

MEMORANDUM

Planning Division



Date: July 11, 2016

To: Planning Commission Subcommittee

From: Natalie Dean, Planning Intern

Subject: **Minor Conditional Use Permit No. P-MS16-0055:** A request to allow ancillary on-premise beer and wine with no separate bar, in conjunction with a new restaurant, GEN Korean BBQ House.

Location: 500 Barber Lane, Building B, Suite 490/500, APN: 8601043

Zoning/GP: General Commercial (C2) with Recreation & Entertainment (RE) Overlay

Background:

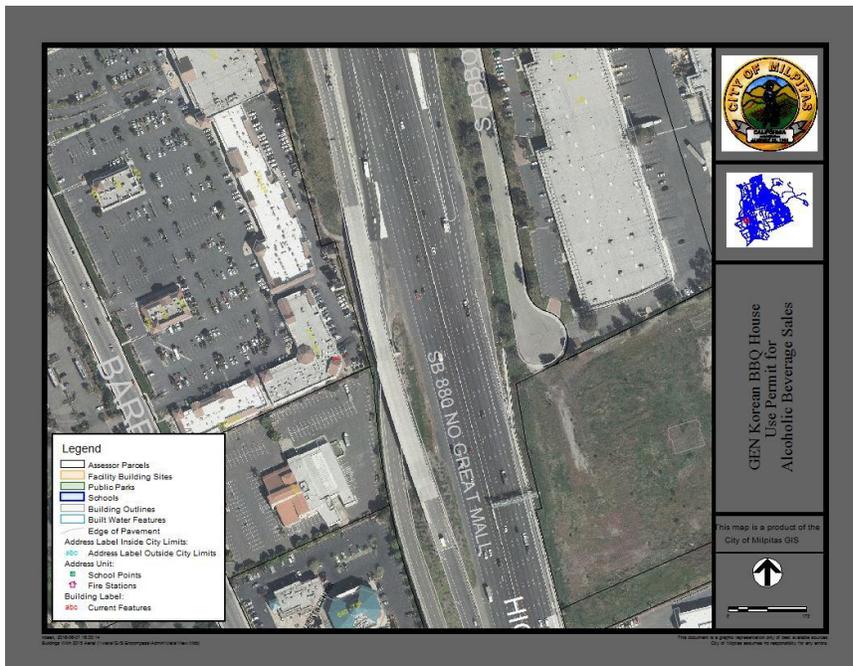
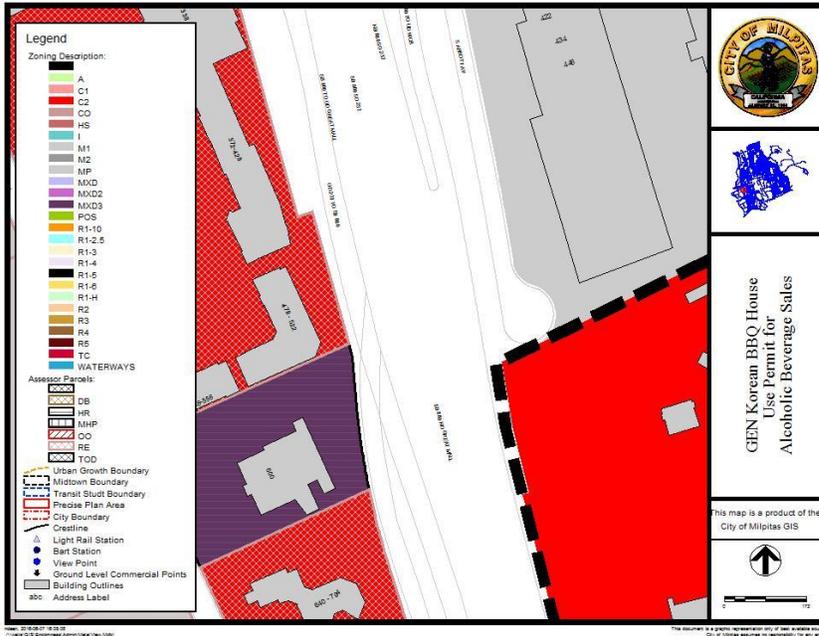
On May 10, 2016, David Kim submitted an application for a Minor Conditional Use Permit to allow the sale of beer and wine as part of the dining experience of GEN Korean BBQ House, located at 500 Barber Lane. There was an existing restaurant at the location, Hot Pot City. GEN BBQ House is currently operating as a restaurant there, though without the beer and wine license. The table below indicates the surrounding zoning and land uses.

