



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: February 13, 2013

APPLICATION: **CONDITIONAL USE PERMIT NO. UP12-0011 AND MINOR SITE DEVELOPMENT PERMIT NO. MS12-0022**

APPLICATION SUMMARY:

A request to operate a new 6,085 square foot childcare center within an existing commercial building and exterior improvements for an outdoor play area within the adjacent parking lot located on the southwest corner of Serra Way and Abel St.

LOCATION: 200 Serra Way, Suite 50 (APN: 086-07-025)

APPLICANT: Rajitha Sumanasekera, 4343 Stevenson Blvd, Fremont, CA 94538

OWNER: 200 Serra Way, LLC, Dung Do, 380 N. First Street, San Jose, CA 95112

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 13-005 approving the project subject to the attached conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation: General Commercial /General Commercial with Site and Architectural Overlay (C2-S)

Specific Plan: Midtown Specific Plan

CEQA Determination: Categorically exempt from further environmental review pursuant to Section 15303 for the conversion of small structures from commercial uses to a childcare center.

PJ# 2829

PLANNER: Tiffany Brown, Assistant Planner

ATTACHMENTS:

- A. Resolution No. 13-005
- B. Site Plans
- C. Phase I
- D. Letter from Applicant
- E. April 22, 2009 Staff Report and Site Plans; Serra Center Renovation
- F. April 22, 2009 Planning Commission Meeting Minutes for the Serra Center Renovation

LOCATION MAP



- - - Serra Center



 Project Site


No scale

BACKGROUND

In March 2009, the property owners submitted a preliminary application for the redevelopment of the 16.2 acre site, known as the Serra Shopping Center, located at West Calaveras Blvd. and Serra Way. The project included the development phasing of retail (277,061 square feet), restaurant (58,404 square feet), office (235,949 square feet), and a hotel (291 rooms). The new shopping center would be supported by a multi-level parking structure with multi-family residential townhomes (45 units) facing the existing residential along Junipero Street. The preliminary proposal was presented to the Planning Commission on April 22, 2009. For further details on the preliminary plan, please see Attachment D and E. The project did not proceed at the request of the property owners because of the state of the economy.

In September 2012, staff received a new proposal for the renovation of the Serra Center. This proposal emphasized the first phase of the development that included townhomes located on the south end of the property. The site plans did not include the new layout or renderings for the commercial portion of the site. Staff had concerns with the proposal because it concentrated on the residential townhomes without providing any assurance that the commercial component would be developed as originally presented to the City in 2009. Since 2009, the applicant has renewed/leased up to 90% of the shopping center. This is an indicator to the City that the preliminary plans for the commercial redevelopment of the center will subsequently remain unchanged.

Rajitha Sumanasekera with Little Flowers Montessori School is requesting to lease the building located at the southwest corner of Serra Way and Abel Street. A childcare center is a conditionally permitted use within the General Commercial Zoning District. Rajitha submitted an application to obtain approval of a conditional use permit for the request to operate a childcare center within the Serra Shopping Center. The proposal includes upgrades to the immediate surrounding parking lot to allow for a playground area. See project description below.

PROJECT DESCRIPTION

The project site is located within the Serra Shopping Center which is zoned General Commercial. The center is bound by West Calaveras Blvd., Serra Way, South Abel Street, and Junipero Street. See the previous page for a map of the site location. Current uses within the Center include Yo-Pho restaurant, Big Lots, Walgreens, Chilies restaurant, and other retail or service types uses. The proposed Montessori school will be in the northeast corner building. The childcare center will encompass the entire building (6,085 square feet) along with eight adjacent parking stalls for the new playground area. The facility includes a lobby with reception area, an office, one meeting room, and a staff room, a kitchen with pantry, six classrooms, and storage/utilities room.

The new facility will have a maximum capacity of 115 children with 18 staff members, which is consistent with state licensing. The childcare center will operate from 7:00am to 6:30pm on weekdays only. The center does not include ringing bells, interior or exterior, or amplified sound other than the required fire alarm.

Architecture

The existing façade of the building will not be altered with the exception of paint, new existing doors required by building code, and removal of some windows for privacy purposes. Currently, the applicant proposes a lavender and grey color scheme. The Midtown Specific Plan requires that all building colors be within the earth-tone color palette. The applicant has agreed to a condition to work with Staff on the new color scheme during the building permit phases and subject to Staff’s approval.

Landscaping

The outdoor playground area, estimated to be 6,252 square feet, will be constructed over the existing eight parking spaces adjacent to the east and south of the building. The floor of the playground area will be lined with an artificial rubber like turf and will be fenced off with a six foot tall metal picket fence and have a four foot minimum landscaped buffer between the play area and parking lot. There is an existing mature pine tree within the proposed playground area that will remain and provide shade for the play area. See Attachment B, Landscape Plans for further details on plantings.

Lighting

The existing parking lot includes typical parking area lighting. Currently, one light pole is located in the proposed playground area and it will not be relocated. This will allow the playground area to be adequately lit during the evening. The applicant proposes additional lighting on the building near the main entry and along the east and west sides of the building to help light the area and provide security for those who pick up their children in the later evening hours.

Parking

Per the Zoning Ordinance, the building, based on its previous commercial use is designated 30 parking spaces. The proposed childcare center would require a total of 19 parking spaces (see Table 1 below for calculations). As mentioned previously, the applicant will be removing eight (8) parking stalls, leaving the childcare center with a total of 22 parking spaces.

Table 1
Off-Street Parking Requirements

Use	Ordinance Requirement	Total
Childcare Center (3,651 square feet of classroom area)	1 per 500 sq.ft. (3,651/500= 7 spaces) + 1 per 1.5 employee (18 employees / 1.5 = 12)	19

With the removal of eight parking stalls, the childcare facility will still meet the parking requirements per the Zoning Ordinance.

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><i>2.a-I-24: Encourage the establishment of day care facilities consistent with State standards, including the issuance of use permits for large day care facilities where compatible with surrounding neighborhoods and commercial uses, particularly in public facilities such as community centers, churches, schools and in employment centers and large housing developments.</i></p>	<p>Consistent. The childcare center is consistent with State standards and is compatible with the surrounding neighborhood.</p>
<p><i>2.c-G-1: Provide adequate school facilities for City’s Residents.</i></p>	<p>Consistent. The new childcare center expands educational opportunities for Milpitas residents.</p>

Zoning Ordinance

The project site is zoned General Commercial, and the proposal is consistent with the Zoning Ordinance development standards including parking requirements. Childcare facilities are a conditionally permitted use pursuant to Municipal Code Table XI-10-5.02-1 – Commercial Zone Uses. The application requires a Minor Site Development Permit for the modification of the parking lot to a playground area and the minor façade changes.

A Conditional Use Permit allows the City to consider special uses which may be essential or desirable the city and carefully enable certain uses which could have detrimental effects on the community. Such uses are not allowed as a matter of right within a zoning district, and are required to go through a public hearing process and receive approval by the Planning Commission. Consideration of a conditional use permit is a discretionary act, meaning, the Planning Commission has the authority in deciding whether to approve or disapprove the proposed project. If approved, the Conditional Use Permit shall run with the land, and shall continue to be valid upon a change of ownership of the site to which it applies. Prior to considering approval of a Conditional Use Permit, the Commission must find that the project is consistent with the below findings.

Conditional Use Permit findings:

- 1) The proposed use is consistent with the General Plan - See General Plan section within this report.
- 2) The proposed use is consistent with the Zoning Ordinance - See first paragraph under Zoning Ordinance section of this report.

- 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 - The new childcare center at the proposed location expands educational opportunities for Milpitas residents and will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare in that the childcare facility is a compatible commercial use that serves both the residence and employees in the area.

A Minor Site Development Permit is for the review is of the physical improvements to a site which are large enough to require consideration, but due to their scale, nature or location, are able to be approved either at a Staff or Planning Commission Subcommittee level. Prior to consideration of a approval for a Minor Site Development permit, the project shall demonstrate conformance with the following findings.

Minor Site Development Permit findings:

- 1) The project is consistent with the General Plan - See General Plan section within this report.
- 2) The project is consistent with the Zoning Ordinance - See first paragraph under Zoning Ordinance section of this report.
- 3) The layout of the site and design of the proposed buildings, structure and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development - The layout of the site and design of the proposed childcare center with new landscaping and play area are compatible and aesthetically harmonious with adjacent and surrounding development in that the proposal includes enhancing the building by repainting and enhancing the existing landscaping with an addition of new landscaping around the outdoor play area.

Midtown Specific Plan

The table below outlines the project’s consistency with applicable Midtown Specific Plan Policy:

Table 3
Midtown Specific Plan Consistency

Policy	Consistency Finding
3.22: <i>Encourage the provision of Childcare services to support demand generated by employees and residents in the Midtown Area.</i>	Consistent. The new childcare center provides alternate opportunities for residences and employees within the Midtown Area and Milpitas as a whole.

Milpitas Child Care Master Plan

The table below outlines the project's consistency with the goals and implementation policies of the Milpitas Child Care Master Plan dated April 2, 2002.

Table 4
Milpitas Child Care Master Plan Consistency

Policy	Consistency Finding
<i>Accessibility Policy 2.2-G-I: The City of Milpitas promotes the retention of existing facilities and the development of new child care facilities within the city limits.</i>	Consistent. The project promotes development of new childcare facilities within the city limits.
<i>Accessibility Policy 2.2-I-3: The City of Milpitas encourages existing and new facilities to offer a variety of child care types in order to meet specific needs.</i>	Consistent. The proposed facility targets children from 18 months to 6 years old.

ENVIRONMENTAL REVIEW

The applicant submitted a Phase I Environmental Assessment prepared by AEI consultants, to identify if the property has any potential environmental liabilities on the project site. The conclusion of the report states that the assessment of the property has revealed no evidence of recognized environmental conditions in connection with the property and recommends no further investigations for the subject site. 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 15303 for the conversion of small structures from commercial uses to a childcare center.

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 childcare center will occupy an existing commercial building and enhance an older shopping center by repainting the building and the addition of landscaping. The proposed use at the proposed location is consistent with the General Plan, Zoning Ordinance, and Specific Plan and will bring additional foot traffic to the Serra Shopping Center. There are some concerns on the affects the childcare center may have on the proposal to renovate the Serra Shopping Center and how to ensure this new childcare center would not pose a negative impact to that overall plan.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission conduct a public hearing and adopt Resolution No. 13-005 approving Conditional Use Permit No. UP12-0011 and Minor Site Development Permit MS12-0022, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 13-005
- B. Site Plans
- C. Phase I
- D. Letter from Applicant
- E. April 22, 2009 Staff Report and Site Plans; Serra Center Renovation
- F. April 22, 2009 Planning Commission Meeting Minutes for the Serra Center Renovation

RESOLUTION NO. 13-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING UP12-0011 AND MS12-0022, LITTLE FLOWER MONTESSORI, TO ALLOW THE OPERATION OF A NEW CHILDCARE CENTER WITH EXTERIOR IMPROVEMENTS, LOCATED AT 200 SERRA WAY, SUITE 50

WHEREAS, on May 22, 2012, an application was submitted by Rajitha Sumanasekera, 4343 Stevenson Blvd, Fremont, CA 94538, to operate a new 6,085 square foot childcare center with exterior improvements for an outdoor play area. The property is located within the General Commercial Zoning district (APN 086-07-025); 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 categorically exempt.

WHEREAS, on February 13, 2013, 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: Categorically exempt from further environmental review pursuant to Section 15303 for the conversion of small structures from commercial use to a childcare center.

Section 3: The project is consistent with the General Plan, specifically with Policies 2.a-I-24 and 2.c-G-1 in that the new center is consistent with State Standards, expands educational and childcare opportunities for Milpitas residents, and is compatible with the existing and future surrounding neighborhood.

Section 4: The project site is zoned General Commercial, and the proposal for a childcare center is consistent with the Zoning Ordinance in that it meets the development standards including parking requirements.

Section 5: Conditional Use Permit. Childcare centers are a conditionally permitted use pursuant to Municipal Code Table XI-10-5.02-1 – Commercial Zone Uses. In order to issue the permit, we make the following required findings:

1. 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 in that the childcare use is a compatible use that serves both commercial employees and surrounding residence.

- 2. The proposed use is consistent with the Midtown Specific Plan, particularly plan policy 3.22 as set forth in Section 7 below.

Section 6: Minor Site Development Permit. The application requires a Minor Site Development Permit for the modification of the parking lot to a playground area. In order to issue the permit, we make the following required findings:

- 1. The proposed layout of the site and design of the proposed buildings, structures and landscaping along with the new landscaping and outdoor play area are compatible and aesthetically harmonious with adjacent and surrounding development in that the proposal includes enhancing the building by repainting and enhancing the existing landscaping with an addition of new landscaping around the outdoor play area.
- 2. The project is consistent with the Midtown Specific Plan.

Section 7: The proposed project is consistent with the Midtown Specific Plan Policy 3.22 in that the new childcare will provide alternate opportunities for residence and employees within the Midtown Area and Milpitas as a whole.

Section 8: The project is consistent with the Milpitas Childcare Master Plan Policies 2.2-G-1 and 2.2-I-3 in that there will be a new childcare facility within the city limits and the proposed facility will provide a different type of childcare (preschool for ages 2-6 years) for the Milpitas residents.

Section 9: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP12-0011 and Minor Site Development Permit MS12-0022, Little Flower Montessori, 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 February 13, 2013

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 February 13, 2013, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
Garry Barbadillo				

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Demetress Morris				

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP12-0011 AND MINOR SITE DEVELOPMENT
PERMIT NO. MS12-0022:**

A request to operate a new 6,085 square foot preschool with exterior improvements for an outdoor play area.
200 Serra Way, Suite 50 (APN: 086-07-025)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on **February 13, 2013**, 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)**

UP12-0011 and MS12-0022 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 **UP12-0011 and MS12-0022** 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 Final, the owner or designee will demonstrate to the Planning Division that the new paint scheme for the building is consistent with the Midtown Specific Plan requirements, subject to Staff approval. **(P)**

5. Prior to building permit issuance, the owner or designee shall demonstrate on construction plans that the landscape buffer in between the parking lot area and the new playground area shall be a minimum of four feet wide. (P)
6. Prior to building permit issuance, the owner or designee shall demonstrate the location, style, and quantity of lighting fixtures for the building to the satisfaction of the Planning Division. (P)
7. The child care center (pre-school) shall not have exterior bells or amplified sound(s) that can be heard from outside the facility. (P)
8. Prior to building permit issuance, the owner or designee shall demonstrate that the playground area will be fenced off with metal or iron picket fence and painted black or an earth tone color that complements the building. (P)
9. Prior to any building permit issuance, the owner or designee shall obtain design approval and bond for all necessary public improvements along Serra Way frontage, including but not limited to removal and replacement of damaged curb, gutter, and removal and replacement of sidewalk along the Serra Way frontage. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The owner or Designee will be required to bond for 100% of the engineer's estimate of the construction cost for both faithful performance and labor & materials and may be required to execute a secured public improvement agreement. All proposed improvements must be in accordance with the City of Milpitas standard drawing and specs, and constructed to the city Engineer's satisfaction. (E)
10. The proposed playground shall conform to the playground-related standards set forth by the American Society for Testing and Materials and the playground-related guidelines set forth by the United States Consumer Product Safety Commission. (E)
11. Prior to occupancy/final permit issuance for the playground area developer shall have a playground safety inspector, certified by the National Playground Safety Institute, conduct an initial inspection for the purpose of aiding compliance with the playground safety requirements. (E)
12. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA), under the National Flood Insurance Program shows this site to be located in the Special Flood Hazard Area, Zone AE. Flood proofing of the entire structure is required, **if the proposed improvements are determined to be substantial improvements** to the existing structure. New improvements are deemed to be Substantial improvements if the valuation of the new improvement alone exceeds 49% of the existing structures fair market value before any new improvements are made. This is further defined by the City's Floodplain Management Regulations, (Ordinance No. 209.4). (E)

13. It is the responsibility of the owner or designee to obtain any necessary encroachment permits from all affected agencies and private parties. Submitted plan shows the playground to be within the PG&E easement and next to the SCVWD right of way. **Prior to building permit issuance**, submit plan to PG&E and SCVWD for review and comments/approval. Provide copies of any approvals, permits, and comments to the City of Milpitas Engineering Division. (E)
14. The owner or designee shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance. Contact the Land Development Section at (408) 586-3329 to obtain the form(s).(E)
15. Prior to building permit issuance, owner or designee must pay all applicable development fees, including but not limited to, plan check and inspection deposit, and 2.5% building permit automation fee. (E)
16. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, owner or designee shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered. Prior to occupancy permit issuance (start of operation), the applicant shall submit evidence to the City that a minimum level of refuse service has been secured using a Service Agreement with Allied Waste Services (formally BFI) for commercial services to maintain an adequate level of service for trash and recycling collection. After the applicant has started its business, the applicant shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. (E)
17. As a part of any building permit submittal, owner or designee MAY BE required to submit a Storm Water Control Plan that incorporates best management practices (BMPs) for treatments of stormwater run off from the project. The Storm Water Control plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. **Site design shall also include Low Impact Development (LID) Section C3.c.i.(2)(b) measures of harvesting and reuse, infiltration, and evaporate-transpiration, and biotreatment systems.** The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer. (E)
18. If the existing services (water, sewer and storm) are not adequately sized to serve this additional development, plans showing new services must be submitted and approved prior to building permit issuance. (E)

19. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers, including but not limited to construction activities, to eliminate as much as possible pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)
20. Prior to any work within public right of way or City easement, the owner or designee shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
21. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping of 2500 square feet or larger the owner or designee shall:
 - A. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.
 - B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the owner or designee/landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process.

(P) = Planning
(E) = Engineering

GRADING & DRAINAGE PLANS - ON SITE

PROJECT NAME: LITTLE FLOWERS MONTESSORI PRESCHOOL
 BUILDING PERMIT NO. B-GR200X - _____
 ASSESSORS PARCEL NO. _____
 LOT NO. _____, PARCEL MAP/TRACT NO. BK PG

INDEX OF DRAWINGS

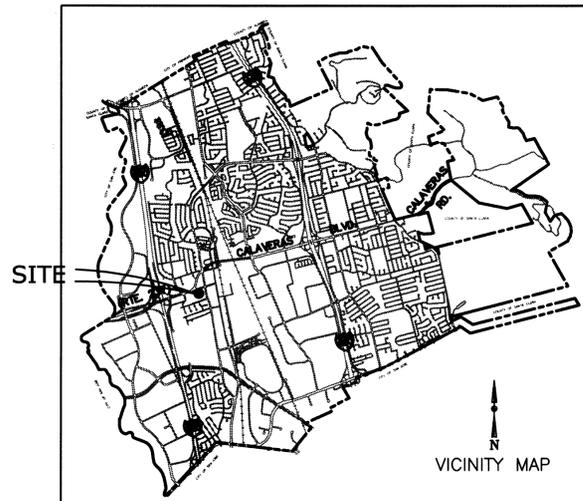
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GRADING AND DRAINAGE NOTES

- A grading permit from the building division is required. All grading shall comply with the requirements of the City of Milpitas grading municipal code, these plans, special instruction on the permit, and the preliminary soils report dated _____ and all subsequent addendums.
- Source of topography is SURVEY PREPARED BY DEBOLT CIVIL ENG. by dated JULY 18, 2012.
- A pre-grading meeting at the site is required among the City inspector, the civil engineer, the soils engineer and the grading contractor.
- Hours of operation are 7:00 a.m. to 7:00 p.m. - Weekdays and weekend, except holidays.
- Separate permits shall be required for any improvement work in the public right-of-way.
- Construction material and equipment shall not occupy any portion of the public right-of-way, such as street, alley or public sidewalk at any time. Temporary use of public right-of-way, whenever requested, should be reviewed and approved by the City Engineer.
- Repair or replace all existing damaged or altered public improvements as required by the City Engineer.
- The Contractor is responsible for the preservation and or perpetuation of all existing monuments and stakes within the Contractor's area of work. The Contractor shall not disturb or remove any monuments or stakes without the permission of the City Engineer, and he shall bear the expense of resetting any monuments or stakes which may be disturbed or removed with or without permission. The Contractor shall provide a minimum of 15 Working days notice to the City Engineer prior to disturbance or removal of existing monuments or stakes. The Contractor shall utilize the services of a California Licensed Land Surveyor to reset all disturbed or removed monuments and stakes or provide witness monuments, and file the required documentation with the County Surveyor pursuant to the Business and Professions Code Section 8771.
- Prior to taking water from a City fire hydrant, the contractor shall make arrangements with the City's Finance Department to obtain a fire hydrant water meter. Meter location may not be altered without Utility Services' approval.
- It shall be the contractor's responsibility to verify the location of all utilities or structures above or below ground, shown or not shown on these plans. The location, depth and existence of underground improvements are shown in their approximate positions based upon information available to the engineer. The contractor shall excavate inspection holes "pot holes" and determine the location and depth of all underground structures and utilities that are in the vicinity of and/or may be affected by the proposed improvement work prior to any construction work which could damage or conflict with said structures and/or utilities.
- Strict adherence to dust control requirements shall be enforced and adjacent streets are to be cleaned daily of all dirt and debris that is the result of this operation.
- Separate permits from the Building Division shall be required for all walls.
- An approved precise grading plan will be required prior to a building permit being issued.
- The design civil engineer/soils engineer/engineering geologist of record shall exercise sufficient control during grading and construction to insure compliance with the plans, specifications, and code requirements within his purview. The engineers shall submit Acknowledgment Concerning Employment Form to the City prior to the issuance of a grading permit.
- Revisions to the plans are to be submitted to the City Engineer for review and approval.
- The civil engineer shall submit written certification of completion of rough grading in accordance with the approved grading plan and certification of building pad elevation prior to issuance of the building permit. Pad elevation grading tolerance shall not exceed $\pm 0.10'$.
- An "as-built" grading plan shall be submitted at the completion of work.
- All grading shall be performed under the supervision of the soils engineer who shall certify that all fill has been properly placed and who shall submit a final compaction report for all fills over 1' deep.
- The soils engineer shall, after clearing and prior to the placement of fill in canyons, inspect each canyon for areas of adverse stability and to determine the presence or absence of subsurface water or spring flow. If needed, drains will be designed and constructed prior to the placement of fill in each respective canyon.
- Fill areas shall be cleaned of all vegetation and debris, scarified to a minimum depth of 12 inches and inspected by the soils engineer prior to the placing of fill.
- All deleterious materials, i.e., lumber, logs, brush, or any other organic materials or rubbish shall be removed from all areas to receive compacted fill.
- Unsuitable materials, such as topsoil, weathered bedrock, etc., shall be removed as required by soils engineer (and engineering geologist, where employed) from all areas to receive compacted fill or drainage structure.
- Fills shall be benched into competent material.
- Where support or buttressing of cut and natural slopes is determined to be necessary by the soils engineer, the soils engineer shall submit design, locations and calculations to the City Engineer prior to construction. The soils engineer will inspect and control the construction of the buttressing and certify to the stability of the slope and adjacent structures upon completion.
- All cut slopes shall be investigated, both during and after grading by the soils engineer, to determine if any slope stability problem exists. Should excavation disclose any geological hazards, the soils engineer shall recommend necessary treatment to the City Engineer for approval. All approvals to be granted on the basis of detailed geological mapping and written field memo.
- Stability calculations with a safety factor of at least one and five tenths (1.5) shall be submitted by a soils engineer to the Engineering Division for cut and fill slopes steeper than 2 to 1 or over 30' in vertical height.
- Maximum cut and fill slopes = 2 to 1.
- Provide 4' wide by 1' high berm or equivalent along the top of all fill slopes over 5' high, except where shown otherwise on plans.
- All slopes shall be vegetated/planted for erosion control.
- Terrace drains, interceptor drains and down drains shall be constructed of 4" P.C.C. (or gunite) reinforced with 6" x 6" - 2 1.4 x 1.4 W.W.M. rebar shall be grade 60 billet steel conforming to ASTM A615.
- Ground shall be pre-wetted prior to the placement of concrete. Moisture loss retardant shall be used when required by the soils engineer/City Engineer.
- City approval of plans does not relieve the developer from his/her responsibility to correct errors and/or omissions discovered during construction. Any plan revisions shall be promptly submitted to the City engineer for approval.
- All known well locations on the site have been included and such wells shall be maintained or abandoned according to current regulations administered by the Santa Clara Valley Water District. Call (408) 265-2600 extension 382 to arrange for district observations of all well abandonments.



