



**MEMORANDUM**

**Planning Division**

**Date:** April 13, 2016

**To:** Planning Commission Subcommittee

**From:** Bhavani Potharaju, Contract Assistant Planner

**Subject:** **Minor Site Development Permit (P-MS15-0045), Veda Temple Tower** - A request for a Minor Site Development permit to allow construction of an architectural tower and minor façade modifications on an existing industrial building.

**Location:** 473 Los Coches Street (APN: 086-28-033)

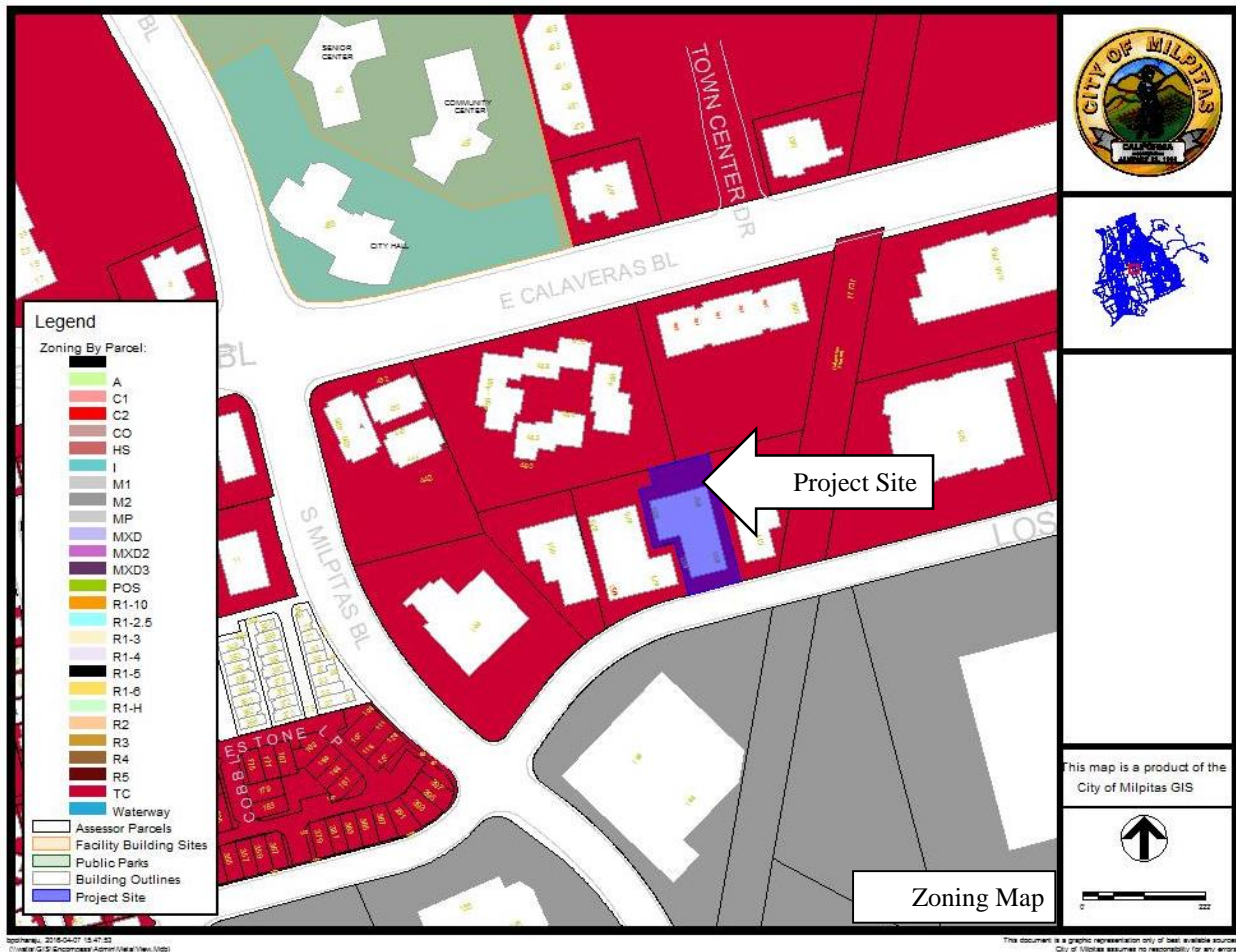
**Zoning/GP:** Town Center (TC)/ Town Center (TWC)