	General Plan	Zone	Uses
Subject Site	General Commercial	General Commercial (C2) with Recreation & Entertainment (RE) Overlay	Restaurants and 99 Ranch Market grocery store
North	Highway 880 and Highway 237 interchange		
South	Boulevard Very High Density Mixed-use (BVMU)	MXD3 (Very High Density Mixed Use) with a High Rise (HR) Overlay	Vacant
East	Highway 880		
West	Industrial Park	Industrial Park (MP) with Recreation & Entertainment (RE) Overlay	Cisco Systems

The purpose and intent of the General Commercial (C2) Zoning Designation is to provide for a wide range of retail sales and personal and business services. The restaurant use in the General

Commercial (C2) Zoning designation is a permitted use, but adding beer and wine sales requires a Minor Conditional Use Permit.

Zoning, Site Location and Site Image



This application is submitted pursuant to Milpitas Municipal Code XI-10-5.02-1 (8) (Restaurants or Food Service) which requires Planning Commission Subcommittee review and approval of a Minor Conditional Use Permit for ancillary beer and wine sales as part of a restaurant (with no separate bar).

The proposed hours of operations (with beer and wine sales) are as follows:

- Sunday through Thursday 10:00am – 10:00pm,
- Friday and Saturday 10:00pm – 11:00pm.

The applicant is requesting a Type 41 On-Sale Beer and Wine License from the Department of Alcoholic Beverage Control (ABC) which authorizes the sale of beer and wine for consumption on or off the premises where sold.

According to ABC, the project falls above the maximum allotted concentration of liquor licenses authorized for the Census Tract in which this project is located (5050.06) which authorizes four (4) On-Sale and one (1) off-sale license permits and currently has twenty-eight (28) Type 41 On-Sale Beer and Wine active licenses.

In order for ABC to grant the pending license application, it must be demonstrated that the public convenience or necessity would be served by the issuance of the license, per Business and Professions Code Section 23958.4.

Based on staff's analysis, the following findings can be made ensuring the project will not be detrimental to the surrounding area and serve the public convenience or necessity:

- The proposed beer and wine sales is a complimentary service to an existing restaurant (GEN Korean BBQ House).
- The project site is located on the General Commercial (C2) Zoning Designation and is surrounded by other commercial and restaurant uses. The addition of beer and wine service at this location will provide a public convenience and necessity for the dining customers.
- Police and Fire Department reviewed and provided clearance to GEN Korean BBQ House's application for a Minor Conditional Use Permit for beer and wine service.
- As conditioned, the operator will be responsible for ensuring all employees receive "Responsible Alcoholic Beverage Service" training offered through programs established by the ABC. The operator will also be required to comply with all applicable State and other laws pertaining to the sale of alcohol.

The project is consistent with the Milpitas General Plan Economic Development policies *2.a-I-3*, which directs that the project promotes economic pursuits which will strengthen and promote development through stability and balance *and 2.a-I-7*, which directs that the project provides opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.

The project is exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) because it is an existing restaurant and the addition of on-site consumption of beer and wine in conjunction with food service is considered a negligible change in operation of an existing restaurant use.

Recommendation:

STAFF RECOMMENDS THAT the Planning Commission Subcommittee approve Minor Conditional Use Permit No. P-MS16-0055 for GEN Korean BBQ House subject to the above findings and the following attachments.

Attachments:

- A. Conditions of Approval
- B. Site Plan and Floor Plan

ATTACHMENT A

CONDITIONS OF APPROVAL

Minor Conditional Use Permit No. P-MS16-0055

A request to add beer and wine to an existing restaurant

500 Barber Lane (APN: 86-010-43)

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. This Minor Conditional Use Permit No. P-MS16-0055 shall have no force or effect 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 adoption of this Resolution. 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 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.
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.

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. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
14. 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.
15. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission Subcommittee on July 11, 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)

16. Sale and consumption of alcohol: The operator shall cease any and all sales and consumption of alcohol by 10:00pm Sunday through Thursday and 11:00pm Friday and Saturday. (P)
17. Responsible Alcohol Training: Permittee shall be solely responsible and liable for ensuring that all employees receive “Responsible Alcoholic Beverage Service” training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for copy and inspection upon City request. (P)
18. Alcoholic Beverage Control Licensing: Permittee shall at all times comply with all applicable State and other laws relating in any way to the sale of alcohol including any California Department of Alcoholic Beverage Control licensing requirements for the sale of alcohol. (P)
19. Litter and Graffiti Prevention: Permittee shall at all times maintain the subject property in a clean and orderly manner, free of litter and graffiti. All litter and graffiti shall be removed and abated on a daily basis. (P).
20. No Loitering Signs: Permittee shall install “No Loitering” signs throughout the subject property to remind customers not to loiter. Permittee shall be solely responsible to enforce the “No Loitering” requirement on the subject property. (P).
21. Advertisements: Advertisements shall be placed and maintained in a manner that ensures that law-enforcement personnel have a clear and unobstructed view of the interior of the premises. (P).
22. Primary Use of Premises: The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The Permittee shall at all times keep records that reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the City on demand.

