1,495 S.F.**  
**RESTROOMS. LOCKERS ETC. = 4,092**

**1 FLOOR PLAN**  
 SCALE: 3/32" = 1'-0"



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**DENNIS KOBZA & ASSOCIATES, INC.**  
 A.I.A. ARCHITECT  
 2083 OLD MIDDLEFIELD WAY MOUNTAIN VIEW, CA 94043  
 PHONE - 650-961-6103 FAX - 650-961-4639  
 E-MAIL - DKARCH@KOBZA.COM WEB - WWW.KOBZA.COM  
 C-4808



REVISION 1	REVISION 4
REVISION 2	REVISION 5
REVISION 3	REVISION 6

TENANT IMPROVEMENT FOR:  
**FITNESS USA**  
 631 So. MILPITAS BLVD. MILPITAS, CA  
 SHEET TITLE **FLOOR PLAN**

JOB NO. 118102  
 DATE 11.19.11  
 DRAWN BY BUD/ARA

SHEET NO. **A-2**

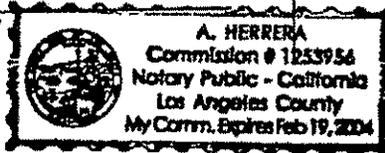
CALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

State of California  
County of Los Angeles  
On this 25th day of August, 2003 before me,  
A. Herrera, Notary Public  
Name, Title of Officer

personally appeared Michael Barker  
Name(s) of Signer(s)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~is~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
A. Herrera  
SIGNATURE OF NOTARY



\*\*\* OPTIONAL SECTION \*\*\*  
CAPACITY CLAIMED BY SIGNER

Through statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

- INDIVIDUAL
- CORPORATE OFFICERS(S)
- PARTNER(S)  LIMITED
- ATTORNEY-IN-FACT  GENERAL
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)

\*\*\*\*\*OPTIONAL SECTION\*\*\*\*\*

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:  
TITLE OR TYPE OF DOCUMENT \_\_\_\_\_  
NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT \_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

CALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

State of CALIFORNIA
County of ORANGE
On this 22 day of AUGUST, 2003, before me,

TINA L. JOHNSON
Name, Title of Officer

personally appeared VICTORIA A. CARLSON
Name(s) of Signer(s)

[X] personally known to me - OR - [ ] proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
SIGNATURE OF NOTARY

\*\*\* OPTIONAL SECTION \*\*\*

CAPACITY CLAIMED BY SIGNER

Through statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

- Individual
Corporate Officers(s)
Partner(s) Limited General
Attorney-in-fact
Trustee(s)
Guardian/conservator
Other:

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

\*\*\*\*\*OPTIONAL SECTION\*\*\*\*\*

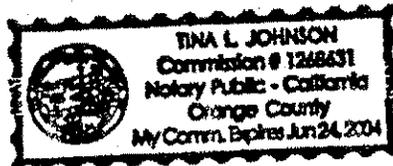
THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.



## EXHIBIT A

PROPERTY DESCRIPTION

All that certain Real Property in the City of Milpitas, County of Santa Clara, State of California, described as follows:

## PARCEL ONE:

All of Parcel 1, as shown upon that certain Map entitled, "Parcel Map being all of Parcel B as shown on Parcel Map filed for record in Book 542 of Maps at Pages 50 and 51, Santa Clara County Records," which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on May 14, 1992 in Book 636 of Maps, at Pages 44 and 45.

Excepting therefrom all minerals, oil, gas and other hydro-carbon substances below a depth of 500 feet measured vertically from the contour of the surface of said real property; provided, however, Grantor, its successors and assigns, shall not have the right for any purpose whatsoever to enter upon, into or through the surface of said real property or any part thereof between said surface and 500 feet below said surface, as reserved in the Deed from Standard Realty and Development Company, a California Corporation, recorded September 30, 1981 in Book G366, Page 82 Official Records.

