



MILPITAS PLANNING COMMISSION STAFF REPORT

October 9, 2024

APPLICATION:	ENTERTAINMENT USE – 147 GREAT MALL DRIVE – P-UP24-0004. A Conditional Use Permit to operate a 28,500-square foot entertainment facility (Altitude Trampoline Park) within an existing commercial space in the Metro Very High Density Mixed Use (MXD3-Metro) zone, located at 147 Great Mall Drive. The Project is also located within the Milpitas Metro Specific Plan Area.
RECOMMENDATION:	Staff recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA, and adopt Resolution No. 24-031, approving Conditional Use Permit No. UP24-0004 subject to the findings and attached Conditions of Approval.
LOCATION:	
Address/APN:	147 Great Mall Drive (APN 086-24-063)
Area of City:	Northeast of Great Mall Parkway, East of South Main Street and West of South Milpitas Boulevard
PEOPLE:	
Project Applicant:	Guru Murari (Altitude Trampoline Park)
Property Owner:	Milpitas Mills Limited Partnership (Simon)
Project Planner:	Randy Baez, Associate Planner
LAND USE:	
General Plan Designation:	Milpitas Metro Specific Plan (MMSP)
Specific Plan Designation:	Residential Retail High Density Mixed Used (RRMU)
Zoning District:	Metro Very High Density Mixed Use (MXD3-Metro)
ENVIRONMENTAL:	The Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and; as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

EXECUTIVE SUMMARY

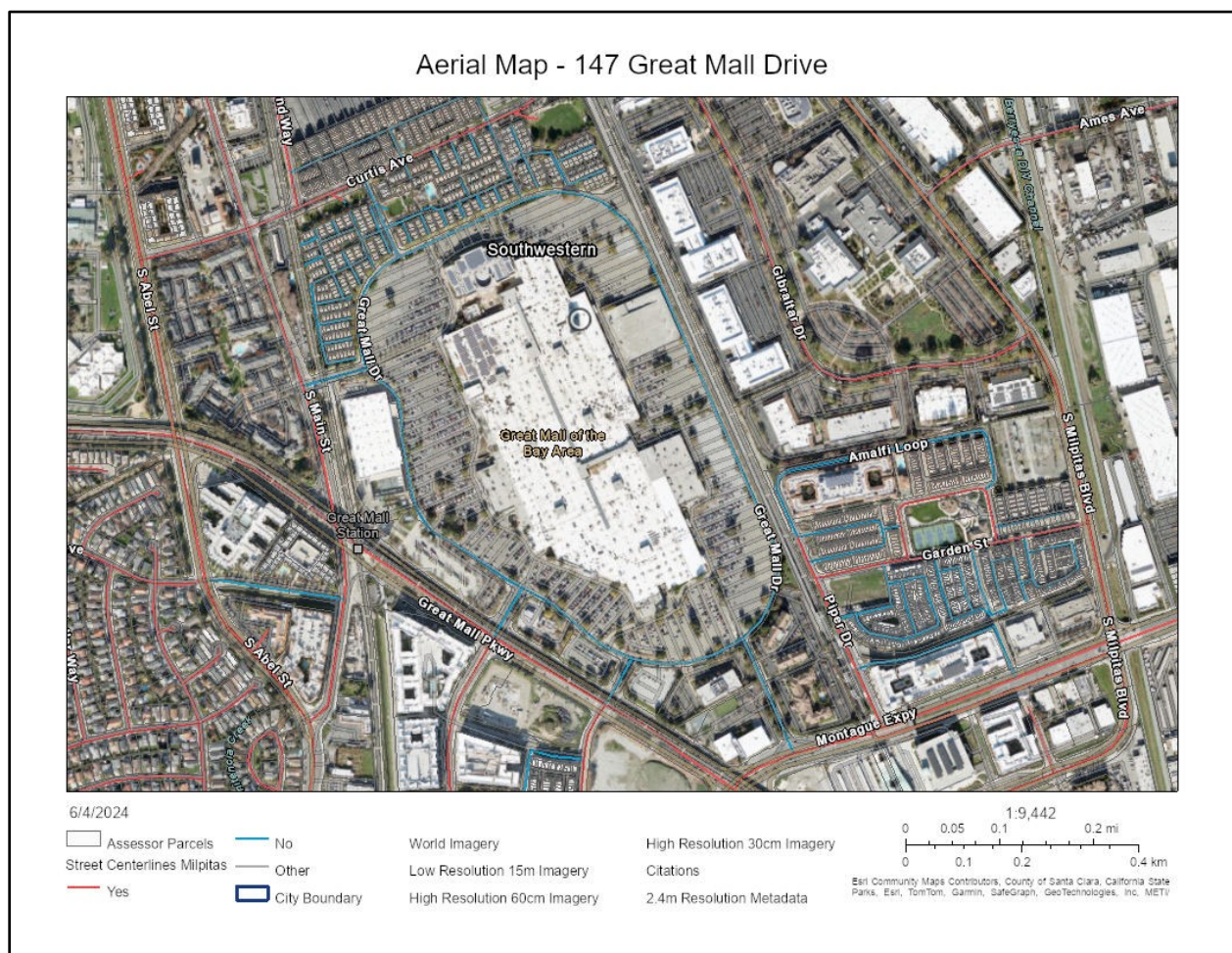
The applicant, Guru Murari of Altitude Trampoline Park plans to open an entertainment facility, known as Altitude Trampoline Park, in a vacant retail space at 147 Great Mall Drive. The suite is located within the Great Mall of Milpitas, a commercial mall that provides retail goods, services, eating establishments, and a variety of entertainment uses to community members and visitors of Milpitas.