CITY OF MILPITAS ENGINEERING DIVISION



ABBREVIATIONS

AB	AGGREGATE BASE	MAX	MAXIMUM
AC	ASPHALT CONCRETE	MH	MANHOLE
BC	BEGIN CURVE	MIN	MINIMUM
BCR	BEGIN CURB RETURN	OG	ORIGINAL GRADE
BFE	BASE FLOOD ELEVATION	PAD	PAD ELEVATION
CL	CLASS	PB	PULL BOX
DIA	DIAMETER	PCC	PORTLAND CEMENT CONCRETE
DWY	DRIVEWAY	PVC	POLYVINYL CHLORIDE
EC	END CURVE	R	RADIUS
ECR	END CURB RETURN	RCP	REINFORCED CONCRETE PIPE
ED	EDGE DRAIN	R/W	RIGHT-OF-WAY
EX	EXISTING	STA	STATION
FC	FACE OF CURB	SW	SIDEWALK
FG	FINISH GRADE	TC	TOP OF CURB
FH	FIRE HYDRANT	TEMP	TEMPORARY
INV	INVERT	TYP	TYPICAL
IRR	IRRIGATION		

AGENCY INDEX

COMCAST CABLE TELEVISION	1-800-266-2278
PACIFIC GAS & ELECTRIC	1-800-743-5000
SANTA CLARA VALLEY WATER DISTRICT	(408) 265-2600
SBC TELEPHONE	1-800-310-2355

LEGEND

	EXISTING	PROPOSED
SIDEWALK, CURB AND GUTTER	=====	=====
CENTER LINE	-----+-----	-----+-----
PROPERTY LINE	-----P-----	-----P-----
EDGE OF PAVEMENT	-----+-----	-----+-----
PCC OR AC REMOVAL		=====
STANDARD CITY MONUMENT	⊙	⊙
BENCH MARK	⊕	⊕
MANHOLE	○	●
STORM DRAIN INLET	⊠	⊠
WATER METER	⊠	⊠
VALVE	⊠	⊠
FIRE HYDRANT	⊠	⊠
STREET LIGHT	⊠	⊠
POWER POLE	⊠ PP	⊠ PP
PULL BOX	⊠	⊠
CABLE TELEVISION LINE	---TV---	---TV---
ELECTRICAL LINE	---E---	---E---
IRRIGATION LINE	---IR---	---IR---
NATURAL GAS LINE	---G---	---G---
OVERHEAD LINE	---OH---	---OH---
SANITARY SEWER LINE	---SS---	---SS---
STORM DRAIN LINE	---SD---	---SD---
TELEPHONE LINE	---T---	---T---
WATER LINE	---W---	---W---
TRAFFIC SIGNAL CONDUIT	---TS---	---TS---
LIGHTING CONDUIT	---L---	---L---
ROADSIDE SIGN & SIGN CODE	⊠ R1	⊠ R1
FENCE	-----X-----	-----X-----
TREE/SHRUB	⊙	⊙

BENCHMARK

ELEVATION: 17.72 (NAVD88)
 LOCATION: CITY OF MILPITAS
 DESCRIPTION: BRASS DISK AT 105 SERRA WAY NEAR BUS STOP, ON TOP OF CURB ON THE NORTHERLY SIDE OF STREET AT 275 FEET WEST OF ABLE STREET.

SOILS ENGINEER: These plans have reviewed and found to be in substantial conformance with the intent and purpose of the geotechnical exploration report dated _____ prepared by _____

(Name) _____ Date _____
 Firm: _____ SEAL _____
 Address: _____
 Telephone: _____

CIVIL ENGINEER: I hereby declare that I am the engineer of work for this project, that I have exercised responsible charge over the design of the project as defined in section 8703 of the business and professions codes, and that the design is consistent with current standards. The design shown herein is necessary and reasonable and does not restrict any historic drainage flows from adjacent properties nor increase drainage to adjacent properties. The design includes principles and techniques to reduce quantity and improve the quality of storm water runoff, as required by NPDES. I understand that the check of project drawings and specifications by the City of Milpitas is confined to a review only and does not relieve me, as engineer of work, of my responsibilities for project design.

SIGNATURE _____ P.E. R.C.E. 27818
 Firm: DEBOLT CIVIL ENGINEERING
 Address: 811 SAN RAMON VALLEY BLVD. DANVILLE, CA 94526
 Telephone: (925) 837-3780

SEAL

RECOMMENDED FOR APPROVAL:

Planning _____ Date _____
 Fire _____ Date _____
 Building _____ Date _____

Record Drawings

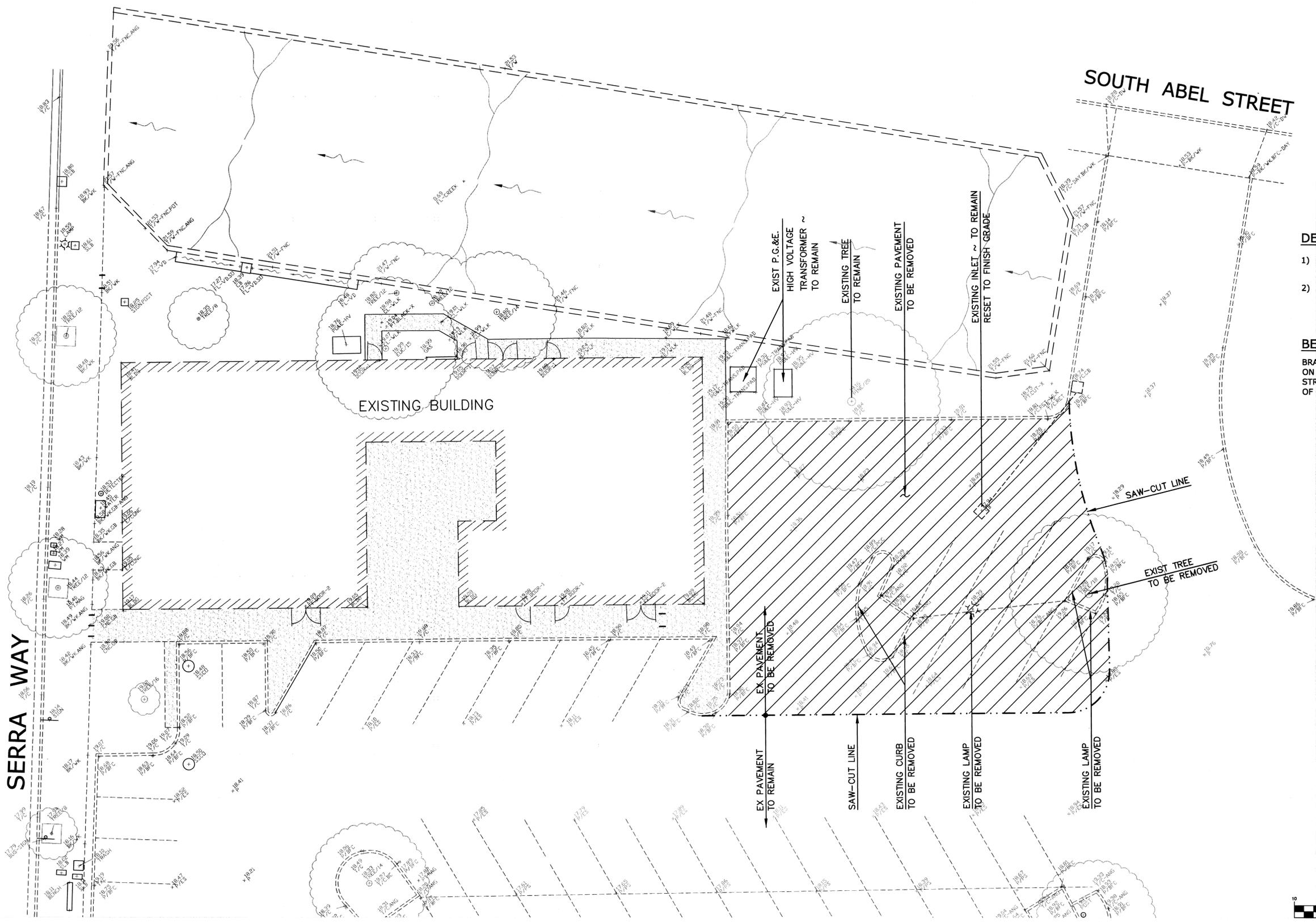
To be completed prior to acceptance of work by the City

Signature & Seal _____ Date _____
 P.E. No. _____ Exp. _____
 Public Works Inspector: _____

Revisions					
Num.	Date	By	Description	City Engr.	Aprv. Date

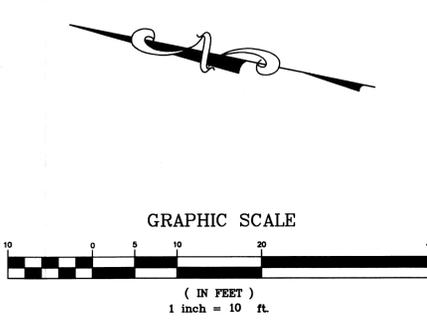
**CITY OF MILPITAS
ENGINEERING DIVISION**

Approved: _____ Project No. 12171
 City Engineer _____ Date _____ File No. _____
 Any changes to this plan shall be approved by the City Engineer
 P:\P12171\DRAWING\TITLE-SHT.dwg 12/7/12 10:20
 Sheet 1 of 7



- DEMOLITION NOTES:**
- 1) REMOVE EXISTING CONCRETE PAVEMENT IN THE AREA CROSS-HATCHED. EDGE OF CONCRETE TO BE SAWCUT.
 - 2) REMOVE EXISTING SIDEWALK AS SHOWN.

BENCHMARK:
 BRASS DISK AT 105 SERRA WAY NEAR BUS STOP, ON TOP OF CURB ON THE NORTHERLY SIDE OF STREET AT 275 FEET WEST OF ABLE STREET, CITY OF MILPITAS. ELEVATION 17.72 (NAVD88)



**TOPOGRAPHIC SURVEY
 and DEMOLITION PLAN**

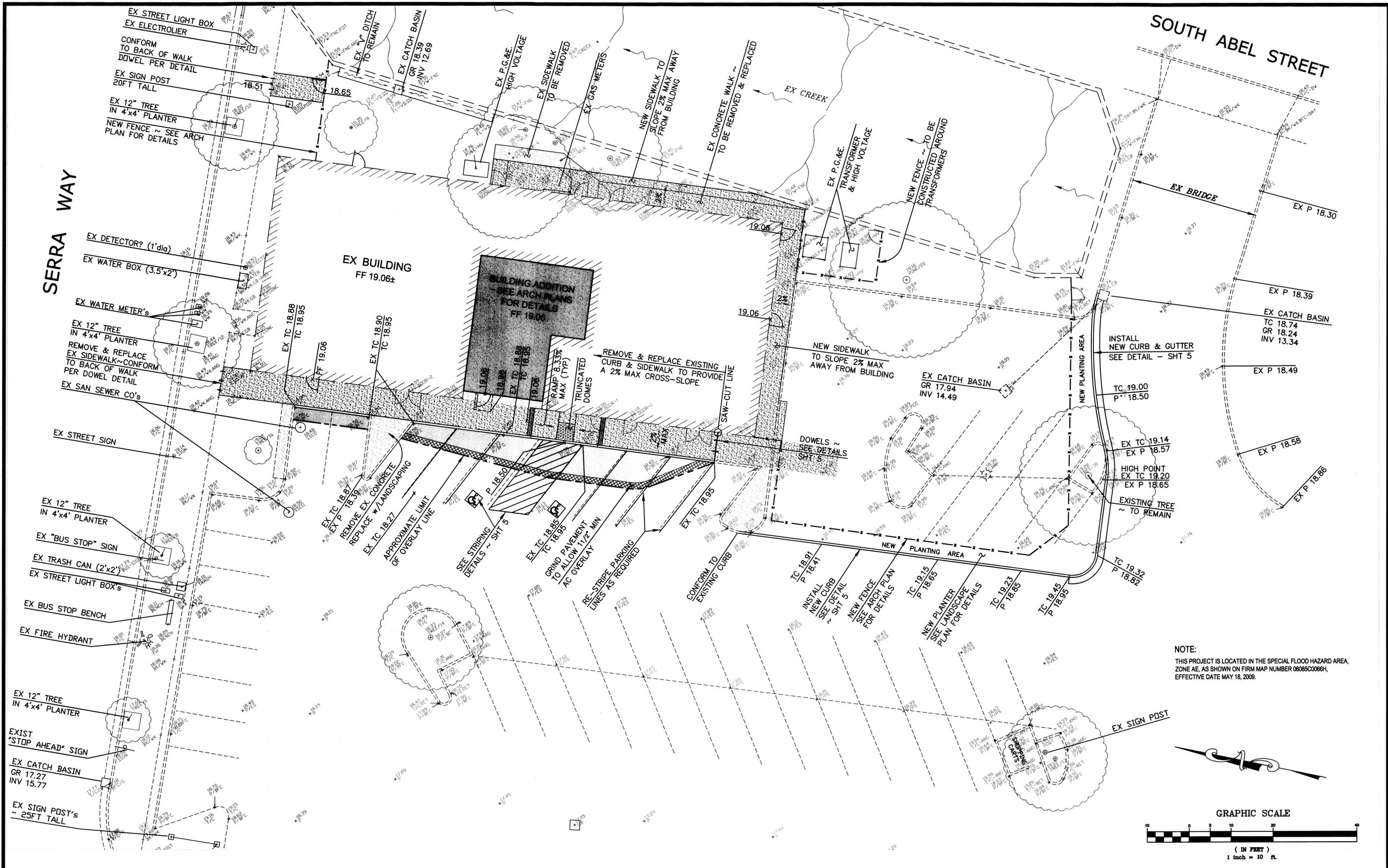
LITTLE FLOWERS MONTESSORI PRESCHOOL
 200 SERRA WAY #50
 MILPITAS SANTA CLARA COUNTY CALIFORNIA

JAMES E. DIGGINS R.C.E. 27818
 RENEWAL DATE: 03/31/14

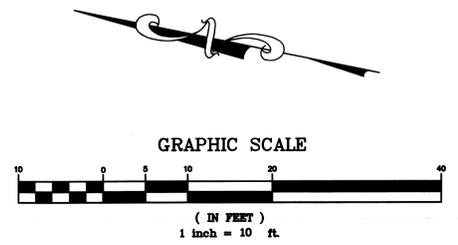
#	REVISIONS	DATE

DeBolt Civil Engineering
 811 San Ramon Valley Boulevard
 Danville, California 94526
 Tel: 925/837-3780
 Fax: 925/837-4378
 debolcivil@earthlink.net

Date: 8/10/2012
 Scale: 1" = 10'
 By: JED / HJ
 Job No.: 12171



NOTE:
 THIS PROJECT IS LOCATED IN THE SPECIAL FLOOD HAZARD AREA, ZONE AE, AS SHOWN ON FIRM MAP NUMBER 06085C0066H, EFFECTIVE DATE MAY 18, 2009.



GRADING and DRAINAGE PLAN

**LITTLE FLOWERS MONTESSORI PRESCHOOL
 200 SERRA WAY #50**

MILPITAS SANTA CLARA COUNTY CALIFORNIA

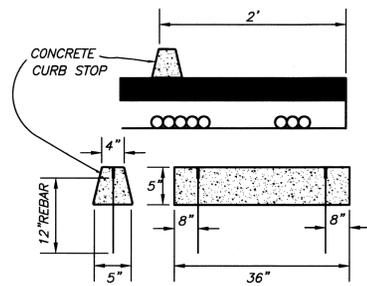
JAMES E. DIGGINS R.C.E. 27818
 RENEWAL DATE: 03/31/14

#	REVISIONS	DATE

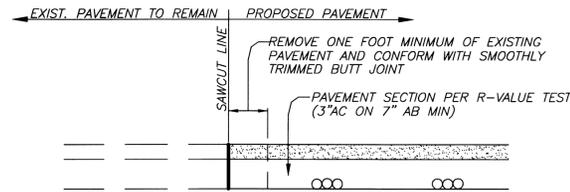


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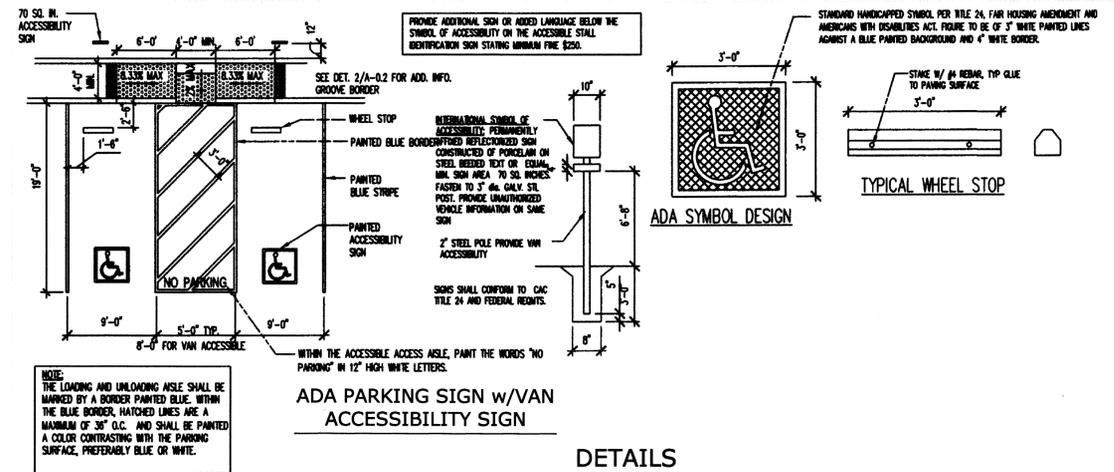
Date: 8/10/2012
 Scale: 1" = 10'
 By: JED / jld
 Job No.: 12171



CONCRETE CURB STOP
N.T.S.

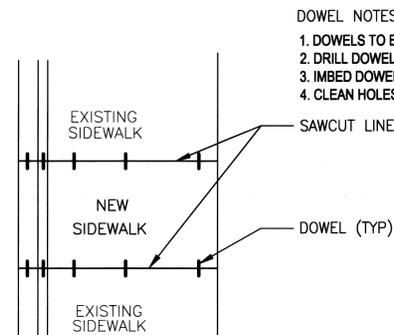


SAWCUT DETAIL
N.T.S.



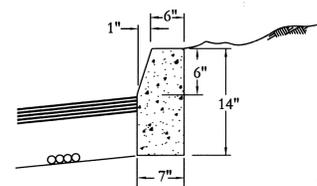
ADA PARKING SIGN w/VAN ACCESSIBILITY SIGN

DETAILS
NO SCALE

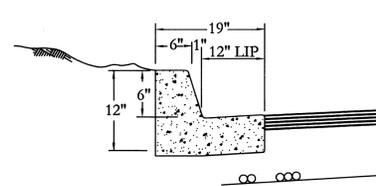


DOWEL DETAIL
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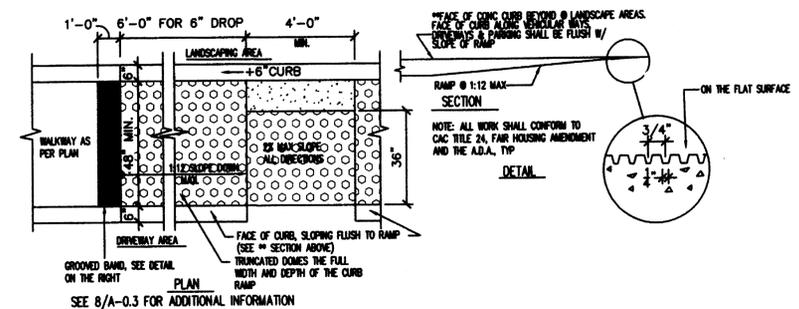
- DOWEL NOTES:**
1. DOWELS TO BE #3 BARS, 8" LONG @ 30" O.C..
 2. DRILL DOWELS INTO EXISTING CONCRETE.
 3. IMBED DOWELS 4" INTO EXISTING CONCRETE.
 4. CLEAN HOLES, FILL WITH EPOXY.



