



# MILPITAS PLANNING COMMISSION AGENDA REPORT

**PUBLIC HEARING**

Meeting Date: January 11, 2012

**APPLICATION:** **CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0009,**  
Bay Badminton Center

**APPLICATION  
SUMMARY:**

A request to amend the existing conditional use permit to increase the number of badminton courts from twelve (12) to thirteen (13) courts at Bay Badminton Center.

**LOCATION:** 1191 Montague Expressway (APN 86-31-060)  
**APPLICANT:** Victor Lo, 1611 Adrian Rd., Burlingame, CA 94010  
**OWNER:** Fleming Business Park, LLC c/o WPI, 2101 Woodside Road, Woodside, CA 94062.

**RECOMMENDATION:** **Staff recommends that the Planning Commission:  
Adopt Resolution No. 12-004 approving the project subject to  
conditions of approval.**

**PROJECT DATA:**

General Plan/  
Zoning Designation: Manufacturing and Warehousing (MW) /Heavy Industrial District (M2).  
Overlay District: Site and Architectural Overlay  
Specific Plan: N/A  
  
Tenant Square Footage: 24,000 sq. ft.  
Building Square Footage: 48,000 sq. ft.  
Parking Provided: 121 spaces  
Parking Required: 39 spaces

**CEQA Determination:** Categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act.

**PLANNER:** Cindy Hom, Assistant Planner

**PJ:** 2785

**ATTACHMENTS:** A. Resolution No. 12-004  
B. Project Plans

C. Project Description

# LOCATION MAP



No scale

## BACKGROUND

In February 2005, the Planning Commission approved a conditional use permit for the operations of a 24,000 square footage commercial badminton facility that includes twelve (12) badminton courts for lessons and competition events, fitness room with workout equipment, ancillary retail shop, lounge/waiting area, offices, storage area, and restrooms. Currently, the badminton facility operated seven days a week from 9:00 a.m. to 11:00 p.m.

On November 21, 2011, Victor Lo of Bay Badminton Center submitted a conditional use permit amendment to increase the number of badminton courts from twelve (12) to thirteen (13) courts. The modified floor plan would remove portions of the exercise ( $\pm$  820 sq. ft.) and lounge area ( $\pm$  1,560 sq. ft.) to accommodate the new court layout. A new low wall would be constructed to separate the court area and lobby/waiting area ( $\pm$  1,554 sq. ft.). The application is submitted pursuant to Milpitas Municipal Code (MMC) XI-10-57.04-2 (I) (Modifications Requested by the Applicant) requires Planning Commission review and approval.

## PROJECT DESCRIPTION

The project site is a 24,000 square foot tenant space in an existing 48,000 square foot industrial building (Building 6), located on a 56.16-acre parcel within the Fleming Business Park. The building is located on the northeast portion of the business park, directly south of Sinclair Frontage Road terminus, and is bounded by I-680 to the east. Uses surrounding the project site include industrial and warehouse buildings occupied by tenants such as Mi Pueblo Foods, System Service of America, and One Work Place.

### *Development Standards*

The project does not propose any exterior or site modifications. The project would maintain existing setbacks, height, lot coverage, floor area ratio, landscaping and architecture. The project proposes only minor interior improvements.

### *Parking*

When the Fleming Business Park was developed, parking for building 6 was based on 1 space per 1,500 square feet for warehousing and 1 space per 350 square feet for offices, requiring a total of 51 parking spaces. The site provides 121 parking spaces and as a result has 70 excess parking spaces. The project occupies 24,000 square feet (1/2 of the building) and is allocated 60 parking spaces. The project complies with the parking requirements as demonstrated in the Table 1 below:

**Table 1:**  
**Parking Summary**

Tenant	Uses	Parking Standard	Required Parking
Bay Badminton Center	13 courts	2/Court	26
	Retail: 740 sq. ft.	1/200	4
	Lobby: 1,554 s. f.	1/200	8

Tenant	Uses	Parking Standard	Required Parking
	Storage: 1,738 s. f.	1/1500	1
Bizcom	Office: 7,200	1/350 sq. ft.	20
	Warehouse: 16,800	1/1500 sq. ft.	11
Total required			70
Total Provided			121