The following is a summary of the applicant's request:

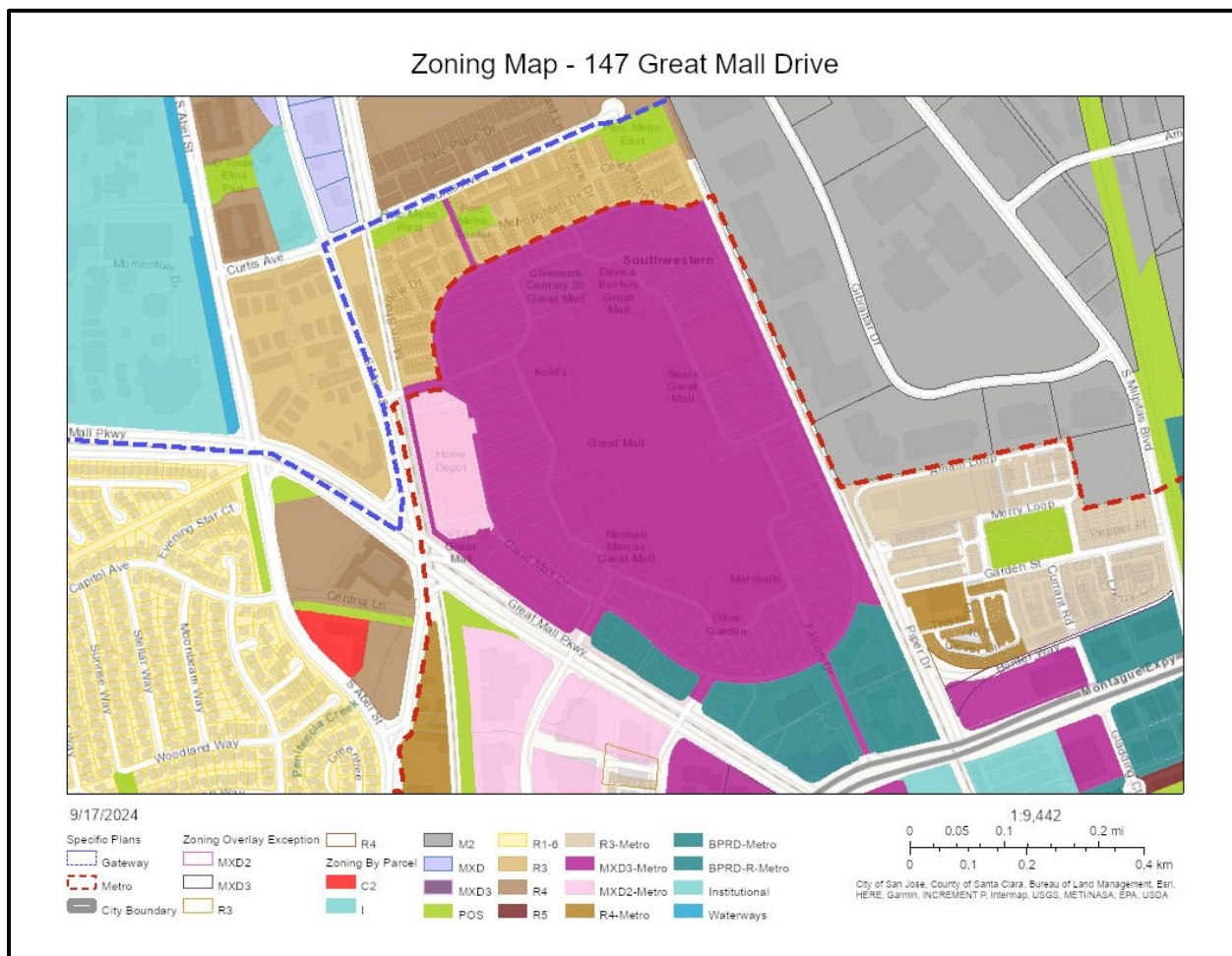
- Conditional Use Permit: To allow the operation of an entertainment facility, known as Altitude Trampoline Park, within an existing 28,500 square-foot commercial tenant space. Hours of operation are 10am to 10pm Sunday through Thursday, and 10am to 11pm on Fridays and Saturdays.