CURB DETAIL
NO SCALE



CURB & GUTTER DETAIL
NO SCALE



HANDICAP CURB CUT & CONCRETE RAMP
NO SCALE

DETAILS

LITTLE FLOWERS MONTESSORI PRESCHOOL
200 SERRA WAY #50

MILPITAS

SANTA CLARA COUNTY

CALIFORNIA

JAMES E. DIGGINS R.C.E. 27818
RENEWAL DATE: 03/31/14

#	REVISIONS	DATE

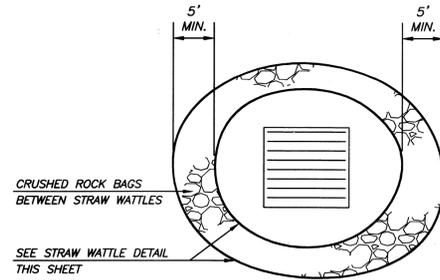


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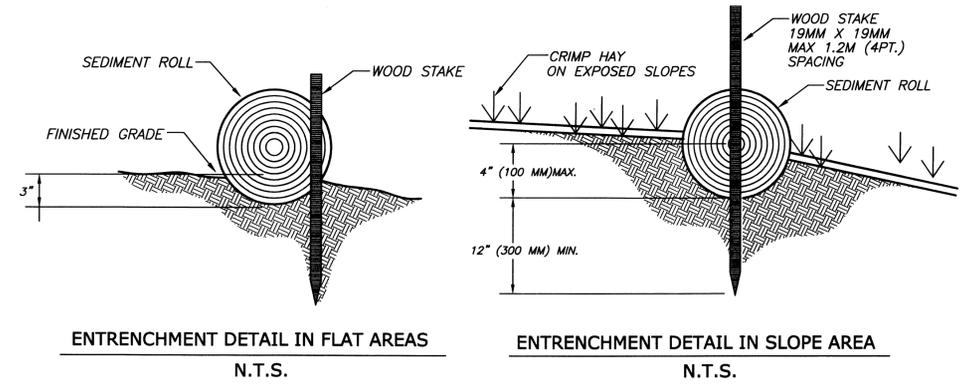
Date: 8/10/2012
Scale: AS SHOWN
By: JED / kd
Job No.: 12171

EROSION CONTROL NOTES:

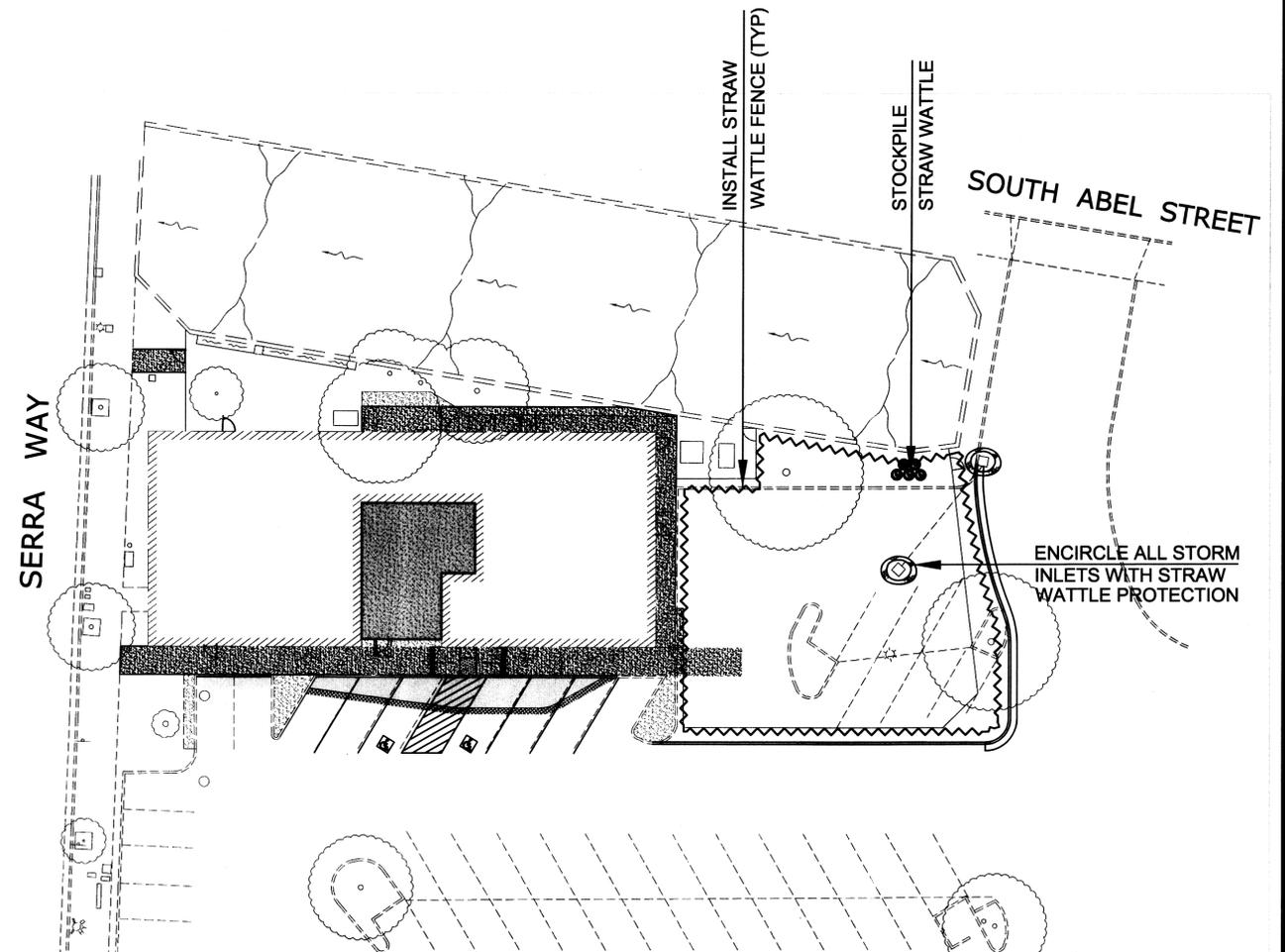
1. THE EROSION CONTROL MEASURES ARE TO BE OPERABLE DURING THE RAINY SEASON, OCTOBER FIRST TO APRIL FIFTEENTH. EROSION CONTROL PLANTING IS TO BE COMPLETED BY OCTOBER FIRST. NO GRADING OR UTILITY TRENCHING SHALL OCCUR BETWEEN OCTOBER FIRST AND MAY 1 UNLESS AUTHORIZED BY THE COUNTY GRADING DEPARTMENT.
2. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED UNTIL DISTURBED AREAS ARE STABILIZED AND CHANGES TO THIS EROSION AND SEDIMENT CONTROL PLAN SHALL BE MADE TO MEET FIELD CONDITIONS ONLY WITH THE APPROVAL OF OR AT THE DIRECTION OF THE DIRECTOR OF THE COUNTY GRADING DEPARTMENT.
3. DURING THE RAINY SEASON, ALL PAVED AREAS SHALL BE KEPT CLEAR OF EARTH MATERIAL AND DEBRIS. THE SITE SHALL BE MAINTAINED SO AS TO MINIMIZE SEDIMENT-LADEN RUNOFF TO ANY STORM DRAINAGE SYSTEM.
4. ALL EROSION CONTROL FACILITIES MUST BE INSPECTED AND REPAIRED AT THE END OF EACH WORKING DAY DURING THE RAINY SEASON.
5. A CONSTRUCTION ENTRANCE IS NOT PROPOSED BECAUSE OF THE EXISTING ASPHALT ROADWAYS AND PARKING SURROUNDING THE PROPOSED WORK SITE.
6. TEMPORARY EROSION CONTROL DEVICES WHICH INTERFERE WITH THE WORK SHALL BE RELOCATED OR MODIFIED ONLY WHEN THE PROJECT EROSION CONTROL SPECIALIST DIRECTS THE DEVELOPER/OWNER PER THE REQUIREMENTS OF THE NPDES (GENERAL PERMIT/SWPPP).
7. ALL LOOSE SOIL AND DEBRIS SHALL BE REMOVED FROM THE STREET AREAS UPON STARTING OPERATIONS AND REMOVED DAILY AND AS DIRECTED BY THE EROSION CONTROL SPECIALIST AND REQUIRED BY THE NPDES (GENERAL PERMIT/SWPPP). NOTE: REMOVE 40% CHANCE OF RAIN FROM ALL NOTES. INSTALLATION OF ADEQUATE BMPS AND COMPLIANCE TO THE GENERAL PERMIT IS REQUIRED IN THE EVENT OF ANY CHANCE FOR RAIN (SMALL, MEDIUM, OR HEAVY). THE DISCHARGER IS REQUIRED TO COMPLY TO THE GENERAL PERMIT.
8. AFTER SEWER LATERAL AND UTILITY TRENCHES ARE BACKFILLED AND COMPACTED, THE SURFACES OVER SUCH TRENCHES SHALL BE MOUNDED SLIGHTLY TO PREVENT CHANNELING OF WATER IN THE TRENCH AREA. CARE SHALL BE EXERCISED TO PROVIDE FOR CROSS FLOW AT FREQUENT INTERVALS WHERE TRENCHES ARE NOT ON THE CENTERLINE OF A CROWNED STREET.
9. EXCEPT AS OTHERWISE DIRECTED BY THE INSPECTOR, ALL DEVICES SHOWN ON THESE PLANS SHALL ALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN THE FORECAST OF RAIN PROBABILITY EXCEEDS 40%. THESE DEVICES MUST BE MAINTAINED DURING THE RAINY SEASON (OCTOBER 1 TO MAY 1).
10. STRAW WATTLES AND SANDBAGS SHALL BE STOCKPILED AS SHOWN ON THE PLAN AND PUT INTO PLACE WHEN THE FORECAST FOR RAIN EXCEEDS 40% OR WHEN DIRECTED BY THE INSPECTOR OR EROSION CONTROL SPECIALIST.
11. SANDBAGS REFERRED TO IN THE PRECEDING ITEMS MUST BE FULL. APPROVED SANDBAG FILL MATERIALS ARE SAND, DECOMPOSED GRANITE, AND/OR GRAVEL OR OTHER MATERIALS APPROVED BY THE INSPECTOR OR EROSION CONTROL SPECIALIST.
12. THE DOWNSTREAM STORM SYSTEM SHOULD BE INSPECTED TO VERIFY THAT THE SYSTEM IS CLEAR OF OBSTRUCTIONS AND FUNCTIONING PROPERLY.
13. AS PART OF THE EROSION CONTROL MEASURES, THE UNDERGROUND STORM DRAIN FACILITIES SHOULD BE INSTALLED COMPLETE AS SHOWN ON THESE PLANS.
14. THIS PLAN MAY NOT COVER ALL THE SITUATIONS THAT ARISE DURING CONSTRUCTION DUE TO UNANTICIPATED FIELD CONDITIONS. VARIATIONS MAY BE MADE TO THESE PLANS IN THE FIELD, SUBJECT TO APPROVAL OF THE EROSION CONTROL SPECIALIST AND IN COMPLIANCE TO THE GENERAL PERMIT REQUIREMENTS.
15. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH THE PROVISIONS OF THE NPDES (GENERAL PERMIT) AND INSTALLATION OF BMPS IS UNDER THE DIRECTION OF THE DISCHARGERS EROSION CONTROL SPECIALIST.
16. BORROW AREAS AND TEMPORARY STOCKPILES SHALL BE PROTECTED WITH APPROPRIATE EROSION CONTROL MEASURES IN COMPLIANCE WITH THE NPDES (GENERAL PERMIT) AND INSTALLATION OF BMPS IS UNDER THE DIRECTION OF THE DISCHARGERS EROSION CONTROL SPECIALIST.



INLET PROTECTION DETAIL
UNPAVED AREAS
N.T.S.



STRAW WATTLE DETAILS
N.T.S.



PLAN
1" = 20'

LEGEND

	STRAW WATTLE
	STRAW WATTLE FENCE
	INLET PROTECTION
	STABILIZED CONSTRUCTION ENTRANCE

EROSION CONTROL PLAN

LITTLE FLOWERS MONTESSORI PRESCHOOL
200 SERRA WAY #50
MILPITAS SANTA CLARA COUNTY CALIFORNIA

JAMES E. DIGGINS R.C.E. 27818
RENEWAL DATE: 03/31/14

#	REVISIONS	DATE

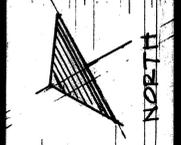


DeBolt Civil Engineering
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Tel: 925/837-3780
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deboltcivil@earthlink.net

Date: 8/10/2012
Scale: AS SHOWN
By: JED / kl
Job No.: 12171

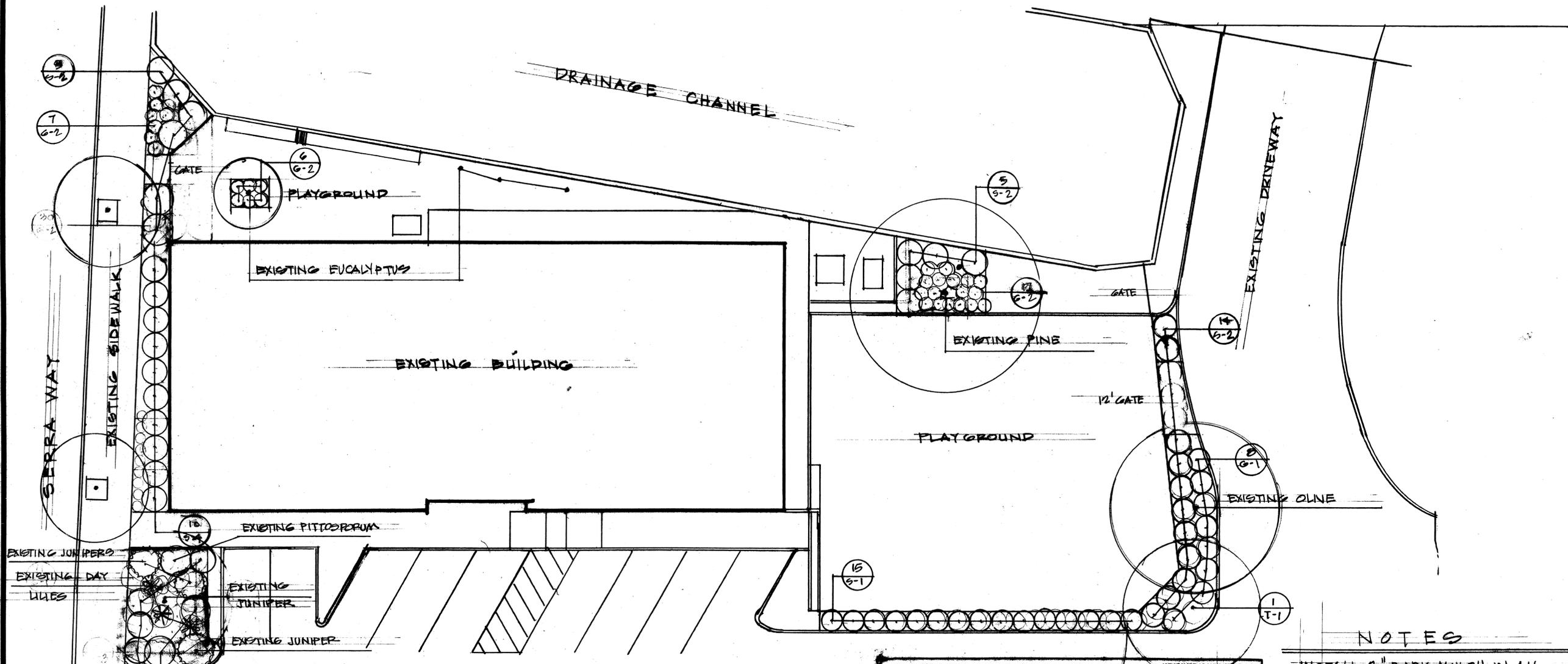
REVISIONS	BY
REVISED 12/5/12	NTS

PLANTING PLAN
 LITTLE FLOWERS MONTESSORI
 200 SERRA WAY #30
 MILPITAS, CALIFORNIA



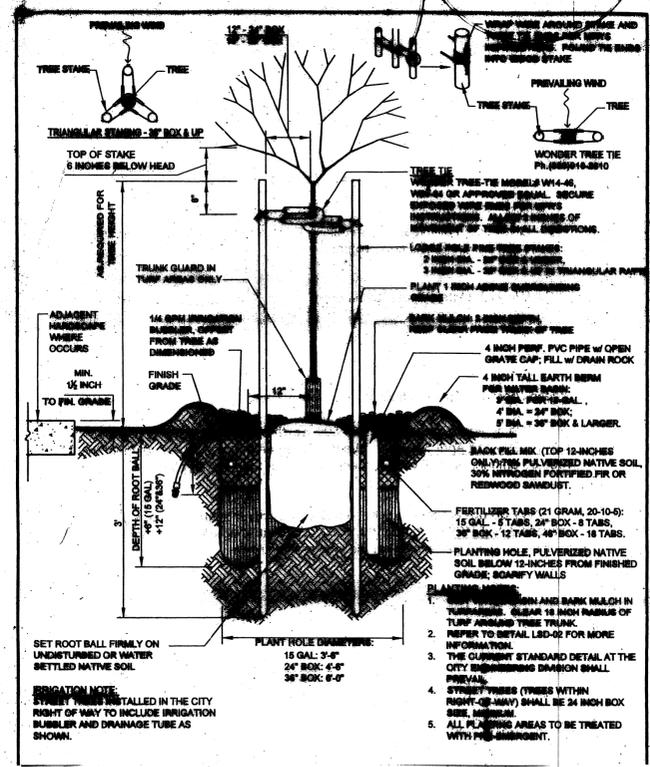
WESLEY T. SAKAMOTO
 LANDSCAPE ARCHITECT # 1078
 665 HOLLYHOCK DRIVE
 SAN LEANDRO, CA 94578

NTS
 CHECKED
 DATE 12/5/12
 SCALE 1/8" = 1'-0"
 JOB NO.
 SHEET
 L1



PLANT LIST

KEY	QUANTITY	BOTANICAL AND COMMON NAME	SIZE
T-1	1	TREES: MAGNOLIA GRANDIFLORA 'ST. MARIS' - SOUTHERN MAGNOLIA	13GC
S-1	15	SHRUBS: CISTUS 'DORIS HIBBERSON' - ROCKROSE	5GC
S-2	20	HETEROMELES ARBITRIFOLIA - TOYON	5GC
S-3	4	PITTOSPORUM CRASSIFOLIUM COMPACTUM	5GC
S-4	10	ESCALONIA 'NEWPORT DWARF'	5GC
G-1	8	GROUND COVERS: COTONEASTER DAMMERI - BEADERRY	1GC
G-2	30	GAZANIA 'MOONGLOW'	1GC



TREE STAKING DETAIL

NOTES
 INSTALL 3" BARK MULCH IN ALL PLANTING AREAS.
 REMOVE ALL EXISTING PLANTS NOT SHOWN ON PLANTING PLAN



SERRA WAY

EXISTING SIDEWALK

PLAYGROUND

EXISTING BUILDING

PLAYGROUND

DRAINAGE CHANNEL

EXISTING DRIVEWAY

LEGEND

- PERCO QUADRA BUBBLER (GREEN PORTS)
- PERCO QUADRA BUBBLER TUBING WITH INSECT PLUG
- ⊗ PERCO 3/4" B25Y REDUCED PRESSURE BACKFLOW PREVENTER
- ⊕ HARDIE 3/4" REMOTE CONTROL VALVE
- PVC LATERALS CLASS 200
- RAINBIRD NO. 1402 BUBBLER
- RAINBIRD NO. BSP-SMT-41 CONTROLLER

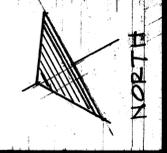
NOTES

- ① INSTALL REMOTE CONTROL VALVES IN PLASTIC VALVE BOXES SET TO GRADE.
- ② PROVIDE POWER CONTROLLER INSIDE EXIST BLDG
- ③ INSTALL SCHEDULE 40 PVC ELBOWS UNDER PAVED AREAS. ELBOWS TO BE 2 X PIPE SIZE.
- ④ CONNECT BACKFLOW PREVENTER TO EXISTING METER.



REVISIONS	BY
REVISED 12/5/12	WTS

LITTLE FLOWERS MONTESSORI
 200 SERRA WAY #50
 MILPITAS, CALIFORNIA



WESLEY T. SAKAMOTO
 LANDSCAPE ARCHITECT # 1078
 666 HOLLYHOCK DRIVE
 SAN LEANDRO, CA 94578

DRAWN WTS
CHECKED
DATE 12/5/12
SCALE 1/8" = 1'-0"
JOB NO.
SHEET L2
OF 3 SHEETS

5-1: *Cistus Doris* Hibberson
– Rock Rose



5-2: *Heteromeles*
Arbutifolia Toyon



5-3: *Pittosporum*
crassifolium compactum



5-4: Raphiolepis Ballerina –
Pink india Hawthron



6-1: cotoneaster dammeri-
beaberry



6-2: Gazania Moonglow



T-1: Magnolia Grandiflora
"St. Marys" Southern
Magnolia





AEI Consultants

Environmental & Engineering Services

November 15, 2012

PHASE I ENVIRONMENTAL SITE ASSESSMENT

Property Identification:

200 Serra Way #50
Milpitas, Santa Clara County, California 95035

AEI Project No. 313853

Prepared for:

Tiffany Brown
Planning Division
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

Prepared by:

AEI Consultants
2500 Camino Diablo
Walnut Creek, California 94597
(925) 746-6000

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DEC 11 2012

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PLANNING DIVISION**

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National Presence

Regional Focus

Local Solutions

PROJECT SUMMARY

200 Serra Way #50, Milpitas, Santa Clara County, California

Report Section		No Further Action	REC	HREC	BER	Recommended Action
2.1	Current use of subject property	X				
2.2	Adjoining property information	X				
3.1	Historical Summary	X			X	
4.0	Regulatory Agency Records Review	X				
5.0	Regulatory Database Records Review	X				
6.3	Previous Reports	X				
7.0	Site Inspection and Reconnaissance	X				
7.2.1	Asbestos-Containing Materials	X			X	
7.2.2	Lead-Based Paint	X			X	
7.2.3	Radon	X				
7.2.4	Lead in Drinking Water	X				
7.2.5	Mold	X				

EXECUTIVE SUMMARY

AEI Consultants (AEI) was retained by Mr. Rajitha Sumanasekera to conduct a Phase I Environmental Site Assessment (ESA), in general conformance with the scope and limitations of ASTM Standard Practice E1527-05 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312) for the property located at 200 Serra Way #50 in the City of Milpitas, Santa Clara County, California. Any exceptions to, or deletions from, this practice are described in Section 1.3 of this report.

