CITY COUNCIL TRANSPORTATION & LAND USE SUBCOMMITTEE Unapproved Meeting Minutes

Date/Time: Monday, March 2, 2009, 3:00 pm

Where: Milpitas City Hall, Committee Conference Room

Attendants: Mayor Bob Livengood, Council Member & Chair Debbie Giordano

Quorum was established

---

1. Call to order

2. Public Forum ***Please limit comments to 3 minutes***

There were no comments during Public Forum

3. Approval of agenda

The Subcommittee approved the agenda

4. Receive attached report on Valley Transportation Authority's Community Based Transportation Plan (*note receipt & file*).

Janice Spuller, Assistant Transportation Planner, reported the Metropolitan Transportation Commission (MTC) identified Milpitas as a "community of concern" based on diversity and income and has charged the Valley Transportation Authority (VTA) to work with the City of Milpitas to create a Community-Based Transportation Plan. The 6-month effort will consist of community outreach to Milpitas public groups to ask their needs which may include community bus service, improved bus service, and pedestrian and bicycle needs. Three meetings will be held on March 17, at the new Library, April 2 and May 28 at City Hall. Ms. Spuller stated staff will come back to the Subcommittee to provide a status update. The Plan will be complete by August and any bus service changes will be implemented in the fall when the VTA does their biannual changes.

Mayor Livengood sees there are potential plans for how to use this plan. He would like to include the Great Mall as an economic center of the City in conjunction of the hotels and other uses. He would like to use this as an economic development type of improvement. There is a lot of discussion of shuttles from the Great Mall to the outlying hotels.

5. Receive attached report on community outreach for the Park Victoria Drive and Kennedy Drive Resurfacing Projects (*note receipt & file*).

James Lindsay, Planning & Neighborhood Services Director, requested this item be tabled until the next meeting due to the absence of the City's Traffic Engineer. There was small discussion on the item and

Council member Giordano asked if resurfacing items will be on future agendas. Greg Armendariz, City Engineering / Public Works Director explained the lane reduction of the N. Park Victoria Project. In the future, when there are resurfacing projects, bike facilities will also be included in the striping plan.

Mayor Livengood wanted to alert staff that losing two dedicated lanes, or at least one, would be an issue that would require City Council discussion. In the past, the Council looked at expanding the roadway. Council Member Giordano agreed that she has concern about being regressive instead of progressive.

Mr. Armendariz highlighted there are some improvement with the lane reduction as it provide ample width for the bicycle lanes on each side and provides a protected center turn lane which allows for safer left turns into the residential streets.

6. Recommend to the City Council terms for assisting the Integral Communities mixed-use project (*staff recommendation provided in attached memo).*

Mr. Lindsay introduced the project. The City hired Economic Planning Systems (EPS) to assist with the financing portion of this project. EPS put together the financing package for the Transit Area Specific Plan and has experience throughout the state.

Mr. Lindsay described the Integral Communities project, located on McCandless Drive. The project will consist of 1,573 residential units and 92,000 square feet of new retail space, which would include 15,000 to 42,000 square feet reserved for grocery, and 3.6 acres of new public open space.

Mr. Lindsay introduced Walter Kieser from EPS to present the financing and tax proposal. Integral is requesting a maximum of $70 million in cost reimbursement from tax increment from bond proceeds. This amount would come from a combination from a Community Facilities District (CFD) and Tax Allocation Bonds (TABs). TABs would be issued and the tax increment would not be issued and would be paid by the owner. Mr. Kieser discussed the cost reimbursement, CFD bonds, and Tax Allocation Bonds. Staff finds this project good and consistent with the Transit Area Specific Plan; however they are not convinced the full amount of tax increment is balanced with public benefits and demonstrated needs for this funding. The project is revenue-neutral because of it's location in the RDA which required a CFD for services.

Mayor Livengood asked Mr. Lindsay if this project does not proceed, what will happen to the proposed school and park land. Mr. Lindsay said the council would have to decide if they are willing to purchase the McCandless site, which could be independent of the Integral project and requested the additional density. If the City purchases this site it would require transferring the 211 unit density into their project. If the project is not built immediately, the open space area and public trails may or may not be constructed near Penitencia Creek. Staff feels this area would be developed over time, but it may take longer.

Council Member Giordano asked how the 211 units be added to the project. Mr. Lindsay said the plans the applicant submitted include these units. The type of construction would be similar to the east-side of Abel Street where the units are built on top of the parking lot.

Evan Knapp of Integral requested to share a prepared statement and PowerPoint presentation thanked the Council Subcommittee and Staff for taking the time to review this project. Integral feels this project is consistent with developing the area around the Great Mall and bring BART to Milpitas.

How much of the project own self-generated tax should be used to offset development cost such as affordable housing, grocery store, parking, and construction of transit area plan improvements. Use of the tax increment is one of the uses RDA was created. Mr. Knapp reviewed community benefits such as creating 3,500 jobs during construction, and 343 permanent retail related jobs, and annual sales tax revenue at build-out of $456,000. Reimbursement will not be made until construction and improvements are completed. No cost or completion risk to the City.

Council Member asked what percentage of this project is utilizing the units of the Transit Area Plan. Mr. Lindsay said it's about 23% of the 7,000 units planned in the Transit Area Plan and about half of the anticipated Phase 1 of the units in the Transit Area.

Mayor Livengood questioned the delta between the applicants' request of $197 M versus staff's commitment of $70M. Mr. Keys confirmed that the amount is $70M in today's dollars. The $197 M is what the City will spend over thirty years including interest payments.

Mayor Livengood asked for other examples in the City where he can gauge the cost per unit. Mr. Lindsay referenced is the KB Homes Terra Serena project with 683 dwelling units. The Council set aside $20M of RDA funds to deal with development constraints for the Elmwood property. This also helped with the public infrastructure and other objectives. This amounts to $30,000 per unit. The Integral project is estimated at $45,000 per unit, however staff does not think the same level of improvements are comparable with the KB project.

Assuming there were equal benefits, Mayor Livengood asked what $30,000/unit would be amounted to. Mr. Lindsay stated about $47million.

Mayor Livengood requested explanation of having one property owner in a CFD and what if a property owner cannot commit to this investment. Mr. Knapp introduced Cathy Rose from RSG and Ursula Highmen from the Law firm Laythem and Watkins to comment to single-owner CFDs. Ms. Highmen said that for this case, when the development is built out, a lender has a lot of interest in ensuring this project does not get foreclosed. In addition, jurisdictions ask for a letter of credit supporting a year or two of taxes, with a reserve fund, then foreclosure.. If the market is accepting single-property CFDs, it is Integrals risk, not the City's.

Integral is assuming the market will allow single-property CFD and be receptive once money is put into the project. Integral is confident that the combination of the market requiring additional security and the conditions will provide plenty of security.

Ms. Highman also clarified the interest risk taken could only be $130 M or could be higher and can vary at each phase.

Mr. Knapp said you have to make assumptions when preparing a plan like this. It is important that Integral takes the risks with interest rates and debt, not the City. The construction cycle is 8-year and they need for the market to be better. He feels this is an acceptable level of risk to take and is prepared to do so.

Mayor Livengood discussed prevailing wage and the assumption that public money involved for this project in a RDA, the City and state policy would involve wage. Attorney Bryan Otake stated the prevailing wage should apply to this project unless there are certain safe harbors. Staff is working closely with applicant's staff to find ways which they could present various types of public funds. The way the applicant has structured this deal in terms of agreements and physical structure are important. The City Attorney's office is concerned that this entire project might be subject to prevailing wages.

Mr. Keiser stated this would increase construction costs.

Mr. Knapp added they agree that major portions of this project would require prevailing wages, but they ask that the Department of Industrial Relations, a state body, be allowed to rule on this and direct them what to do. Integral will absolutely comply and request language in the OPA that states prevailing wage.

Staff recommends the Subcommittee supports assisting the project by completing the purchase of the 4.8 acre McCandless park site at approximately $15 million) and transfer the density to Integral (equal to 211 additional units) allowing them to reach their target of 1,573 units.

Council member Giordano requested clarification if this presentation will be made to the Council if the Subcommittee moves this forward. Mr. Lindsay reported it can go to the Planning Commission then the City Council, however upon recommendation of the subcommittee, in a Memorandum of Understanding between the applicant and the City can serve as a term sheet to craft legal agreements that would be brought forward to the Planning Commission then City Council.

Mayor Livengood asked what the cost per unit for the $15 M staff recommended contribution. Mr. Lindsay stated about $9,500 per unit. Mayor Livengood restated his position: this project is exactly what the City wanted in a Transit Area Specific Plan. His biggest concern is the amount of subsidy needed between the staff proposed $9,500 and applicant-proposed $45,000. He suggests staff and the

applicant to get together and find an amount that works before revisiting. He would like to keep this project alive and moving forward.

Council Member Giordano feels time is of the essence and suggested staff start preparing the legal agreements.

Mr. Knapp stated he thinks the vision of the transit area plan is bar-none. Mr. Knapp stated he is not sure if Integral can do this project at less than their request.

7. Other business

There was no other business.

8. Set time and date for next meeting: Monday, April 6, 2009, 3:00 PM

9. Adjourn

M E M O R A N D U M

Department of Planning & Neighborhood Services

To: Transportation & Land Use Subcommittee

From: James Lindsay, Planning & Neighborhood Services Director

Subject: **Serra Center Redevelopment Proposal**

Date: April 1, 2009

On March 26th, we received the Preliminary Application submittal for the proposal to redevelop the Serra Center. This is a proposed mixed-use development that would incorporate retail, office, hotel, and residential uses as shown below:

Retail	277,061 sq.ft.
Restaurants	58,404 sq.ft.
Office	235,949 sq.ft.
	571,414 sq.ft.

Residential	45 units
Hotel	291 rooms (includes existing Days Inn)

The plans submitted with the Preliminary Application are attached. The applicant has made a number of design changes from the conceptual plans shown to staff last summer. These changes include opening up the project to create a pedestrian friendly street down the middle of the site, removal of high-rise residential towers, reconfiguration of the proposed hotel, and the substitution of upper-floor retail uses with upper-floor office uses.

The applicant will make a presentation at the Subcommittee meeting to receive comments on their proposal. Staff has tentatively scheduled similar presentations for the Planning Commission at their April 22nd meeting and the City Council at their May 5th meeting. A community meeting could also be scheduled in late May.

Planning staff will direct an EIR to 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.

Perkowitz+Ruth
ARCHITECTS

MEMORANDUM

Date: March 26, 2009

To: Derek Farmer
CITY OF MILPITAS

From: Kirk Ellis, Director of Design Administration/Associate
PERKOWITZ+RUTH ARCHITECTS

Project: **SERRA CENTER** Project No.: 08-249

Re: **SERRA CENTER DESIGN BRIEF** File No.: 2.1

Milpitas is a city that possesses the benefits of regional attention for its Silicon Valley corporations while at the same time maintaining its town center. The Serra Center mixed-use project is positioned to bridge both aspects of Milpitas, literally and figuratively. The location of the project is within the Milpitas Midtown Specific Plan and thus a part of the City's vision for enlivening the core by incorporating a Gateway Office zoning overlay district. By presenting a progressively designed façade of varying heights to Calaveras Boulevard, Serra Center will fulfill the "Gateway" characteristic of the General Plan. The landmark feature along this high traffic corridor will be the office building "prow" reflecting the sunset for all along Calaveras to appreciate.

