

Planning Commission Subcommittee Public Hearing



Date: July 25, 2012
To: Planning Commission Subcommittee
From: Cindy Hom, Assistant Planner
Subject: **Minor Conditional Use Permit No. MC12-0002, Gao's Chinese Cuisine**
Location: 1708 N. Milpitas Blvd. (APN 26-06-003)
Zoning/GP: Neighborhood Commercial (C1) with Site and Architectural Overlay/Retail Sub Center (RSC)

Background:

- On June 12, 2012, Peng Gao submitted a Minor Conditional Use Permit to allow for the sales of beer and wine at an existing 1,502 square foot restaurant located within the City Square Shopping Center located at 1708 N. Milpitas Blvd.
- The property is zoned Neighborhood Commercial and is surrounded by commercial uses to west and north, and residential homes to the east and south.
- This application is submitted pursuant to Milpitas Municipal Code XI-10-5.02-1 (8) (Restaurants or Food Service) which requires Planning Commission Subcommittee review and approval.
- According to the Department of Alcohol Beverage Control, the project falls within in an undue concentration area for liquor licenses which authorizes four (4) on-sale permits and currently has nine (9) active permits. The project will not be detrimental to the surrounding area based on the following findings:
 - The proposed beer and wine sales is a complementary service to the existing food service.
 - The project is located in the Neighborhood Commercial zone and is surrounding by other commercial and restaurant uses.
 - As conditioned, the applicant shall be required to obtain training for responsible alcohol serving.
 - The restaurant closes at 10pm and is consistent with the shopping center mall hours and therefore will not be disruptive to the quiet and peaceful enjoyment of sensitive receptors.
- The project is consistent with the Milpitas General Plan Implementing policies *2.a-I-3 and 2.a-I-7* in the project promotes economic pursuits and business retention.
- The project is conforms to the Milpitas Zoning in that the beer and wine sales are conditionally permitted uses in the Neighborhood Commercial Zoning District.
- Staff 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). The addition of on-site consumption of beer and wine in

MC12-0002, Gao's Chinese Cuisine.

conjunction with food service is considered a negligible change in operation of an existing restaurant use.

Recommendation:

STAFF RECOMMENDS THAT the Planning Commission Subcommittee close the public hearing and adopt Resolution No. 12-033 approving Minor Conditional Use Permit No. MC12-0002, Gao's Chinese Cuisine subject to the conditions of approval.

Attachments:

- A. Resolution No. 12-033
- B. Plans

RESOLUTION NO. 12-033**A RESOLUTION OF THE PLANNING COMMISSION SUBCOMMITTEE OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT NOMS12-0002, GAO CHINESE CUISINE TO ALLOW BEER AND WINE SALES LOCATED AT 1708 N. MILPITAS BLVD.**

WHEREAS, on June 12, 2012, an application was submitted by Peng Gao, 1708 N. Milpitas Blvd, CA 95035, to allow sale of beer and wine with an existing restaurant. The property is located within the Neighborhood Commercial Zoning district (APN 26-06-003); 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.

WHEREAS, on July 25, 2012, the Planning Commission Subcommittee 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 Subcommittee 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 in that 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.

Section 3: The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare based on the following:

- The proposed beer and wine sales is a complementary service to the existing food service;
- The project is located in the Neighborhood Commercial zone and is surrounded by other commercial and restaurant uses;
- As conditioned, the applicant shall be required to obtain training for responsible alcohol serving; and
- The restaurant closes at 10 PM therefore will not be disruptive to the quiet and peaceful enjoyment of sensitive receptors.

Section 4: The proposed use is consistent with the Milpitas General Plan in that it promotes economic pursuits and business retention by enabling the restaurant to cater to its customers and establish itself as a dining destination within the City of Milpitas.

Section 5: The proposed use is consistent with the Milpitas Zoning Ordinance in that the use is conditionally permitted in the Neighborhood Commercial Zoning District.

Section 6: The Planning Commission Subcommittee of the City of Milpitas hereby approves Minor Conditional Use Permit No. MC12-0002, Gao's Chinese Cuisine, 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 Subcommittee of the City of Milpitas on July 25, 2012.