Staff reviewed the entitlement application outlined above and found it consistent with the policies, standards, and processes outlined in the Milpitas General Plan 2040, Milpitas Metro Specific Plan, and Zoning Ordinance. This report provides specific details and analysis regarding their request.

Map 1: Project Location



Map 2: Zoning Map



BACKGROUND

The subject location is an approximately 28,500-square-foot tenant space within the Great Mall, previously occupied by a retail store (“Bed Bath & Beyond”). The tenant space is located between Dave & Buster’s and the Legoland Discovery Center.

PROJECT DESCRIPTION

Overview / Project Details

On May 8, 2024, Guru Murari, on behalf of Altitude Trampoline Park (the “Applicant”), with the consent and approval of Milpitas Mills LP (Simon)(the “Property Owner”), applied for a Conditional Use Permit (CUP) to operate an entertainment facility, known as Altitude Trampoline Park, as required per Milpitas Municipal Code (MMC) Table XI-10-9.02-1. Once approved, the applicant will apply for a building permit for interior tenant improvements. The scope of work includes the relocation of an existing restroom and office and the installation of new partitions, ceilings and finishes, new mechanical ducts, new electrical and lighting fixtures, and new plumbing and fixtures. There will be multiple play areas, a kitchen, and party rooms. No exterior modifications are proposed as part of this application.

The architectural plans represent the various activities proposed throughout the 28,500 square-foot tenant space; the floor plan is shown on Figure 1. Additional features on the floor plan include slides, jungle gyms, activity rooms, trampolines, a kitchen, restrooms, and five party rooms.

(E) LOADING DOCK

STORAGE / EQUIPMENT ROOM

BREAKROOM

MULTI BALL

**POWER STRIKE
AERO STRIKE**

DODGE BALL

BATTLE BEAM

AIR JUMP

AERO TOWER

FREE JUMP

SOFT PLAY

MUTT BALL

KITCHEN

SERVERY

WOMEN

MEN

PARTY RM 1

OFFICE

PARTY RM 2

PARTY RM 3

PARTY RM 4

PARTY RM 5

VENDING MACHINE

(E) ELECTRICAL ROOM

FRONT DESK

CHECK-IN

**(EXISTING)
MAIN ENTRY**
OPEN DURING REGULAR HOURS
(CLOSED AFTER HOURS)

EXIT

ADJACENT TENANT

QUEUE LINE

SEATING 1

**ROLL UP DOOR:
LEAVES TO VISIBLE SIGN POSTED ON THE**

**EXISTING ROOF LADDERS
& WATCH ABOVE**

INFLATABLE AMUSEMENT DEVICES shall be designed, and maintained in accordance with the manufacturer's requirements of ASTM F2374. Combustible materials, containment netting and combustible small mesh construction of the inflatable amusement device shall meet the propagation criteria of Test Method 5 of NFPA 701. An affidavit containing the information required in 2022S and 3104.4 of this code shall be permanently affixed.

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Location and Context

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Very High Density Mixed Use (MXD3-Metro). Table 1 summarizes the Project site's General Plan designation, Specific Plan designation, zoning, and surrounding uses:

Table 1: Zoning and Land Use Summary

	General Plan	Zone	Uses
Subject Site	Milpitas Metro Specific Plan (MMSP)	Metro Very High Density Mixed Use (MXD3-Metro)	Vacant Commercial Space
North	High Density Residential (HDR)	Residential High Density (R3)	Multi-family residential
South	Milpitas Metro Specific Plan (MMSP)	Metro Business Park Research and Development, Limited Residential (BPRD-R-Metro)	Commercial (McDonald's and Chevron gas station)
East	Manufacturing (MFG)	Heavy Industrial (M2)	Industrial (Flex)
West	Milpitas Metro Specific Plan (MMSP)	Metro High Density Mixed Use (MXD2-Metro)	Commercial (Home Depot)