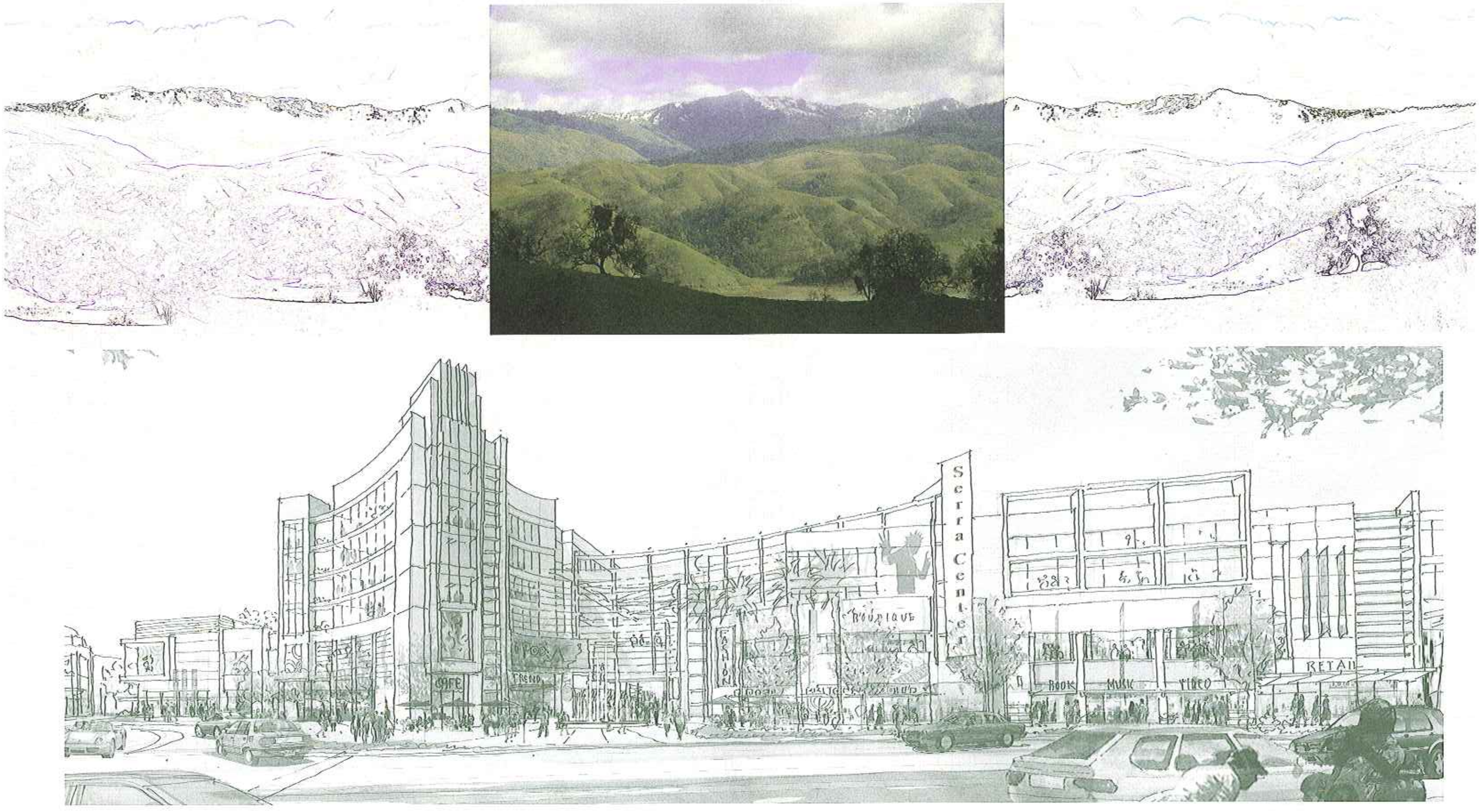
The land plan's rational and efficient site allows vehicles to move directly to a central parking structure, thus leaving "Main Street" as the primary domain of pedestrians. This "Main Street" runs longitudinally from Abbott to Abel creating 4-sided blocks of two-story retail – all oriented to walkable streets. A mid-rise hotel anchors the western edge, consistent with the character of the corporate campuses across I-880. At the eastern edge, a neighborhood specialty market brings the mass of the project down to neighborhood scale. The four main lifestyle retail blocks fronting Calaveras and "Main Street" are uniquely designed to maintain building code requirements for exiting while providing storefronts at ground level and glazing into each retail space at the second level. The project will orient to the street, showing all of the activity, lighting and display of the shops and restaurants.

Following the City's General Plan, the upper floors of the central blocks will incorporate two floors of office space above the retail, rising to six-stories at the "prow". The office will be accessed from street level lobbies with elevators that also connect to skywalks from the central parking structure at the upper retail level. This intentional connection and overlap of access paths will engage all users of the center. One of the many highlights of the project will be a 40,000 square foot signature restaurant with a large amount of private dining over 2 floors facing to the northeast corner of the site. Careful design has accommodated fire and service access without diminishing the pedestrian experience.

Whereas the main blocks of the Serra Center create a walkable mixed-use experience, we realize the importance of transitioning the project thoughtfully to the existing neighborhood to the south. The Serra Center side of Junipero will provide 3-story residential units fronting to the street. Parking for these units will be behind the structures creating a buffer to the project. In this way Serra Center will complete Junipero with like-kind residential, focusing the activity of the mixed-use area to Calaveras.

The massing of the project varies, creating dominant and subservient pieces. Likewise, the aesthetic of the elevations will have an overarching progressive/contemporary approach while highlighting several facades within each building resulting in a rhythmic composition. With this unique location, the design intent for the project is to provide services and entertainment to its surrounding residents, while at the same time present a vision of the City that is uniquely Milpitas. The combination of activities and uses throughout the well-integrated site will achieve the goals of the Specific Plan and provide a commercial development that will compliment the City.

H:\2008proj\08_249 Serra Way, Milpitas\Documentation\2_Communication\09_0326 design brief.doc



Perkowitz + Ruth
ARCHITECTS

SERRA CENTER MIXED USE DEVELOPMENT

Milpitas, California

Serra CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

AERIAL VIEW LOOKING WEST BY SOUTHWEST

SHEET INDEX

00 COVER SHEET
01 SHEET INDEX & SITE INFORMATION
02 CONCEPTUAL VIGNETTE - CALAVERAS
03 GROUND FLOOR PLAN
04 2ND FLOOR PLAN
05 3RD FLOOR PLAN
06 4TH, 5TH, & 6TH FLOOR PLANS
07 CONCEPTUAL VIGNETTE - MAIN STREET
08 CIRCULATION DIAGRAM
09 SECTIONS
10 VIGNETTES
11 AREA & PARKING SUMMARY
12 SOURCE IMAGES
13 SOURCE IMAGES

VICINITY MAP

SITE
NTS

RECEIVED
MAR 2 6 2009
CITY OF MILPITAS
PLANNING DIVISION

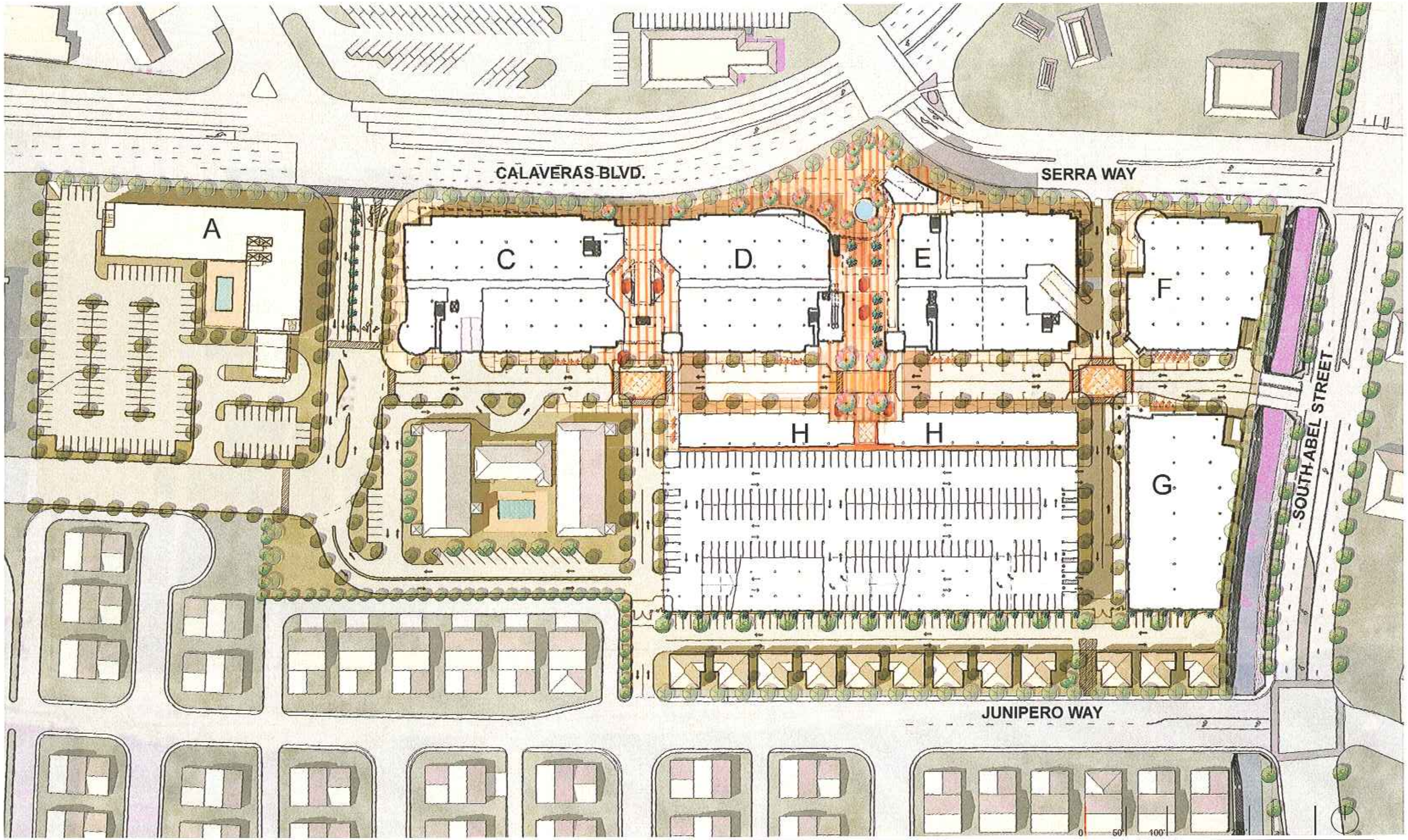
Perkowitz+Ruth
ARCHITECTS
Long Beach, CA (562)624-8800 www.prarchitects.com

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

Project
Serra CENTER
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

CONCEPTUAL VIGNETTE
CALAVERAS BLVD.
MARCH 25, 2009

02
08.249



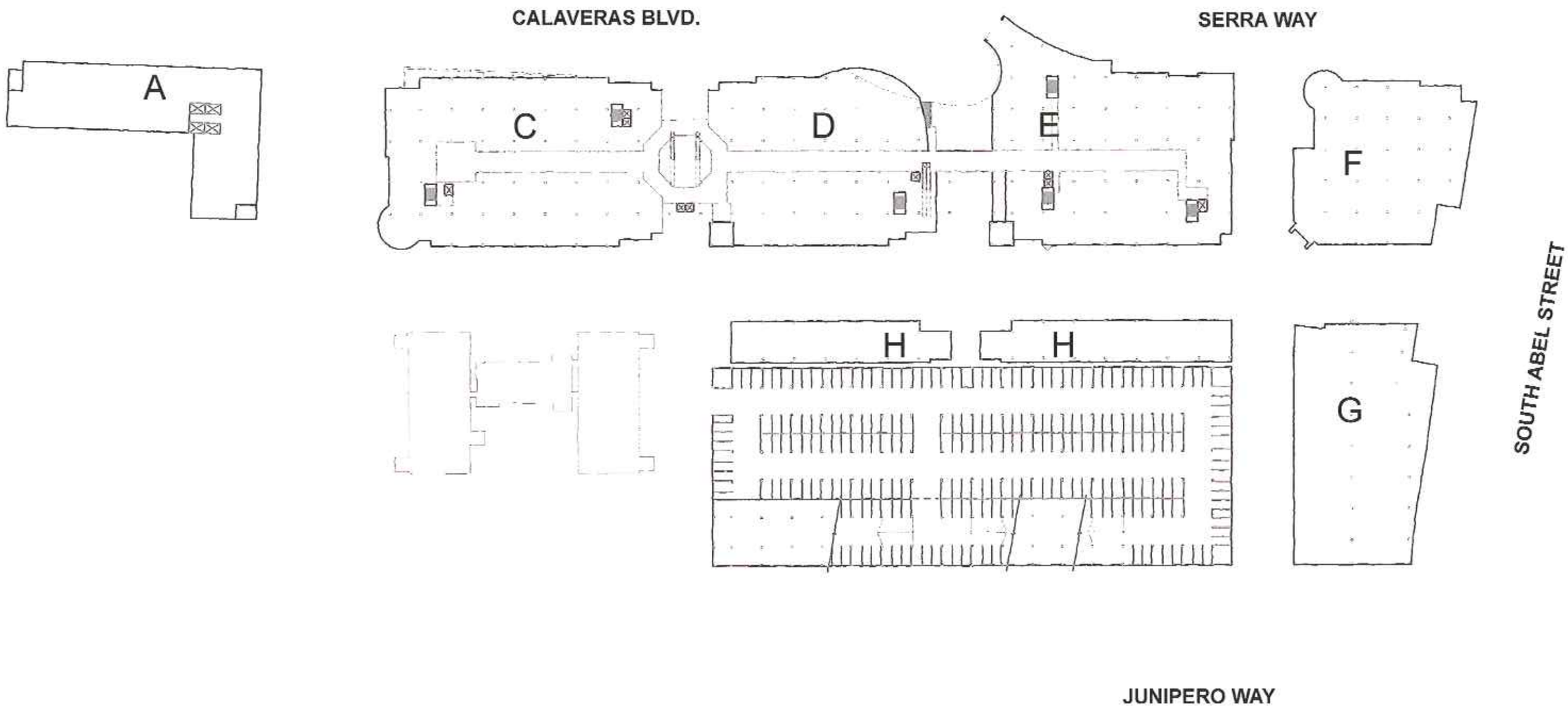
Perkowitz+Ruth ARCHITECTS
Long Beach, CA (562)624-0000 www.prarchitects.com