Planning Commissioner

Planning Commissioner

EXHIBIT 1

CONDITIONS OF APPROVAL

Minor Conditional Use Permit No. MC12-0002

A request to add beer and wine to an existing restaurant.
1708 N. Milpitas Blvd. (APN:86-06-003)

General Conditions

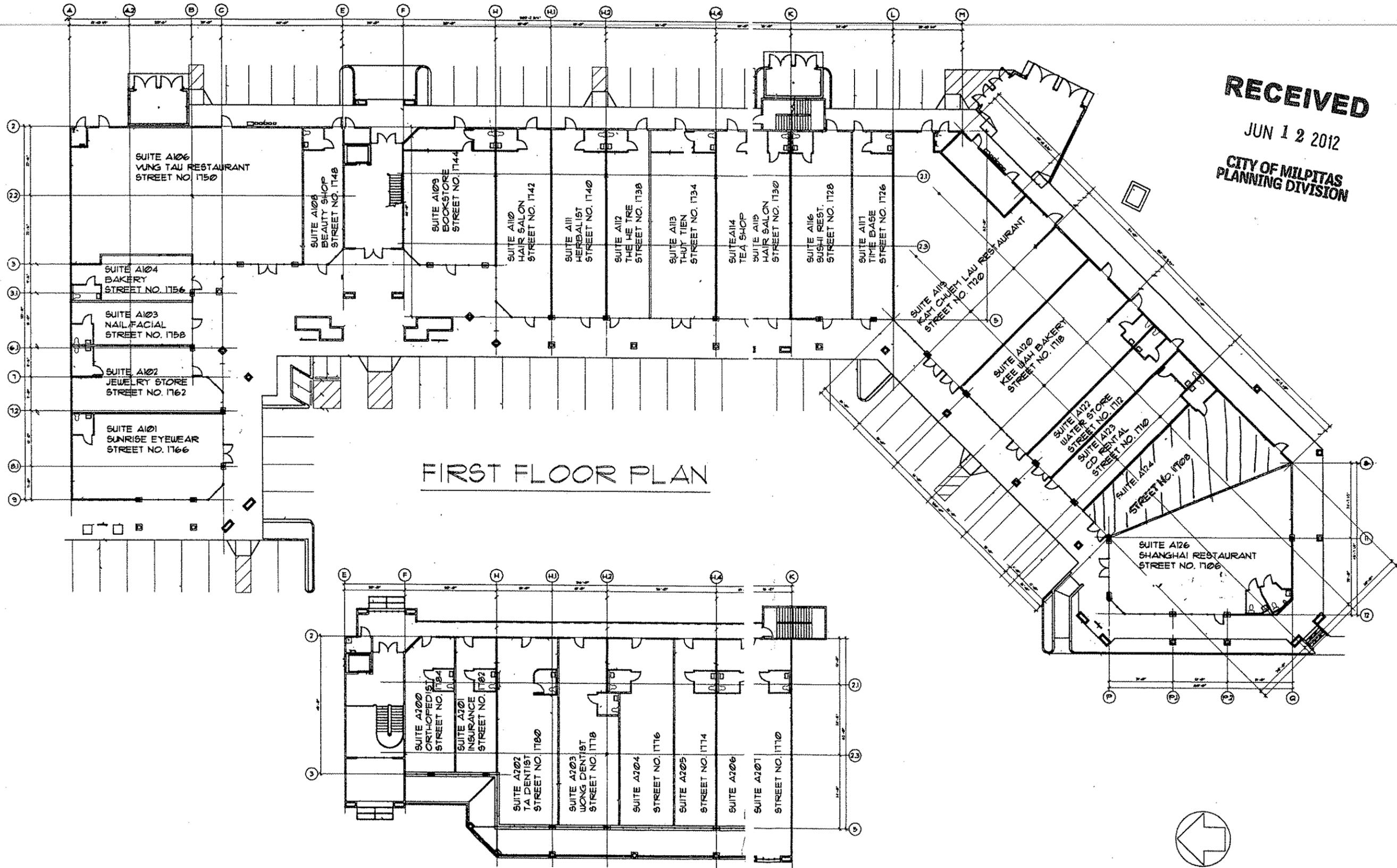
1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission Subcommittee on July 11, 2012, in accordance with these Conditions of Approval.

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. The driving staging area shall be cordoned off with coning and caution tape to provide a physical separation from customer parking. (P)

2. The project shall be operated in accordance with all local, state, and federal regulations. (P)
3. 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)
4. 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)
5. Comply with all Department of Alcoholic Beverage Control licensing requirements pertaining to the all types of alcohol. (P)