## PARCEL TWO:

An easement for the purpose of ingress and egress, shown as easement "A" on the herein above referred Parcel Map described in Parcel One.

## PARCEL THREE:

An easement for the purpose of storm drainage, shown as easement "E" on the hereinabove referred Parcel Map described in Parcel One.

## PARCEL FOUR:

An easement for the purpose of storm drainage, shown as easement "F" on the hereinabove referred Parcel Map described in Parcel One.

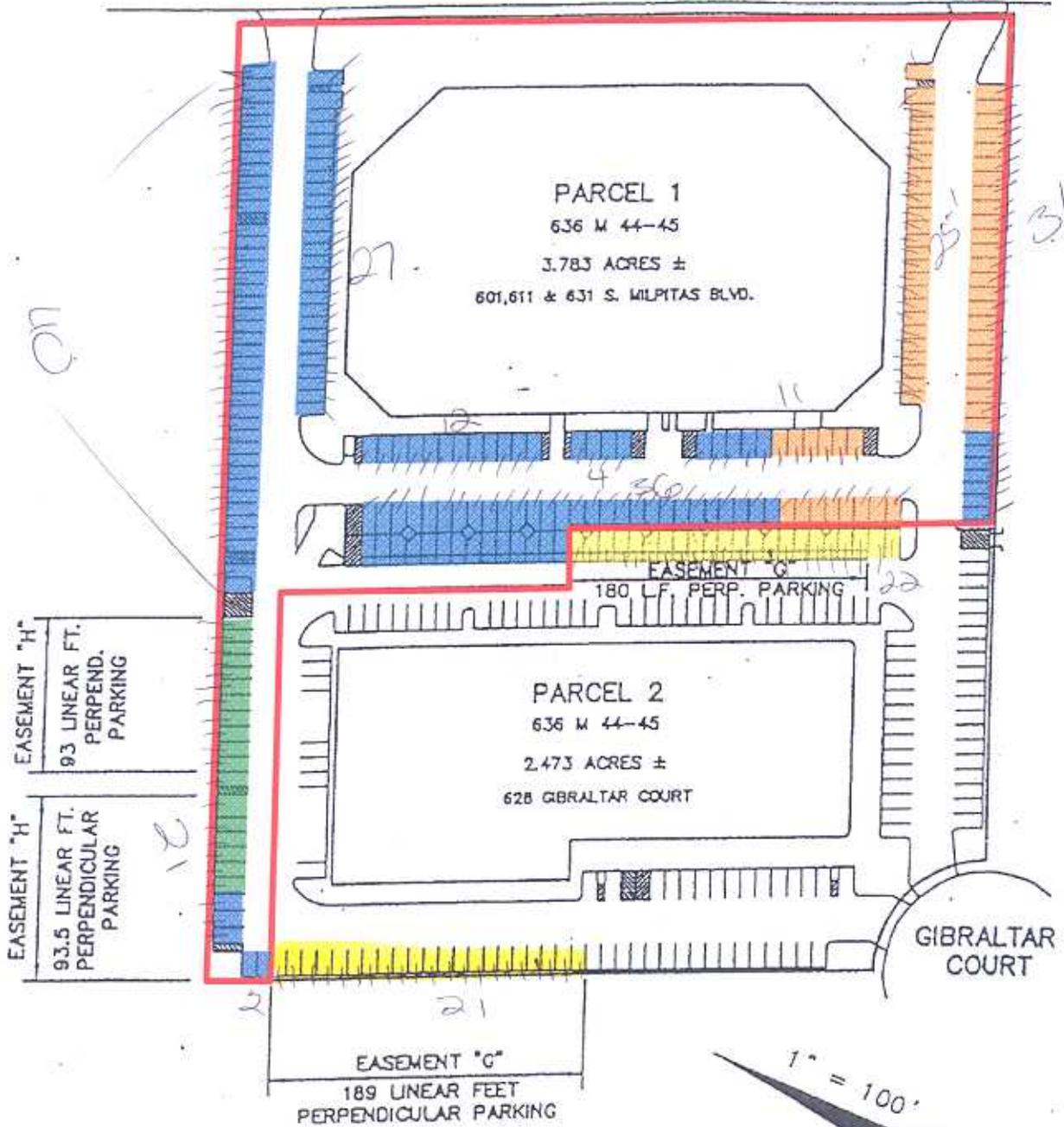
## PARCEL FIVE:

Easements for the benefit of Parcel 1 as described in the "Declaration of Easement" recorded March 14, 1992 in Book M191, page 1693, Official Records, and "Amendment No. 1 to Declaration of Easement" recorded June 19, 1998 as Instrument no. 14244806, Official Records, including but not limited to:

1. Easement "G" for the purpose of parking.

2. The Encroachment Easement over easement "B" ("the 'Encroachment easement No. 1 Over Easement 'B'") for parking.
3. The Encroachment Easement over easement "B" ("the 'Encroachment easement No. 2 Over Easement 'B'") for curbing.
4. The "Parcel 2 Parking Encroachment Easement" over Parcel 2 for parking.
5. The "Additional Parcel 2 Parking Encroachment Easement" over Parcel 2 for parking.

SOUTH MILPITAS BLVD.



**Legend**

- Parcel Line
  - ▬ Kaiser Parking (145 Spaces)
  - ▬ Kaiser Easement + 21 (22 Spaces)
  - ▬ Fitness USA (63 Spaces)
  - ▬ Fitness USA Assigned Spaces (18 Spaces)
- 167 Total Spaces 188  
69

31  
 25  
 11  
 36  
 22  
 4  
 12  
 27  
 40  
 21  
 + 21  
 -----  
 252

## SHARED PARKING AGREEMENT

Between

Crosspoint Chinese Church of Silicon Valley

And

Bagher and Kefayat Navid & Eastern Capital Corporation DBA Fitness USA

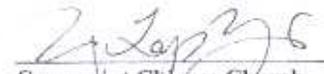
This is an SHARED PARKING AGREEMENT dated December 1, 2011 wherein between Crosspoint Chinese Church of Silicon Valley (Owner of Parcel Two) is referred to as Parcel Two of 628 Gibraltar Court in the City of Milpitas, California, and Bagher and Kefayat Navid (Owner of Parcel One) & Eastern Capital Corporation DBA Fitness USA (Tenant of Parcel One) is referred to as Parcel One of 631 South Milpitas Boulevard in Milpitas, California. Owners of Parcel One and Two, for due consideration, do hereby agree to the following:

### Shared Parking Spaces

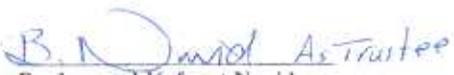
The Owners of Parcel Two agrees to share 15 parking spaces as outlined in Yellow in the attached Exhibit A, in the event there is overflow parking at Parcel One. This agreement is granted to Owner of Parcel One and the Tenant for duration of Three (3) years from January 1, 2012.

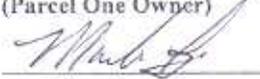
Parcel One Owners and the Tenant shall keep their spaces clean and free of obstructions and abandoned vehicles at all times.

Agreed to:

  
\_\_\_\_\_  
Crosspoint Chinese Church  
Of Silicon Valley (Parcel Two Owner)