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

Project
Serra CENTER
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

GROUND FLOOR PLAN
MARCH 25, 2009

03
08.249



0 50' 100' 200'

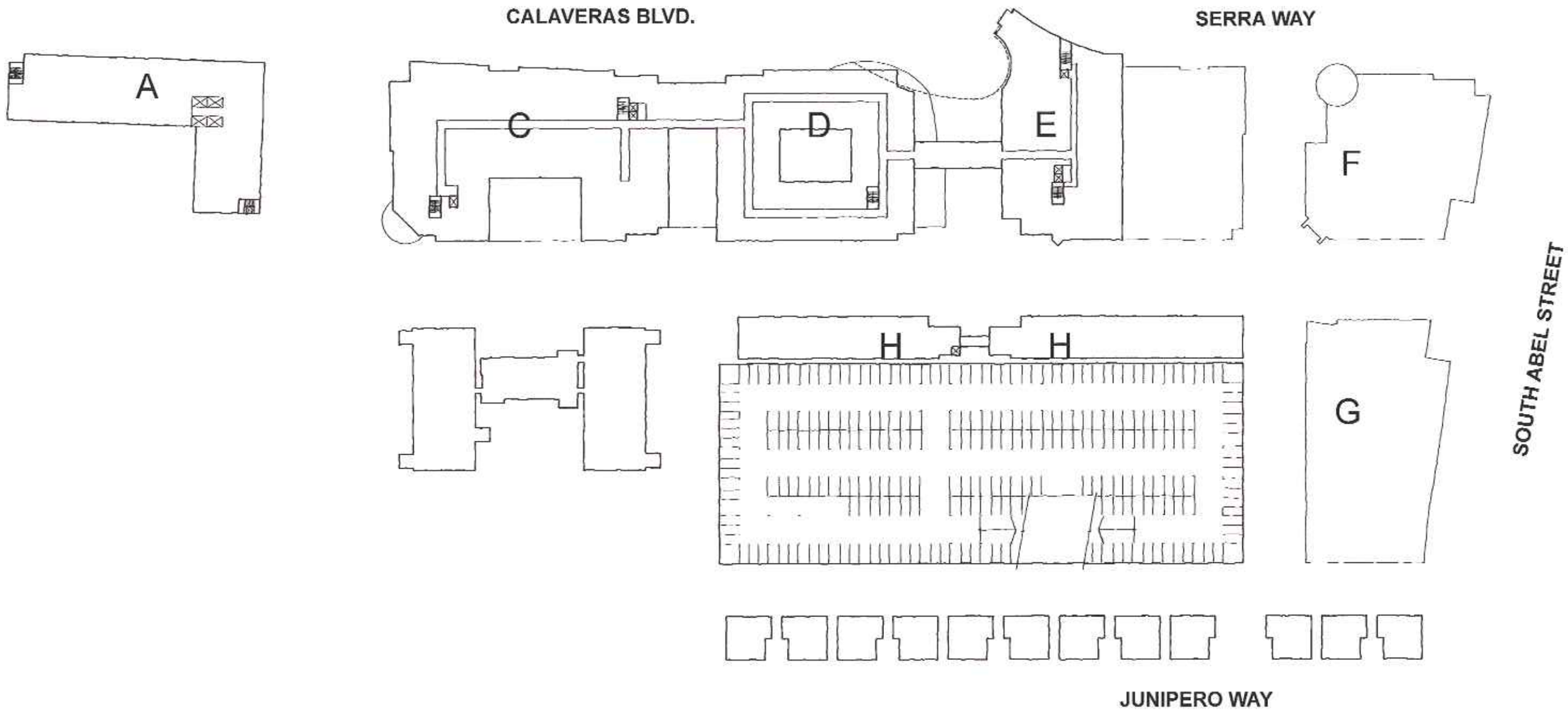
Perkowitz + Ruth ARCHITECTS
Long Beach, CA (562)628-8000 www.pranchitects.com

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

Project
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

SECOND FLOOR PLAN
MARCH 25, 2009

04
08.249



0 50' 100' 200'

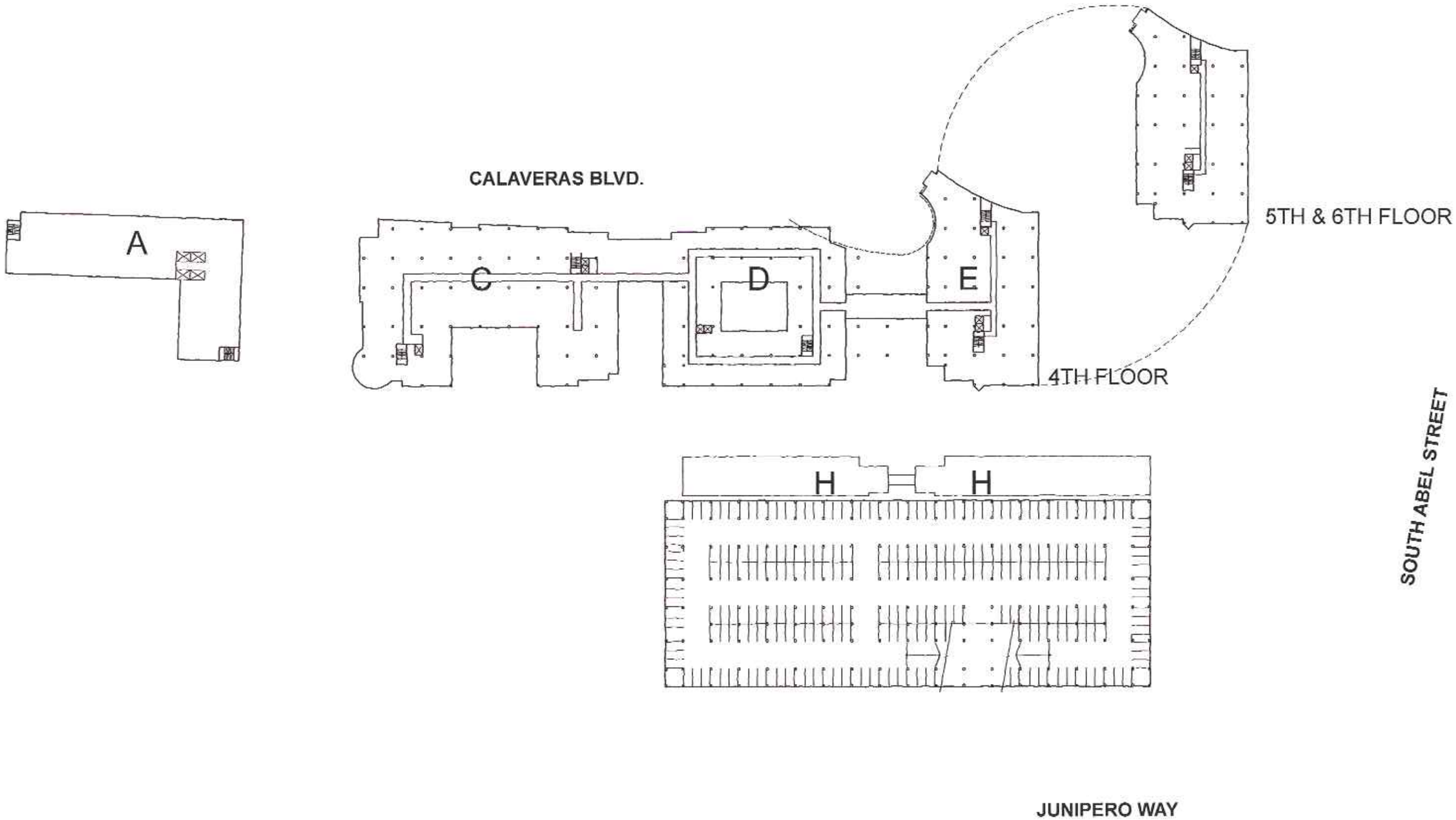
Perkowitz + Ruth ARCHITECTS
Long Beach, CA (562) 626-6000 www.perkowitzruth.com

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

Project
Serra CENTER
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

THIRD FLOOR PLAN
MARCH 25, 2009

05
08.249



0 50' 100' 200'

Perkowitz+Ruth ARCHITECTS
Long Beach, CA (562)626-8500 www.prarchitects.com

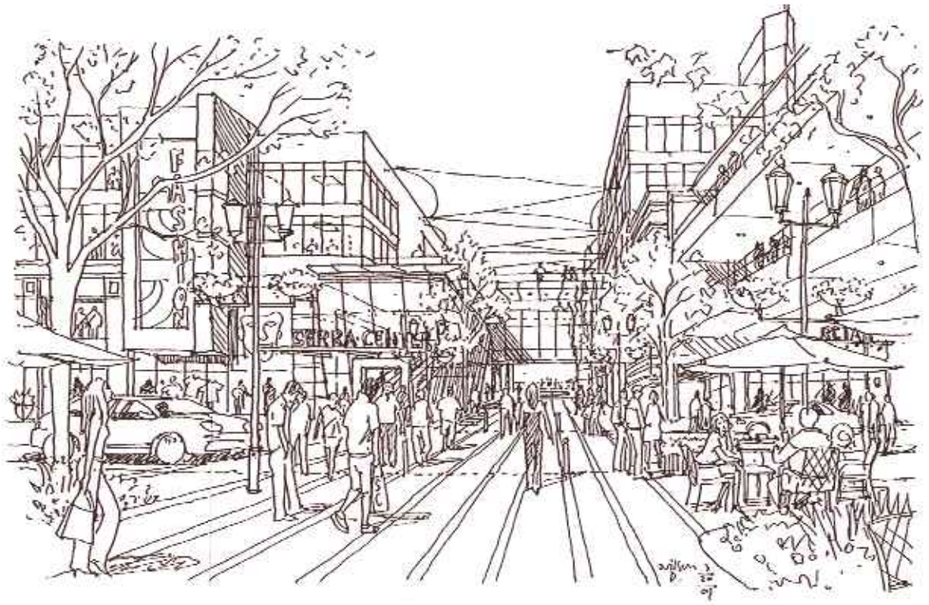
Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