(P) = Planning

(B) = Building (no comment)

(E) = Engineering (no comment)

(F) = Fire Prevention (no comment)

(PD) = Police

RECEIVED

MAY 10 2016

CITY OF MILPITAS PLANNING DIVISION



@ MILPITAS, CA TENANT IMPROVEMENT FOR GEN KOREAN BBQ HOUSE

MILPITAS SQUARE 500 BARBER LN. BLDG B, SUITE 490 & 500 MILPITAS, CA 95035

Architect

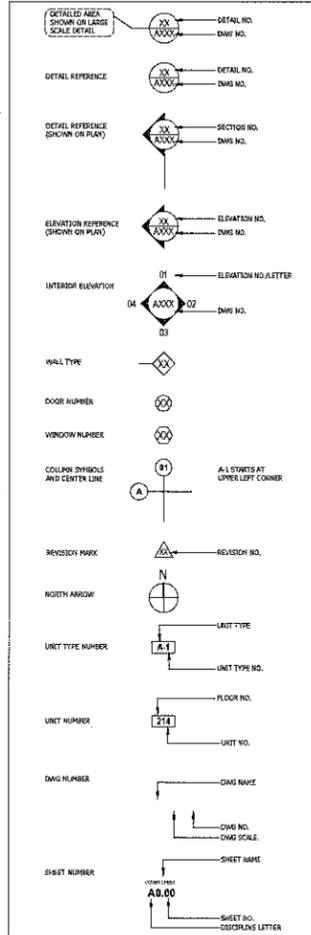


idGROUP

2641 IRVING BLVD. DALLAS, TEXAS 75207 TEL: 214-638-6800

Engineer

SYMBOL LEGEND



ABBREVIATIONS

Table of abbreviations for architectural materials and components, such as A.C. ASPHALTIC CONCRETE, A.P.F. ABOVE FINISHED FLOOR, etc.

PROJECT DIRECTORY

PROJECT OWNER: GEN KOREAN BBQ HOUSE. PROJECT DESCRIPTION: TENANT IMPROVEMENT FOR NEW GEN KOREAN BBQ HOUSE. BUILDING ANALYSIS: PROJECT DESCRIPTION, ADDRESS, RISE SPRINKLER, RISE ALARM, etc.

BUILDING ANALYSIS

PROJECT DESCRIPTION: TENANT IMPROVEMENT FOR NEW GEN KOREAN BBQ HOUSE. ADDRESS: MILPITAS SQUARE 500 BARBER LANE (MAILING: 500 BARBER COURT) BLDG B, SUITE 490 & 500 MILPITAS, CA 95035.

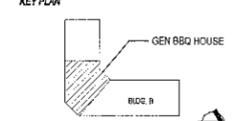
GENERAL NOTES

- 1. THE OWNER SHALL CONFORM TO THE APPLICABLE BUILDING CODES AND OTHER ORDINANCES, CODES AND REGULATIONS... 2. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR THE SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION...

SHEET INDEX

Table listing sheet numbers and titles, including ARCHITECTURAL, STRUCTURAL, MECHANICAL, HOOD DRAWINGS, ELECTRICAL, and PLUMBING.

Project: GEN KOREAN BBQ HOUSE MILPITAS SQUARE 500 BARBER LN. BLDG B, SUITE 490 & 500 MILPITAS, CA 95035



THE SEAL AND CERTIFICATE OF THE ENGINEER ARE VALID AND EFFECTIVE ONLY WHEN THE ENGINEER IS REGISTERED AND THE SEAL IS USED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF PROFESSIONAL ENGINEERS AND ARCHITECTS OF THE STATE OF CALIFORNIA.

REVISION LOG table with columns for REV, DATE, DESCRIPTION, and CITY & HEALTH COMMENTS.

Project No: 424-002. Drawn By: RC. Checked By: GS/AB. Sheet Name: COVER SHEET.