**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
<p><b>Guiding Principle 2.d-G-2:</b> <i>Encourage development of adequate civic, recreation and cultural centers in locations for the best service to the community and in ways that will protect and promote community beauty and growth.</i></p>	<p><b>Consistent.</b> The badminton facility provides for recreational opportunities for people who live, work, and play in Milpitas.</p>
<p><b>Implementing Policy 2.a-I-7:</b> <i>Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention</i></p>	<p><b>Consistent.</b> The project promotes business retention because it would allow an existing business expand their operations.</p>

**Zoning Ordinance**

The proposed badminton facility is consistent with the Heavy Industrial (M2) zoning district in that commercial athletic facilities are conditionally permitted uses. The project complies with the development standards and parking as demonstrated the parking table above.

The project is not anticipated to have any negative impacts on public health and safety or general welfare considering there are existing mitigation measures that include an evacuation/shelter-in-place procedure, Emergency Action Plan and annual reviews by the Fire Department. These measures are

adequate and will accommodate the additional patronage anticipated by expansion of the additional court and playing area. Therefore, the proposed project is consistent with Section 57.00 of the Milpitas Zoning Ordinance in terms of promoting public health, safety, peace, morals, comfort and 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 Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act. The project would be a negligible expansion of use considering the project proposes to add one additional badminton court.

### **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 proposed additional badminton court is consistent with the General Plan and Milpitas Zoning in terms of land use and compliance with development standards. As conditioned, the project will maintain existing mitigation measures to reduce potential impacts to public health, safety, and general welfare to a less than significant level.

### **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission adopt Resolution No. 12-004 approving Conditional Use Permit Amendment UA11-0009, Bay Area Badminton, subject to the attached Conditions of Approval.

#### *Attachments:*

- A. Resolution No. 12-004
- B. Project Plans
- C. Project Description

**RESOLUTION NO. 12-004**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0009, BAY BADMINTON CENTER, TO ALLOW FOR AN ADDITIONAL BADMINTON COURT FOR AN EXISTING INDOOR BADMINTON FACILITY AT 1191 MONTAGUE EXPWY.**

**WHEREAS**, on November 21, 2011, a conditional use permit amendment application was submitted by Victor Lo, 1611 Adrian Rd., Burlingame, CA 94010 to amend the existing conditional use permit to increase the number of badminton courts from twelve (12) to thirteen (13) courts at Bay Badminton Center. The property is located at 1191 Montague Expressway (APN 86-31-060) within the Heavy Industrial Zoning district; and

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and determined this project categorically exempt; and

**WHEREAS**, on January 11, 2012, 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 Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and determined the project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities). The project would be a negligible expansion of use considering the project proposes to add one additional badminton court to an existing indoor badminton facility.

**Section 3:** The project is consistent with the Milpitas General Plan in that it provides a recreation facility that would meet the community's needs and promotes endeavors to maintain a balanced economic base. The proposed use would also provide a unique form of indoor sport not commonly found in existing parks or fitness centers within Milpitas.

**Section 4:** The project is consistent with the Milpitas Zoning Ordinance in that the commercial athletic facility is a conditionally permitted use in the Heavy Industrial Zoning district with Planning Commission approval of a conditional use permit. The project complies with the parking requirements and development standards.

**Section 5:** As conditioned, the project shall maintain existing mitigation measures that include an evacuation/shelter-in-place procedure, Emergency Action Plan and annual reviews by

the Fire Department. Therefore, the proposed project will not be detrimental to public health, safety, peace, morals, comfort and welfare.

**Section 6:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UA11-0009, 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 January 11, 2012.