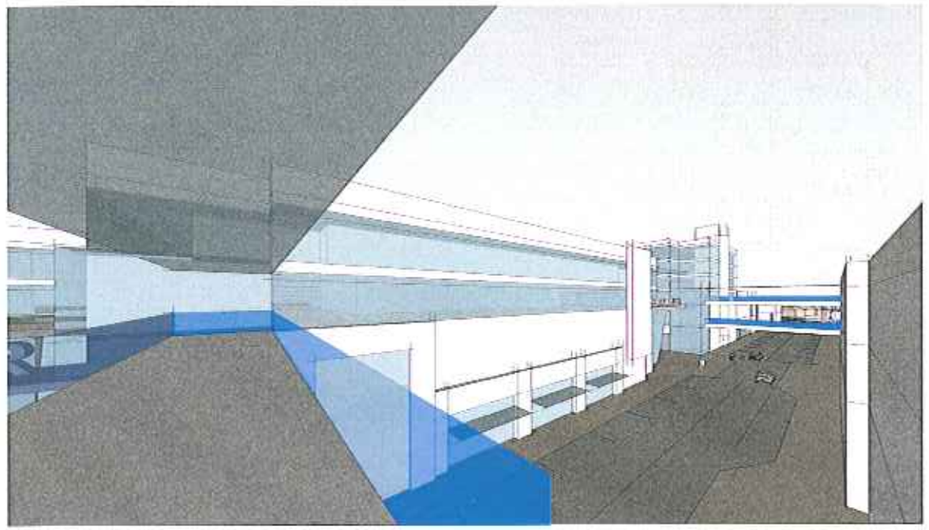
Project
Serra CENTER
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

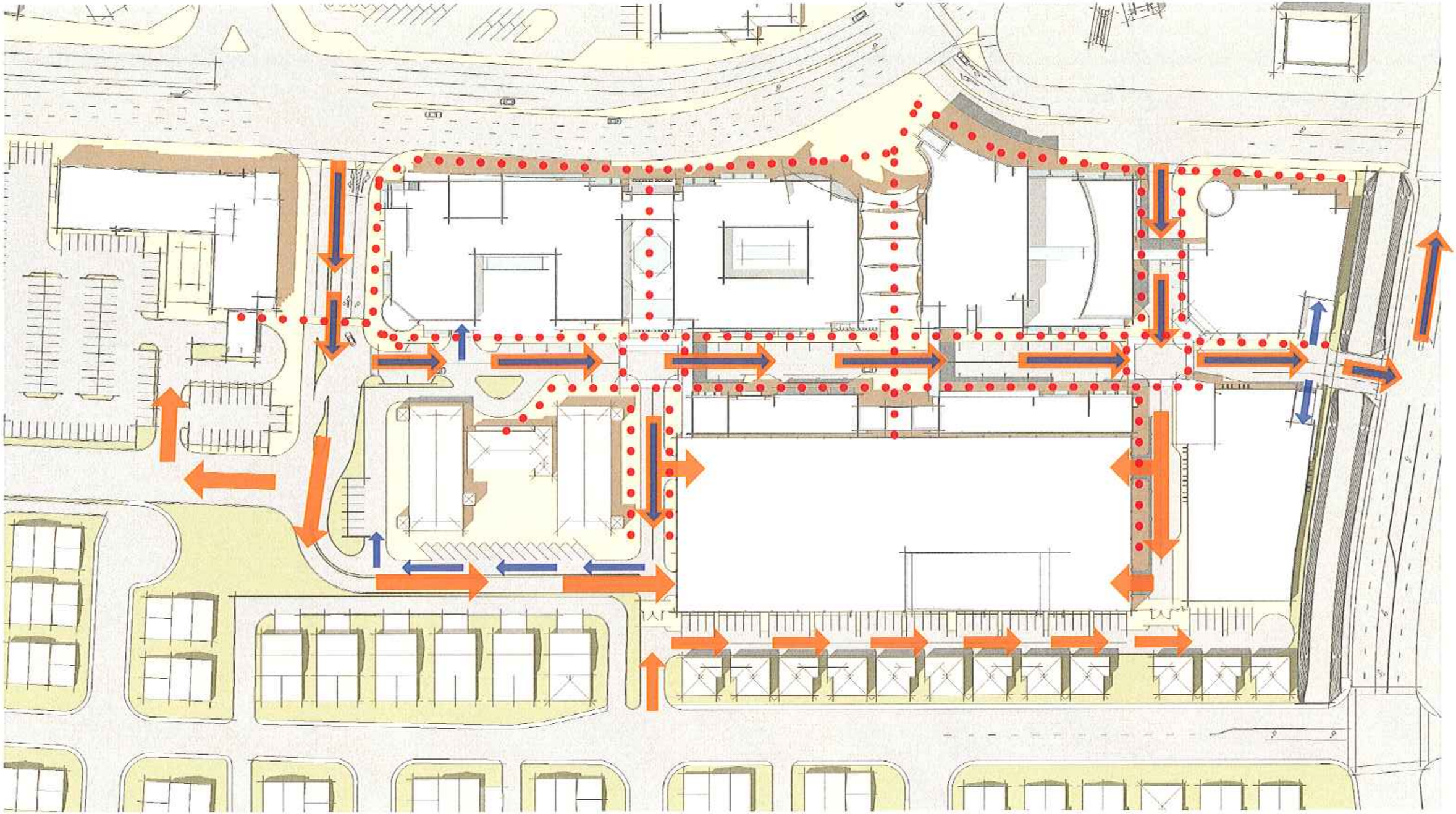
4TH, 5TH, & 6TH FLOOR PLAN
MARCH 25, 2009

06
08 249

THE ONE SHOP


SERRA CENTER





VEHICULAR CIRCULATION

SERVICE CIRCULATION

PEDESTRIAN CIRCULATION

0 50' 100' 200'

Perkowitz+Ruth ARCHITECTS

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

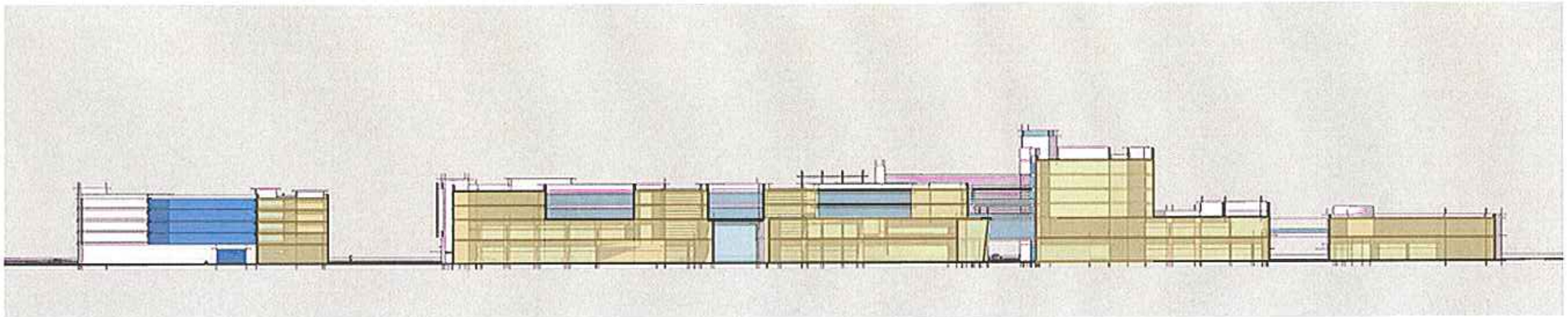
Project
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

CIRCULATION DIAGRAM

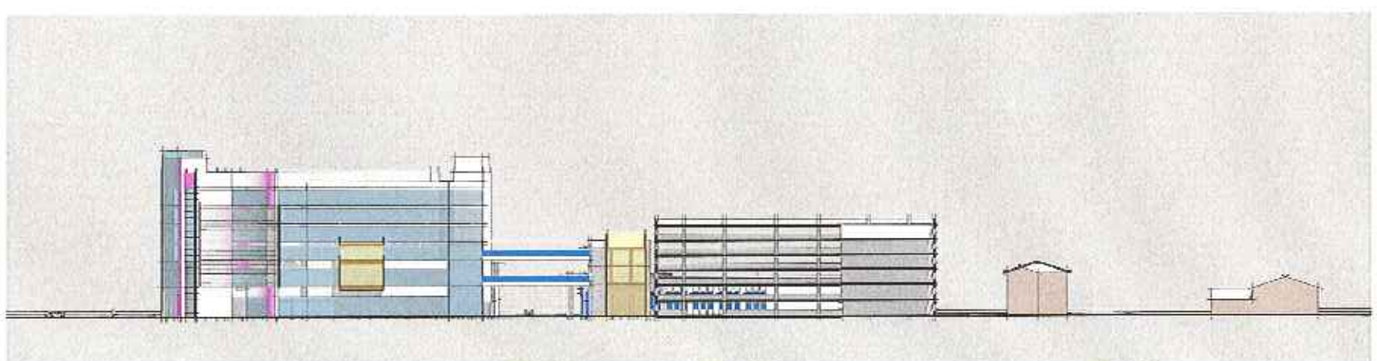
MARCH 25, 2009

08

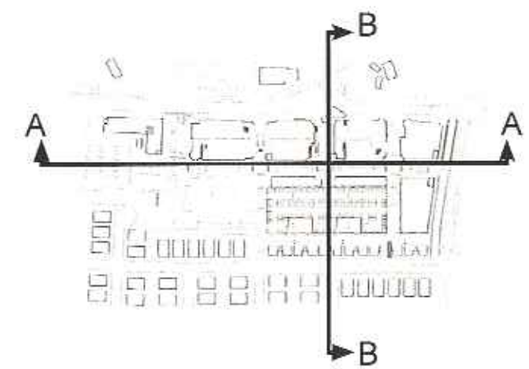
08.249



SECTION A-A



SECTION B-B



0 50' 100' 200'

Perkowitz+Ruth ARCHITECTS
Long Beach, CA (562)590-8000 www.prarch-tects.com

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

Project
Serra CENTER
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

SITE SECTIONS
MARCH 25, 2009

09
08.249

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. 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 2.5 seats	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.

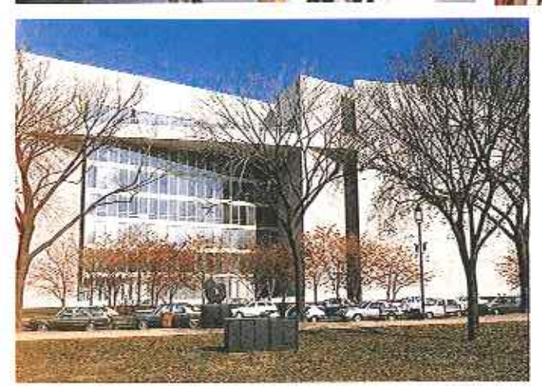
	RETAIL		RESTAURANT		TAKE OUT		OFFICE		HOTEL		TOTAL
	factor	stalls	factor	stalls	factor	stalls	factor	stalls	factor	stalls	
6 a.m.	1%	11	0%	0	5%	11	0%	0	95%	276	299
7 a.m.	5%	55	0%	0	10%	22	20%	156	90%	262	495
8 a.m.	10%	111	0%	0	20%	44	60%	467	80%	233	855
9 a.m.	30%	332	0%	0	30%	66	80%	623	70%	204	1226
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**

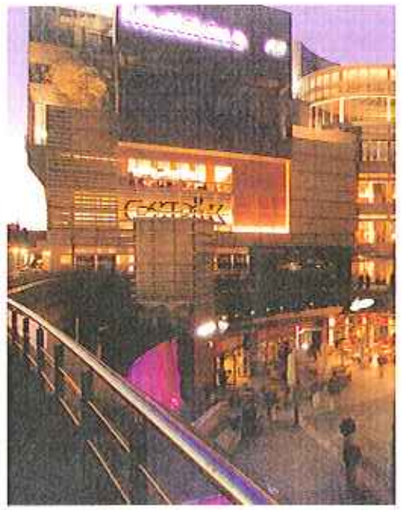
MAXIMUM REQUIRED PARKING WITH SHARED PARKING FACTOR **2678**

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

NOKIA





Perkowitz+Ruth ARCHITECTS
Long Beach, CA (562)623-8000 www.pranchitects.com

Client
SERRA CENTER, LLC
200 SERRA WAY, MILPITAS, CALIFORNIA

Project
Serra CENTER
SERRA CENTER MIXED USE DEVELOPMENT
Milpitas, California

SOURCE IMAGES
MARCH 25, 2009

013
08.249

M E M O R A N D U M

Department of Engineering

To: Transportation and Land Use Subcommittee

From: Greg Armendariz, Public Works Director/City Engineer

By: Janice Spuller, Traffic Engineering

Cc: Vice Mayor Pete McHugh, Tom Williams, City Engineer

Subject: **VTA Board Governance**

Date: April 1, 2009

Background

The City of Milpitas has been involved with VTA on restructuring the VTA Board membership, in order to group the City of Milpitas, such that it can better serves regional interest. A brief timeline of activities regarding the VTA Board Governance is included below.