Dec 1<sup>st</sup>, 2011  
Date

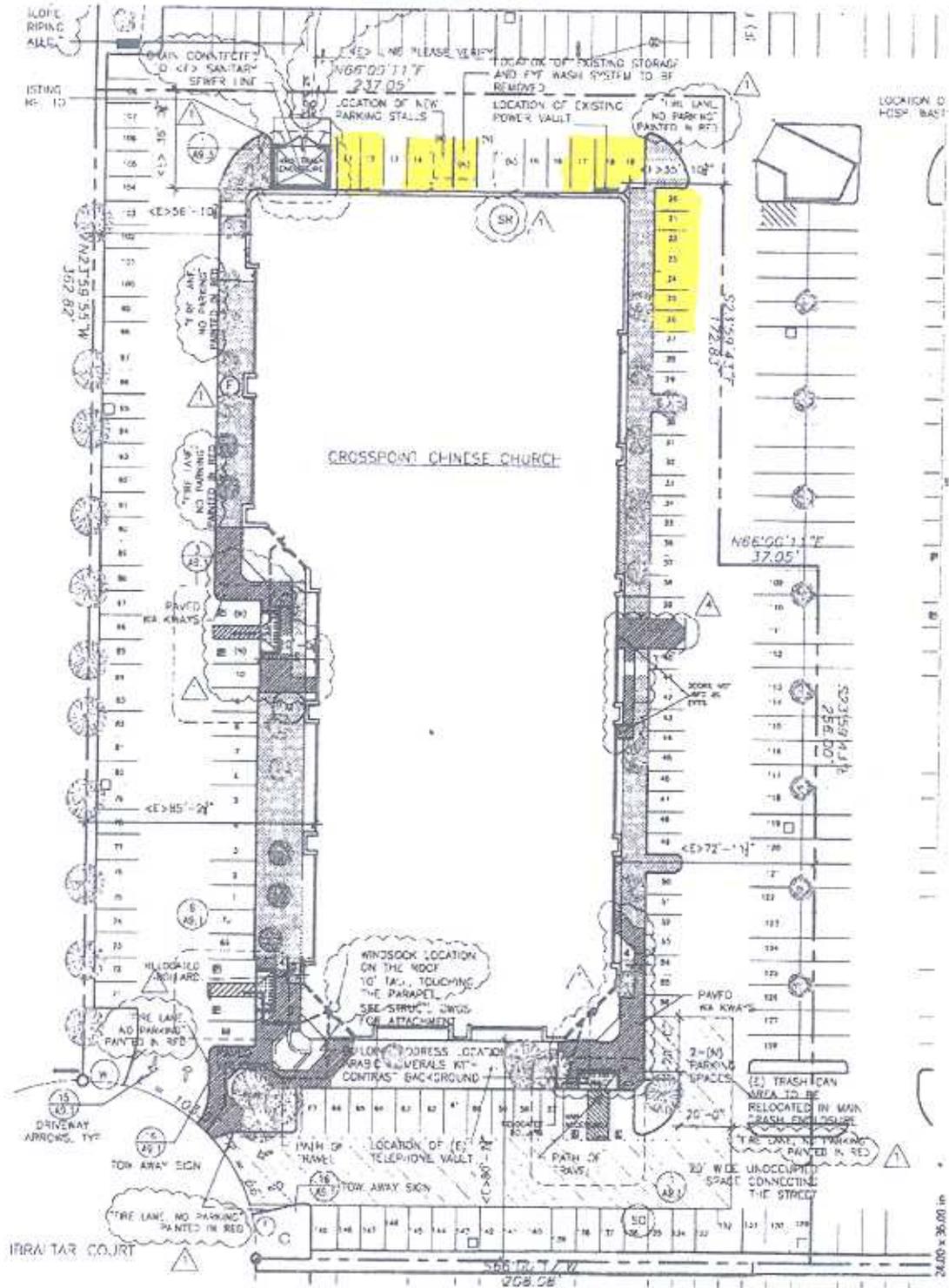
  
\_\_\_\_\_  
Bagher and Kefayat Navid  
(Parcel One Owner)

  
\_\_\_\_\_  
Eastern Capital Corporation  
DBA Fitness USA (Parcel One Owner's Tenant)

12/2/2011  
Date

12/2/11  
Date

# EXHIBIT A



24,000 x 36,000 in