COVER SHEET A0.0

DELTA 1 - CITY & HEALTH COMMENTS: 04/08/16

APPLICABLE BUILDING CODES

- WITH CITY OF MILPITAS AMENDMENTS CALIFORNIA BUILDING CODE - 2013 CA GREEN BLDG CODE + 2014 MILPITAS MUNICIPAL CODE (AMC) CALIFORNIA ENERGY CODE 2013 CALIFORNIA MECHANICAL CODE 2013 CALIFORNIA PLUMBING CODE 2013 CALIFORNIA FIRE CODE 2013 CALIFORNIA ELECTRICAL CODE 2013

VICINITY MAP

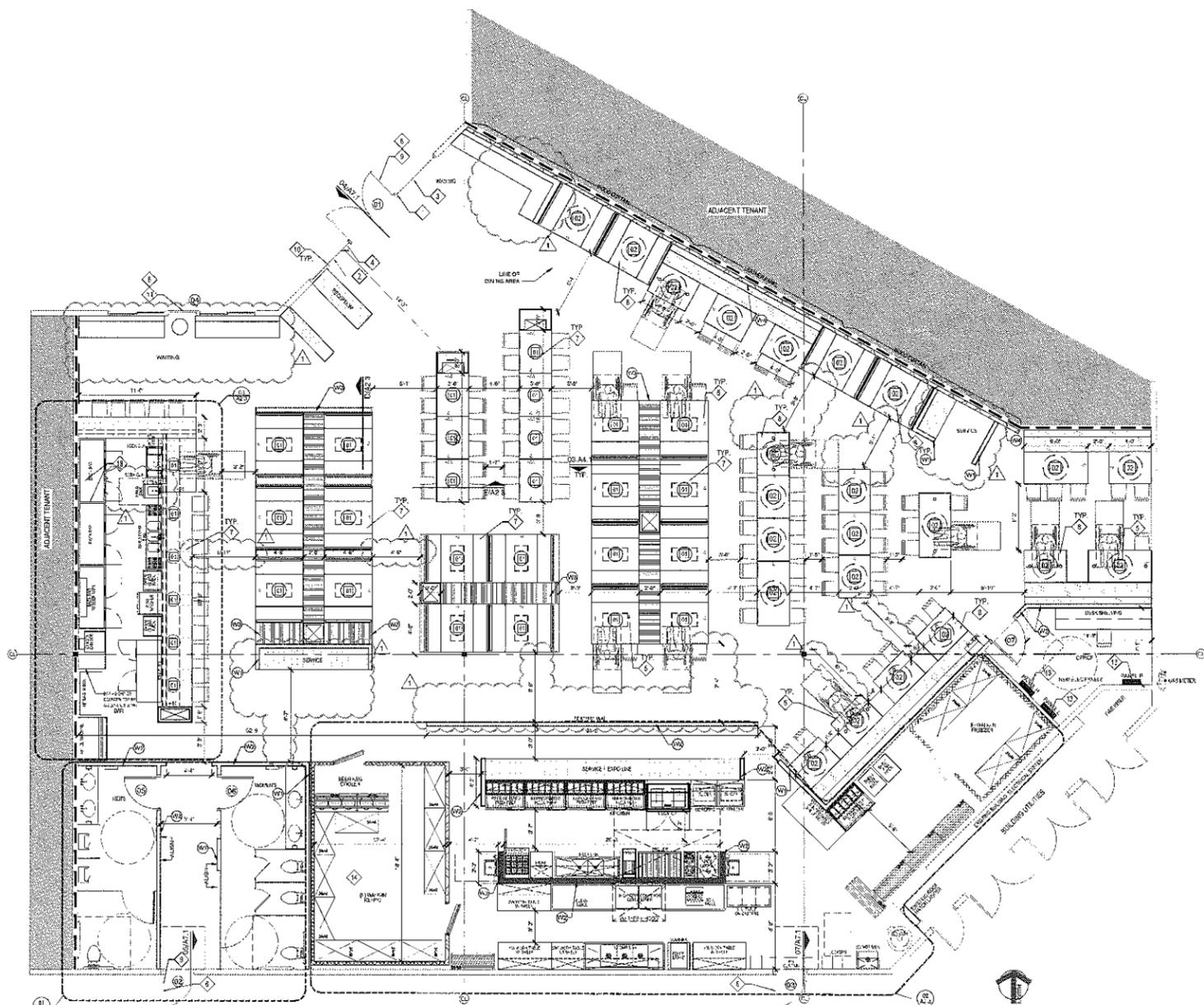


PROJECT NOTES

DIMENSION TOLERANCES SHALL BE WITHIN 1/8" MIN 3/4" MAX UNLESS OTHERWISE SPECIFIED. DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE SPECIFIED.