At the April 15, 2008 Milpitas City Council meeting, the City Council unanimously approved of the recommendations set forth regarding the VTA Board Governance, including the grouping of Milpitas with the Cities of Santa Clara and Sunnyvale.

At the May 1, 2008 VTA Board of Directors Meeting, the Board approved the 3 of the 4 Governance recommendations:

1. Eliminate the concept of city groupings selecting their representative(s) through the rotation process;
2. VTA Directors will still serve two-year terms;
3. Include a process for selecting VTA Directors within the city groupings.

The fourth governance recommendation to reconfigure the small city groupings to include a new group comprised of Santa Clara, Sunnyvale, and Milpitas and move Los Altos Hills to the West Valley City Group was moved to the August meeting.

Since the August 2008 VTA Board meeting, the VTA Administration and Finance Committee (A&F) was appointed to take up the Governance issues as an official structure of the Board, and debate the proposed change to VTA's governance structure. The governance discussion has since been an agenda item on the A&F agenda.

At the April 16, 2009 A&F Committee will be reviewing and discussing the governance structure and will return to the VTA Board with a recommendation at the September 2009 meeting. Should the VTA Board approve changes to the Board Governance recommendations, the VTA will require all agencies to sign the amended Joint Powers Agreement.

Discussion

Vice Mayor McHugh and staff attended the March 30th VTA Board Groupings # 4 (MGM) meeting. The meeting discussion included an update from Member Perry Woodward reporting on the City of Gilroy March 16, 2009 meeting. The City of Gilroy approved of the City of Milpitas representing the MGM on the VTA Board "as an alternate representative *in exchange for* Milpitas to be removed from the South County Group".

Meanwhile, City staff has reviewed different grouping alternatives, which is attached for your review. Staff recommends the grouping of Milpitas with the Cities of Santa Clara and Sunnyvale, and the grouping of one of the County Seats with Gilroy and Morgan Hill (new South County Group.)

Should the VTA Board accept the recommendations of the A&F Committee to restructure the City groupings, it is not guaranteed the changes to occur by January 2010, when the VTA Board members change seats. The VTA recommends the MGM group discuss how the representative will be selected for the Chair representative. This discussion will continue for the remaining of the year until the Board of Directors takes action on the VTA Board Governance in September.

Recommendation

Staff recommends acceptance of the VTA Alternate Board representation for City Grouping 4 (modified by Milpitas) and to continue participation in the MGM grouping as the recommendations of the VTA Governance are reviewed and processed.

Should you have any questions please contact Greg Armendariz at 586-3317, Janice Spuller at 586-3291, or Jaime Rodriguez at 586-3335.

M E M O R A N D U M

Engineering Division

To: Mayor Livengood and Councilmember Giordano
Transportation & Land Use Subcommittee

From: Greg Armendariz
Public Works Director

Through: Thomas C Williams
City Manager

By: Jaime O. Rodriguez
Traffic Engineer

Tech Memo: N Park Victoria Dr – Bike Lane Installation Proposal
Jacklin Rd to Calaveras Blvd

Date: March 30, 2009

Recommendation:

① Receive Staff Report on a Proposal to Install Bike Lanes on N Park Victoria Drive between Jacklin Rd and Calaveras Blvd Including a Summary of Input on the Project from a Community Outreach Meeting Held on February 10th

② Forward Recommendation to the Milpitas City Council for Approval of Bike Lane Installations on N Park Victoria Dr as Part of the Street Resurfacing Program 2009

Background:

N Park Victoria Dr between Jacklin Rd and Calaveras Blvd is scheduled for Slurry Seal treatment as part of the 2009 Roadway Resurfacing Program. The implementation of bike lanes on N Park Victoria is being recommended to ensure compliance with the recommendations from the Draft Milpitas Bikeway Master Plan. The installation of bike lanes on N Park Victoria Dr is identified as a goal of the Draft Milpitas Bikeway Master Plan in efforts to provide a continuous bike lane connection from the northern city limits to the southerly city limits.

Analysis:

Roadway Geometry

N Park Victoria Dr currently has a 4-lane configuration through the proposed project limits of Jacklin Rd and Calaveras Blvd. On-street parking is available throughout the project area except for the portion between Ayers St and Calaveras Blvd. Existing traffic signal controls are provided at each end of the project limits including an existing all-way stop control at Kennedy Dr.

Traffic Data Analysis

Traffic counts for the corridor were conducted between January 16, 2009 and January 23, 2009 to determine the average AM and PM peak period traffic volumes as well as the average daily traffic volumes for a weekday and weekend.

The traffic count data collected indicate that that the traffic volumes during both the AM and PM peak hour periods is not high and that one vehicle lane in each direction of N Park Victoria Dr would be enough to accommodate both the existing and future traffic volumes.

Vehicle speed data within the speed zone segment was also collected and indicates that vehicle speeds are not at all excessive along the project area and that the posted speed limit is consistent with the current driving behavior of the community.

Proposed Roadway Geometry

In efforts to meet the goal of providing bicycle lanes on N Park Victoria Dr as envisioned within the Draft Milpitas Bikeway Master Plan, a lane reduction from four to three lanes is required so that impacts to the existing on-street parking capacity is minimized. The additional roadway width gained through the 4-lane to 3-lane reduction allows also allows for the installation of a continuous two-way left-turn lane from Daniel Ct to Ayers St which provides for enhanced left-turn access to homes on and along N Park Victoria Dr.

A plan line view of the proposed roadway geometry for the project area is provided in *Attachment 1 – Plan Line View – N Park Victoria Dr with Bike Lanes*. The proposal does result in the loss of approximately ten parking spaces. The impacted parking spaces are located at the intersection of N Park Victoria Dr & Ayers St (3 spaces) and N Park Victoria Dr & Kennedy Dr (7 spaces); the locations are noted in red on Attachment 2.

To further reduce impacts from the proposed lane reduction the existing lane configurations at the signalized intersections of Jacklin Rd and Calaveras Blvd should be maintained to avoid impacted to the Level of Service of those intersections. In addition, at Kennedy Dr separate left-turn lanes and right turn lanes should be maintained at the northbound approach of N Park Victoria Dr and a separate left-turn in the southbound approach.

February 10th Community Outreach Meeting

A community outreach meeting was held February 10th and attended by approximately ten residents. Staff did a direct mailer to every residence along the project area on N Park Victoria Drive and Kennedy Dr and every residence within 300-ft of both of those streets. In addition, an ad was placed in the Milpitas Post the week prior to the community meeting to ensure proper community notification.

Attendants of the community meeting expressed unanimous support for the bike lane installations but noted that any residents that may be impacted by the loss parking in front of their residence should receive an additional notice from the City of the project so that they may continue to have opportunities to provide input as the development of the project progresses.

Recommendations:

The proposed roadway marking changes on N Park Victoria Dr provide for the installation of bike lanes as envisioned in the Draft Milpitas Bikeway Master Plan and do not have a significant impact on existing nor future traffic volumes. Staff recommends that the Transportation & Land Use Subcommittee receive this report and forward a recommendation to the City Council for approval of the installation of bike lanes on N Park Victoria Dr between Jacklin Rd and Calaveras Blvd as part of the Street Resurfacing Program 2009.

M E M O R A N D U M

Department of Engineering

To: Transportation and Land Use Subcommittee

From: Greg Armendariz, Public Works Director/City Engineer

By: Joe Oliva, Transportation Planning

Cc: Vice Mayor Pete McHugh, Tom Williams, Traffic Engineer

Subject: **Calaveras Boulevard Traffic Impact Fee (TIF)**

Date: April 1, 2009

Background

The Calaveras Boulevard widening project consists of rebuilding the bridge structures over the Union Pacific Railroad tracks and Main Street to accommodate six travel lanes (three in each direction) plus sidewalks and bicycle lanes. This project was as a number one priority for Milpitas in the Valley Transportation Plan (VTP) 2030 in 2003. This project is also in the recently adopted VTP 2035.

The cost of reconstructing Calaveras Boulevard between Town Center Drive and Abel Street is approximately $ 55 million. Twenty percent ($11 million) is the required local match with eighty percent ($ 44 million) coming from State Transportation Improvement Program (STIP) funding. Funding of the local match is expected to come from three sources. They include:

- Transit Area Specific Plan TIF - $5.2 million
- Carlo Street Ramp conversion - $1.5 million
- Calaveras Boulevard TIF – 4.35 million

The Calaveras TIF would be collected from new development outside the Transit Area Specific Plan.

Recommendation

Staff is recommending the Transportation and Land Use Subcommittee to receive this report and provide staff with any comments and direct staff to conduct a public outreach meeting and return to the City Council with their findings and a recommendation.

Should you have any questions please contact Joe Oliva, at 586-3290 or Greg Armendariz at 586-3317.

City of Milpitas Calaveras Boulevard Widening Project

Transportation Impact Fee Study
FINAL DRAFT

Prepared by:

Kimley-Horn and Associates, Inc.

February 24, 2009
097384003

COPYRIGHT © 2009 KIMLEY-HORN AND ASSOCIATES, INC.

Table of Contents

1.0 FEE PURPOSE…….. 1

2.0 BACKGROUND…… 1

3.0 FEE CALCULATION……...2

4.0 CONCLUSION…….. 4

CALAVERAS BOULEVARD WIDENING FEE ATTACHMENTS

1.0 FEE PURPOSE

This report documents the basis for the Calaveras Boulevard Widening Transportation Impact Fee (TIF) to be applied towards future development within the City of Milpitas as a fair-share contribution towards the widening of Calaveras Boulevard.

GC66000, also called the Mitigation Fee Act, requires all public agencies to satisfy the following requirements when establishing, increasing or imposing a fee as a condition of new development:

1. Identify the purpose of the fee;
2. Identify the use to which the fee will be put;
3. Determine that there is a reasonable relationship between:
    a. The fee's use and the type of development on which the fee is to be imposed;
    b. The need for the facility and the type of development on which the fee is to be imposed; and
    c. The amount of the fee and the facility cost attributable to the development project. (Applies only upon imposition of fees.)

Identifying these requirements would establish the nexus and the proportionality requirements of the Mitigation Fee Act and other requirements of state and federal law.

2.0 BACKGROUND

The Calaveras Boulevard Widening Project (Project) limits lie within the jurisdiction of the California – Department of Transportation, Caltrans, whom is ultimately responsible for the operations & maintenance of Calaveras Boulevard. The Project includes the widening of Calaveras Boulevard from 4-lanes to 6-lanes between Town Center Drive and Abel Street and includes the reconstruction of two bridge structures over N Main Street and two bridge structures over the existing Union Pacific Railroad Tracks/Future BART alignment. The estimated cost of the Project is $55 million (2008 dollars).

The City of Milpitas is implementing the Calaveras Boulevard Widening TIF to supplement STIP funds in raising the minimum 20% Local Project Match ($11 million) that is necessary to complete in partnership with Caltrans for regional grant-funding opportunities for the remaining 80% of the Project cost ($44 million). In addition to the local match, the TIF fee will include professional consulting fees totaling $50,000 to review and update two updates of the TIF fee. The City of Milpitas may also add administration costs for maintaining the program. The recently adopted City of Milpitas – Transit Area Specific Plan (TASP) includes a separate TIF program that will collect an estimated $5.2 million toward the 20% Local Project Match. (The TASP TIF is a long-term program and full funds may not be available in the near-term.) The Redevelopment Agency is also contributing $1.5 million from the Carlos Street Ramp Conversion project. Considering these funding sources, a balance of $4.35 million (including the TIF update fees) is left to be collected through the Calaveras Boulevard Widening TIF.