PROJECT ANALYSIS

General Plan Conformance

The General Plan land use designation for the Project site is Milpitas Metro Specific Plan (MMSP). The purpose of the MMSP is to "create a structure for a walkable, transit-oriented area with a mix of land uses that encourage walking, biking, and transit trips and minimize vehicle trips and reduce vehicle miles traveled (VMT)." Table 2 outlines the Project's consistency with applicable General Plan Guiding Principles, Goals, and Implementing Policies:

Table 2: General Plan Consistency

General Plan Goal / Policy	Consistency Finding
<i>Goal LU-1 Accommodate a well-balanced mix of land uses that meets the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched.</i>	Consistent. The Project will directly increase the diverse range of retail and entertainment options in the City of Milpitas that cater to different tastes and interests.
<i>Policy LU-6-5 Promote reinvestment in strip commercial and shopping centers and maintain,</i>	Consistent. The proposed entertainment use will add a new vibrant entertainment experience within the Great Mall and City of Milpitas. This

General Plan Goal / Policy	Consistency Finding
<i>revitalize, and redevelop aging and underperforming centers.</i>	investment will continue to promote reinvestment within the shopping mall.
Policy LU-6-4 <i>Maintain viable neighborhood-serving commercial uses throughout the city in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.</i>	Consistent. The proposed entertainment center is a new commercial use in the City. By allowing the entertainment facility to operate, the City will strengthen the diverse mix of commercial uses in our jurisdiction, directly serving local households living in surrounding neighborhoods looking for entertainment options. The propose use will particularly add a business that will focus on physical, family-friendly entertainment.

Specific Plan Conformance

The proposed Project is consistent with the goals and implementation policies of the Milpitas Metro Specific Plan (MMSP), as outlined in Table 3.

Table 3: Milpitas Metro Specific Plan Consistency

Policy	Consistency Finding
Policy LU 1 <i>Provide a mix of land uses, including residential; neighborhood-serving, local, and regional retail and entertainment destinations; commercial; office; research and development facilities; parks; and public facilities, to create a complete neighborhood.</i>	Consistent. The Project will serve the surrounding high density residential developments in the specific plan area. The Project will also directly increase the diverse range of retail and entertainment options within the Great Mall by adding a physically demanding athletic entertainment use. This use would allow children and adults to exercise and play while others within their group shop throughout the other uses at the Great Mall.

Zoning Ordinance Conformance

The Project site's specific plan designation is Boulevard Very High Density Mixed Use (BVMU), and its implementing zoning district is Metro Very High Density Mixed Use (MXD3-Metro). The proposed use of a recreation or entertainment facility is conditionally permitted in the Metro Very High Density Mixed Use (MXD3-Metro) Zoning District. According to MMC Section XI-10-57.04 (A)(1), *"the purpose and intent of the Conditional Use Permit process is to provide a review of land uses which would not otherwise be permitted as a matter of right in a zoning district because of their nature, have an impact on the surrounding environment and for the determination of whether or not the proposed use is appropriate for its proposed location."* To determine if the proposed conditional use is consistent with the Zoning Ordinance, Planning staff considered the following:

- Is the existing building where the use will operate a legally conforming structure per MMC Table XI-10-9.04-1 (Mixed Use Zone Development Standards)?
- Does the proposed use meet the parking requirements per MMC Section 53 (Off-Street Parking Regulations)?
- Will the proposed use negatively impact public safety?

Legal Conforming Structure

Table 4 demonstrates the existing building conforms with the MXD3-Metro Zoning District requirements. No changes are proposed for the exterior of the building.

Table 4: MXD3-Metro Development Standards

Standards	Required	Existing	Complies
Front Setback (minimum)	Min. 12 ft. Max. 20 ft.	360 feet	Yes; legal nonconforming
Side Yard Setback (minimum)	10 ft.; 15 ft. when abutting residential	131 feet	Yes
Rear Yard Setback (minimum)	15 ft.; 20 ft. when abutting residential	236 feet	Yes
Building Height (maximum)	275 ft.	39-feet-2-inches	Yes
Parking	See Table 5	See Table 5	Yes
Lot Coverage	None	0.31	Yes
Floor Area Ratio	4.0	0.36	Yes
Landscaping	None	Landscaped around perimeter of parking lot	Yes

Parking Requirements

The Municipal Code within Metro Zones establishes vehicle parking ratios for the following uses: residential and lodging, industrial, and all other non-residential uses. For parking determination purposes, staff has determined that the proposed entertainment facility falls under “all other non-residential uses”.