PROPERTY DESCRIPTION

The subject property, which consists of a vacant commercial building and associated parking lot, is located southwest of the intersection of Serra Way and South Abel Street in a commercial area of Milpitas, California. The property totals approximately 1.15 acre and is improved with a single-story slab-on-grade building totaling approximately 6,000 square feet. The subject property building is currently unoccupied and no operations are conducted on site. In addition to the subject property building, the property is improved with asphalt-paved parking areas and associated landscaping.

According to historical sources, the current subject property building was constructed in 1971 for use as a bank. The subject property building was occupied by a bank until at least 1981. From at least 1986 until at least 1996, the property was occupied by a flower shop. Since approximately 1996, the subject property building has been vacant. Prior to the construction of the building, the property was developed with agricultural land from at least 1939 until at least 1965. In 1968, the current paved parking lot was present. The former agricultural use of the subject property is further discussed in Section 3.2.

The subject property shopping center, identified as Pacific Utility Constituents and Margaret Abel Donovan Trustee at 200 Serra Way, was identified in the regulatory database as a Facility and Manifest Data (HAZNET) site. Please refer to Section 5.1.

The immediately surrounding properties consist of the following:

Direction from Site	Address-Tenant/Use
Northwest	Serra Way, followed by a gas station undergoing renovation (190 West Calaveras Boulevard)
North	A multi-tenant commercial building, occupied by Farmer's Insurance (101 Serra Way), Elegant Tailoring & Bridal (103 Serra Way), and The Postal Stop (105 Serra Way)
Northeast	A channelized creek and the intersection of Serra Way and South Abel Street, followed by a multi-tenant commercial building (61 Serra Way), occupied by EyeVue Optometry, Serra Way Dental, Twins Royal Cuisine, Subway, and various other commercial tenants
East	A channelized creek and South Abel Street, followed by Quality Tune Up Shop (92 Serra Way); Abel Square Shopping Center (280-330 South Abel Street), occupied by Korean BBQ House, Mira Beauty Salon, Ruby's Beauty Studio, Milan Sweet Centre, Sonam House of Indian Fashion, South Bay School of Music, Kumon, High Fly Travel, Wettenstein Insurance, AllState, Farmer's Insurance, Punjab Travel, and Admin Networks
Southwest	A multi-tenant commercial building, occupied Big!Lots (200 Serra Way #1), The Paradise Spa (200 Serra Way #4), MHD Furnitures (200 Serra Way #6), Haircut Beauty Salon (200 Serra Way #11), and Alakdan Airsoft (200 Serra Way #12) and associated parking lot
West	A paved parking lot

The adjacent site to the east, identified as Texaco and Quality Tune Up #23 at 92 Serra Way, was identified in the regulatory database as a Historic (HIST) Cortese, Leaking Underground Storage Tank (LUST), HIST LUST, HAZNET, HIST Underground Storage Tank (UST), California Facility Inventory Database (CA FID) UST, and Statewide Environmental Evaluation and Planning System (SWEEPS) UST site. In addition, the adjacent site to the northwest, identified as Unocal SS#6397, Calaveras Plaza Union 76, and Milpitas 76 at 190 West Calaveras Boulevard was identified in the regulatory database as a CA FID UST, SWEEPS UST, HAZNET, LUST, HIST UST, UST, HIST LUST, and HIST Cortese site. Please refer to Section 5.1.

Based upon topographic map interpretation and groundwater monitoring information obtained from the Regional Water Quality Control Board (RWQCB) GeoTracker website for the property located at 200 Serra Way, approximately 250 feet south of the subject property, the direction of groundwater flow beneath the subject property is inferred to be to the northeast and present at an estimated depth of 7 to 9 feet below ground surface (bgs).

FINDINGS

Recognized Environmental Conditions (RECs) are defined by the ASTM Standard Practice E1527-05 as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. AEI's assessment has revealed the following RECs associated with the subject property or nearby properties:

- No on-site RECs were identified during the course of this assessment.

Historical Recognized Environmental Conditions (HRECs) are defined by the ASTM Standard Practice E1527-05 as an environmental condition which in the past would have been considered a recognized environmental condition, but which may or may not be considered a recognized environmental condition currently. AEI's assessment has revealed the following HRECs associated with the subject property or nearby properties:

- No on-site HRECs were identified during the course of this assessment.

De Minimis Environmental Conditions include environmental concerns identified by AEI that warrant discussion but do not qualify as RECs, as defined by the ASTM Standard Practice E1527-05. AEI's assessment has revealed the following de minimis environmental conditions associated with the subject property or nearby properties:

- No on-site de minimis environmental conditions were identified during the course of this assessment.

Business Environmental Risks (BERs) include risks which can have a material environmental or environmentally-driven impact on the business associated with the current or planned use of the subject property, not necessarily limited to those environmental issues required to be investigated in the standard ASTM scope. BERs may affect the liabilities and financial obligations of the client, the health & safety of site occupants, and the value and marketability of the subject property. AEI's assessment has revealed the following BERs associated with the subject property or nearby properties:

- Based on the review of aerial photographs, it appears the subject property was historically used for agricultural purposes. There is a potential that agricultural chemicals, such as pesticides, herbicides and fertilizers, were used on site. However, the entire area of the subject property is either paved over or covered by improvements that make direct contact with any potential remaining concentrations in the soil unlikely. Furthermore, the subject property and parent parcel is developed and used for commercial purposes and thus no further action related to the former agricultural use of the subject property is warranted at this time.
- Due to the age of the subject property building, there is a potential that asbestos-containing materials (ACMs) are present. All suspect ACMs were observed in good condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time. In the event that building renovation or demolition activities are planned, an asbestos survey adhering to Asbestos Hazard Emergency Response Act (AHERA) sampling protocol should be performed prior to demolition or renovation activities that may disturb suspect ACMs.
- Due to the age of the subject property building, there is a potential that lead-based paint (LBP) is present. All observed painted surfaces were in good condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time. Local regulations may apply to lead-based paint in association with building demolition/renovations and worker/occupant protection. Actual material samples would need to be collected or an X-Ray Fluorescence (XRF) survey performed in order to determine if LBP is present. It should be noted that construction activities that disturb materials or paints containing *any amount* of lead may be subject to certain requirements of the Occupational Safety and Health Administration (OSHA) lead standard contained in 29 CFR 1910.1025 and 1926.62.

CONCLUSIONS, OPINIONS AND RECOMMENDATIONS

We have performed a Phase I Environmental Site Assessment for the property located at 200 Serra Way #50 in the City of Milpitas, Santa Clara County, California, in general conformance with the scope and limitations of ASTM Standard Practice E1527-05 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312). Any exceptions to, or deletions from, this practice are described in Section 1.3 of this report. This assessment has revealed no evidence of RECs in connection with the property. AEI recommends no further investigations for the subject property at this time.

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- A PROPERTY PHOTOGRAPHS
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- E ASTM USER QUESTIONNAIRE
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1.0 INTRODUCTION

This report documents the methods and findings of the Phase I Environmental Site Assessment (ESA) performed in general conformance with the scope and limitations of ASTM Standard Practice E1527-05 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312) for the property located at 200 Serra Way #50 in the City of Milpitas, Santa Clara County, California (Figure 1: Site Location Map, Figure 2: Site Map, and Appendix A: Property Photographs).

1.1 SCOPE OF WORK

The purpose of the Phase I Environmental Site Assessment is to assist the client in identifying potential environmental liabilities associated with the presence of any hazardous substances or petroleum products, their use, storage, and disposal at and in the vicinity of the subject property, as well as regulatory non-compliance that may have occurred at the subject property. Property assessment activities focused on: 1) a review of federal, state, tribal and local databases that identify and describe underground fuel tank sites, leaking underground fuel tank sites, hazardous waste generation sites, and hazardous waste storage and disposal facility sites within the ASTM approximate minimum search distance; 2) a property and surrounding site reconnaissance, and interviews with the past and present owners and current occupants and operators to identify potential environmental contamination; and 3) a review of historical sources to help ascertain previous land use at the site and in the surrounding area.

The goal of AEI Consultants in conducting the Phase I Environmental Site Assessment was to identify the presence or likely presence of any hazardous substances or petroleum products on the property that may indicate an existing release, a past release, or a material threat of a release of any hazardous substance or petroleum product into the soil, groundwater, or surface water of the property.

1.2 SIGNIFICANT ASSUMPTIONS

The following assumptions are made by AEI Consultants in this report. AEI Consultants relied on information derived from secondary sources including governmental agencies, the client, designated representatives of the client, property contact, property owner, property owner representatives, computer databases, and personal interviews. AEI Consultants has reviewed and evaluated the thoroughness and reliability of the information derived from secondary sources including government agencies, the client, designated representatives of the client, property contact, property owner, property owner representatives, computer databases, or personal interviews. It appears that all information obtained from outside sources and reviewed for this assessment is thorough and reliable. However, AEI cannot guarantee the thoroughness or reliability of this information.

Groundwater flow and depth to groundwater, unless otherwise specified by on-site well data, or well data from adjacent sites are assumed based on contours depicted on the United States Geological Survey topographic maps. AEI Consultants assumes the property has been correctly and accurately identified by the client, designated representative of the client, property contact, property owner, and property owner's representatives.

1.3 LIMITATIONS

Property conditions, as well as local, state, tribal and federal regulations can change significantly over time. Therefore, the recommendations and conclusions presented as a result of this study apply strictly to the environmental regulations and property conditions existing at the time the study was performed. Available information has been analyzed using currently accepted assessment techniques and it is believed that the inferences made are reasonably representative of the property. AEI Consultants makes no warranty, expressed or implied, except that the services have been performed in accordance with generally accepted environmental property assessment practices applicable at the time and location of the study.

Considerations identified by ASTM as beyond the scope of a Phase I ESA that may affect business environmental risk at a given property include the following: asbestos-containing materials, radon, lead-based paint, lead in drinking water, wetlands, regulatory compliance, cultural and historic resources, industrial hygiene, health and safety, ecological resources, endangered species, indoor air quality, mold, vapor intrusion, and high voltage lines. These environmental issues or conditions may warrant assessment based on the type of the property transaction; however, they are considered non-scope issues under ASTM Standard Practice E1527-05.

If requested by the client, these non-scope issues are discussed in Section 7.2. Otherwise, the purpose of this assessment is solely to satisfy one of the requirements for qualification of the innocent landowner defense, contiguous property owner or bona fide prospective purchaser under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). ASTM Standard Practice E1527-05 and the EPA Standards and Practices for All Appropriate Inquiries (40 CFR Part 312) constitute the "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined in:

- 1) 42 U.S.C § 9601(35)(B), referenced in the ASTM Standard Practice E1527-05.
- 2) Sections 101(35)(B) (ii) and (iii) of CERCLA and referenced in the EPA Standards and Practices for All Appropriate Inquiries (40 CFR Part 312).
- 3) 42 U.S.C. 9601(40) and 42 U.S.C. 9607(q).

The Phase I Environmental Site Assessment is not, and should not be construed as, a warranty or guarantee about the presence or absence of environmental contaminants that may affect the property. Neither is the assessment intended to assure clear title to the property in question. The sole purpose of assessment into property title records is to ascertain a historical basis of prior land use. All findings, conclusions, and recommendations stated in this report are based upon facts, circumstances, and industry-accepted procedures for such services as they existed at the time this report was prepared (i.e., federal, state, and local laws, rules, regulations, market conditions, economic conditions, political climate, and other applicable matters). All findings, conclusions, and recommendations stated in this report are based on the data and information provided, and observations and conditions that existed on the date and time of the property visit.

Responses received from local, state, or federal agencies or other secondary sources of information after the issuance of this report may change certain facts, findings, conclusions, or circumstances to the report. A change in any fact, circumstance, or industry-accepted

procedure upon which this report was based may adversely affect the findings, conclusions, and recommendations expressed in this report.

1.4 LIMITING CONDITIONS

The performance of this Phase I Environmental Site Assessment was limited by the following condition:

- AEI requested an interview with the subject property owner; however, the subject property owner has not responded as of this report date. Based on the quality of information obtained from other sources, including from the subject property manager, Mr. David Do, who completed the ASTM User Questionnaire (discussed in Section 6.2), this limitation is not expected to alter the overall findings of this assessment.

1.5 DATA GAPS AND DATA FAILURE

According to ASTM E1527-05, data gaps occur when the Environmental Professional is unable to obtain information required, despite good faith efforts to gather such information.

Data failure is one type of data gap. According to ASTM E1527-05 "data failure occurs when all of the standard historical sources that are reasonably ascertainable and likely to be useful have been reviewed and yet the objectives have not been met". Pursuant to ASTM Standards, historical sources are required to document property use back to the property's first developed use or back to 1940, whichever is earlier.

The following data gap was identified during the course of this assessment:

Data Gap:	The earliest historical resource obtained during this investigation was an aerial photograph from 1939 which indicated development of the subject property for agricultural production. The lack of historical sources for the subject property dating back to first developed use represents historical data source failure.			
Does this data gap affect the EP's ability to identify RECs?	Yes		No	X
Rationale	AEI presumes that prior to 1939 the subject property would have been used for agricultural purposes, if not undeveloped. Based on this notion, this data gap is not considered significant.			
Information/ sources consulted	Aerial photographs and building records			

1.6 RELIANCE

All reports, both verbal and written, are for the benefit of Mr. Rajitha Sumanasekera and the City of Milpitas. This report has no other purpose and may not be relied upon by any other person or entity without the written consent of AEI. Either verbally or in writing, third parties may come into possession of this report or all or part of the information generated as a result of this work. In the absence of a written agreement with AEI granting such rights, no third parties shall have rights of recourse or recovery whatsoever under any course of action against AEI, its officers, employees, vendors, successors or assigns. Reliance is provided in accordance with AEI's Proposal and Standard Terms & Conditions executed by Mr. Rajitha Sumanasekera on

October 21, 2012. The limitation of liability defined in the Terms and Conditions is the aggregate limit of AEI's liability to the client and all relying parties.

2.0 SITE AND VICINITY DESCRIPTION

2.1 SITE LOCATION AND DESCRIPTION

The subject property, which consists of a vacant commercial building and associated parking lot, is located southwest of the intersection of Serra Way and South Abel Street in a commercial area of Milpitas, California. The property totals approximately 1.15 acre and is improved with a single-story slab-on-grade building totaling approximately 6,000 square feet. The subject property building is currently unoccupied and no operations are conducted on site. In addition to the subject property building, the property is improved with asphalt-paved parking areas and associated landscaping.

The subject property shopping center, identified as Pacific Utility Constituents and Margaret Abel Donovan Trustee at 200 Serra Way, was identified in the regulatory database as a HAZNET site. Please refer to Section 5.1.

The Assessor's Parcel Numbers (APN)s for the subject property are 086-07-026 and a portion of 086-07-45. According to Mr. Rajitha Sumanasekera, the subject property manager, heating and cooling systems on the subject property are fueled by natural gas and electricity provided by Pacific Gas and Electric Company (PG&E), and potable water and sewage disposal are provided by the City of Milpitas.

Refer to Figure 1: Site Location Map, Figure 2: Site Map, and Appendix A: Property Photographs for site location.

2.2 SITE AND VICINITY CHARACTERISTICS

The immediately surrounding properties consist of the following:

Direction from Site	Address-Tenant/Use
Northwest	Serra Way, followed by a gas station undergoing renovation (190 West Calaveras Boulevard)
North	A multi-tenant commercial building, occupied by Farmer's Insurance (101 Serra Way), Elegant Tailoring & Bridal (103 Serra Way), and The Postal Stop (105 Serra Way)
Northeast	A channelized creek and the intersection of Serra Way and South Abel Street, followed by a multi-tenant commercial building (61 Serra Way), occupied by EyeVue Optometry, Serra Way Dental, Twins Royal Cuisine, Subway, and various other commercial tenants
East	A channelized creek and South Abel Street, followed by Quality Tune Up Shop (92 Serra Way); Abel Square Shopping Center (280-330 South Abel Street), occupied by Korean BBQ House, Mira Beauty Salon, Ruby's Beauty Studio, Milan Sweet Centre, Sonam House of Indian Fashion, South Bay School of Music, Kumon, High Fly Travel, Wettenstein Insurance, AllState, Farmer's Insurance, Punjab Travel, and Admin Networks
Southwest	A multi-tenant commercial building, occupied Big!Lots (200 Serra Way #1), The Paradise Spa (200 Serra Way #4), MHD Furnitures (200 Serra Way #6), Haircut Beauty Salon (200 Serra Way #11), and Alakdan Airsoft (200 Serra Way #12) and associated parking lot
West	A paved parking lot

The adjacent site to the east, identified as Texaco and Quality Tune Up #23 at 92 Serra Way, was identified in the regulatory database as a HIST Cortese, LUST, HIST LUST, HAZNET, HIST UST, CA FID UST, and SWEEPS UST site. In addition, the adjacent site to the northwest, identified as Unocal SS#6397, Calaveras Plaza Union 76, and Milpitas 76 at 190 West Calaveras Boulevard was identified in the regulatory database as a CA FID UST, SWEEPS UST, HAZNET, LUST, HIST UST, UST, HIST LUST, and HIST Cortese site. Please refer to Section 5.1.

2.3 PHYSICAL SETTING

Geology: Based on a review of the United States Geological Survey (USGS) San Francisco Bay Quadrangle Geologic Map, the area surrounding the subject property is underlain by Holocene era alluvium which is commonly characterized by light-grey to grayish-brown or yellowish-brown gravel, sand, silt, and clay. Texture varies from cobble gravel to clay, mixed or interbedded laterally and vertically in places.	
USGS Topographic Map:	Milpitas, California Quadrangle
Nearest surface water to subject property:	Channelized Creek/Adjacent east
Gradient Direction/Source:	Northeast/ topographic map interpretation and groundwater monitoring information obtained from the RWQCB GeoTracker website for the property located at 200 Serra Way, approximately 250 feet south of the subject property
Estimated Depth to Groundwater/Source:	7 to 9 feet bgs/ groundwater monitoring information obtained from the RWQCB GeoTracker website for the property located at 200 Serra Way, approximately 250 feet south of the subject property

3.0 HISTORICAL REVIEW OF SITE AND VICINITY

3.1 HISTORICAL SUMMARY

Reasonably ascertainable standard historical sources as outlined in ASTM Standard E1527-05 were used to determine previous uses and occupancies of the subject property that are likely to have led to RECs in connection with the subject property. A chronological summary of historical data found, including but not limited to aerial photographs, historic city directories, Sanborn fire insurance maps and agency records is as follows:

Date Range	Subject Property Description/Use	Source(s)
1939-1965	Developed with agricultural land	Aerial Photographs
1968	Developed with the current paved parking lot	Aerial Photographs
1971-present	Developed with the current commercial building and associated parking lot	Aerial Photographs, City Directories, and Building Records

According to historical sources, the current subject property building was constructed in 1971 for use as a bank. The subject property building was occupied by a bank until at least 1981. From at least 1986 until at least 1996, the property was occupied by a flower shop. Since approximately 1996, the subject property building has been vacant. Prior to the construction of the building, the property was developed with agricultural land from at least 1939 until at least 1965. In 1968, the current paved parking lot was present. The former agricultural use of the subject property is further discussed in Section 3.2.

If available, copies of historical sources are provided in the report appendices.