The Calaveras Boulevard Widening TIF will be assessed based on vehicle trips generated by future growth in Milpitas during the PM peak hour that are planned to travel through the project site. PM peak hour trips are used to determine the transportation impact rather than average daily traffic because the PM peak hour volumes are the determining factor that justifies the need for additional street capacity.

3.0 FEE CALCULATION

Based upon discussions with City staff, an agreed-upon seven-step process was used to calculate the Calaveras Boulevard Widening TIF. These steps are described below along background information and assumptions used. Additional details for each step are located in attachments at the end of this report.

Step 1:Determine future citywide housing and employment growth for growth period.

The period of growth in the study was between Years 2010 and 2035 to most closely match the useful life of the Project. Data from *Association of Bay Area Governments (ABAG) Projections 2007* are used as the most recent regional growth data available. The growth in households and jobs were calculated between Years 2010 and 2035. Each household was assumed to represent one multi-family dwelling unit. The job growth was converted into total square footage using the factors determined for the Milpitas Transit Area Specific Plan (TASP), adopted by the City of Milpitas in 2008.

According to the ABAG projections, approximately 20 percent of the job growth is related to industrial use. Staff reports that there are approximately 100 acres of vacant industrial property in the City. According to City staff, this property could be developed at 0.5 FAR. There are also areas with underutilized industrial space. Considering these factors, the percentage of industrial growth was increased to 50 percent with the remainder assumed as retail development.

Step 2: Subtract out growth from exempt projects.

Some projects are exempt from the Calaveras Boulevard Widening TIF program due to previous agreements and/or separate TIF programs that already contribute toward the project. As noted previously, the TASP is already contributing towards the Project and the proposed TASP land uses were subtracted from the growth determined in Step 1. Since TASP will provide between 5,000 to 7,000 dwelling units, a midrange of 6,000 units was assumed to be developed.

Projects below a certain threshold size would not be subject to the fee. These development thresholds are included in the Conclusions of this report, and project smaller than this level are small and typically conversions or reuse of existing development. Based on the existing development composition and threshold level, these projects would have a relatively minor impact on PM traffic levels traffic over the timeframe of this analysis.

Step 3: Determine number of PM peak hour trips generated by the applicable future growth.

The development trip generation rates used for the TASP TIF were used to convert the applicable future growth into PM peak hour trips. Peak hour traffic is to determine the transportation impact from each development/land use type rather than average daily traffic because peak volumes determine the need for street and intersection capacity. The TASP TIF trip generation rates are based on *ITE Trip Generation* (8th Edition) and *SANDAG Vehicular Traffic Generation Rates* (2002).

Step 4: Determine number of applicable PM peak hour trips traveling through the Project.

Figure 1 City of Milpitas Industrial Properties shows the existing Industrial zoning and the current vacant properties. The amount of traffic assigned to the Project was estimated based upon a review of the locations of vacant and underutilized land, an estimate of trips that will travel outside of city limits, and input from city staff. Consideration was also given to trips that remain internal within city limits and are captured between the complimentary land uses (e.g. residential and employment) and do not generate new external trips through the project limits. Considering these factors, 18 percent of applicable Residential, Office and Retail trips are projected to travel through the Project.

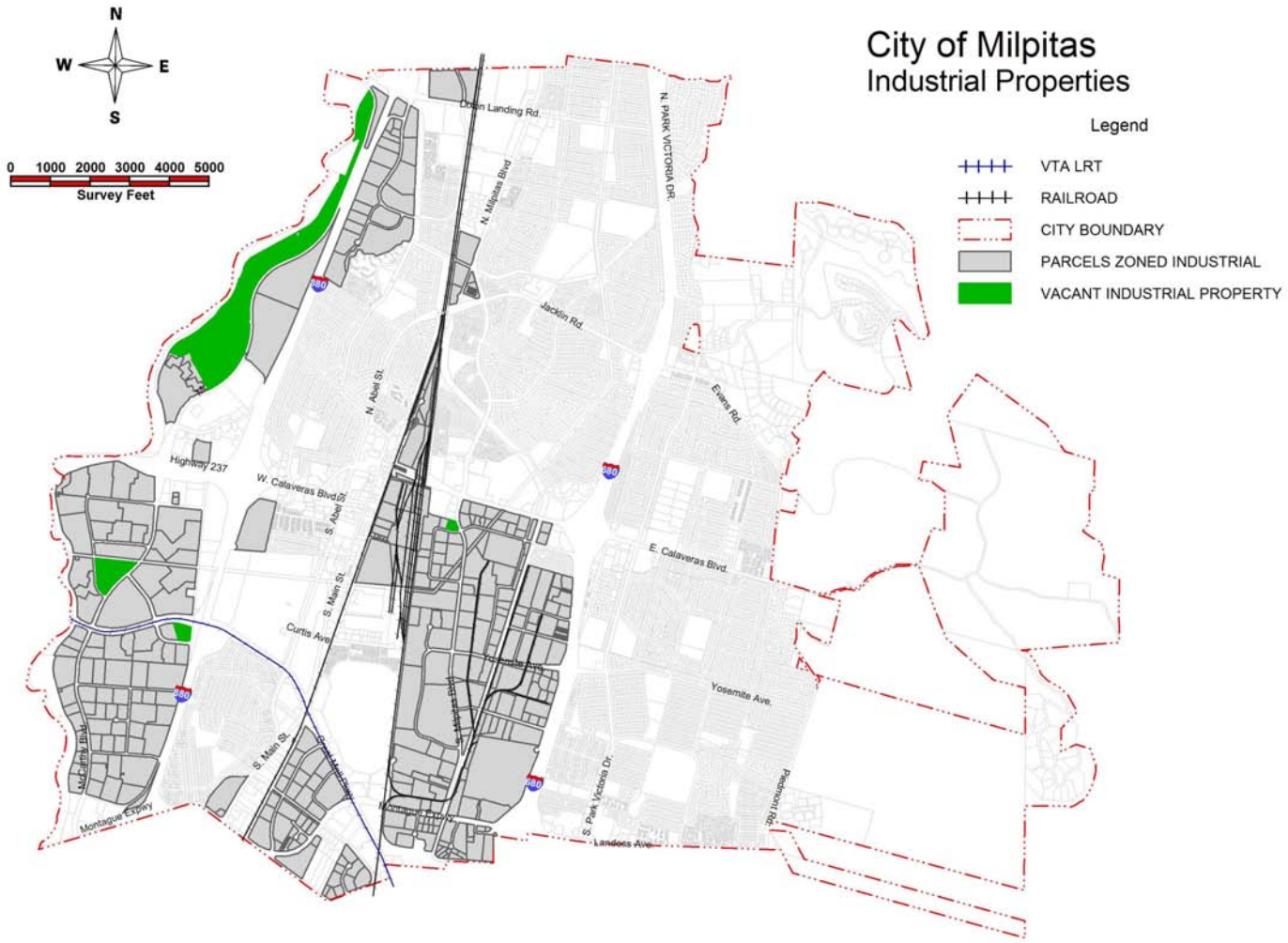


Figure 1. City of Milpitas Industrial Properties

Step 5: Determine amount to be collected through the Calaveras Boulevard Widening TIF.
As listed in the Background section above, a balance of $4.35 million (including the TIF update fees) is left to be collected through the Calaveras Boulevard Widening TIF after subtracting out contributions from Caltrans, TASP, and the Redevelopment Agency. Professional consulting fees to review and update the Calaveras Boulevard Widening TIF twice were included in the amount to be collected.

Step 6: Determine cost per PM peak hour trip.
Step 5 divided by Step 4.

Step 7: Convert costs per PM peak hour trip into applicable development unit.
The balance, from Step 5, was allocated to the various land uses (residential, office, commercial) based upon the PM peak hour trip generation and converted into costs per dwelling unit or per thousand square feet.

4.0 CONCLUSION

TIF Levels
A balance of $4.35 million is proposed to be collected through the Calaveras Boulevard Widening TIF and the resulting fees based upon projected 2007 ABAG Citywide growth are:

Residential Development: $235 per dwelling unit
Retail Development: $708 per thousand square feet
Office Development: $604 per thousand square feet

Project costs are based on 2008 dollars and these fees are also in 2008 dollars. There was little inflation between 2008 and 2009; 2009 dollars and 2008 dollars can be considered equivalent.

Development Thresholds
These fees would be applied to development projects that meet the following size thresholds:

Residential Development: 5+ dwelling units
Retail Development: 1,000 + square feet
Office Development: 1,000+ square feet

These projects below these development thresholds have minor traffic impacts.

Program Updates
The Calaveras Boulevard Widening TIF is a long-term program (2010-2035) and should be updated on a regular basis (e.g., every 3-5) year to verify development assumptions and project costs. The current estimated Project construction cost is in current (2009) dollars and should be adjusted annually based on the "Engineering News Record," Construction Cost Index (ENR Index).

CALAVERAS BOULEVARD WIDENING FEE ATTACHMENTS

Calaveras Bridge Traffic Impact Fee Calculation - SUMMARY					
Step	**Description**	**Output**			
1	Determine new household and job growth (2010 - 2030) and convert to dwelling units and Square Footage		Retail (SF)	Office (SF)	Residential (DU)
		Total Growth (A)	3,610,152	3,610,152	8,010
2	Subtract exempt projects. Net Increase (C) = (A-B)		Retail (SF)	Office (SF)	Residential (DU)
		Exempt (B)	520,026	813,343	6,000
		Net Increase (C)	3,090,126	2,796,809	2,010
3	Convert applicable growth (Net Increase) into PM peak-hour trips		Retail	Office	Residential
			8,374	6,461	1,809
4	Assign PM peak-hour trips to Calaveras	2,996			
5	Project Costs of Calaveras (Calaveras Boulevard Widening TIF)	$4,350,000			
6	Determine cost per PM peak-hour trip	$1,452			
7	Convert PM peak-hour trips to Land-use equivalent		Retail ($/1,000 SF)	Office ($/1,000 SF)	Residential ($/DU)
			$708	**$604**	**$235**

** All costs in 2008 dollars*

Step 1 - Determine Future Growth

Milpitas Population and Employment Estimates
Projections 2007 - ABAG

Category	2000	2005	2010	2015	2020	2025	2030	2035	Growth (2010-2035)
Total									
Population	62,810	64,900	69,300	74,400	79,800	85,200	90,500	95,800	38.24%
Households	17,157	17,890	19,130	20,620	21,150	23,770	25,500	27,140	41.87%
Household									
Income ($)	120,000	97,700	105,500	111,600	118,100	125,000	132,300	139,500	32.23%
Total Jobs	53,900	47,650	49,900	52,890	55,960	59,190	62,560	66,070	32.40%
Industrial Jobs	30,310	25,370	25,760	26,480	27,300	28,200	29,140	30,150	17.04%
Industrial/Total									
Jobs	56%	53%	52%	50%	49%	48%	47%	46%	

Conversion for Jobs To Development Square Footage[1]									
Industrial Jobs	30,310	25,370	25,760	26,480	27,300	28,200	29,140	30,150	17.04%
Non Industrial Jobs (Retail)[2]	23,590	22,280	24,140	26,410	28,660	30,990	33,420	35,920	48.80%
Industrial Space 1,000 SF	9,185	7,688	7,806	8,024	8,273	8,545	8,830	9,136	17.04%
Retail Space 1,000 SF	11,795	11,140	12,070	13,205	14,330	15,495	16,710	17,960	48.80%
Total Space 1,000 SF	20,980	18,828	19,876	21,229	22,603	24,040	25,540	27,096	36.33%

Notes:
[1] Conversion obtained From Milpitas Transit Area Plan EIR

Industrial	3.3	Employees/KSF
Retail	2	Employees/KSF

[2] Non-industrial jobs assumed to be retail

Total ABAG Future Growth (2010 to 2035)			**Percentage**
Residential	8,010	DU	
Development (Total SF)	7,220,303	SF	
Jobs (Industrial SF)	1,330,303	SF	18%
Jobs (Retail SF)	5,890,000	SF	82%

Adjusted Future Growth (2010 to 2035)			**Percentage**
Residential	8,010	DU	
Development (Total SF)[3]	7,220,303	SF	
Jobs (Industrial SF)	3,610,152	SF	50%
Jobs (Retail SF)	3,610,152	SF	50%

[3] Industrial job percentage was adjusted to 50 percent to take into account approximately 100 acres of vacant industrial land (developed at 0.5 FAR) and redevelopment of existing underutilized industrial space.