The Great Mall has 6,623 shared parking spaces. Prior to the adoption of the Milpitas Metro Specific Plan, the City of Milpitas required 6,215 parking spaces per the zoning ordinance. When the Great Mall was approved, the zoning ordinance required retail and entertainment uses to provide one parking space for every 200 square feet of net floor area. Under the adopted Milpitas Metro Specific Plan and MMC Table 53.09-1, vehicle parking requirements for “all other non-residential uses” require a maximum of 1 parking space per 1,000 square feet.

Moreover, since the Project is taking over existing commercial space and the previous uses' (arcade and retail) off-street parking requirements are the same as the proposed Project use, no additional parking will be required, as demonstrated in Table 5, below.

Table 5: Off-Street Parking Conformance

Tenant (Use)	Net Floor Area (Square Footage)	Parking Ratio	Required Parking
Bed Bath & Beyond (previous use)	28,500 square feet	One per 200 square feet	142.5
Altitude Trampoline Park (Project)	28,500 square feet	One per 1,500 square feet	19
Total Number of Spaces Required for Entire Shopping Center:			6,195
Total Number of Parking Spaces Available:			6,623

In summary, Great Mall currently has adequate parking to accommodate the proposed entertainment use. The Project will not require additional parking because the entertainment use does not increase the need for additional parking.

Public Safety

Planning staff rely on the Milpitas Police Department (MPD) to analyze uses that may potentially have an impact on the community's health and safety. MPD reviewed the business operation of the proposed use and determined the entertainment use will not create any adverse impacts on the delivery of professional and responsive police services. MPD recommends implementing the following actions to ensure the safety of patrons, which have been added to the resolution as conditions 22 through 27

- Video surveillance within the interior and exterior of the arcade;
- Adequate lighting within and outside the premises;
- Provision of an updated floor plan to MPD before occupancy;
- Specified cashier's area far from the front entrance; and
- Completion of an emergency notification form.

Since the applicant agrees to the following conditions, the Planning Department recommends the Planning Commission approve the proposed use.

FINDINGS

A finding is a statement of fact relating to the information the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

Conditional Use Permit (Section XI-10-57.04(F))

1. *The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The Project will serve the community in a manner that will not be detrimental or harmful to the property or improvements in the vicinity of the property, nor to the public health, safety, and general welfare. Indoor recreational facilities such as the proposed use provide physically demanding exercises for people of all ages. The Project will serve as a family-friendly entertainment option, attracting adults, families and youth to the shopping center. Offering a diverse range of entertainment options will enhance the overall appeal of the shopping center by offering social interaction, stress relief, and fitness. The applicant has agreed to adhere to regulations and conditions of approval, ensuring that the entertainment facility operates in a manner that does not pose a risk to public health, welfare, and safety.

2. *The proposed use is consistent with the Milpitas General Plan.*

The Project is consistent with the Milpitas General Plan, as demonstrated in Table 2 above.

3. *The proposed use is consistent with the Milpitas Metro Specific Plan.*

The Project is consistent with the Milpitas Metro Specific Plan, as demonstrated in Table 3 above.

4. *The proposed use is consistent with the Milpitas Zoning Ordinance.*

The Project is consistent with the Milpitas Zoning Ordinance in that entertainment facilities including trampoline parks are permitted within the City of Milpitas as a conditional use. The application has been thoroughly reviewed, approved, and conditioned by the Milpitas Police Department, Fire Department, and Milpitas Planning Department, which are responsible for preserving the health, safety, and welfare of the local community. Additionally, the Project complies with the development standards of the MXD3-Metro Zoning District and parking requirements of the Milpitas Metro Specific Plan and the Milpitas Municipal Code as demonstrated in Table 5. The Project is consistent with applicable standards set forth in the Milpitas Zoning Ordinance.

ENVIRONMENTAL REVIEW

This Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities). The Project applicant will be applying for building permits for interior tenant improvements within the existing commercial space. The Project is also exempt pursuant to CEQA Guidelines Section 15183 in that the proposed use is consistent with the Milpitas General Plan, Milpitas Metro Specific Plan, and Zoning Ordinance, and no circumstances would require a subsequent Environmental Impact Report (EIR) or Negative Declaration.