3.2 AERIAL PHOTOGRAPH REVIEW

AEI Consultants reviewed aerial photographs of the subject property and surrounding area. Aerial photographs were reviewed for the following years:

Date	Scale	Subject Property Description	Surrounding Area Descriptions
1939	1" = 500'	Developed with agricultural land	<p>North: Serra Way (or its predecessor), followed by agricultural land</p> <p>Northwest: Serra Way (or its predecessor), followed by agricultural land</p> <p>Northeast: Serra Way (or its predecessor), followed by agricultural land and residential or agricultural buildings</p> <p>East: Developed with residential buildings on the northern portion of the property. The southern portion of the property is not depicted in the aerial photograph provided</p> <p>Southwest: Developed with agricultural land</p> <p>West: Developed with agricultural land with a dirt path traversing the property from north to south</p>

1948	1" = 500'	No significant changes were noted	<p>North: No significant changes were noted</p> <p>Northwest: No significant changes were noted</p> <p>Northeast: No significant changes were noted</p> <p>East: A dirt road, followed by a creek and residential or agricultural buildings</p> <p>Southwest: No significant changes were noted</p> <p>West: No significant changes were noted</p>
1956	1" = 500'	No significant changes were noted	<p>North: No significant changes were noted</p> <p>Northwest: No significant changes were noted</p> <p>Northeast: No significant changes were noted</p> <p>East: No significant changes were noted</p> <p>Southwest: No significant changes were noted</p> <p>West: No significant changes were noted except for an additional irrigation canal traversing the property from north to south</p>
1965	1" = 500'	No significant changes were noted except for some soil disturbance	<p>North: No significant changes were noted</p> <p>Northwest: No significant changes were noted</p> <p>Northeast: The current channelized creek and the intersection of South Abel Street (or its predecessor) and Serra Way, followed by agricultural land and a residential building</p> <p>East: South Abel Way (or its predecessor), followed by the current commercial buildings and vacant land</p> <p>Southwest: No significant changes were noted</p> <p>West: No significant changes were noted</p>
1968*		Developed with the current parking lot	<p>North: No significant changes were noted</p> <p>Northwest: No significant changes were noted</p> <p>Northeast: The channelized creek and the intersection of South Abel Street and Serra Way, followed by vacant land and a residential building</p> <p>East: No significant changes were noted</p> <p>Southwest: Developed with the current commercial building and parking lot</p> <p>West: Developed with the current parking lot</p>
1972	1" = 500'	Developed with the current commercial building	<p>North: Serra Way, followed by vacant land</p> <p>Northwest: Serra Way, followed by vacant land</p> <p>Northeast: No significant changes were noted</p> <p>East: No significant changes were noted</p> <p>Southwest: No significant changes were noted</p> <p>West: No significant changes were noted</p>
1982	1" = 500'	No significant changes were noted	<p>North: Serra Way, followed by the current commercial building</p> <p>Northwest: Serra Way, followed by a gasoline station</p> <p>Northeast: No significant changes were noted</p> <p>East: South Abel Street, followed by the current commercial buildings</p> <p>Southwest: No significant changes were noted</p> <p>West: No significant changes were noted</p>

1993	1" = 500'	No significant changes were noted	North: No significant changes were noted Northwest: No significant changes were noted Northeast: The channelized creek and the intersection of South Abel Street and Serra Way, followed by vacant land East: No significant changes were noted Southwest: No significant changes were noted West: No significant changes were noted
1998	1" = 500'	No significant changes were noted	North: No significant changes were noted Northwest: No significant changes were noted Northeast: The channelized creek and the intersection of South Abel Street and Serra Way, followed by the current commercial building East: No significant changes were noted Southwest: No significant changes were noted West: No significant changes were noted
2005	1" = 500'	No significant changes were noted	No significant changes were noted
2006	1" = 500'	No significant changes were noted	No significant changes were noted

*obtained from www.historicaerials.com and not included in the appendices due to copyright considerations

Based on the review of aerial photographs, it appears the subject property was historically used for agricultural purposes. There is a potential that agricultural chemicals, such as pesticides, herbicides and fertilizers, were used on site. However, the entire area of the subject property is either paved over or covered by improvements that make direct contact with any potential remaining concentrations in the soil unlikely. Furthermore, the subject property and parent parcel is developed and used for commercial purposes and thus no further action related to the former agricultural use of the subject property is warranted at this time.

3.3 SANBORN FIRE INSURANCE MAPS

Sanborn Fire Insurance maps were developed in the late 1800s and early 1900s for use as an assessment tool for fire insurance rates in urbanized areas. A search was made of Environmental Data Resources' (EDR's) collection of Sanborn Fire Insurance maps.

Sanborn map coverage was not available for the subject property.

3.4 CITY DIRECTORIES

A search of historic city directories was conducted for the subject property utilizing AEI's collection of Haines Company Criss Cross Directories. Directories were available and reviewed for the years 1971, 1976, 1981, 1986, 1991, 1996, 2001, and 2006. The following table summarizes the results of the city directory search.

City Directory Search Results

Date(s)	Occupant Listed
1971	San Jose Savings and Loan Association
1976	Glendale Federal Savings and Loan
1981	Bank of America
1986	FTD Marlowes Flowers

Date(s)	Occupant Listed
1991	FTD Florists
1996	Marlowes Flower and Gift
2001, 2006	Serra Shopping Center; no listings for subject property building

According to a review of historic city directory listings, the subject property building was occupied by a bank from at least 1971 until at least 1981, and with a flower shop from at least 1986 until at least 1996. No environmental concerns were noted during the city directory review.

3.5 HISTORICAL TOPOGRAPHIC MAPS

In accordance with our approved scope of services, historical topographic maps were not reviewed as a part of this assessment.

3.6 CHAIN OF TITLE

In accordance with our approved scope of services, a Chain of Title search was not performed as part of this assessment.

4.0 REGULATORY AGENCY RECORDS REVIEW

4.1 REGULATORY AGENCIES

Local and state agencies, such as environmental health departments, fire prevention bureaus, and building and planning departments are contacted to identify any current or previous reports of hazardous materials use, storage, and/or unauthorized releases that may have impacted the subject property. In addition, information pertaining to Activity and Use Limitations (AULs), defined as legal or physical restrictions, or limitations on the use of, or access to, a site or facility, is requested.

4.1.1 HEALTH DEPARTMENT

On November 1, 2012, AEI contacted the Santa Clara County Department of Environmental Health (SCCDEH) for information on the subject property. Files at this agency may contain information regarding hazardous materials storage, as well as information regarding unauthorized releases of petroleum hydrocarbons or other contaminants that may affect the soil or groundwater in the area.

No information indicating current or prior use or storage of hazardous materials, or the existence of AULs was on file for the subject property with the SCCDEH.

4.1.2 FIRE DEPARTMENT

On November 1, 2012, AEI contacted the Milpitas Fire Department (MFD) for information on the subject property to identify any evidence of previous or current hazardous material usage.

No information indicating current or prior use or storage of hazardous materials, or the existence of AULs was on file for the subject property with the MFD.

4.1.3 BUILDING DEPARTMENT

On November 8, 2012, AEI visited the Milpitas Building Department (MBD) for information on the subject property in order to identify historical tenants and property use. Please refer to the following table for a listing of permits reviewed:

Building Permits Reviewed

Year(s)	Owner/Applicant	Description of Permit/Building Use
1971-1972	N/A	Various permits for the construction of the current shopping center; no permits were found specifically for the subject property building
2011	N/A	Tenant improvement

According to the MBD, the current shopping center (which includes the subject property building) was completed in 1971 and 1972. No information indicating current or prior use or storage of hazardous materials, or the existence of AULs was on file for the subject property with the MBD

4.1.4 PLANNING DEPARTMENT

On November 8, 2012, AEI visited the Milpitas Planning Department (MPD) for information on the subject property in order to identify AULs associated with the subject property.

No information indicating the existence of AULs was on file for the subject property with the MPD.

4.1.5 COUNTY ASSESSOR OFFICE

On November 1, 2012, AEI visited the website maintained by the Santa Clara County Assessor's Office for information on the subject property in order to determine the earliest recorded date of development and use.

According to the Santa Clara County Assessor's Office, the subject property is identified with the APN 086-07-025 and a portion of APN 086-07-045. The earliest recorded date and use of the subject property was not available.

4.1.6 DEPARTMENT OF OIL AND GAS

California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) maps concerning the subject property and nearby properties were reviewed. DOGGR maps contain information regarding oil and gas development.

According to the DOGGR Online Mapping System, there are no oil or gas wells within 500 feet of the subject property. No environmental concerns were noted during the DOGGR map review.

4.1.7 OTHER AGENCIES SEARCHED

On November 1, 2012, AEI visited the **Regional Water Quality Control Board's (RWQCB's)** GeoTracker Website for information on the subject property to identify any evidence of unauthorized releases of hazardous materials to the groundwater. Cases typically handled by the RWQCB include releases from USTs.

No information indicating any release of hazardous materials on the subject property was found on the GeoTracker website.

In addition, three nearby LUST sites were noted on the RWQCB GeoTracker website. These sites are further discussed in Section 5.1.

On November 1, 2012, AEI visited the website maintained by the **Bay Area Air Quality Management District (BAAQMD)** for information regarding any records of Permits to Operate (PTO), Notices of Violation (NOV), or Notices to Comply (NTC) issued to occupants of the subject property and associated with air emission equipment primarily related to stationary sources of air pollution, such as dry cleaning machines, boiler, and/or underground storage tanks.

No information indicating the existence of any PTOs, NOV, or NTCs was on file for the subject property with the BAAQMD.

On November 1, 2012, AEI visited the Hazardous Waste Tracking System (HWTS) online database maintained by the **Department of Toxic Substances Control (DTSC)** for information regarding documented hazardous wastes generated at the subject property.

No information indicating the generation of hazardous wastes was on file for the subject property with the DTSC.

5.0 REGULATORY DATABASE RECORDS REVIEW

AEI contracted Environmental Data Resources (EDR) to conduct a search of federal, state, tribal, and local databases containing known and suspected sites of environmental contamination. The number of listed sites identified within the approximate minimum search distance (AMSD) from the Federal and State environmental records database listings specified in ASTM Standard E 1527-05 are summarized in the following table. A copy of the regulatory database report is included in Appendix B of this report.

The subject property shopping center, identified as Pacific Utility Constituents and Margaret Abel Donovan Trustee at 200 Serra Way, was identified in the regulatory database as a HAZNET site. Please refer to Section 5.1.

In determining if a site is a potential environmental concern to the subject property in the records summary table below, AEI has applied the following criteria to classify the site(s) as low concern: 1) the site(s) only hold an operating permit (which does not imply a release), 2) the site(s) have been granted "No Further Action" by the appropriate regulatory agency, and/or 3) based upon AEI's review, the distance and/or topographic position relative to the subject property reduce the level of risk associated with the site(s).

5.1 RECORDS SUMMARY

Database	Search Distance (Miles)	Subject Property Listed	Total Number of Listings	Potential Environmental Concern to the Subject Property (Yes/No)
NPL	1	No	0	
DELISTED NPL	0.5	No	0	
CERCLIS	0.5	No	0	
CERCLIS NFRAP	0.5	No	1	No
RCRA CORRACTS	1	No	0	
RCRA-TSD	0.5	No	0	
RCRA LG-GEN, SM-GEN, CESQGs, VGN, NLR	TP/ADJ	No	0	
US ENG CONTROLS	TP	No	0	
US INST CONTROLS	TP	No	0	
ERNS	TP	No	0	
STATE/TRIBAL HWS	1	No	20	No
STATE/TRIBAL SWLF	0.5	No	0	
STATE/TRIBAL REGISTERED STORAGE TANKS	TP/ADJ	No	1	No; however one adjacent site is further discussed below

Database	Search Distance (Miles)	Subject Property Listed	Total Number of Listings	Potential Environmental Concern to the Subject Property (Yes/No)
STATE/TRIBAL LUST	0.5	No	31	No; however two adjacent sites and one nearby site are further discussed below. The remaining listings are not expected to represent a significant environmental concern
STATE/TRIBAL ENG-INST CONTROLS	TP	No	0	
STATE/TRIBAL VCP	0.5	No	0	
STATE/TRIBAL BROWNFIELD	0.5	No	0	
ORPHAN	N/A	No	6	None of the identified orphan sites are located in the immediate vicinity (500-feet) of the subject property, and therefore, these sites are not expected to represent a significant environmental concern.
NON-ASTM DATABASES	TP/ADJ	No	14	The subject property and two adjacent sites are further discussed below

Site Name: Pacific Utility Constituents, Margaret Abel Donovan Trustee

Database(s): HAZNET

Address: 200 Serra Way

Distance: Subject property (or surrounding shopping center)

Direction: N/A

Comments: According to the HAZNET listings, Pacific Utility Constituents generated 1.6350 tons of PCBs in 1995. Based on this listing, it is likely related to the on-site transformers located in the subject property shopping center. In addition, 16.85 tons of asbestos waste was generated at the subject property shopping center in 2006. This listing likely relates to renovation done in the shopping center buildings. It is unclear whether either of these HAZNET listings relates to the subject property itself. However, based on the lack of a documented release and the nature of the listings, they are not expected to represent a significant environmental concern.

Site Name: Texaco and Quality Tune Up #23

Database(s): HIST Cortese, LUST, HIST LUST, HAZNET, HIST UST, CA FID UST, SWEEPS UST

Address: 92 Serra Way

Distance: Adjacent (150 feet)

Direction: East (hydrologically cross-gradient)

Comments: According to the HIST UST and SWEEPS UST listing, the site was formerly equipped with one 500-gallon waste oil tank. According to the LUST listing, a release of waste, motor, hydraulic, or lubricating oil affected groundwater at the site, and the case was granted closure on June 26, 1996. Based on the current regulatory status and assumed direction of groundwater flow, this site is not expected to represent a significant environmental concern.

No other pertinent information was provided in the remaining listings.

Site Name: Unocal SS#6397, Calaveras Plaza Union 76, and Milpitas 76
Database(s): CA FID UST, SWEEPS UST, HAZNET, LUST, HIST UST, UST, HIST LUST, HIST Cortese
Address: 190 West Calaveras Boulevard
Distance: Adjacent (120 feet)
Direction: Northwest (hydrologically cross-gradient)

Comments: According to the SWEEPS UST listing, the site was formerly equipped with several generations of 10,000-gallon and 12,000-gallon gasoline USTs and 500-gallon waste oil USTs. According to the UST listing, the facility is currently equipped with USTs as well. According to the LUST listing, a release of gasoline affected groundwater at the site, and the case was granted closure on August 12, 2008. Based on the current regulatory status and assumed direction of groundwater flow, this site is not expected to represent a significant environmental concern.

No other pertinent information was provided in the remaining listings.

Site Name: USA Petroleum Company #102
Database(s): HIST UST, CA FID UST, SWEEPS UST, EMI, HIST Cortese, LUST, HIST LIST, CHMIRS, ERNS
Address: 200 Serra Way
Distance: 250 feet
Direction: South (hydrologically upgradient)

Comments: According to the HIST UST and SWEEPS UST listings, the nearby property was formerly equipped with three 10,000-gallon gasoline USTs that were installed in 1977. According to the LUST listing, a release of gasoline affected groundwater at the site, and the site is currently undergoing remediation. According to the *First Semi-Annual 2012 Groundwater Monitoring Report* for the site, obtained from the RWQCB GeoTracker website, the two wells closest to the subject property (HW-1 and MW-34) have not displayed any contamination since 2001. These two wells are no longer being sampled as the levels of contamination at the source continue to decrease. Based on this information, the nearby former gasoline station is not expected to represent a significant environmental concern.

No other pertinent information was provided in the remaining listings.

6.0 INTERVIEWS AND USER PROVIDED INFORMATION

6.1 INTERVIEWS

Pursuant to ASTM E1527-05, the following interviews were performed during this investigation in order to obtain information indicating RECs in connection with the subject property.

6.1.1 INTERVIEW WITH OWNER

AEI requested an interview with the subject property owner; however, the subject property owner has not responded as of this report date. Based on the quality of information obtained from other sources, including from the subject property manager, Mr. David Do, who completed the ASTM User Questionnaire (discussed in Section 6.2), this limitation is not expected to alter the overall findings of this assessment.

6.1.2 INTERVIEW WITH KEY SITE MANAGER

The key site manager, Mr. Rajitha Sumanasekera, was contacted in person on November 8, 2012. Mr. Sumanasekera has been associated with the subject property since April 2012. Mr. Sumanasekera provided general information regarding historic and current operations at the subject property. According to Mr. Sumanasekera, the subject property building was constructed in the early 1970s for use as a bank. The subject property building was then used as a flower shop until about 1996, when it became vacant. There have been no tenants in the subject property building since that time. Mr. Sumanasekera was asked if he was aware of any of the following:

Any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the property.	Yes	<input checked="" type="checkbox"/>	No
Any pending, threatened or past administrative proceedings relevant to hazardous substances or petroleum products in, on, or from the property.	Yes	<input checked="" type="checkbox"/>	No
Any notices from any governmental entity regarding any possible violation of environmental laws or possible liability relating to hazardous substances or petroleum products.	Yes	<input checked="" type="checkbox"/>	No
Any incidents of flooding, leaks, or other water intrusion, and/or complaints related to indoor air quality.	Yes	<input checked="" type="checkbox"/>	No

6.1.3 PAST OWNERS, OPERATORS AND OCCUPANTS

Interviews with past owners and occupants regarding historical on-site operations were not reasonably ascertainable. However, based on information obtained from other sources including aerial photographs, historic city directory listings, and interviews, it is likely that the information provided by past owners and operators would have been duplicative.

6.1.4 INTERVIEW WITH OTHERS

Information obtained during interviews with local government officials is incorporated into the appropriate segments of this section.

6.2 USER PROVIDED INFORMATION

User provided information is intended to help identify the possibility of RECs in connection with the subject property. According to ASTM E1527-05 and EPA's AAI Rule, certain items should be researched by the prospective landowner or grantee, and the results of such inquiries may be provided to the environmental professional. The responsibility for qualifying for Landowner

Liability Protections (LLPs) by conducting the inquiries ultimately rests with the User, and providing the information to the environmental professional would be prudent if such information is available.

6.2.1 ENVIRONMENTAL LIENS

AEI was not informed by the User of any environmental cleanup liens encumbering the subject property that are filed or recorded under federal, tribal, state or local law.

6.2.2 ACTIVITY AND LAND USE LIMITATIONS

AEI was not informed by the User of any AULs, such as engineering controls, land use restrictions or institutional controls that are in place at the subject property and/or have been filed or recorded in a registry under federal, tribal, state or local law.

6.2.3 SPECIALIZED KNOWLEDGE

AEI was not informed by the User of any specialized knowledge or experience related to the subject property or nearby properties.

6.2.4 VALUATION REDUCTION FOR ENVIRONMENTAL ISSUES

The User did not indicate to AEI any information to suggest that the valuation of the subject property is significantly less than the valuation for comparable properties due to environmental factors.

6.2.5 COMMONLY KNOWN OR REASONABLY ASCERTAINABLE INFORMATION

The User did not inform AEI of any commonly known or reasonably ascertainable information about the subject property which aided AEI in identifying conditions indicative of a release or threatened release.

6.2.6 KNOWLEDGE OF PRESENCE OR LIKELY PRESENCE OF CONTAMINATION

The User did not inform AEI of any obvious indicators that pointed to the presence or likely presence of contamination at the subject property.

6.3 PREVIOUS REPORTS AND OTHER PROVIDED DOCUMENTATION

No prior reports or relevant documentation in association with the subject property were made available to AEI during the course of this assessment.

7.0 SITE INSPECTION AND RECONNAISSANCE

On November 8, 2012, a site reconnaissance of the subject property and adjacent properties was conducted by Ms. Angela Sanan of AEI in order to obtain information indicating the likelihood of RECs at the subject property and adjacent properties as specified in ASTM Standard Practice E1527-05 §8.4.2, 8.4.3 and 8.4.4. During the on-site reconnaissance, AEI was accompanied by Mr. Rajitha Sumanasekera, the subject property manager. During the on-site reconnaissance, AEI inspected all areas of the subject property.

7.1 SUBJECT PROPERTY RECONNAISSANCE FINDINGS

Yes	No	Observation
	X	Hazardous Substances and/or Petroleum Products in Connection with Property Use
	X	Aboveground & Underground Hazardous Substance or Petroleum Product Storage Tanks (ASTs / USTs)
	X	Hazardous Substance and Petroleum Product Containers and Unidentified Containers not in Connection with Property Use
	X	Unidentified Substance Containers
X		Electrical or Mechanical Equipment Likely to Contain Fluids
	X	Interior Stains or Corrosion
	X	Strong, Pungent or Noxious Odors
	X	Pools of Liquid
X		Drains, Sumps and Clarifiers
	X	Pits, Ponds and Lagoons
	X	Stained Soil or Pavement
	X	Stressed Vegetation
	X	Solid Waste Disposal or Evidence of Fill Materials
	X	Waste Water Discharges
	X	Wells
	X	Septic Systems
	X	Other

The subject property building is currently unoccupied and no operations are conducted on site. The above identified observed items are further discussed below.

ELECTRICAL OR MECHANICAL EQUIPMENT LIKELY TO CONTAIN FLUIDS

Toxic polychlorinated biphenyls (PCBs) were commonly used historically in electrical equipment such as transformers, fluorescent lamp ballasts, and capacitors. According to United States EPA regulation 40 CFR, Part 761, there are three categories for classifying such equipment: <50 ppm of PCBs is considered "Non-PCB"; between 50 and 500 ppm is considered "PCB-Contaminated"; and >500 ppm is considered "PCB-Containing". Pursuant to 15 U.S.C. 2605(e)(2)(A), the manufacture, process, or distribution in commerce or use of any polychlorinated biphenyl in any manner other than in a totally enclosed manner was prohibited after January 1, 1977.

Transformers

The management of potential PCB-containing transformers is the responsibility of the local utility or the transformer owner. Actual material samples need to be collected to determine if transformers are PCB-containing.

One pad-mounted transformer was observed on the subject property during the site inspection. The transformer is owned and operated by Pacific Gas and Electric Company (PG&E), and based on the presumed date of installation, are expected to be PCB containing. Federal Regulations (40 CFR 761. Subpart G) require any release of material containing greater than 50 ppm PCB and occurring after May 4, 1987, be cleaned up by the Owner (PG&E) following the United States Environmental Protection Agency's (USEPA) PCB spill cleanup policy. No spills, staining or leaks were observed on or around the transformer. Based on the good condition of the equipment, the transformer is not expected to represent a significant environmental concern.

DRAINS, SUMPS AND CLARIFIERS

Two storm drains were observed in the parking area of the subject property. No hazardous substances or petroleum products were noted in the vicinity of the drains. Based on the use of the drains solely for storm water runoff, the presence of the drains is not expected to represent a significant environmental concern.

7.2 NON-ASTM SERVICES

7.2.1 ASBESTOS-CONTAINING BUILDING MATERIALS

OSHA

For buildings constructed prior to 1981, the Code of Federal Regulations (29 CFR 1926.1101 and 29 CFR 1910.1001) define presumed asbestos-containing material (PACM) as 1. Thermal System Insulation (TSI), e.g., boiler insulation, pipe lagging, fireproofing; and 2. Surfacing Materials, e.g., acoustical ceilings. Building owners/employers are responsible for locating the presence and quantity of PACM. Building owners/employers can rebut installed material as PACM by either having an inspection in accordance with Asbestos Hazard Emergency Response Act (AHERA) (40 CFR Part 763, Subpart E) or hiring an accredited inspector to take bulk samples of the suspect material.

Typical materials not covered by the presumptive rule include but are not limited to: floor tiles and adhesives, wallboard systems, siding and roofing. Building materials such as wallboard systems may contain asbestos but unless a building owner/employer has specific knowledge or should have known through the exercise of due diligence that these other materials contain asbestos, the standard does not compel the building owner to sample these materials.