Step 2 - Calculation of Land Use from Exempt Projects

	Land Use			
Exempt Projects from Calaveras TIF Fee	**Retail (SF)**	**Office (SF)**	**Residential (DU)**	**Hotel (DU)**
TASP[1]	520,026	813,343	6,000	350
Total Exempt (a)	520,026	813,343	6,000	350
Total Growth (2010-2035) (b)	3,610,152	3,610,152	8,010	
Net Increase (c) = (b-a)	**3,090,126**	**2,796,809**	**2,010**	

Notes:

[1] *TASP will provide between 5,000 to 7,000 dwelling units. A midrange of 6,000 units was assumed to be developed.*

Step 3 - Convert applicable growth (Net Increase) into PM Peak-Hour trips

Land Use	Size (DU or 1,000 SF)	Trip Generation Rates*	PM Peak-Hour Trips
Retail[1] (A)	3,090	2.71	8,374
Net Retail (A)			8,374
Office[2] (B)	2,797	2.31	6,461
Net Office (B)			6,461
Multi-Family Residential[3] (C)	2,010	0.9	1,809
Net Multi-Family Residential (C)			1,809
Net Total (A+B+C)			**16,644**

Notes:

** Same as TASP TIF Program, based on ITE Trip Generation (8th Edition) and SANDAG Vehicular Traffic Generation Rates (2002)*

Step 4 Assign PM Peak Hour Trips to Calaveras Boulevard

Percentage of trips assigned on to Calaveras Blvd[1]	
Residential[1]	18%
Office & Retail[2]	18%
Trips assigned on to Calaveras Blvd	
Residential	326
Retail	1,507
Office	1,163
Total PM Pear Hour	**2,996**

Notes:

[1] Based upon a review of available land for redevelopment, estimated amount of trips that will travel to/from city limits, and input from City Staff, approximately 18 percent of Residential, Office and Retail trips are projected to travel through the project.

Step 5-Project Costs of Calaveras

Construction Cost	$55,000,000
Professional Services Fees to Update TIF[1]	$50,000
Total Cost	**$55,050,000**
STIP (State Transportation Improvement Fund) Match	$44,000,000
Local Match	$11,050,000
TASP Contribution	($5,200,000)
Carlos Street Ramp Contribution	($1,500,000)
Local Match Balance for TIF	**$4,350,000**

** All costs in 2008 dollars*

Notes:

[1] Professional Consulting Service Fees estimated at $25,000 per update. This study assumes two updates. City Administration costs not included in cost estimate

M E M O R A N D U M

To: Transportation & Land Use Subcommittee

From: James Lindsay, Planning & Neighborhood Services Director
Keyvan Irannejad, Chief Building Official

Subject: **Proposed Framework for a Green Building Ordinance**

Date: April 1, 2009

Pursuant to the City Council's direction, staff has been developing a framework for a green building ordinance that would affect new construction (both private and future City buildings) and tenant improvements. Several Bay Area cities have adopted green building ordinances or policies, which enabled us to compare the advantages and disadvantages of each and pick the elements we could recommend to the Council. Through this effort we also contacted representatives of both residential and commercial development groups to understand their concerns with existing green building ordinances.

In summary we found that there was general acceptance of both the US Green Building Council's Leadership in Energy and Environmental Design (LEED) and the Build It Green programs. LEED is used predominantly to rate commercial construction and Build It Green is used to rate most residential construction. Achieving the LEED Silver and 50 Green Point levels was considered to be generally achievable without significant cost increases for most types of construction. The primary concern with some green building ordinances was the requirement for third party certification. This requires a project to be reviewed by an outside plan reviewer and inspector trained in these programs which can add additional cost and time to a project. Obtaining LEED certification from the US Green Building Council can also be very costly.

Our recommendation is to establish LEED Silver as the required standard for new commercial buildings, future City buildings, and tenant improvements over 50,000 square feet. The recommended residential standard is 50 Green Points for new residential projects providing five or more units. Expedited plan review is also being recommended as an incentive for projects to obtain higher levels (Gold or above) or points (75+). Given the concerns surrounding certification and third party reviews, we are recommending that several Building & Safety Plan Checkers and Inspectors receive the necessary training to confirm compliance with the LEED and Build It Green programs. This will allow concurrent plan reviews and avoid the costly certification process.

Attached is a draft framework for a green building ordinance containing the recommendations discussed above. Also attached is a table compiled by the Attorney General's Office comparing ordinances from other California cities. Staff will provide a brief presentation at the Subcommittee meeting on the proposed framework and how it compares to other South Bay cities.

Proposed Green Building Ordinance Framework
April 6, 2009 Transportation & Land Use Subcommittee Meeting

I. Purpose and Intent

1. Increase energy efficiency

2. Encourage water and resource conservation

3. Reduce waste generated by construction projects

4. Promote the health of residents, workers and visitors to the City

II. Definitions (key definitions)

1. "Compliance Official" means the Chief Building Official or designee.

2. "Covered Project" means any planning entitlement application(s) or building permit application(s) for city-sponsored construction projects, commercial (non-residential) new construction or renovations, or for any single-family, two-family or multi-family new construction or renovation subject to the Standards for Compliance section of this ordinance.

3. "Green Point Rated" means a residential green building rating system developed by the Build It Green organization.

4. "LEED ®" means the *Leadership in Energy and Environmental Design* green building rating system developed by the U.S. Green Building Council.

5. "Qualified green building official" means a person trained through the USGBC as a LEED accredited professional or through Build It Green as a certified green building professional or similar qualifications if acceptable to the Compliance Official. For projects requiring *self-verification*, the project architect or designer is considered a qualified green building official.

6. "Priority Plan Review" means a covered project meeting the Incentives for Compliance will receive building permit plan review comments from all City Departments on the first plan review within fifty percent (50%) less time than what would normally be scheduled for the scale and size of the project. The plan review would be performed during regular working hours and would be scheduled ahead of other plan reviews for which off-hour fees were not already paid.

III. Standards for Compliance (Thresholds)

Type of Project	Building Improvements		
	Checklist Required	**Minimum Threshold**	**Verification**
Residential			
New Construction: < five (5) units	Build it Green or LEED	Not Applicable	Not Applicable
New Construction: ≥ five (5) units	Build it Green or LEED	50 Green Points (Build it Green) or equivalent in LEED	GreenPoint Rated or LEED/USGBC
Nonresidential			
New Construction or renovation: < 25,000 sf	LEED	Not Applicable	Not Applicable
New Construction or renovation: Between 25,000 and 49,999 sf	LEED	LEED Certified	LEED AP
New Construction or renovation: > 50,000 sf	LEED	LEED Silver	LEED AP
City Sponsored			
New construction or renovation	LEED	LEED Silver	LEED AP
Mixed Use	Residential and Commercial criteria as applicable to each residential and commercial component of the project.		

LEED AP - verification by a LEED accredited professional

4. Exempted

    a. Buildings designated as a local Cultural Resource or listed on California Register of Historic Resources or the National Registry of Historic Places.

    b. Remodels or renovations to residential buildings that do not add more than five (5) new dwelling units.

IV. Incentives for Compliance

1. Residential

    a. Priority Plan Review for 75 Green Points or equivalent in LEED.

2. Commercial

    a. Priority Plan Review for LEED Gold and above

V. Administrative Procedures and Implementation of Regulations

1. Building Plan Check Review

    a. A qualified green building professional must provide evidence of adequate green building compliance or documentation to the Compliance Official to satisfy the requirements of the Standards for Compliance section in this ordinance, prior to issuance of a building permit.

2. Final Building Inspection, Verification, and Occupancy

    a. Prior to final building inspection and occupancy for any covered project, a qualified building professional must provide evidence of adequate green building compliance or documentation to the Compliance Official to satisfy the requirements of the Standards for Compliance outlined in this ordinance.

VI. Hardship or Infeasibility Exemption

1. Exemption. If an applicant for a covered project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this ordinance, the applicant may request an exemption. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.

VII. Appeal

1. Any aggrieved applicant or person may appeal the determination of the Compliance Official regarding: (1) the granting or denial of an exemption; or (2) compliance with any other provision of this ordinance.

Local Government Green Building Ordinances in California

In recent years, numerous local governments in California have implemented "green" building ordinances. These measures can increase energy efficiency, reduce greenhouse gas emissions, and decrease other harmful environmental impacts. This document identifies the various approaches to green building ordinances that jurisdictions have taken and the most common features of the measures.

The following cities in California have enacted mandatory Green Building Ordinances:

City	Ordinance	Effective Date	Link
Albany	Ord. 06-016	July 2007	Here
Brisbane	Ord. 524	January 2008	Here
Calabasas	Ord. 2003-185	February 2004	Here
Cotati	Res. PC No. 06-24	January 2008	Here
Culver City	Ord. No. 2008-004	March 2008	Here
Livermore	Ord. No. 1804	January 2008	Here
Long Beach	Current Policy	Ord. Pending	Here
Los Altos	Ord. No. 07-315	December 2007	Here
Los Angeles	Ord. No. 179820	May 2008	Here
Novato	Ord. No. 1503	October 2005	Here
Palm Desert	Ord. No. 1124	February 2007	Here
Palo Alto	Ord. No. 5006	July 2008	Here
Pasadena	Ord. No. 7031	May 2008	Here
Pleasanton	Ord. No. 1873	January 2003	Here
Rohnert Park	Ord. No. 782	July 2007	Here
San Francisco	Ord. No. 180-08	August 2008	Here
San Jose	Policy No. 6-32	Ord. Pending	Here
San Rafael	Ord. No. 1853	August 2007	Here

San Mateo (Co.)	Ord. No. 04411	March 2008	Here
Santa Barbara	Ord. No. 5446	March 2008	Here
Santa Cruz	Ord. 2005-29	January 2007	Here
Santa Monica	Ord. No. 2261	May 2008	Here
Santa Rosa	Ord. No. 3869	June 2008	Here
Sebastopol	Res. 5454	March 2005	Here
Marin (Co.)	Ord. No. 3492 Code Ch. 22.42	June 2008	Here Here
Windsor	Ord No 2007-215	June 2007	Here
West Hollywood	Ord. No. 07-762	October 2007	Here

Green Rating Systems

The enactment of local green building requirements has been facilitated by the development of several independent rating systems increasingly used in the building industry to objectively evaluate "green" buildings. The most common system is Leadership in Energy and Environmental Design (LEED®), developed by the United States Green Building Council (http://www.usgbc.org). LEED has developed several rating systems with guidelines for different construction markets, including new nonresidential buildings, core and shell construction of commercial buildings, construction of commercial interiors, the construction of schools, health care facilities, and retail spaces, and a newly-developed system for homes (LEED-H), released in January of 2008. The LEED for the Neighborhood Development Rating System is in the pilot program stage and should be released in 2009.

Under the LEED rating system, the use of specific green building practices or design elements, in addition to certain prerequisite practices, accrue "points" on a checklist. Depending upon the number of points earned, each project is given a rating which corresponds to a level of LEED certification. Projects which meet the minimum number of points are "Certified." Projects which accrue more than the minimum are rated "Bronze," "Silver," "Gold," or "Platinum," according to the number of points earned. Most cities require some level LEED-equivalent performance for some types of buildings, but do not require registration with the United States Green Building Council.

Another rating system used by local governments in their green building ordinances is the "GreenPoints Rated" program first developed by a coalition of Alameda County waste agencies (http://stopwaste.org) and promoted by Build It Green, a nonprofit organization based in Berkeley, California (http://www.builditgreen.org). The GreenPoints Rated system, while similar in approach to LEED, is focused on residential development, including separate guidelines for single-family and multifamily buildings. A building must attain at least 50 "GreenPoints" to be certified as "GreenPoint Rated."