PUBLIC COMMENT

Staff provided public notice for the application per City and State public noticing requirements. The City published a public hearing notice in the Milpitas Post on September 27, 2024 and sent notices via mail to residents and owners within 1,000 feet of the project site. A public notice was

posted on the project site, to the City's Website, www.milpitas.gov, and outside of City Hall. When this report was published, City staff received no public comments.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open and close the public hearing;
2. Consider the exemptions in accordance with CEQA;
3. Adopt Resolution No. 24-031 approving Conditional Use Permit No. UP24-0004, subject to the findings and attached Conditions of Approval.

ATTACHMENTS

A: Resolution No. 24-031

B: Project Plans

RESOLUTION NO. 24-031

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, APPROVING CONDITIONAL USE PERMIT NO. UP24-0004 TO OPERATE A 28,500 - SQUARE FOOT ENTERTAINMENT FACILITY (ALTITUDE TRAMPOLINE PARK) LOCATED WITHIN THE METRO VERY HIGH DENSITY MIXED USE (MXD3-METRO) ZONING DISTRICT AT 147 GREAT MALL DRIVE (APN 086-24-063) AND MAKING THE FINDING OF CEQA EXEMPTION

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described below; and

WHEREAS, on May 8, 2024, Guru Murari of Altitude Trampoline Park (the “Applicant”) applied to the City of Milpitas for Conditional Use Permit No. UP24-0004. The proposed development (the “Project”) includes the following:

- *Conditional Use Permit*: To allow the operation of an entertainment facility.

WHEREAS, Milpitas City Staff conducted a full analysis of the Project to ensure compliance with the City’s General Plan, Zoning Ordinance, Engineering Design Requirements and all other applicable laws, regulations and standards, as all further explained in detail in City staff report to the Planning Commission; and

WHEREAS, on October 9, 2024, the Planning Commission held a duly noticed public hearing on the subject application, at which all those in attendance were given the opportunity to speak on the Project; and

WHEREAS, the Planning Commission has considered all the written and oral testimony presented at the public hearing in making its decision; and

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1. Recitals

The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. Record

The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is within the Planning Department, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035

SECTION 3. California Environmental Quality Act (CEQA)

This Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities); and as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). As proposed, the Project includes the operation of an entertainment facility within a vacant retail suite with minor proposed interior modifications. The proposed use is consistent with the Milpitas General Plan, Milpitas Metro Specific Plan, and Zoning Ordinance, and there are no circumstances present that would require a subsequent Environmental Impact Report (EIR) or Negative Declaration.

SECTION 4: Conditional Use Permit (Section XI-10-57.04(F)(1))

The Planning Commission makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP24-0004:

1. *The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The Project will serve the community in a manner that will not be detrimental or harmful to the property or improvements in the vicinity of the property, nor to the public health, safety, and general welfare. Indoor recreational facilities such as the proposed use provide physically demanding exercises for people of all ages. The Project will serve as a family-friendly entertainment option, attracting adults, families and youth to the shopping center. Offering a diverse range of entertainment options will enhance the overall appeal of the shopping center by offering social interaction, stress relief, and fitness. The applicant has agreed to adhere to regulations and conditions of approval, ensuring that the entertainment facility operates in a manner that does not pose a risk to public health, welfare, and safety.

2. *The proposed use must be consistent with the Milpitas General Plan*

The Project is consistent with the General Plan 2040 – City of Milpitas, as demonstrated within Table 1, below:

Table 1: General Plan Consistency

General Plan Goal / Policy	Consistency Finding
<i>Goal LU-1</i> <i>Accommodate a well-balanced mix of land uses that meets the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched.</i>	Consistent. The Project will directly increase the diverse range of retail and entertainment options in the City of Milpitas that cater to different tastes and interests.

General Plan Goal / Policy	Consistency Finding
<i>Policy LU-6-5 Promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers.</i>	Consistent. The proposed entertainment use will add a new vibrant entertainment experience within the Great Mall and City of Milpitas. This investment will promote reinvestment within the shopping mall.
<i>Policy LU-6-4 Maintain viable neighborhood-serving commercial uses throughout the city in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.</i>	Consistent. The proposed entertainment center is a new commercial use in the City. By allowing the entertainment facility to operate, the City will strengthen the diverse mix of commercial uses in our jurisdiction, directly serving local households living in surrounding neighborhoods looking for entertainment options.