NESHAP

The applicability of the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP, 40 CFR Chapter 61, Subpart M) apply to the owner or operator of a facility where an inspection for the presence of asbestos-containing materials (ACM), including Category I (asbestos containing packings, gaskets, resilient floor coverings and asphalt roofing products), and Category II (all remaining types of non-friable asbestos containing material not included in Category I that when dry, cannot be crumbled, pulverized or reduced to powder by hand pressure), non-friable ACM must occur prior to the commencement of demolition or renovation activities. NESHAP defines ACM as any material or product that contains *greater than 1%*

asbestos. It should be noted that the NESHAP regulation applies to all facilities regardless of construction date, including: 1. Any institutional, commercial, public, industrial, or residential structure, installation, or building; 2. Any ship; and 3. Any active or inactive waste disposal site. This requirement is typically enforced by the EPA or by local air pollution control/air quality management districts.

The information below is for general informational purposes only and does not constitute an asbestos survey. In addition, the information is not intended to comply with federal, state or local regulations in regards to ACM.

Due to the age of the subject property building, there is a potential that ACMs are present. The condition and friability of the identified suspect ACMs is noted in the following table:

Suspect Asbestos Containing Materials (ACMs)

Material	Location	Friable	Condition
Drywall Systems	Throughout Building Interior	Yes	Good
Roofing Systems	Roof	Not Inspected	Not Inspected

All observed suspect ACMs were in good condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time. In the event that building renovation or demolition activities are planned, an asbestos survey adhering to AHERA sampling protocol should be performed prior to demolition or renovation activities that may disturb suspect ACMs.

7.2.2 LEAD-BASED PAINT

Lead-based paint (LBP) is defined as any paint, varnish, stain, or other applied coating that has $\geq 1 \text{ mg/cm}^2$ (5,000 $\mu\text{g/g}$ or 5,000 ppm) or more of lead by federal guidelines; state and local definitions may differ from the federal definitions in amounts ranging from 0.5 mg/cm^2 to 2.0 mg/cm^2 . Section 1017 of the Housing and Urban Development (HUD) Guidelines, Residential Lead-Based Paint Hazard Reduction Act of 1992, otherwise known as "Title X", defines a LBP hazard is "any condition that causes exposure to lead that would result in adverse human health effects" resulting from lead-contaminated dust, bare, lead-contaminated soil, and/or lead-contaminated paint that is deteriorated or present on accessible, friction, or impact surfaces. Therefore, under Title X, intact lead-based paint on most walls and ceilings would not be considered a "hazard", although the paint should be maintained and its condition and monitored to ensure that it does not deteriorate and become a hazard. Additionally, Section 1018 of this law directed HUD and EPA to require the disclosure of known information on lead-based paint and lead-based paint hazards before the sale or lease of most housing built before 1978. Most private housing, public housing, federally owned or subsidized housing is affected by this rule.

Lead-containing paint (LCP) is defined as any paint with any detectable amount of lead present in it. It is important to note that LCP may create a lead hazard when being removed. The condition of these materials must be monitored when they are being disturbed. In the event LCP is subject to abrading, sanding, torching and/or cutting during demolition or renovation activities, there may be regulatory issues that must be addressed.

The information below is for general informational purposes only and does not constitute a lead hazard evaluation. In addition, the information is not intended to comply with federal, state or local regulations in regards to lead-containing paints.

In buildings constructed after 1978, it is unlikely that LBP is present. Structures built prior to 1978 and especially prior to the 1960s should be expected to contain LBP.

Due to the age of the subject property building, there is a potential that LBP is present. All observed painted surfaces were in good condition and are not expected to pose a health and safety concern to the occupants of the subject property at this time. Local regulations may apply to LBP in association with building demolition/renovations and worker/occupant protection. Actual material samples would need to be collected or an XRF survey performed in order to determine if LBP is present. It should be noted that construction activities that disturb materials or paints containing *any amount* of lead may be subject to certain requirements of the OSHA lead standard contained in 29 CFR 1910.1025 and 1926.62.

7.2.3 RADON

Radon is a naturally-occurring, odorless, invisible gas. Natural radon levels vary and are closely related to geologic formations. Radon may enter buildings through basement sumps or other openings.

The US EPA has prepared a map to assist National, State, and local organizations to target their resources and to implement radon-resistant building codes. The map divides the country into three Radon Zones, Zone 1 being those areas with the average predicted indoor radon concentration in residential dwellings exceeding the EPA Action limit of 4.0 picoCuries per Liter (pCi/L). It is important to note that the EPA has found homes with elevated levels of radon in all three zones, and the EPA recommends site specific testing in order to determine radon levels at a specific location. However, the map does give a valuable indication of the propensity of radon gas accumulation in structures.

Radon sampling was not requested as part of this assessment. According to the US EPA, the radon zone level for the area is Zone 2, which has a predicted average indoor screening level between 2.0 pCi/L and 4.0 pCi/L, equal to or below the action level of 4.0 pCi/L set forth by the EPA.

7.2.4 DRINKING WATER SOURCES AND LEAD IN DRINKING WATER

The City of Milpitas supplies potable water to the subject property. The most recent water quality report states that lead levels in the areas water supply were well within standards established by the US EPA.

7.2.5 MOLD/INDOOR AIR QUALITY ISSUES

Molds are simple, microscopic organisms, which can often be seen in the form of discoloration, frequently green, gray, white, brown or black. When excessive moisture or water accumulates indoors, mold growth will often occur, particularly if the moisture problem remains undiscovered or is not addressed. As such, interior areas of buildings characterized by poor ventilation and high humidity are the most common locations of mold growth. Building materials including drywall, wallpaper, baseboards, wood framing, insulation, and carpeting often play host to such growth. Mold spores primarily cause health problems through the inhalation of mold spores or

the toxins they emit when they are present in large numbers. This can occur primarily when there is active mold growth within places where people live or work.

Mold, if present, may or may not visually manifest itself. Neither the individual completing this inspection, nor AEI has any liability for the identification of mold-related concerns except as defined in applicable industry standards. In short, this Phase I ESA should not be construed as a mold survey or inspection.

AEI observed interior areas of the subject property building in order to identify the significant presence of mold. AEI did not note obvious visual or olfactory indications of the presence of mold, nor did AEI observe obvious indications of significant water damage. As such, no bulk sampling of suspect surfaces was conducted as part of this assessment and no additional action with respect to mold appears to be warranted at this time.

This activity was not designed to discover all areas which may be affected by mold growth on the subject property. Rather, it is intended to give the client an indication if significant (based on observed areas) mold growth is present at the subject property. Additional areas of mold not observed as part of this limited assessment, possibly in pipe chases, heating, ventilation, and air conditioning (HVAC) systems and behind enclosed walls and ceilings, may be present on the subject property.

7.3 ADJACENT PROPERTY RECONNAISSANCE FINDINGS

Yes	No	Observation
	X	Hazardous Substances and/or Petroleum Products in Connection with Property Use
X		Aboveground & Underground Hazardous Substance or Petroleum Product Storage Tanks (ASTs / USTs)
	X	Hazardous Substance and Petroleum Product Containers and Unidentified Containers not in Connection with Property Use
	X	Unidentified Substance Containers
	X	Electrical or Mechanical Equipment Likely to Contain Fluids
	X	Strong, Pungent or Noxious Odors
	X	Pools of Liquid
	X	Drains, Sumps and Clarifiers
	X	Pits, Ponds and Lagoons
	X	Stained Soil or Pavement
	X	Stressed Vegetation
	X	Solid Waste Disposal or Evidence of Fill Materials
	X	Waste Water Discharges
X		Wells
	X	Septic Systems
	X	Other

The above identified observed items are further discussed below.

ABOVEGROUND & UNDERGROUND HAZARDOUS SUBSTANCE OR PETROLEUM PRODUCT STORAGE TANKS (ASTs / USTs)

The adjacent site to the northwest, at 190 West Calaveras Boulevard, is currently developed with a gasoline station equipped with several USTs. This adjacent gasoline station is previously discussed in Section 5.1.

WELLS

Two groundwater monitoring wells were observed on the adjacent parking lot to the south of the subject property. The wells are associated with the nearby former gasoline station to the south, which is previously discussed in Section 5.1.

8.0 SIGNATURE OF ENVIRONMENTAL PROFESSIONALS

By signing this report, the senior author declares that, to the best of his or her professional knowledge and belief, he or she meets the definition of *Environmental Professional* as defined in §312.10 of 40 CFR Part 312.

The senior author has the specific qualifications based on education, training, and experience to assess a property of the nature, history and setting of the subject property. The senior author has developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.

Prepared By:



Angela Sanan
Project Manager

Reviewed By:



Steve Kovach
Senior Author

9.0 REFERENCES

Item	Date(s)	Source
Topographic Map Milpitas, California Quadrangle	1979/1980	United States Geological Survey
Regulatory Database Report	November 7, 2012	Environmental Data Resources (EDR)
Assessor's Information and Parcel Map	November 1, 2012	Santa Clara County Assessor's Office
Soils Information	November 1, 2012	United States Department of Agriculture (USDA) Web Soil Survey
Radon Zone Information	November 1, 2012	Environmental Protection Agency (EPA) Radon Zone Map website
Drinking Water Quality Report	November 1, 2012	Environmental Protection Agency (EPA) Drinking Water website
Depth and Direction of Groundwater Information	November 1, 2012	Regional Water Quality Control Board (RWQCB) GeoTracker website
Sanborn Fire Insurance Map Reports	November 8, 2012	Environmental Data Resources (EDR)
Historical Aerial Photographs	1939-2006	Environmental Data Resources (EDR)
Oil and Gas Wells Information	November 1, 2012	Department of Oil and Gas and Geothermal Resources (DOGGR Website)
City Directories	1971-2006	AEI's collection of Haines Company Criss Cross Directories
Building Permits	1972-2011	Milpitas Building Department (MBD)
Activity Use Limitation (AUL) Information	November 8, 2012	Milpitas Planning Department (MPD)
Hazardous Materials Records	November 1, 2012	Milpitas Fire Department (MFD)
Hazardous Materials Records	November 1, 2012	Santa Clara County Department of Environmental Health (SCCDEH)
LUST Information	November 1, 2012	Regional Water Quality Control Board (RWQCB) GeoTracker website
Air Emission Information	November 1, 2012	Bay Area Air Quality Management District (BAAQMD)
Hazardous Waste Records	November 1, 2012	Department of Toxic Substances Control (DTSC) Hazardous Waste Tracking System (HWTS)
Interview	November 8, 2012	Mr. Rajitha Sumanasekera, subject property manager



Little Flowers Montessori, Inc

34735 Ardenwood Blvd, Fremont, CA 94555
Phone: 510-793-1696 Fax: 510-794-9121
<http://www.littleflowersmontessori.com>

RECEIVED

AUG 27 2012

CITY OF MILPITAS
PLANNING DIVISION

Proposed Preschool - Little Flowers Montessori at 200 Serra Way, Suite 50, Milpitas

Our Montessori based preschool programs focus on every aspect of a child's growth. We tailor our attention to each child's cognitive, emotional, social and physical development. Children learn self respect, respect for others, and respect for their surroundings and love for learning. Our schools provide children a great learning experience in a fun, cheerful and friendly environment.

There are very few Montessori based preschools in the vicinity. The proposed Montessori preschool will be located close to I-880 and CA-237 providing each access to parents to drop-off and pick-up children.

The new Preschool will occupy a vacant tenant space in the single story, individual building within a commercial center. The Building will be reconfigured to meet state childcare licensing requirements. The school ground floor location will facilitate easy access to ample parking at front, including disabled persons' stalls. School playground will be placed at rear and side utilizing a large paved parking area. The School will require 15 stalls.

The school will have a staff of 18 and children capacity of 115. It will be licensed by the State. The capacity is for 12 children ages from 18 months to 24 months and the rest ages 2 years old through 6 years old. The school will operate from 7am to 6:30pm on weekdays. Normal hours of operation are 8am to 6pm. Extended hours are 7-8am and 6-6:30pm.

Little Flowers Montessori will benefit the shopping plaza because the parents after dropping off their kids may take advantage of various services and shopping available nearby.

Exterior of the existing building will not be altered with the exception to a possible new doors required for exiting and removal of some of the windows to achieve more privacy within the classrooms.

New playground area will have several play structures and an artificial turf surface, without the need to change existing site drainage patterns nor paving.

The Preschool will have no Bell Hours. The children can be dropped off and picked up at anytime between 7 AM through 6:30 PM. We envision peaks of these to be between 8:00AM to 9:30 AM and again at 5:00PM to 6:00PM. There will be no bells (interior or exterior) other than required Fire alarms.

Children Drop off pattern will be as follows:

Parents will park cars and bring their children to the classrooms. There will be no un-attended children on the parking lot.

The school will hold parties for children, among these Halloween and children's Birthdays. Halloweens will be attended by the kids only and birthdays by kids and celebrant's parents only. This is to limit traffic increase within the center.

Signage will be consistent with the Plaza signage program and the City requirements. School sign design will be submitted for the City approval under the separate application.

The Preschool will remain in the building for a period of 7 years. Afterwards it will be relocated into a new space, following existing center demolition and replacement with the new residential / commercial development.

We believe Little Flowers Montessori will be an asset to the neighborhood and the City.

Sincerely,

Rajitha Sumanasekera
Vice President
Little Flowers Montessori
408-425-7070



MILPITAS PLANNING COMMISSION AGENDA REPORT

PRESENTATION

Meeting Date: April 22, 2009

APPLICATION: **PRE-APPLICATION NO. P-PP09-0002: SERRA CENTER REDEVELOPMENT PROPOSAL**

APPLICATION
SUMMARY:

Preliminary application for a proposed mixed-use development totaling 813,468 square feet on an approximately 16-acre site at 200 Serra Way.

LOCATION:

200 Serra Way (APN: 86-07-045, 021-044)

APPLICANT:

200 Serra Way LLC, 380 N. First Street, San Jose, 95112

OWNER:

Same as applicant

RECOMMENDATION:

Staff recommends that the Planning Commission:

- 1. Receive presentation and provide comments on the preliminary design concept.**

PROJECT DATA:

General Plan/

Zoning Designation:

General Commercial/ General Commercial (C2)

Specific Plan:

Midtown Specific Plan

Overlays:

Gateway Office Overlay (-OO) and Site and Architectural Overlay (-S)

CEQA Determination:

None at this time, however, it is anticipated that an Environmental Impact Report (EIR) will be prepared.

PLANNER:

Derek Farmer, Senior Planner

ATTACHMENTS:

- A. Design Narrative from Project Architect
- B. Preliminary Plan Set, Color, Size 11" x 17"

BACKGROUND

200 Serra Way LLC, submitted a Preliminary Application on March 26, 2009 to the Planning Division with plans to redevelop the Serra Center. The Preliminary Application process is made available for projects to receive comments from the City early in the design phase, typically before plans are fully developed. Usually this process is handled by staff. However, this project is very significant given its size and location at a major gateway to the City and therefore merits an early review by the Planning Commission. The plans submitted with the Preliminary Application have been included in the agenda packet and the applicant will be making a presentation on these early concepts at the Planning Commission meeting. The City Council Transportation and Land Use Subcommittee received a similar presentation at their April 6th meeting and the City Council is tentatively scheduled to have a presentation made at their May 5th meeting. A community meeting is also tentatively planned for later in May. Public noticing will occur when the exact date, time and location have been determined.

PROJECT DESCRIPTION

The site includes several parcels totaling 16.2 acres and is generally bound by Calaveras Boulevard and Serra Way on the north, South Abel Street on the east, Junipero Way on the south, and the current Travelodge site on the west.

The proposed redevelopment would consist of a number of buildings containing both retail and office uses, one building containing a 168-room hotel, a multi-story parking garage, and 45 residential units. The square-footage breakdown of these uses is outlined in Table 1 below:

Table 1
Use and Square Footage

Use	Square Footage, units or rooms
Retail	277,061
Restaurants	58,404
Office	235,949
Hotels	183,000 (291 rooms, including Days Inn)
Residential	59,040 (45 units)
Total	813,468

Based on the preliminary submittal, it is anticipated that changes to the General Plan, Midtown Specific Plan and Zoning Map will be required. These specifically would include a General Plan Amendment and Zone change from General Commercial to Mixed Use to allow for the variety and density of uses proposed, and an amendment to the Office Overlay zone to incorporate the entire site to allow for the Class “A” office uses proposed. Currently, the Office Overlay covers only a portion of the site. Additional land use entitlements could be required as the formal application is submitted.

In addition, in accordance with the California Environmental Quality Act (CEQA), it is expected that an Environmental Impact Report will be prepared to identify the environmental impacts of

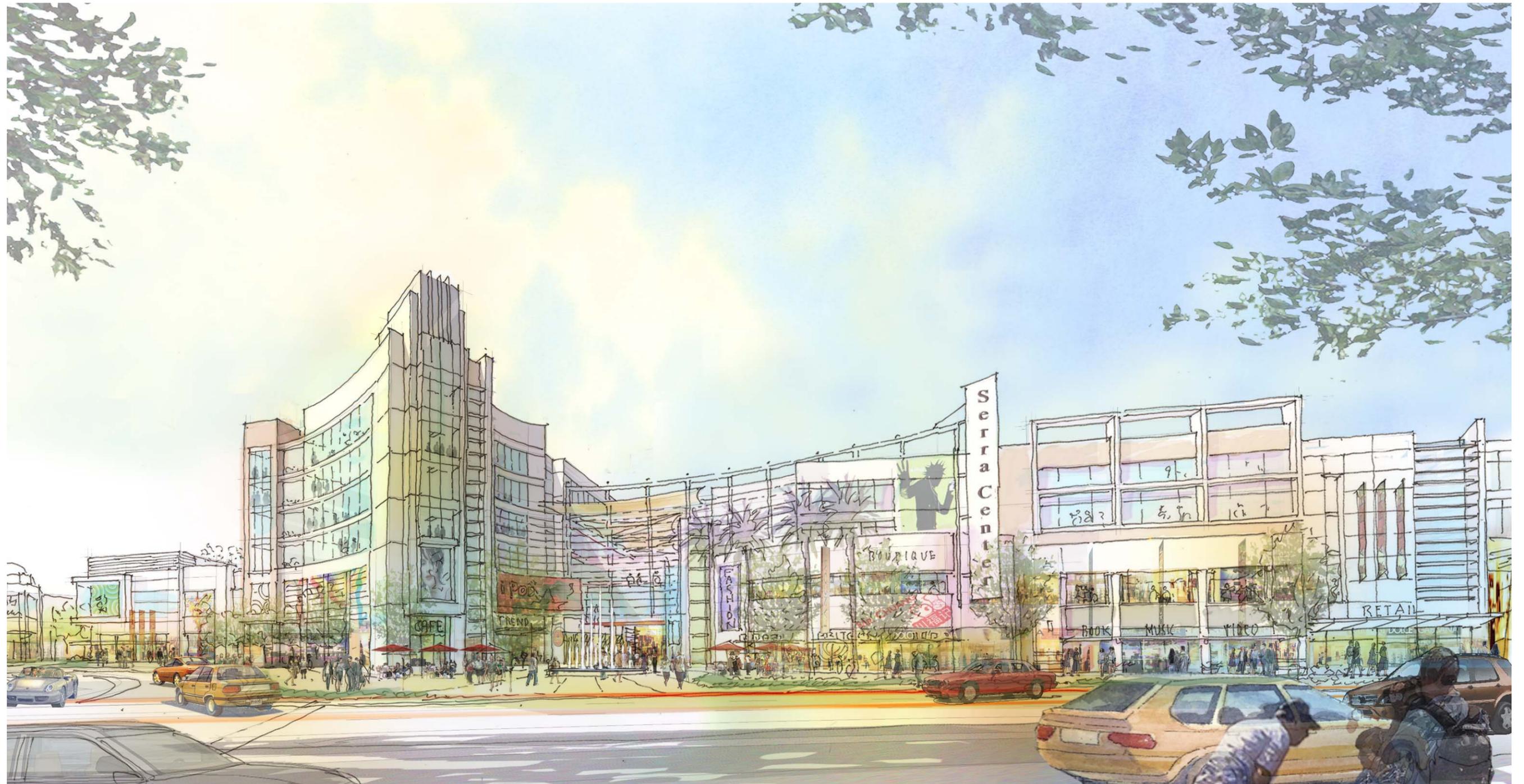
this proposal once the preliminary review process has been concluded and the conceptual design of the proposal has been defined to the satisfaction of the City.