CALIFORNIA REQUIREMENTS

IF THERE ARE ANY TRENCHES OR EXCAVATIONS FIVE FEET OR MORE IN DEPTH INTO WHICH A PERSON IS REQUIRED TO DESCEND, THE CONTRACTOR SHALL OBTAIN THE NECESSARY PERMIT FROM THE CALIFORNIA STATE DIVISION OF INDUSTRIAL SAFETY.



FLOOR PLAN 01
Scale: 3/16" = 1'-0"

CONSTRUCTION LEGEND:

	6\"/>
	0\"/>
	0\"/>
	0\"/>
	0\"/>
	0\"/>
	0\"/>

- KEY NOTES:**
- INTERNATIONAL SIGN OF ACCESSIBILITY
 - TACTILE EGRESS SIGN WORDINGS ON EACH SIGN SHALL BE MARKED IN BOTH ENGLISH AND CONTRACTED GRADE 2 BRAILLE, AND THAT MOUNTING LOCATION HEIGHT, CHARACTER SIZE, STROKE, SIGN AND LETTERING COLOR, ETC. SHALL BE PER CBC SEC. 107.1.4.
 - PER CBC SECTION 1004.5.3.2 PROVIDE A SIGN IN CONTRASTING LETTERS OF 1" OF MORE AT THE DOORS STATING "THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED"
 - OC. PAINT LEAD SIGN "MAXIMUM 015 PCB'S/CY"
 - NO SPACE MIN. 1" MIN. DOORS SEC. 100.3 PROVIDE 4" MIN. CLEARANCE AT LEAST 27" HIG. 18" DEEP AND 30" WIDE. TYP. FOR ALL H.C. SPACE PROVIDED
 - ALL EXISTING DOORS SHALL HAVE A MINIMUM SIZE OF 3'-0" x 6'-11" SEE A7.1 FOR DOOR SCHEDULE
 - NEW TABLE TOP BBQ CELL W/ DOWN DRAFT SYSTEM. SEE SPEC & MECH. DWG FOR DETAIL. (MODE. # 0834-03) [02]
 - NEW TABLE TOP BBQ CELL W/ HOOD SYSTEM. SEE MECH. DWG FOR DETAIL. [02]
 - EGRESS DOORS OR GATES SHALL BE OPENABLE FROM THE EGRESS SIDE WITHOUT THE USE OF A KEY, SPECIAL KNOWLEDGE, OR EFFORT. DOOR HANDLES, PULLS, LATCHES, LOCKS, AND OTHER OPERATING DEVICES SHALL BE INSTALLED 34" TO 48" IN ABOVE THE FINISHED FLOOR. MANUALLY OPERATED PULLS BOLTS OR SURFACE BOLTS ARE NOT PERMITTED. THE UNLATCHING OF ANY DOOR OR LEAF SHALL NOT REQUIRE MORE THAN ONE OPERATION (CBC SEC. 1009.3)
 - ALL EXISTING EXTERIOR WINDOWS ARE FIXED WINDOWS.
 - EXISTING EXTERIOR DOOR TO REMAIN LOCKED.
 - COUNTER TOP HEIGHT TO MATCH ADJACENT BACKBAR
 - NEW ELECTRICAL PANELS.
 - NEW WALK-IN COOLER.