Several cities or counties have developed their own "points" systems using guidelines and

checklists based on the GreenPoint Rated system. These include guidelines developed by the Sonoma County Waste Management Agency (http://www.recyclenow.org) and the City of West Hollywood (http://www.weho.org/greenbuilding/). These alternative systems award points for many of the same practices, such as the use of fly ash in concrete, the recycling of construction debris, and the installation of overhangs.

While the far majority of local ordinances require or permit the use of LEED ratings for public and commercial projects, most local ordinances rely on GreenPoints or related systems for residential construction. In 2007, Build it Green signed a Memorandum of Understanding with Davis Energy Group (www.davisenergy.com) to calibrate the LEED for Homes and GreenPoints Rated systems for use in California, allowing for cross-training of building professionals, concurrent verification, and the possibility of "dual-branded" homes meeting the requirements of both systems.

As an alternative to the approach of LEED and GreenPoints Rated, the California Building Industry Association's Building Industry Institute has developed the California Green Builder program (http://cagreenbuilder.org) to help builders and communities introduce and verify green building practices. The California Green Builder program combines prescriptive green building measures with a performance-based verification system. Unlike LEED and GreenPoints Rated, the California Green Builder protocols do not use "points," but require specific practices and third party verification of a building's actual performance. The California Green Builder program ensures that buildings exceed state energy efficiency requirements by at least 15%, while verifying practices such as duct sealing and construction waste management. As of yet, no California city has required developers to use the Green Builder Program. However, cities such as San Bernardino, Riverside, and Cathedral City have passed ordinances that provide incentives for developers who use the system.

Examples of cities' minimum LEED, GreenPoint Rated, or other point requirements for private development:

City	**Nonresidential Buildings**	**Residential Buildings**
Albany	LEED Gold if over 5000 ft.²	50 GreenPoints for single-family
Berkeley	Energy audit required if construction totals more than $50,000	Energy audit required if construction totals more than $50,000
Brisbane	LEED Silver if over 10,000 ft.²	50 GreenPoints for multifamily
Calabasas	LEED Certified if over 500 ft.²; LEED Silver if over 5000 ft.²	
Cotati	60 GreenPoints	60 GreenPoints
Chula Vista		50 GreenPoints
Livermore	LEED Certified Equivalent	50 GreenPoints
Long Beach	LEED Certified if over 50 units	LEED Certified if over 50,000 ft.²
Los Altos		50 GreenPoints
Los Angeles	LEED Certified if over 50,000 ft.²	LEED Certified if over 50,000 ft.² and at least 50 units.

Novato		50 GreenPoints
Palo Alto	LEED Silver if over 5,000 ft.²	70 GreenPoints if over 1250 ft.²
Pasadena	LEED Certified if over 25,000 ft.²; LEED Silver if over 50,000 ft.²	LEED Certified if over four stories
Pleasanton	LEED Certified if over 20,000 ft.²	
Rohnert Park	LEED Silver	90 GreenPoints
San Francisco	LEED Gold	75 GreenPoints or LEED Silver
San Rafael	LEED Certified; LEED Silver if over 30,000 ft.²	60 GreenPoints
San Mateo (Co.)	LEED Silver if over 3,000 ft.²	50 GreenPoints or LEED Certified
Santa Cruz		10 GreenPoints + 1.5 GreenPoints for every 100 ft.² over 350 ft.²
San Francisco	LEED Gold (by 2012)	75 GreenPoints or LEED Silver (by 2012)
Santa Monica	7 LEED Points (all LEED prerequisites)	
Sebastopol	60 Sonoma County Points	60 Sonoma County Points
Hayward	LEED Silver if valued over $3,000,000	50 GreenPoints if more than 20 units
Windsor	20 LEED Points	50 GreenPoints
West Hollywood	60 City Points Or LEED Certified	60 City Points or LEED Certified

Prescriptive Measures

Rating systems offer flexibility for developers, since the developer can choose which green building practices will be used to meet the requirements. However, some cities have chosen to prescribe specific green building measures in lieu of or in addition to required ratings. These requirements address the particular resource needs of a community, and include measures such as the installation of water-saving plumbing fixtures, solar panels, or the use of energy-saving EnergyStar appliances.

Some cities that require specific prescriptive measures with examples:

City	Required Measures
Cotati	Pre-plumb for solar water heating; 30% fly ash in concrete; 50% native plants in landscaping; protection for 80% drought conditions.

Chula Vista	Pre-plumb for solar water heating
Culver City	1kw of installed solar panels
Palm Desert	Fluorescent, automatic-OFF landscape and utility lighting; NEMA premium electric motors and pumps; conduit for solar
Pasadena	Meet LEED credit 3.1 (water efficiency)
Rohnert Park	Variable speed pool pumps; EnergyStar exhaust fans
Santa Barbara	Variable speed pool pumps; EnergyStar appliances; NEMA premium HVAC motors
Santa Monica	Efficient water heating; EnergyStar appliances; light sensors/dimmers
Sebastopol	Dual flush toilets; low-flow showerheads
West Hollywood	Roof capacity for solar panels; bike parking; many others.

Performance Standards

Performance standards provide a way to measure the energy efficiency of a building. Tools and guidelines for assessing the performance of buildings have been developed to implement California's energy efficient building standards, and are available from the California Energy Commission (http://www.energy.ca.gov/title24/). Both the California Green Builder program and GreenPoints Rated systems require qualifying buildings to exceed Title 24 requirements by at least 15%, and buildings using the LEED system are awarded points for exceeding Title 24 requirements by more than 15%.

As an alternative to ratings systems such as LEED, GreenPoint Rated, or California Green Builder, which grant certification for specific actions designed to conserve resources, many local governments have chosen to directly implement performance standards as alternate means of compliance or as separate requirements from green building practices. Under California Public Resources Code § 25402.2(h), such requirements, when they relate to energy efficiency, must be approved by the California Energy Commission and must be more stringent than the requirements found in Title 24, Part 6 of the California Code of Regulations. Nearly ten cities have received approval from the Energy Commission to incorporate energy efficiency performance standards into their green building ordinances separate from incorporation of GreenPoints Rated or LEED. An updated list is available here.

Cities that have adopted performance-based requirements exceeding Title 24:

City	**Energy Efficiency Requirement (increase over Title 24)**
Cotati	15%
Los Altos	15% for non-residential buildings
Los Altos Hills	15% for residential buildings

Palm Desert	10% for residential buildings; 15% if over 4,000 ft.²
Rohnert Park	10-15% for residential buildings based on size
San Rafael	All homes above 3,500 ft.² must equal Title 24 energy use of a 3,500 ft.² home
Santa Barbara	20% for residential buildings
Santa Monica	10% exempts projects from prescriptive requirements
Santa Rosa	15% for residential buildings

Municipal Buildings

Many ordinances in California require that municipal buildings and other city-sponsored projects promote green building practices. These are often the first and most stringent green building requirements passed by a city.

Examples of cities which have higher green building requirements for public buildings than for private projects:

City	Requirement for Municipal Buildings
Albany	LEED Gold if over 5,000 ft.²
Berkeley	LEED Silver
Brisbane	LEED Silver if over 5,000 ft.²
Livermore	LEED Silver
Los Altos	LEED Certified if over 7,500 ft.²
Los Angeles	LEED Certified if over 7,500 ft.²
Pasadena	5000 ft.²; LEED Silver
Rohnert Park	LEED Silver
San Rafael	LEED Certified; LEED Silver if over 30,000 ft.²
West Hollywood	LEED Certified
Livermore	LEED Certified

Enforcement

Cities have chosen many different mechanisms for enforcing green building requirements. Most cities require submission of completed checklists based on building plans at the permitting stage. In most cities, buildings permits are contingent upon a complete and sufficient checklist. Many cities, such as Rohnert Park, Santa Monica, and Palo Alto provide for green building verification prior to issuing an occupancy permit. The power to restrict permits for non-compliant buildings

is an important part of ensuring compliance by private developers. San Mateo County requires builders to post a bond of $1.50 per square foot to ensure compliance with green building requirements.

In addition to enforcement through the permitting process, some local ordinances provide for penalties for violation of a green building ordinance. Ordinances can provide for infractions or injunctions for violators, or even civil penalties. Criminal and civil sanctions are an important way of insuring that green building practices are followed even after the permitting process is complete.

Cities and their methods of green building enforcement:

City	**Enforcement**
Berkeley	Plan check at permit stage
Brisbane	Verification prior to occupancy permit
Cotati	Plan check and project inspection
Culver City	3rd party inspection
Livermore	Verification plan submitted at permit stage; inspection prior to occupancy permit; infraction or injunction for violation; violation is also public nuisance
Long Beach	3rd party inspection prior to occupancy permit
Los Altos	Verification prior to final inspection
Los Angeles	Plan check or LEED registration at permit stage
Novato	Plan check at permit stage
Palo Alto	Plan check and verification prior to final inspection
Rohnert Park	Plan check and verification prior to final inspection; infraction and civil penalty for violation
Pasadena	Verification at final inspection; additional inspections as needed
San Mateo (Co.)	Plan check at permit stage; bond required until 3rd party verification
Santa Cruz	Plan check at permit stage
Santa Monica	Plan check at permit stage and final inspection
Santa Rosa	Plan check at permit stage and final inspection
Windsor	Verification plan developed at permit stage

West Hollywood	Plan check at land use and permitting stages
Livermore	Verification at permit stage

Incentives

Many ordinances that codify mandatory green building requirements also provide incentives that encourage developers to meet or exceed the required standard. These incentives can take the form of rebates or reimbursements, or preferential treatment as expedited permit review, expedited inspections, or even permit variances such as increased floor-area-ratio (FAR) or unit density.

Examples of cities that provide incentives for green performance in addition to mandatory standards:

City	**Incentives**
Anaheim	Expedited permit processing and fee waivers
Costa Mesa	Expedited permit processing and fee waivers
Chula Vista	50 GreenPoints meets indoor air plan requirements; expedited permit processing
Los Angeles	Expedited permit processing for LEED Silver
Petaluma	Buildings attainting 50 GreenPoints get certificate, plaque, city recognition
San Francisco	Priority permitting for LEED Gold; FAR/height waivers for higher performance
San Rafael	Expedited permit, fee waiver, sign, plaque for 100 GreenPoints or LEED Gold
San Mateo (Co.)	Priority permitting for 75 GreenPoints or LEED Certified
Santa Monica	Permit processing for 35 GreenPoints or 33 LEED points
Marin (Co.)	Rebates for installation of home solar panels

Comprehensive Ordinances

As this document illustrates, there are a variety of approaches, methods, and measures to ensure that a city's development occurs in the most sustainable way possible. Required ratings, prescriptive measures, performance standards, powerful enforcement, and a variety of incentives can all work together to promote the effective and efficient shift to environmentally sensitive building. The most comprehensive programs combine all of these elements to establish minimum standards while encouraging innovation and voluntary commitment to green practices. Cities and counties of all sizes can take ambitious action to combat climate change. Two such comprehensive programs are compared below:

	San Francisco (proposed)	Rohnert Park
Approximate population (U.S. census estimate)	764,000 in 2007	41,083 in 2006
Residential requirement	75 GreenPoints (by 2012)	90 GreenPoints
Nonresidential requirement	LEED Gold (by 2012)	LEED Silver
Examples of prescriptive requirements	On-site space designated for compostable waste, in addition to recycling (by 2012)	Variable speed pool pumps; Energy Star exhaust fans; mastic applied to duct joints
Incentives	For "significantly" exceeding requirements: -Additional building height or FAR -Priority permitting -Equalization of green assessment evaluations, avoiding increased taxes for green features -Rebate or refunds of project fees	None
Enforcement	Plan check and verification prior to final inspection	Plan check and verification prior to final inspection; infraction and civil penalty for violation

Several organizations offer information to local governments interested in developing green building initiatives. Model ordinances and resolutions covering city buildings and encouraging green building in the private sector are available at http://www.stopwaste.org. These resolutions are common first steps to developing mandatory green building requirements. Global Green USA (http://www.globalgreen.org) offers several publications and resources for local governments, including *Developing Green Building Programs: A Step-by-Step Guide for Local Governments*.