3. *The proposed use must be consistent with the Milpitas Metro Specific Plan.*

The Project is consistent with the Milpitas Metro Specific Plan, as demonstrated within Table 2, below:

Table 2: Milpitas Metro Specific Plan Consistency

Policy	Consistency Finding
<i>Policy LU 1 Provide a mix of land uses, including residential; neighborhood-serving, local, and regional retail and entertainment destinations; commercial; office; research and development facilities; parks; and public facilities, to create a complete neighborhood.</i>	Consistent. The Project will serve the surrounding high density residential developments in the specific plan area. The Project will also directly increase the diverse range of retail and entertainment options within the Great Mall and the Specific Plan Area that cater to different tastes and interests.

4. *The proposed use must be consistent with the Milpitas Zoning Ordinance.*

The Project is consistent with the Milpitas Zoning Ordinance in that entertainment facilities including trampoline parks are permitted within the City of Milpitas as a conditional use. The application has been thoroughly reviewed, approved, and conditioned by the Milpitas Police Department, Fire Department, and Milpitas Planning Department, which are responsible for preserving the health, safety, and welfare of the local community. Additionally, the Project complies with the development standards of the MXD3-Metro Zoning District and parking requirements of the Milpitas Metro Specific Plan and the Milpitas Municipal Code as demonstrated in Table 5. The Project is consistent with applicable standards set forth in the Milpitas Zoning Ordinance.

SECTION 5: Planning Commission Approval

The Planning Commission of the City of Milpitas hereby adopts Resolution No. 24-031, approving Conditional Use Permit No. UP24-0004, subject to the Findings and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on October 9, 2024.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on October 9, 2024 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Chia Ling Kong				
Michael Caulkins				
Mercedes Albana				
Dipak Awasthi				
Alexander Galang				
Parveen Gupta				
Sonia Medina-Ashby				

EXHIBIT 1**CONDITIONAL USE PERMIT NO. UP24-0004****ALTITUDE TRAMPOLINE PARK
147 GREAT MALL DRIVE
(APN 086-24-063)**

On October 9, 2024, the City of Milpitas Planning Commission approved Conditional Use Permit No. UP24-0004 in accordance with Section XI-10-57.04 of the Milpitas Municipal Code. Subject to all applicable State and local regulations and the conditions of use outlined below, this Permit will allow the operation of an entertainment facility (Altitude Trampoline Park) in conformance with the plans and proposal for operation approved within an existing 28,500 square foot commercial space in the Metro Very High Density Mixed Use (MXD3-Metro) Zoning District located at 147 Great Mall Drive (APN 086-24-063).

APPROVED SUBJECT TO THE FOLLOWING 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 **Conditional Use Permit No. UP24-0004** (“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 and this Resolution has been recorded by the Permittee with the Santa Clara County Clerk-Recorder’s Office with a copy provided to the Planning Department.
2. The Permittee shall develop the approved project in conformance with the plans approved by the Planning Commission on October 9, 2024, in accordance with these Conditions of Approval. **(P)**
3. Modifications to project. Any deviation from the approved site plan, floor plans, 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 Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**
4. Conditions of Approval. As part of the issuance of building permits, the Permittee shall include within the first four pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
5. 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)**

6. 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.
7. 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.
8. 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 complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

This permit shall become null and void if the permitted use ceases operation and/or the business closes at such location for a period of one (1) calendar year.
9. 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)**
10. 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. **(P/E)**
11. 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).

12. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the adoption of this Resolution. **(ALL)**
13. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution. **(ALL)**
14. 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)**
15. 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.
16. 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.
17. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
18. 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.

19. Compliance with Fire Department and California Fire Code. The Project shall comply with the requirements of the Milpitas Fire Prevention Department and the California Fire Code as adopted by the City. Changes to the floor plan and/or building(s) requires review and approval by the Fire Department. **(F)**
20. Compliance with Building Department. The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department. **(B)**

PROJECT SPECIFIC CONDITIONS

Planning Department Conditions

21. Hours of Operation. Hours of operation are limited to 10:00 AM to 10:00 PM, Sunday through Thursday, and 10:00 AM to 11:00 PM, Friday and Saturday. Any change in the hours of operation will require a written request addressed to the Planning Director or Designee. The Planning Director or Designee, at his or her discretion, may approve or deny the request in writing. **(P)**

Police Department Conditions

22. Video Surveillance. Video/security cameras shall be implemented for the business to cover the exterior and interior of the property. The video/security cameras shall record in high definition and cover the entrance and exit points, general warehouse area, any location cash or sensitive documentation is kept, and the rear of the business to include the parking stalls located to the rear of the business. The video/security system shall have the capacity to save/store footage for a minimum of thirty (30) days and have the capability to be downloaded. A copy of video/security footage shall be made available to law enforcement, upon request, for investigative purposes. **(PD)**
23. Lighting. Lighting around the business shall be of sufficient wattage to adequately illuminate and make visible the presence of any person in or about the outside premises during hours of darkness. **(PD)**
24. Visibility. Line of sight obstructions, including business signs, advertisements, or other markings, should be avoided on the exterior windows to maximize natural surveillance during the business's closed hours. **(PD)**