(P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention

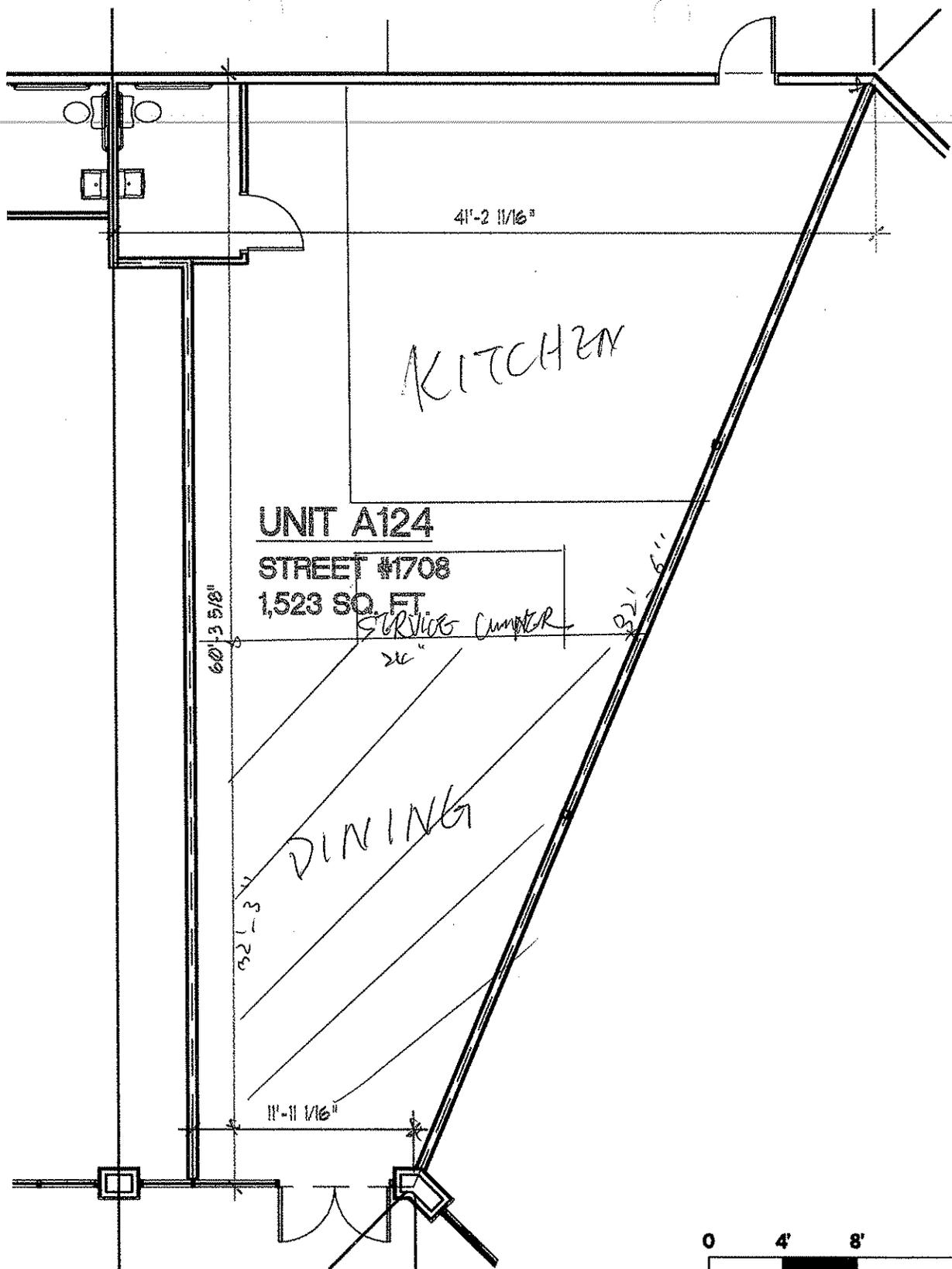




JOB NO. 89404
 DATE OCT. 10, 1995
 1 OF 1

G E O R G E M E U A S S O C I A T E S

BUILDING 'A'
 CITY SQUARE SHOPPING CENTER
 S.E. CORNER OF N. MILPITAS BLVD. • SUNNYHILLS CT.
 MILPITAS, CALIFORNIA



UNIT A124

STREET #1708

1,523 SQ. FT.

SERVICE COUNTER
20"

DINING

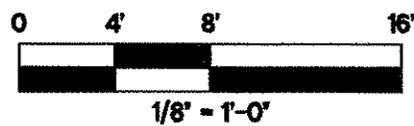
4'-2 1/16"

60'-3 5/8"

92'-3 1/8"

11'-11 1/16"

92'-5 1/8"



CITY SQUARE

PLAN EXHIBIT

UNIT A124
CITY SQUARE SHOPPING CENTER
1708 N. MILPITAS BOULEVARD
MILPITAS, CALIFORNIA

24 MAY 2010
1 of 1