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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 January 11, 2012, 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				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Garry Barbadillo				

**EXHIBIT 1**

**CONDITIONS OF APPROVAL**  
**CONDITIONAL USE PERMIT NO. UA11-0009, Bay Badminton Center,**  
**A request to add one additional badminton court to existing indoor badminton facility.**  
**1191 Montague Expwy.**  
**(Restated and revised original conditions)**

**General Conditions**

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on August 25, 2010, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, 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. UP10-0009 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.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Conditional Use Permit No. UA11-0009 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. Prior to building permit issuance, the applicant shall provide a parking striping plan to demonstrate compliance with parking requirements and development standards. The parking striping plan shall provide 179 parking spaces. Compact spaces shall not exceed 40% of the total number of parking spaces provide.
  5. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations, and in conformance with the approved plans. **(P)**

6. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recover of review fees, a certificate of occupancy shall not be issued until the balance id paid in full. **(P)**
7. If at the time of application for permit there is a project job account balance due to the City for recover of review fees, review of permits will not be initiated until the balance id paid in full. **(P)**
8. Any occupancy of the tenant space shall not occur until all conditions of approval have been satisfied and verified by the City. **(P)**
9. To the fullest extent permitted by law, applicant shall indemnify, defend with counsel of the City's reasonable choosing that is mutually acceptable to both parties, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. City shall promptly notify the project applicant of any claim, action, or proceeding and engage in reasonable efforts to cooperate with applicant in the defense against the claim, demand, obligation, damage, action, or suit. If City fails to so promptly notify the project applicant, then the applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The applicant shall not be required to pay or perform any settlement unless the settlement is approved by the applicant. **(CA)**

**Environmental Mitigation Measures**

10. Prior to building permit issuance, the tenant improvement plans shall indicate an airborne chemical monitoring system (sensors), with detection and response/notification capabilities that shall be designed and installed by the applicant. The sensors shall be specific for the gases identified in the Risk Assessment as having the potential of impacting the site (ammonia). Notification shall alert Fire dispatch of an alarm and also provide in-place communication, both inside and outside of the building, to alert occupants of an emergency, via pre-recorded message, and shall direct them on emergency procedures to follow. The sensors and alarm systems shall be maintained in an operable manner and tested on an annual basis. Maintenance and testing shall be performed by a qualified person and records be made available to the Fire Department for inspection upon request. As part of the monitoring

system, building ventilation shall have manual and automatic shutoff capabilities with the control device located per Fire Department direction. *(F, Mitigation Measure VIIb-1)*

11. Prior to building permit issuance, the tenant improvement plans shall indicate the location of a windsock or other approved wind/weather-monitoring device on site to aid in determining wind direction in the event of a nearby hazardous material release. *(P,F, Mitigation Measure VIIb-2)*
12. Prior to building permit issuance, the tenant improvement plans shall indicate the location of warning notification signs posted at all entrances to the building. The signs shall serve to advise building occupants of potential hazards within the surrounding industrial area. Proposed verbiage shall be submitted for Fire Department review. Signs may be required in multiple languages, as appropriate for occupants of the building. *(P,F Mitigation Measure VIIb-3)*
13. Prior to certificate of occupancy issuance, the applicant shall submit an Emergency Action Plan (EAP) to the Milpitas Fire Department for approval, which recognizes the nature of the risk at the project site in the surrounding industrial area. The EAP shall include identification of key personnel in the implementation of the plan, training documentation, written evacuation plan showing evacuation routes, shelter in-place and assembly areas, and location of emergency equipment. *(F, Mitigation Measure VIIb-4)*
14. Prior to certificate of occupancy issuance and before implementing the EAP, the employer shall designate and train a sufficient number of persons to assist in the safe and orderly emergency evacuation of employees. The employer shall advise each employee of his/her responsibility under the plan. *(F, Mitigation Measure VIIb-5)*
15. Prior to certificate of occupancy issuance, drills with EAP designated staff and the Fire Department shall be conducted on site to test and document implementation of the EAP. An additional drill including building occupants shall occur immediately following occupancy. Drills shall be conducted and documented monthly and on an annual basis with the Fire Department on site. *(F, Mitigation Measure VIIb-6)*
16. Both the Risk Assessment and Emergency Action Plan shall be reviewed, updated and submitted to the Fire Department for review and on an annual basis. This review shall incorporate any changing conditions within industry and chemical usage within the area. It shall also incorporate any engineering/administrative controls and technological advances available. Updated plans shall be reviewed and conducted by an individual meeting Fire Department requirement. *(F, Mitigation Measure VIIb-7)*