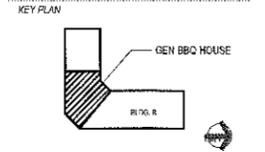
- FLOOR PLAN NOTES:**
- IF NOT EXISTING, DEMISING WALLS ARE TO BE CONSTRUCTED OF 6" METAL STUDS, HAVE A MINIMUM ONE (1) HOUR FIRE RATING AND COMPLY WITH LOCAL FIRE CODES UNLESS OTHERWISE STATED BY THE PROJECT MANAGER. EXTEND WALLS TO FLOOR DECK AND SEAL WITH FIRE CAULK AT TOP AND BOTTOM OF WALL AND AROUND ALL PENETRATIONS OF THE WALL. INSULATE WITH R-19 BATT INSULATION.
 - PROVIDE METAL WALL END CAPS THAT MATCH THE STOREFRONT FRAMING COLOR AND FINISH WHERE DEMISING WALLS MEET STOREFRONT. DO NOT SCREW METAL END CAP TO WINDOW MULLIONS. SEAL JOINT BETWEEN MULLION AND END CAP WITH CLEAR SILICON CAULK. THE SPACE BETWEEN THE WINDOW MULLIONS, GLASS AND NEW DEMISING WALL ARE TO BE CLEAN AND FREE OF DEBRIS PRIOR TO INSTALLATION OF THE METAL END CAP.
 - GYP-SUM BOARD INSTALLED IN WET AREAS SUCH AS KITCHENS AND RESTROOMS SHALL BE AT LEAST WATER RESISTANT (GREEN BOARD) OR AN EQUIVALENT WATER PROOF SHEETING MATERIAL.
 - ANY WORK THAT HAS THE POTENTIAL TO DISRUPT NORMAL BUSINESS ACTIVITY OF ADJACENT TENANTS MUST BE PERFORMED OUTSIDE OF THEIR OPERATING HOURS. ONLY GUEST WORK CAN TAKE PLACE DURING ADJACENT TENANTS' OPERATING HOURS. GO SHALL COORDINATE WITH TENANT AND PROPERTY OWNER FOR ADDITIONAL INFORMATION.
 - REFERENCE AS 3.5.4 FOR OTHER ACCESSIBILITY REQUIREMENTS.
 - INTERIOR FINISH MATERIALS APPLIED TO WALL AND CEILING SHALL BE TESTED AS SPECIFIED IN CBC SECTION 903 IN ACCORDANCE WITH ASTM E 84. (CBC SECTION 903.1 & TABLE 903.1)
 - THE FLAME-SPREAD RATING OF PANELING MATERIALS ON THE WALLS OF THE CORRIDOR, LOBBY AND EXIT ENCLOSURE SHALL BE AS FOLLOWS: (CBC TABLE 903.9)
 - EXIT ENCLOSURES & EXIT PASSAGEWAYS: CLASS B
 - CORRIDORS: CLASS B (LOBBY AREAS SHALL NOT BE LESS THAN CLASS B)
 - ROOM & ENCLOSED SPACES: CLASS C (CLASS C IS PERMITTED FOR OCC. LESS THAN 500)
 - 28" TO 34" AFF. WORK TABLE PER CBC SECTION 1122B.



Engineer:

Project: **GEN KOREAN BBQ HOUSE**
MILPITAS SQUARE
500 BARBER LN.
BLDG. B, SUITE 490 & 500
MILPITAS, CA 95035

Project Owner: **GEN**
11480 South St. Suite 205
Carmichael, California 95703
David@20xx@gmail.com



NO.	REV. / REVISIONS	DATE
1	CITY & BATH CORRECTIONS	04-08-18

Project No: 424-002
Drawn By: RC
Checked By: GS/AB
Sheet Name:

FLOOR PLAN
Sheet No. **A2.1**

DELTA 1 - CITY & HEALTH COMMENTS: 04/08/18

BAR EQUIPMENT SCHEDULE												
NO.	DESCRIPTION	MANUFACTURER	MODEL NO.	BASE/INSTALLATION	VOLTS	PHASE	WIRE SIZE	CONDUIT	DRAIN	BTU	SIZE	REMARK
											L x D x H	
B1	UNDERBAR OPEN GLASS RACK	CHALLENGER	CRK-24	6" LEGS							24" x 24" x 34"	
B2	UNDERCOUNTER DISHWASHER (CHEMICAL)	DA	1800	6" LEGS	208V	1	12	1 1/2"			24" x 24" x 34"	
B3	UNDERBAR 3-COMP SINK W/ 10" D.B. BOTH SIDES	SUPREME METAL	BLU-LINE # BL-3-4IC	10" LEGS							30" x 24" x 34"	
B4	UNDERBAR 3-COMP SINK W/ 10" D.B. BOTH SIDES (W/ SOAP DISPENSER & FLASH GUARD 3 SIDES)	SUPREME METAL	CHALLENGER 3-60-13-TSL	14" LEGS							36" x 24" x 34"	TO INSTALL PAPER TOWEL DISPENSER PER CODE
B5	TEA DISPENSER	COCA-COLA	IC CODE 4886	6" LEGS							18" x 18" x 28"	
B6	UNDERBAR ICE BENCH STATION (ICE CHEST, ICE MAKER (ICE STYLE), CRESCENT CUBE)	SUPREME METAL	BLU-LINE # BL-3-4	10" LEGS							30" x 24" x 34"	
B7	WATER TAP	COCA-COLA	400-001	WALL MOUNT							6" x 6" x 12"	
B8	2 SOGA GUN	COCA-COLA		WALL MOUNT							6" x 6" x 12"	
B9	2 BACK BAR 2-DOORS	TURBO AIR	TR-200	CASTERS	115V	1	7	3/4"			18" x 18" x 18"	SELF CONTAINED
B10	ICE MAKER (ICE STYLE), CRESCENT CUBE	WHIRLPOOL	WM-1905AH	ICE MACHINE HEAD	208-240V	1	14	3"	3/4" F.S.		48" x 24" x 34"	SELF CONTAINED
B11	2 HEAVY DUTY DUNNAGE RACK (BEER & REG.)	SSW	99-000	6" LEGS							48" x 24" x 34"	16-GH PER PLAN
B12	UNDERCOUNTER G.V.CAL. COOLER FOR BEER	SSW GROUP	EXTRA 10	6" LEGS	115V	1	20	3/4"			36" x 24" x 34"	
B13	BEER TAP TOWER (12 TAPETS PASS THRU 4" SCHEDULE 40)	SSW GROUP	RTN-1000	ON COUNTER							48" x 7" x 17 1/2"	