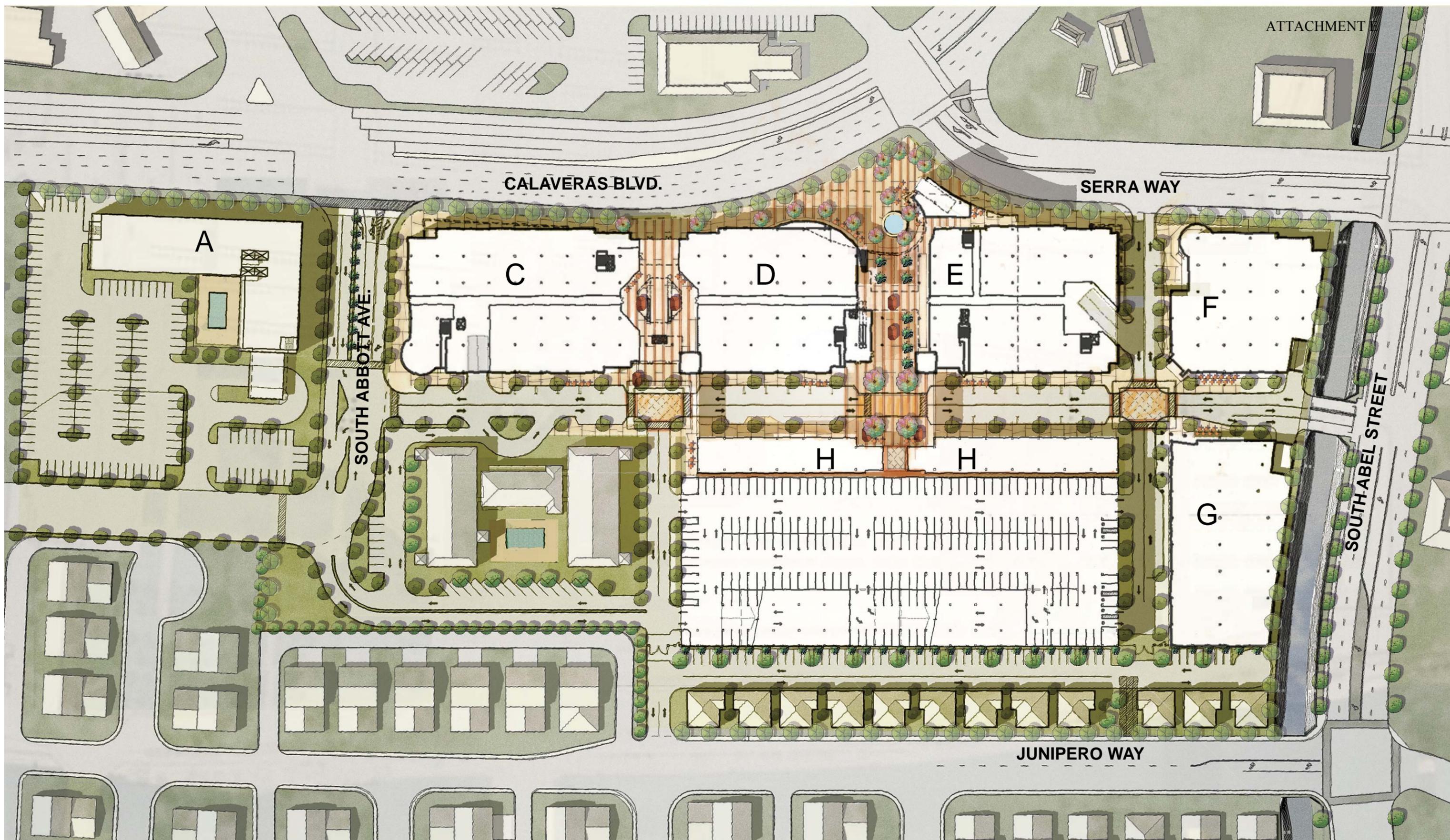
RECOMMENDATION

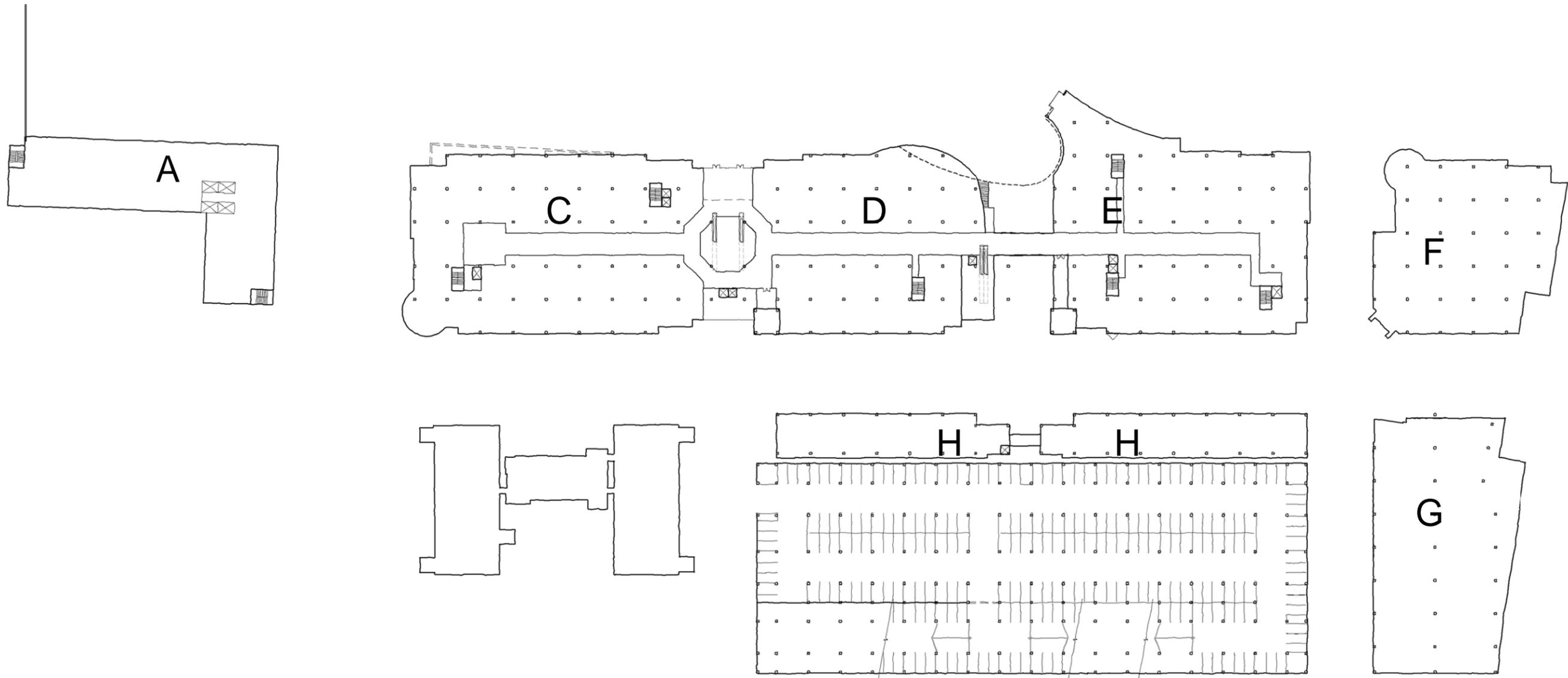
STAFF RECOMMENDS THAT the Planning Commission receive presentation and provide comments on the preliminary design concept.

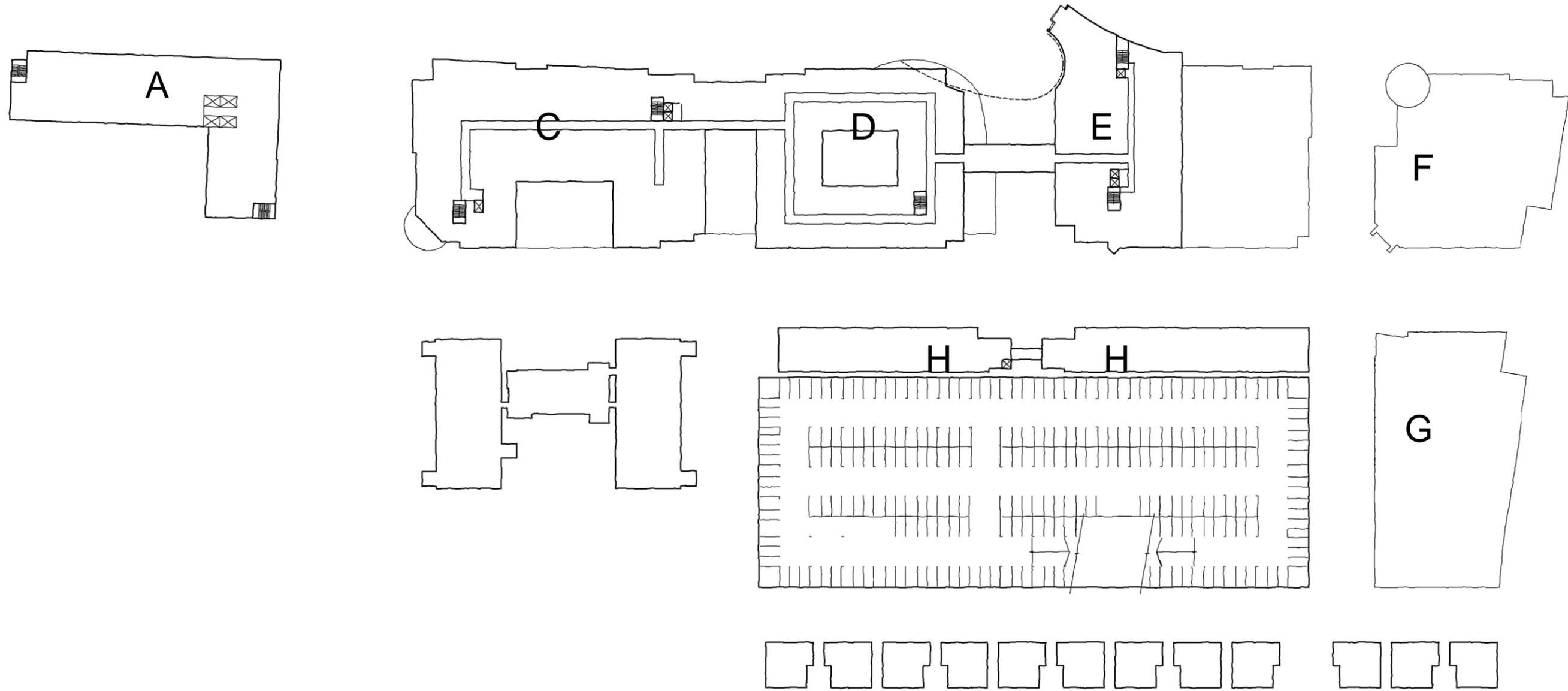
Attachments:

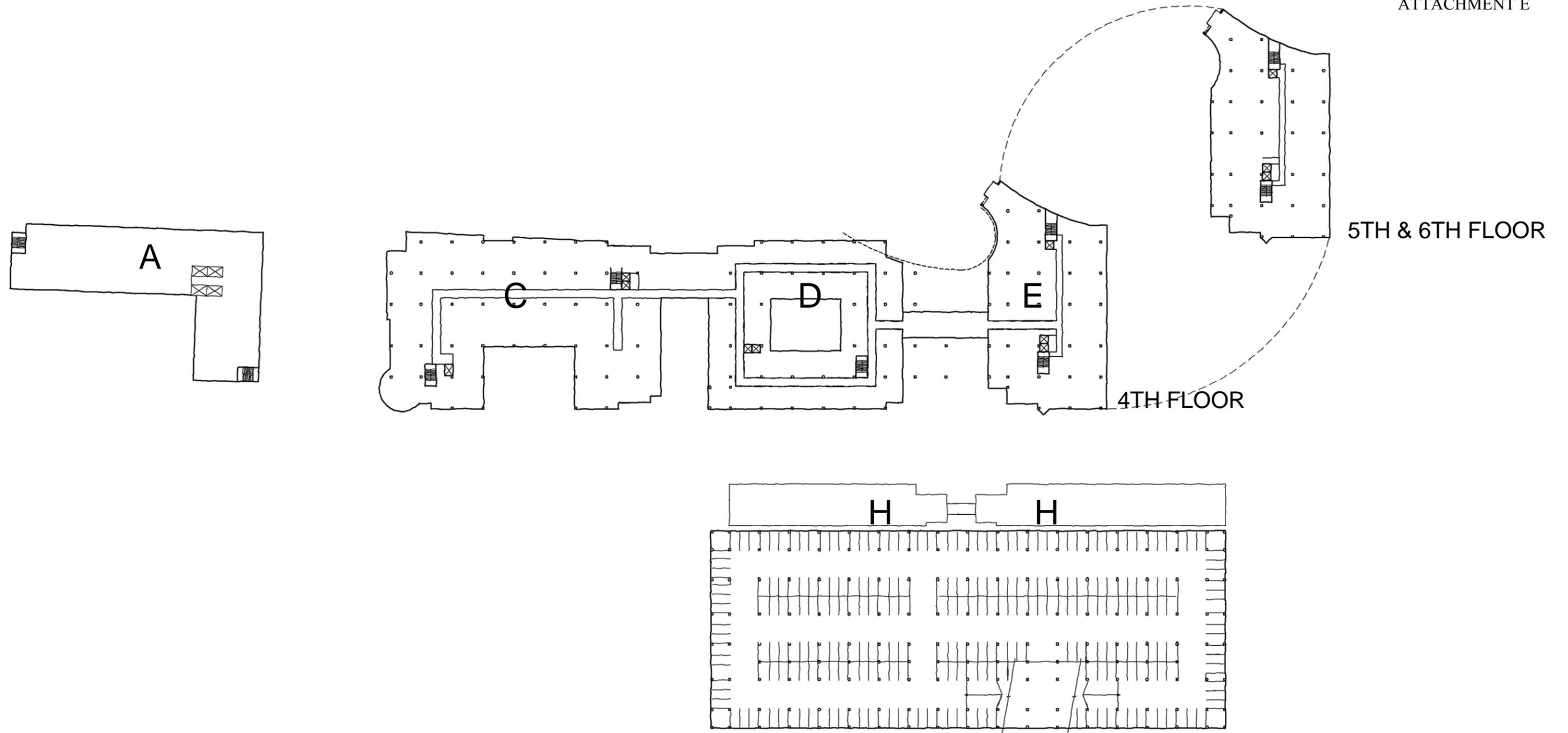
- A. Design Narrative from Project Architect
- B. Preliminary Plan Set, Color, Size 11" x 17"









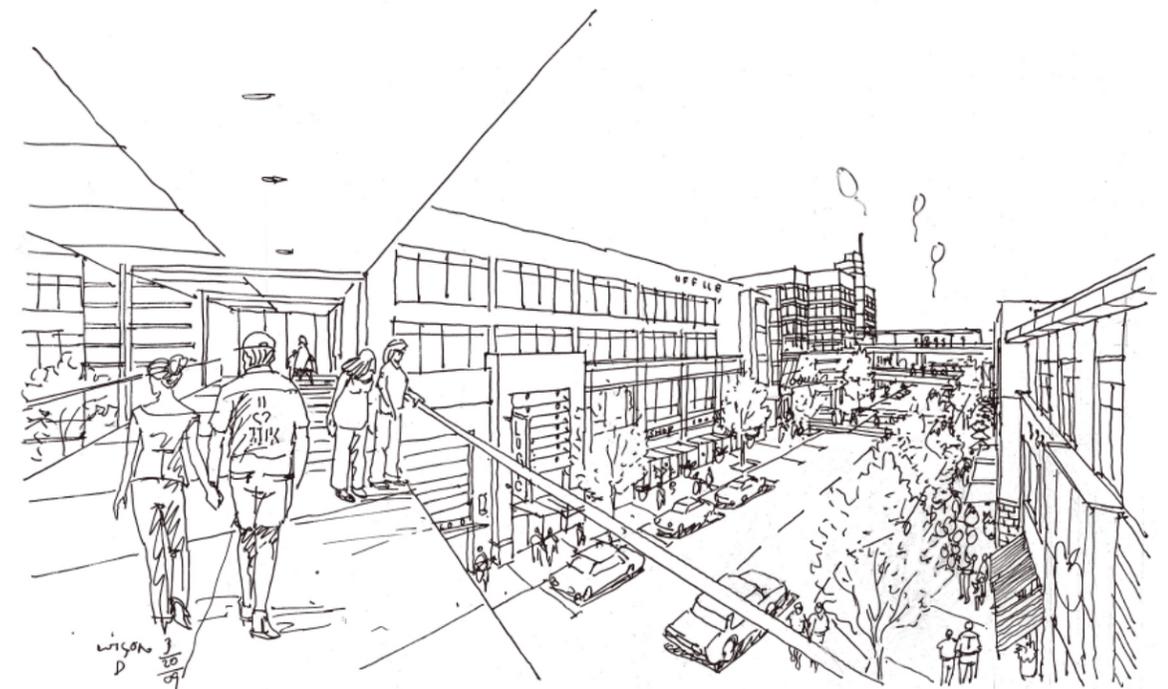




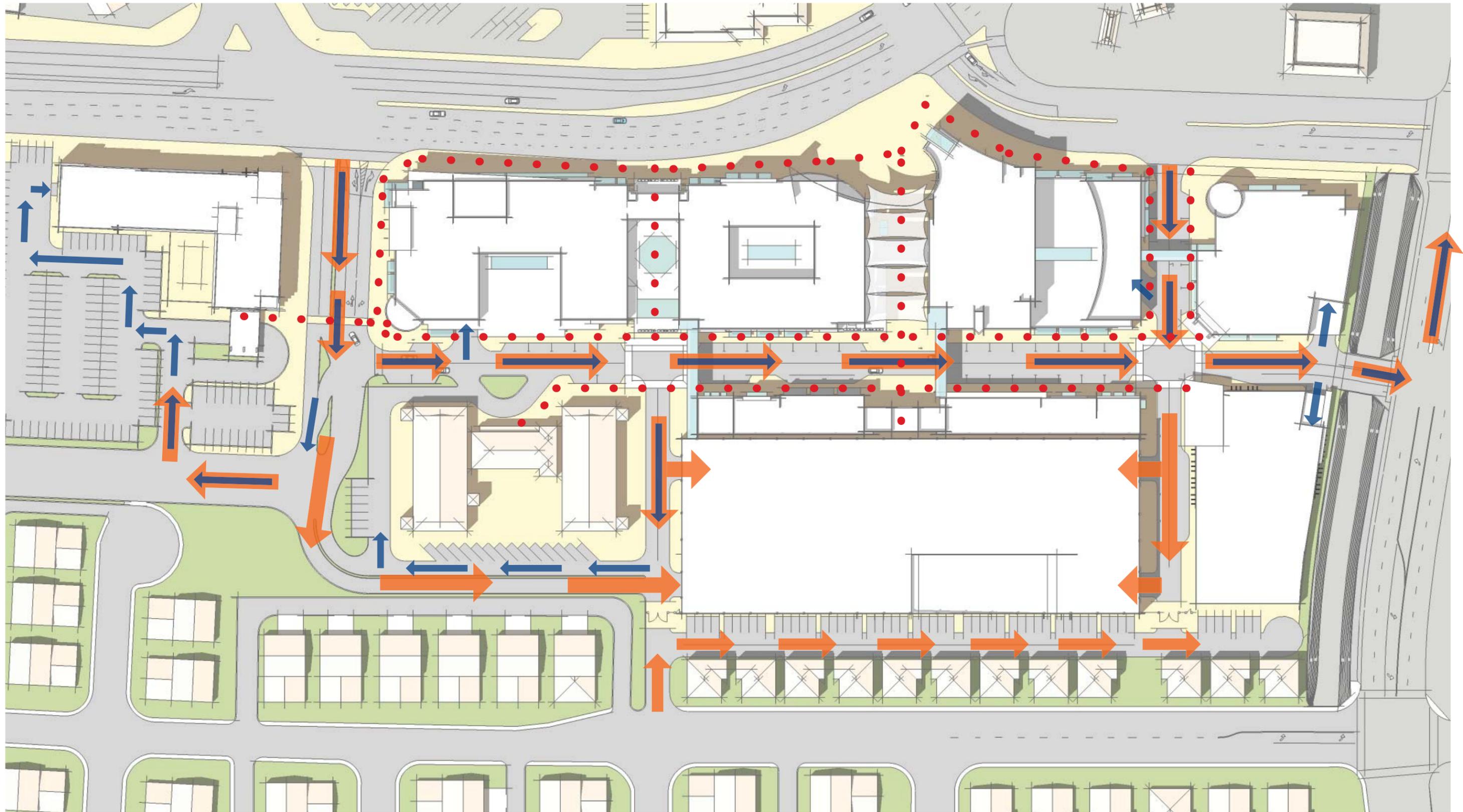
VIEW FROM MAIN STREET



PASEO SKETCH



VIEW FROM BRIDGE

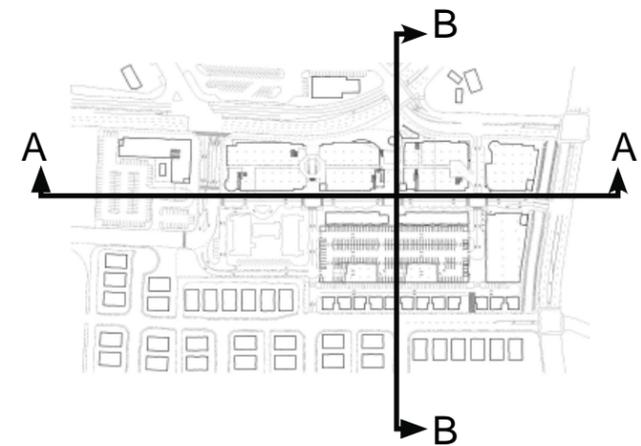




SECTION A-A



SECTION B-B





CALAVERAS



HOTEL



“MAIN” STREET



MARKET

GROSS FLOOR AREA PER BUILDING

BUILDING	Residential	Retail	Restaurant	Take Out Rest.	Office	Hotel	TOTAL	
A						102,000 s.f.	102,000 s.f.	
C		79,118 s.f.	4,395 s.f.	4,395 s.f.	65,574 s.f.		153,483 s.f.	
D		69,226 s.f.	3,846 s.f.	3,846 s.f.	58,956 s.f.		135,874 s.f.	
E		73,667 s.f.	4,093 s.f.	4,093 s.f.	77,419 s.f.		159,271 s.f.	
F		11,250 s.f.	33,750 s.f.	s.f.			45,000 s.f.	
G		26,400 s.f.					26,400 s.f.	
H		17,400 s.f.			34,000 s.f.		51,400 s.f.	
J						81,000 s.f.	81,000 s.f.	
K	59,040 s.f.						59,040 s.f.	
SUBTTL G.F.A.	59,040 s.f.	277,061 s.f.	46,084 s.f.	12,334 s.f.	235,949 s.f.	183,000 s.f.	TOTAL: 813,468 s.f.	
SITE AREA:	714,384 s.f.						F.A.R. :	1.14

PRELIMINARY PARKING REQUIREMENTS

REQUIRED PARKING BY BUILDING USE

BUILDING USE	LEASABLE FLOOR AREA	PARKING RATIO PER MIDTOWN PLAN	STALLS REQ'D.
Retail	(gross factor) 80% 221,649 s.f.	1 stall per 200 n.s.f.	1108 stalls
Restaurant	(dining area) 55% 25,346 s.f.	1 stall per 39 n.s.f.	650 stalls
Take Out Rest.	(dining area) 70% 8,634 s.f.	1 stall per 60 n.s.f.	222 stalls
Office	(gross factor) 100% 235,949 s.f.	3.3 stall per 1000 n.s.f.	779 stalls
Hotel	291 keys	1 stall per 1 key	291 stalls
Residential	studio DU 10 DU	1 stalls : DU	10 stalls
	1-bed DU 25 DU	1.5 stalls : DU	38 stalls
	2-bed DU 10 DU	2 stalls : DU	20 stalls
PARKING REQUIRED PER ZONING & MIDTOWN PLAN			3,117 stalls

SHARED PARKING FOR NON-RESIDENTIAL MIXED-USE

NON-RESIDENTIAL PARKING PER BASE PARKING RATIOS

	RETAIL	RESTAURANT	TAKE OUT	OFFICE	HOTEL
STALLS	1108	650	222	779	291

WEEKDAY NON-RESIDENTIAL SHARED PARKING PER U.L.I.