(P) = Planning

(B) = Building

(E) = Engineering

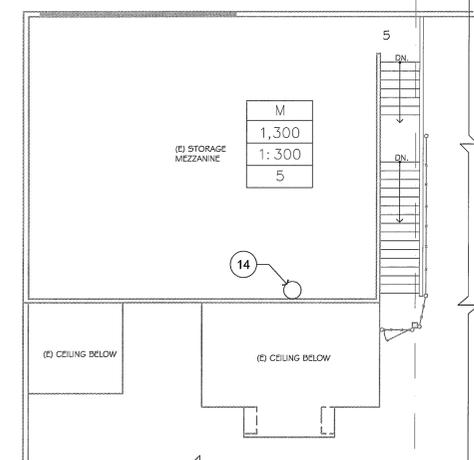
(F) = Fire Prevention



PROJECT ADDRESS

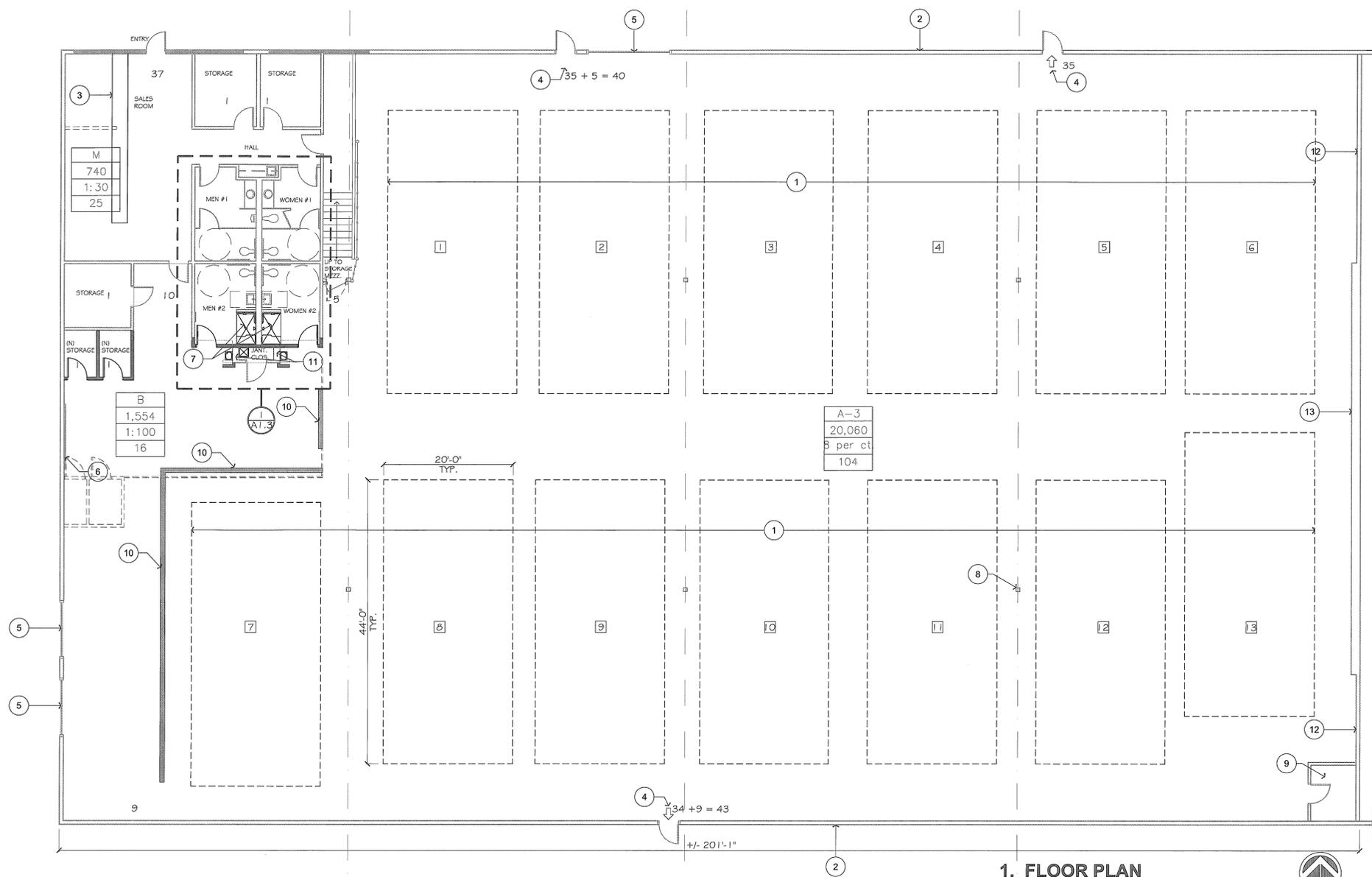
1191 WEST MONTAGUE EXPRESSWAY  
MILPITAS, CA 95035