KITCHEN EQUIPMENT SCHEDULE												
NO.	DESCRIPTION	MANUFACTURER	MODEL NO.	BASE/INSTALLATION	VOLTS	PHASE	WIRE SIZE	CONDUIT	DRAIN	BTU	SIZE	REMARK
											L x D x H	
K1	2 PROF. PREP. REFRIG. (C. 20)	WHIRLPOOL	WFR-4830	CASTERS	115V	1	8.3	1 1/2"			45" x 18" x 30"	SELF CONTAINED
K2	2 UNDERCOUNTER REFRIG. (H. 18)	WHIRLPOOL	WFR-2430	ON EQUIPMENT STND	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K3	2 HEAVY DUTY SLICKER (A. 10)	WHIRLPOOL	WFR-1224	ON EQUIPMENT	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K4	2 UNDERCOUNTER REFRIG. (H. 18)	TURBO AIR	TR-200	CASTERS	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K5	2 HEAVY DUTY SLICKER (A. 10)	TURBO AIR	TR-200	ON EQUIPMENT	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K6	2 HAND SINK W/ 20" ASH GUARD 3 SIDES PROVIDE SOAP DISPENSER & PAPER TOWEL DISPENSER BY SWISHER	SSW	RS-1015SS	WALL MOUNT							18" x 24" x 34"	
K7	2 HAND SINK 2-COMP W/ 10" D.B.	TURBO AIR	TR-200	6" LEGS							30" x 24" x 34"	
K8	2 WALL MOUNTED SHELF	GREEN WORLD	7015-124	WALL MOUNT							36" x 12" x 12"	
K9	2 ALUM. 8" x 8" x 12"	WHIRLPOOL	WFR-1224	CASTERS	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K10	2 FOOD PREP. REFRIG. (MESA TOP, 1/2 1/2 HZ)	TURBO AIR	TR-200-12	CASTERS	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K11	2 FOOD PREP. REFRIG. (MESA TOP, 1/2 1/2 HZ)	TURBO AIR	TR-200-12	CASTERS	115V	1	8.3	1 1/2"			27" x 12" x 30"	SELF CONTAINED
K12	2 HEAVY DUTY HOT PLATE (GAS)	FRIG	HRP-122	6" LEGS							24" x 24" x 34"	
K13	2 FRYER (GAS)	FRIG	HRP-122	6" LEGS							24" x 24" x 34"	
K14	2 HEAVY DUTY COUNTER TOP RADIANT BURNER (GAS)	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K15	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K16	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K17	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K18	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K19	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K20	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K21	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K22	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K23	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K24	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K25	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K26	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K27	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K28	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K29	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K30	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K31	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K32	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K33	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K34	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K35	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K36	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K37	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K38	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K39	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K40	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K41	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K42	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K43	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K44	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K45	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K46	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K47	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K48	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K49	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K50	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K51	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K52	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K53	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K54	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K55	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K56	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K57	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K58	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K59	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K60	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K61	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K62	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K63	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K64	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K65	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K66	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K67	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K68	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR
K69	2 3" EQUIPMENT STAND FOR COUNTER TOP COOKING	WHIRLPOOL	WFR-1224	ON 3" EQUIPMENT STAND	115V	1	8.3	1 1/2"			27" x 12" x 30"	PROVIDE A GAS QUICK DISCONNECTOR

MEMORANDUM

Planning Division



Date: July 11, 2016

To: Planning Commission Subcommittee

From: Natalie Dean, Planning Intern

Subject: Minor Site Development Permit No. P-MS16-0060: A request for a Minor Site Development permit to allow the demolition and construction of a storage canopy at KLA Tencor Building 7.