	RETAIL		RESTAURANT		TAKE OUT		OFFICE		HOTEL		TOTAL
	factor	stalls	factor	stalls	factor	stalls	factor	stalls	factor	stalls	
6 a.m.	1%	11	0%	0	5%	11	3%	23	95%	276	322
7 a.m.	5%	55	0%	0	10%	22	30%	234	90%	262	573
8 a.m.	15%	166	0%	0	20%	44	75%	584	80%	233	1027
9 a.m.	30%	332	0%	0	30%	66	95%	740	70%	204	1342
10 a.m.	55%	610	15%	97	55%	122	100%	779	60%	175	1782
11 a.m.	75%	831	40%	260	85%	188	100%	779	60%	175	2233
12 p.m.	90%	997	75%	487	100%	222	90%	701	55%	160	2567
1 p.m.	100%	1108	75%	487	100%	222	90%	701	55%	160	2678
2 p.m.	95%	1053	65%	422	90%	199	100%	779	60%	175	2628
3 p.m.	90%	997	40%	260	60%	133	100%	779	60%	175	2344
4 p.m.	90%	997	50%	325	55%	122	90%	701	65%	189	2334
5 p.m.	95%	1053	75%	487	60%	133	50%	389	70%	204	2266
6 p.m.	95%	1053	95%	617	85%	188	25%	195	75%	218	2272
7 p.m.	95%	1053	100%	650	80%	177	10%	78	75%	218	2176
8 p.m.	80%	887	100%	650	50%	111	7%	55	80%	233	1935
9 p.m.	50%	554	100%	650	30%	66	3%	23	85%	247	1541
10 p.m.	30%	332	95%	617	20%	44	1%	8	95%	276	1278
11 p.m.	10%	111	75%	487	10%	22	0%	0	100%	291	911
12 p.m.	0%	0	25%	162	5%	11	0%	0	100%	291	465
PEAK PERIOD											2678

WEEKEND NON-RESIDENTIAL SHARED PARKING PER U.L.I.

	RETAIL		RESTAURANT		TAKE OUT		OFFICE		HOTEL		TOTAL
	factor	stalls	factor	stalls	factor	stalls	factor	stalls	factor	stalls	
6 a.m.	1%	11	0%	0	5%	11	0%	0	95%	276	299
7 a.m.	5%	55	0%	0	10%	22	20%	156	90%	262	495
8 a.m.	10%	111	0%	0	20%	44	60%	467	80%	233	855
9 a.m.	30%	332	0%	0	30%	66	80%	623	70%	204	1226
10 a.m.	50%	554	0%	0	55%	122	90%	701	60%	175	1551
11 a.m.	65%	720	15%	97	85%	188	100%	779	60%	175	1959
12 p.m.	80%	887	50%	325	100%	222	90%	701	55%	160	2294
1 p.m.	90%	997	55%	357	100%	222	80%	623	55%	160	2359
2 p.m.	100%	1108	45%	292	90%	199	60%	467	60%	175	2242
3 p.m.	100%	1108	45%	292	60%	133	40%	311	60%	175	2020
4 p.m.	95%	1053	45%	292	55%	122	20%	156	65%	189	1812
5 p.m.	90%	997	60%	390	60%	133	10%	78	70%	204	1802
6 p.m.	80%	887	90%	585	85%	188	5%	39	75%	218	1917
7 p.m.	75%	831	95%	617	80%	177	0%	0	75%	218	1844
8 p.m.	65%	720	100%	650	50%	111	0%	0	80%	233	1714
9 p.m.	50%	554	90%	585	30%	66	0%	0	85%	247	1453
10 p.m.	35%	388	90%	585	20%	44	0%	0	95%	276	1294
11 p.m.	15%	166	90%	585	10%	22	0%	0	100%	291	1064
12 p.m.	0%	0	50%	325	5%	11	0%	0	100%	291	627
PEAK PERIOD											2359

MAXIMUM REQUIRED PARKING WITH SHARED PARKING FACTOR

2678

TOTAL NON-RESIDENTIAL PARKING PROVIDED

Parking Structure	8 lvl.s	2,270 stalls
Surface parking		390 stalls

PRELIMINARY PARKING COUNT

2,660 stalls

(18) stalls over







APPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

April 22, 2009

- I. ROLL CALL** Present: Alex Galang and Gurdev Sandhu
Staff: Andrade and Brown
- 1. MINOR SITE DEVELOPMENT PERMIT NO. MS09-0007** Tiffany Brown, Junior Planner, presented a request to add a new entry to an existing building located at 596 Alder Drive. Ms. Brown recommended approving Minor Site Development Permit No. MS09-0007 subject to the conditions of approval.
Motion to approve Minor Site Development Permit No. MS09-0007 subject to the conditions of approval.
M/S: Galang, Sandhu
AYES: 2
NOES: 0
- II. ADJOURNMENT** This meeting was adjourned at 7:05 p.m.

APPROVED

PLANNING COMMISSION MINUTES

April 22, 2009

- I. PLEDGE OF ALLEGIANCE** Chair Williams called the meeting to order at 7:58 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/SEATING OF ALTERNATE** Present: Aslam Ali, Larry Ciardella, Alex Galang, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, Mark Tiernan, and Cliff Williams
Staff: Ah Sing, Andrade, Brown, Farmer, Lindsay, and Otake
- III. PUBLIC FORUM** Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.
- Mr. Singh, business owner, California Circle**, sign was approved for the entire plaza, but another business is using his company's sign space. He would like the City to put a "stoppage" on the sign until the owners can negotiate.
- Chair Williams recommended the Planning Director meet with Mr Singh to get more details and assist if possible.
- Mr. Sangha, business owner, 1525 McCarthy Blvd, Milpitas**, spoke on behalf of Mr. Singh's business and said they need cooperation from the City of Milpitas.
- IV. APPROVAL OF MINUTES** Chair Williams called for approval of the minutes of the Planning Commission meeting of April 8, 2009.
April 8, 2009
- There were no changes to the minutes.
- Motion** to approve the minutes of April 8, 2009 as submitted.
- M/S: Sandhu, Mandal
- AYES: 5
- NOES: 0
- ABSENT: 0
- ABSTAIN: 2 (Larry Ciardella and Noella Tabladillo)
- V. ANNOUNCEMENTS** Commissioner Ciardella suggested going on a tour of the finished projects in Milpitas. James Lindsay, Planning Director, said staff would agendaize the tour for a future meeting.
- VI. CONFLICT OF INTEREST** Assistant City Attorney Bryan Otake asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. There were no Commissioners who identified a conflict of interest.
- VII. APPROVAL OF AGENDA** Chair Williams asked whether staff or the Commission have any changes to the agenda.

APPROVED

Planning Commission Minutes

April 22, 2009

There were no changes to the agenda.

Motion to approve the agenda as submitted.

M/S: Mandal, Galang

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

VIII. CONSENT CALENDAR

Chair Williams asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar.

Commissioner Ciardella requested a discussion on Item No. 3.

Chair Williams opened the public hearing on Item No. 2.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Mandal, Galang

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Motion to adopt Resolution No. 09-020 approving the project, subject to the conditions of approval.

M/S: Mandal, Galang

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

***2 CONDITIONAL USE PERMIT NO. UP09-0005:** A request to operate a frozen yogurt shop with outdoor seating located at 489 E. Calaveras Blvd. (APN: 028-12-025), zoned Town Center with Site and Architectural Overlay (TC-S). No exterior changes to the site or building are proposed. Applicant: Cynthia Abad. Staff Contact: Judie Gilli (408) 586-3280. PJ # 2576. (*Recommendation: Adopt Resolution No. 09-020 approving the proposed project, subject to conditions of approval.*)

Motion to remove Item No. 3 from the consent calendar.

M/S: Williams, Mandal

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Planning Commission Minutes
April 22, 2009

AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0

IX. PRESENTATION

1. SERRA CENTER NOVATION

Kirk Ellis, Director of Design Administration/Associate, Perkowitz & Ruth Architects, Long Beach, CA, gave a presentation on the Serra Center Renovation. Mr. Ellis stated this is a preliminary application for a proposed mixed-use development totaling 813,468 square feet on an approximately 16 acre site located at 200 Serra Way. The project would include retail, restaurants, a market, offices, hotels, and residential units. The project will orient to the street, showing all of the activity, lighting and display of the shops and restaurants.

Vice Chair Mandal asked they provide wide vehicular entrances and asked if there were plans to utilize solar power. Mr. Ellis responded that the City has recently adopted the LEED Silver as the Commercial baseline standards and they are planning to utilize glazing, canopies and other features, but they have not worked out all of the details.

Vice Chair Mandal asked if the parking structure is sufficient for the capacity of the center. Mr. Ellis stated they used the newly adopted parking ratios/standards and is providing 385 parking stalls between the structure and “street” parking.

Vice Chair Mandal asked that appropriate spacing and greenery be used to make it a nicer center from the moment you enter.

Chair Williams asked if they considered if the Serra St “exit” from Calaveras is closed how someone who misses the Abbott entrance could enter the center without causing a major traffic jam. Mr. Ellis stated that the main entrance is on Abbott, but there are two additional entrances, one off of Serra St and one off of Abel St.

Commissioner Ciardella asked how many levels the parking structure has. Mr. Ellis stated the parking structure is eight levels, all above grade. He stated that to keep the street walkable they didn’t try to tuck parking into the buildings and chose a central structure.

Commissioner Ciardella asked how the people in the three-story condominiums behind the parking structure would be shielded from the people parking. Mr. Ellis stated that they are still working on it, there is about 45 feet between the structure and the condominiums that they will be putting greenery in, but they are being conservative to address the Fire Marshall’s concerns. He said they plan on using green screen and they will be adding screens to the outside of the parking structure.

Commissioner Ciardella asked how wide the sidewalk is going to be between buildings D, E, and F. Mr. Ellis stated the sidewalk is 14 feet wide with a variety of canopies and street furniture.

Commissioner Ciardella asked about putting a stop light at the entrance from Able. Mr. Ellis stated that he has not spoken with staff and is not prepared to answer this question. Mr. Lindsay stated that these issues will be worked out in the technical studies portion of the project.

Commissioner Tabladillo asked about the common area near the fountain and if this is an area for family gatherings, bands to play, etc. Mr. Ellis stated that the common area or

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Paseo that is on Calaveras and that it will not be a quiet gathering place due to the traffic on Calaveras; the family gathering place is located between the parking structure and the other buildings, but they have not worked out the specific details of the area.

Commissioner Tabladillo asked that this really be looked at and the area have an eclectic feel.

Commissioner Tabladillo asked how traffic is controlled on the main corridor between the entrance on Abbott and the parking structure. Mr. Ellis stated that the design with a clearly marked entrance has a majority of the traffic driving behind the Days Inn and not between the buildings, but since there is “teaser” parking spaces on the street, stop signs will be used.

Commissioner Tabladillo asked how they will make an eight story parking garage aesthetically pleasing.

Commissioner Tabladillo asked if the area between buildings C & D and D & E are common areas for gatherings. Mr. Ellis stated that the area between C & D will probably be an indoor conditioned area whereas the area between D & E will be open air.

Commissioner Tabladillo knows that LEED certification is costly and asked how they are incorporating the LEED guidelines while still being able to provide usable space for families. Mr. Ellis stated that LEED is a great roadmap, and it’s not as costly to start a project with LEED as it is to upgrade a site. He stated that they have begun collecting the data and working on the sustainability aspects. Mr. Ellis stated that they are still working on the details and their full submittal will include the details of people spaces.

Chair Williams asked if there were residential units on top of the parking garage. Mr. Ellis stated they are not on the garage, they are to the South of the garage and are on the ground.

Chair Williams asked that there be considerable outreach to the neighboring residents and that the plans be clearly explained to the residents. Mr. Ellis stated that he has been working with Planning Staff and a neighborhood meeting has been scheduled for May 18th.

Chair Williams recalls there is an agreement between the Catholic Church across the street and the current owners of the Serra Center to allow the worshipers to use the parking of the center during services and special events and he asked they outreach to the Church as well.

Chair Williams is also concerned that residents will bring shopping carts from the supermarket across the street to and leaving them on this project site.

Chair Williams asked if there were still plans to open Abbott as a connection to the car dealerships. Mr. James Lindsay stated that it was studied to connect Abbott to Thompson as part of a project for the redevelopment of a School District property; if a third car dealership submits an application it would not cause the streets to be connected; the street connection requires the redevelopment of the School District’s property.

Chair Williams asked if a third dealership was opened would they provide a connection. Mr. James Lindsay stated that the property line touches the Abbott cul-de-sac and they could have an entrance to their dealership on that side of the property as well.

Commissioner Galang asked if there would be a new hotel built to accommodate the addition of the 168 rooms. Mr. Ellis stated that the current Days Inn will remain; the current concept is to provide a full service hotel on the western parcel in building A, but they were asked to consider something other than a hotel.

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Commissioner Galang asked if the current Chili's restaurant will remain. Mr. Ellis said they are working with the current tenants, but they are not to the point of "assigning" space.

Commissioner Galang asked if there was an entrance from Junipero. Mr. Ellis stated there was not; the limited parking is strictly for the residents and they want the residents of the condominiums to feel more apart of the neighborhood than the center; the only foreseen access from the South is for Emergency vehicles.

Commissioner Galang asked if the tallest building would be retail or office. Mr. Ellis stated that the tallest building would be building E with 6 levels and it's mixed use, with retail on the bottom levels and offices on the top.

Commissioner Galang suggested a fine dining restaurant on the top level of the tallest building. Mr. Ellis stated the plan is flexible enough to accommodate this, but they are still determining the individual tenants.

Commissioner Sandhu asked if he understood correctly, that the Chili's restaurant will not be replaced. Mr. Ellis stated that he is not in a position to answer questions about tenancy, but the ownership group is currently looking at the tenancy mix and existing leases.

Chair Williams is aware of a cell tower in the area and asked if the tallest building will work with the existing tower and if it will accommodate inconspicuous towers on the roof. Mr. Ellis stated the tower has been in consideration since the beginning of the project and the tower may need to be moved, but it will not be demolished.

Commissioner Ali expressed concern about closing the "exit" to Serra St from Calaveras.

Commissioner Ali asked if the parking garage will be visible from the neighboring residents' yard. Mr. Ellis stated that the parking garage will be visible and they are currently working on ways to make it aesthetically pleasing.

Vice Chair Mandal asked if there is a planned start date for this project or is it too early to ask the question. Mr. Ellis stated he is not the person to answer this question, but that he is aware the process with the City will take most of this calendar year.

Commissioner Galang asked if the plans indicate that the tallest building was going to have a flat screen on the side of the building. Mr. Ellis stated that it is currently in the plans.

C.C. Chen, developer, briefly mentioned the Milpitas demographics and how it provides for great retail and commercial opportunities. They have changed Architecture firms to ensure that the design is a better fit to the area and the vision of the City. They are looking at the whole picture to make the project beneficial for all stakeholders. They are striving for LEED certification, but are not promising to use particular methods (solar panels) until they are positive it is feasible. They understand the key issues: traffic, parking, environmental, etc. and that is why they have chosen this process to present the conceptual idea to the stakeholders to get feedback early on to make the project mutually beneficial. They'd like to continue with the renovation plans and improve the City.

Chair Williams mentioned that a Theatre was recently approved to be in the old Serra Theatres and asked if the concept for a Theatre was going to continue into this project, if so, was that considered in the parking calculations. Mr. Chen stated that it has been discussed, theatre on top of the market or a dinner theatre, but they are still working it out.

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Commissioner Tiernan would like to make sure the project creates something memorable, not just a cookie-cutter design, that the City can be proud of.

Vice Chair Mandal asked staff if there is recycled water access in this area. Mr. James Lindsay does not think that there is access in this area, but if there is access the City will utilize it for landscaping.

X. PUBLIC HEARING

3. SITE DEVELOPMENT PERMIT NO. SD09-0002.

Tiffany Brown, Junior Planner, presented a request to locate an accessory structure (gazebo) on the rear portion of the property located at 461 Vista Ridge Drive. Ms. Brown said the gazebo is consistent with the General Plan and Zoning Hillside Combining District. Ms. Brown recommended adopting Resolution No. 09-019 recommending approval of the project subject to the conditions of approval to the City Council.

Commissioner Ciardella asked what material is used on the pathway between the house and gazebo. Ms. Brown stated that the walkway is asphalt.

Commissioner Ciardella asked what kind of asphalt it was. Ms. Brown stated it was black asphalt.

Commissioner Ciardella asked if this gazebo and walkway were going to be screened by any shrubbery. Ms. Brown stated that current proposal does not include plants screening the walkway, but they are screening the gazebo.

Commissioner Ciardella would like a condition to have the pathway screened with shrubbery to avoid the sight of a large patch of asphalt on the hillside.

Chair Williams asked staff what situation caused this application to be coming to the Commission after it has been built. Ms. Brown stated that the City received a complaint that a gazebo had been built without the benefit of Planning Commission approval. Staff responded to the complaint and the City has been working with the applicant to bring the gazebo into compliance. Mr. Sheldon AhSing added that if the structure is smaller than a given square footage it does not require a Building permit.

Commissioner Tiernan asked what happens when someone builds something that doesn't require Building permits who later finds out there was a different review required; are there penalties. Ms. Brown stated the Code Enforcement Division handles the complaint and deferred the question to Mr. Lindsay for further clarification. Mr. Lindsay stated the Code Enforcement staff makes a site visit to confirm a violation exists and then works with the property owner to bring them into compliance. He added the City has an Administrative Review process that staff has the discretion to use, and if a property owner is not taking steps towards compliance the City can impose a fine. In this case the property owner has been working with staff to get compliance and no fines have been imposed.

Commissioner Tiernan asked if there is not a permit required was the property owner within his rights to build this structure as it is. Mr. Lindsay stated that is correct, this gazebo does not require building permits and the property owner was within their right to build it without a building permit. However, the property owner did not consult the Planning Department to verify the gazebo is within zoning regulations.

Commissioner Tiernan asked what recourse residents have when a project is built without the appropriate process. Mr. Lindsay stated that this Public Hearing is the recourse.

Commissioner Galang asked if he would need a site development permit to replace an

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existing gazebo with a taller one. Ms. Brown stated that it would depend on the property's zoning and staff recommends the individual come to the counter where a planner can look up the information for their individual property to determine the regulations.

Commissioner Galang asked what happens if there is a violation. Ms. Brown stated that Code Enforcement receives the complaint and checks with the Planning Division to see if it really is a violation. A planner looks up the property information to determine its zoning regulations and if it is a violation of the zoning ordinance.

Javier Mercado, 461 Vista Ridge Dr, mentioned that in 2008 he applied for and received permission to build a gazebo from the Home Owner's Association. He began construction, when a neighbor raised concerns about the gazebo. Mr. Mercado spoke with the concerned resident and attempted to work out the issues. When the City was following up on the neighbor's complaint, a City Building Inspector determined the structure was exempt from building permits, but expressed a concern with the property being on the hillside and stated it may require Planning approval. Mr. Mercado stated he has worked with planning staff and has submitted a complete packet for approval. Mr. Mercado also commented on the letters sent from his neighbors.

Chair Williams asked if there are already shrubs planted around the gazebo. Mr. Mercado stated there are shrubs planted and Ms. Brown showed pictures with the various views of the gazebo. Mr. Mercado added that the pathway is not asphalt it's actually gravel with a coat of the black oil sprayed on asphalt to keep the gravel from spreading; the pathway is not visible from neighboring homes or streets.

Chair Williams opened the Public Hearing.

Dan Le Vasseur, 375 Vista Ridge Dr, stated the Home Owner's Association does not post agendas to their meetings to encourage input and with Mr. Mercado being on the Board he voted on his own gazebo. Mr. Le Vasseur described several incidents in which he went thru great lengths to accommodate his neighbors. Mr. Le Vasseur stated that it doesn't matter how many shrubs are added they won't cover the roof.

Carol Peterson, 442 Vista Ridge Dr, stated she is asking the City for assistance because they cannot communicate with the Home Owner's Association. She stated that when people are in the gazebo are visible from her home and if she can see them then they can see her. She is opposed to the gazebo.

Motion to close the public hearing.

M/S: Mandal, Sandhu

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Chair Williams asked the Assistant City Attorney to clarify the Commission's role; should they follow the state guidelines. Mr. Bryan Otake explained that the Commission should review the findings and determine if the project is compliant with the zoning regulations, hillside regulations, site and architectural guidelines and California Environmental Quality Act.

Vice Chair Mandal mentioned he understands the points made by all parties and the issues with Home Owner's Association, but the Commission must review the application

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based on the rules of the Commission.

Commissioner Ciardella asked if Mr. Mercado would be willing to plant taller trees. Mr. Mercado stated he is willing to do anything except take the gazebo down

Commissioner Ali asked if the item can be continued to give the applicant and HOA time to resolve the issues.

Commissioner Tabladillo mentioned she would prefer that the Commission act on this application tonight rather than continuing the item to the next meeting.

Motion to adopt Resolution No. 09-019 approving the project, subject to the conditions of approval and the following condition added by the Commission.

1. Applicant shall plant taller trees to block the view of the gazebo from neighboring homes.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

XI. ADJOURNMENT

The meeting was adjourned at 10:05 p.m. to the next regular meeting of May 13, 2009.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Debbie Barbey
Recording Secretary

APPROVED
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