VERIFIED EXISTING CONDITIONS FOR:



**2. MEZZANINE FLOOR PLAN**

SCALE: 1/8" = 1'-0"



**1. FLOOR PLAN**

SCALE: 1/8" = 1'-0"



**Floor Plan Key Notes**

- 1. NEW BADMINTON COURTS, (13) COURTS TOTAL.
- 2. EXISTING CONCRETE TILT-UP EXTERIOR WALLS
- 3. NEW SALES COUNTER
- 4. EXISTING 3'-0" WIDE EXIT DOORS
- 6. EXISTING WALL MOUNTED SCREEN
- 7. SEE A3.1 FOR NEW ADA SHOWERS.
- 8. EXISTING COLUMNS, TYP.
- 9. EXISTING FIRE RISER CLOSET.
- 10. NEW LOW WALL.
- 11. WALLS CONSTRUCTED WITHOUT PERMIT - CONSIDERED "NEW WALLS".
- 12. EXISTING ONE HR. FIRE RATED SEPARATION TO ADJACENT WAREHOUSE SPACE.
- 13. EXISTING CONCRETE SHEAR WALL.
- 14. NEW ELECTRIC WATER HEATER, SEE DETAIL 5/A9.1 FOR SEISMIC STRAPPING.

**LEGEND**

- EXISTING GYP. BD. / METAL STUD WALL TO REMAIN, TYP.
- EXISTING CONCRETE WALL
- NEW WALL: 5/8" GYP. BD. EA. SIDE WITH 3-5/8" METAL STUDS, TYPICAL. SEE DETAIL 1/ SHEET A8.2

EXISTING CONDITIONS FIELD VARIFIED AND DOCUMENTED BY STUDIO G ARCHITECTS, DESIGNED AND CONSTRUCTED BY OTHERS.



**STAMP**

ALL DESIGNS, DRAWINGS AND WRITTEN MATERIALS INDICATED HEREIN ARE THE WORK AND PROPERTY OF STUDIO G ARCHITECTS. THIS DOCUMENT MAY NOT BE DUPLICATED, REUSED OR DISCLOSED BY ANY METHOD WITHOUT THE WRITTEN CONSENT OF STUDIO G ARCHITECTS. ALL RIGHTS RESERVED.

**REVISIONS**

DATE	DESCRIPTION
1.28.11	RESPONSE TO PLAN CHECK COMMENTS
3.31.11	RESPONSE TO PLAN CHECK COMMENTS

DATE	06-29-10
SCALE	AS NOTED
PROJECT ID	2010.20
DRAWN BY	KS/GB/CT/KL

**FLOOR PLAN**

SHEET TITLE

A2.1

SHEET NO.



# BAY BADMINTON CENTER

TEL: (650) 692-1611

1611 ADRIAN ROAD

FAX: (650) 692-9889

BURLINGAME, CA 94010

email: [info@baybadminton.com](mailto:info@baybadminton.com)

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November 17, 2011

Milpitas Planning  
455 East Calaveras Boulevard  
Milpitas, CA 95035

**RE: Plan Check B-BP10-0248**

Dear Cindy Hom:

This letter is to address your comment per the plan check 2<sup>nd</sup> Submittal Comments dated February 4, 2011. We would like to amend our CUP to change the number of court from the original 12 courts to 13 courts. The additional court added has taken the place of the original lounge area.

If there are any further questions please feel free to give me a call. Thank you very much.

Sincerely,

Victor Lo

CITY OF MILPITAS  
PLANNING DIVISION

NOV 21 2011

RECEIVED