**Background:**

1. The project site is located at 473 Los Coches Street on a 0.78 acre parcel. The project site is bound by the Town Center (TC) Zone on north, east and west side and Heavy Industrial (M2) Zoning Designation to the south. In 2010, a General Plan amendment was granted to convert the project site from Industrial zone to Town Center zone along with a few other surrounding sites. The table below demonstrates the project’s consistency with the applicable development standards of the TC Zone.

| Standards         | Required | Proposed    | Complies |
|-------------------|----------|-------------|----------|
| Front Setback     | 20’      | 34’         | Yes      |
| Side Yard Setback | 0’       | 20’ and 15’ | Yes      |
| Rear Setback      | 0’       | 62.5’       | Yes      |
| Floor Area Ratio  | .85      | 37%         | Yes      |
| Building Height   | None     | 35’-2”      | Yes      |





2. In 2002, a use permit to allow religious assembly was granted and the existing building was purchased and converted to Veda Temple. The project is proposing architectural modifications to the building that include addition of an ornamental tower, ornamentation on the parapet and columns to the façade to replicate Ancient Indian Temple architecture. The building exterior will also be repainted.
3. The application is submitted pursuant to Milpitas Municipal Code (MMC) Table XI-10-57.03-1 (Minor Exterior Building Changes requiring Minor Site Development Permits) which requires Planning Commission Subcommittee review due to addition of significant decorative amenities within public view.
4. The project is consistent with General Plan Policy 2.a-I-17 by encouraging beautification for an existing development.
5. In approving any project subject to MMC Section XI-10-57-0301(G), the Planning Commission Subcommittee shall find all of the following:
  - a. *The development recognizes and respects the nature of the neighborhood and site, development patterns, materials used, and the expectations of those who will see and use the building;*

- The existing building was originally designed as a concrete tilt up industrial building with a tiled mansard roof. The proposed architectural tower and facade modifications transform the building to be compatible with the site conditions and use of the building. The project achieves a cohesive and harmonious design and hence will meet the expectation of those who will see and use the building.
- b. *The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials; and*
- The purpose of the architectural modifications is to refresh the building to provide greater aesthetic quality and compatibility. The proposed architectural style complements the use of the building. The proposed materials are compatible with the existing materials and help in creating a cohesive design.
- c. *The development assures that the modifications will not interfere with the privacy, quiet enjoyment or view of the surrounding properties.*
- The modifications will not interfere with the privacy, quiet enjoyment or view of the surrounding properties because the development is located within the valley floor and not located adjacent to any residential uses, where impacts could arise. The project will not negatively affect community view sheds.
6. This project is categorically exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines. Section 15301 (Existing Facilities) includes projects where interior and exterior alterations are proposed, but there is a negligible or no expansion of use.

**Recommendation:**

STAFF RECOMMENDS THAT the Planning Commission Subcommittee approve MS15-0045, Veda Temple Tower, subject to the attached conditions of approval.

*Attachments:*

- A. Conditions of Approval
- B. Project Plans

**CONDITIONS OF APPROVAL:**

1. General Compliance. The applicant, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. This Minor Site Development Permit No. MS15-0045 (“Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed.
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit.
3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
  - a. Acceptance of this Permit by Permittee; and
  - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
  - 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.
5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
6. Project Job Account. If Permittee’s project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee’s private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit.
7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the approval of

this Permit. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1).

8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Permit and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the approval of this Permit.
9. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Permit.
10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition.
13. Written Response to Conditions. The Permittee shall provide a written response to the Conditions of Approval indicating how each condition has been addressed with the building permit application submittal. **(ALL)**

14. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
15. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.
16. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission Subcommittee on April 13, 2016, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee 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 or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

- (P) = Planning
- (B) = Building and Safety
- (E) = Engineering
- (U) = Utilities
- (F) = Fire Prevention
- (CA) = City Attorney
- (PD) = Police Department