Location: 7 Technology (APN: 086-43-026)

Zoning/GP: Light Industrial (M1)/Highway Services (HWS)/Recreation and Entertainment Overlay

Background:

On May 25, 2016, the applicant for an existing semiconductor equipment and software system company, KLA Tencor, submitted a request for a Minor Site Development Permit to demolish an existing 1,200 square foot exterior canopy structure and its associated concrete pier foundations to allow the construction of a new larger 7,488 square foot canopy structure on the northwest adjacent side of Building 7 of the campus. Construction of the new canopy will result in the loss of 23 parking spaces. Adequate parking will still be provided onsite. One of the lost parking spaces will be converted into a planter due to the removed area to extend a walk-way.

The project site is located at 7 Technology Drive, an 8.27 acre parcel. The project site is bound by Park Open Space and Highway 237 to the north, Light Industrial (M1) to the east, Coyote Creek to the west, and Multi-Family Residential (R4) to the south. The table below indicates the surrounding zoning and land uses.

	General Plan	Zone	Uses
Subject Site	Highway Services (HWS)	Light Industrial (M1)	KLA Tencor-Semiconductor and Software Development
North	Park and Open Space (POS)	Park Open Space (POS)	Green open space
South	Very High Density (VHD)	Multi Family Residential	Residences

East	Highway Services (HWS)	Light Industrial (M1)	KLA Tencor-Semiconductor and Software Development
West	Coyote Creek		

- The purpose and intent of the Light Industrial (M1) zoning designation is to accommodate construction, use, and occupancy of buildings and facilities for office, research, limited and light manufacturing, and other uses compatible with the district.
- KLA Tencor is located within the M1 Zoning designation and is a permitted use.

Zoning, Site Location and Site Image



This application is submitted pursuant to Milpitas Municipal Code Table XI-10-57.03-1 Additions or Alterations Requiring Minor Site Development Permits (Equipment & Service Enclosures) which requires Planning Commission Subcommittee review and approval of a Minor Site Development Permit to construct a storage canopy.

In approving any project subject to MMC Section XI-10-57-0301(G), the Planning Commission Subcommittee shall find all of the following:

- 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;
- Analysis: The proposed location for the 7,488 square foot canopy is on the side of the existing KLA Tencor Building 7 building and is not directly visible from Technology Drive. The scope of work takes the surrounding area and materials used into consideration by meeting the intent of the Light Industrial zoning designation and maintains light industrial-like amenities.
- The development assures that modifications satisfy functional requirements, and are screened with appropriate compatible materials;
- Analysis: The purpose of the 7,488 square foot canopy is for the shipping and receiving operations in housing electronic components and machinery being shipped and/or received at the campus;
- The development assures that the modifications will not interfere with the privacy, quiet enjoyment or view of the surrounding properties.
- Analysis: The 7,488 square foot canopy construction and use will not interfere with the privacy, quiet enjoyment or view of the surrounding properties. The site is located within the valley floor and therefore will not impact any views on scenic routes or vistas.
- The project is exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) because it is an existing site and the addition of the six foot chain link fence around an existing nine foot nitrogen tank on a twelve foot x twelve foot concrete pad is considered a negligible change in operation of an existing Industrial use.

Recommendation:

STAFF RECOMMENDS THAT the Planning Commission Subcommittee approve P Minor Site Development Permit (P-MS16-0060), KLA Tencor Building 7- A request for a Minor Site Development permit to allow the demolition and construction of a storage canopy.

Attachments:

- A. Conditions of Approval
- B. Site Plan

CONDITIONS OF APPROVAL:

Minor Site Development Permit No. P-MS16-0060

A request for a Minor Site Development permit
to allow the demolition and construction of a storage
canopy at KLA Tencor Building 7 APN: 086-43-026
General Conditions

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. P-MS16-0060 (“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 approval 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.
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.
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. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
14. 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.
15. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission Subcommittee on July 11, 2016, in accordance with these Conditions of Approval.
16. 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)
17. 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)
18. If this site is currently using recycled water, the modification of the existing recycled water irrigation system will merit a plan review by Milpitas, South Bay Water Recycling, and the State. Submit irrigation system modification drawings (U).

(P) = Planning

(B) = Building and Safety

(E) = Engineering

(U)= Utilities

(F) = Fire Prevention

(CA) = City Attorney

(PD) = Police Department