25. Updated Floor Plan. An up-to-date map of the interior of the building should be provided to the Police Department. The map should minimally identify the locations of each entry/exit point, storage area, maintenance area, etc. **(PD)**
26. Cashier Area. The cashier area, coin machine, or other devices that store currency should be away from the front doors, windows of the business, and not in plain view to help prevent burglaries when the company is closed. If these areas cannot be moved, window treatments such as shades or blinds preventing the site from being visible from the outside should be considered.
27. Emergency Notification. Applicant shall file an emergence notification form with the Police Department so law enforcement can contact the applicant in case of any significant accident, emergency, or unforeseen circumstance. **(PD)**

Fire Department Conditions

*Building plans **must** be submitted for review and approval to the Building and Fire Departments prior to any construction, or occupancy is to commence. The following notes are a general list of the applicable Fire Code requirements (2022) and are provided to assist with the building permit process and/or Occupancy permit process. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building construction, or occupancy permit approvals.*

28. Change in Occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of the current code(s). California Fire Code (CFC) Section 102.3 **(F)**
29. Use and Occupancy. As a part of the construction permit process (Building Permit application), the “Use and Occupancy Classification” shall be provided for all areas of the building in conformance with Chapter 3 of the California Building Code. **(F)**
30. Construction Permit. As a part of the construction permit process, a complete “General Building Area, Height and Construction Type” analysis shall be done for the whole building in conformance to the California Building Code Chapter 5. Changes and modifications required in order to be in conformance with the California Building Codes shall be incorporated into the construction documents. **(F)**
31. Recreation – Assembly use intended for recreation or amusement, food and/or drink consumption, A2 & A3 Occupancy. It is with the understanding that the proposed business is for recreation or amusement as defined in the CA Building Code Section 303 and 304, and as such the fire department’s review of this application is exclusive to this proposed use. **(F)**
32. School. The use of this facility/business/site as a school, private school, and/or day care facilities are not permitted as part of this application. Schools are classified as E Occupancy as per the CA Building Codes. **(F)**

33. Day Care or other business under the regulations of CA Department of Social Services – Community Care Licensing. The use of this facility/business/site as a day care, other business under the DSS Community Care Licensing Division are not permitted with this application. **(F)**
34. Small Assembly Space: This facility/business/site has an assembly use in the multipurpose room as defined by the CA Building Code (less than 50 occupants or less than 750 square feet) classified as Group B occupancy. **(F)**
35. Maximum Occupancy: The maximum number of occupants within this business/facility shall be limited to the permitted number by the Planning Department, but not to exceed the permitted occupancy load under the CA Building and Fire Codes. **(F)**
36. Electronic documents: The Fire Code Official may require electronic base documents for all construction documents and operational permits. The Fire Code Official shall designate the software base format for the electronic documents. CFC Section 105.4.2.2, added by MMC Section V-300-2.10 **(F)**
37. Automatic Fire Sprinkler System for Structures:
- a. Automatic Fire Sprinkler. If the existing building has an automatic fire sprinkler system, this tenant space shall be provided with an automatic fire sprinkler system in conformance with the NFPA 13 Standards. California Fire Code Section 903.3 **(F)**
38. Fire Alarm System:
- a. Fire Alarm. If the existing building has a fire alarm, the necessary addition/ modifications shall be done for this tenant space to meet the requirements under the CA Fire Code, Section 907. **(F)**
 - b. Fire Alarm Monitoring: Fire alarm monitoring (approved supervising station – UL, or FM approved). When existing or required by the CA Fire Code, fire alarm systems shall be monitored by an approved supervising station in accordance with the NFPA 72. CFC Section 907.6.6 **(F)**
39. SMOKE CONTROL/REMOVAL. This mall, and tenant spaces, have a smoke exhaust system. When the tenant space smoke removal system is activated, make-up air transfer is pulled from the mall. Coordinate with the Mall for the design criteria and requirements for the smoke removal/control system. **(F)**
40. Building/Structure Other Requirements:
- a. Access Control Devices: When access control devices including bars, grates, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the Fire Code Official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. CFC Section 504.6, added by MMC Section V-300-2.59 **(F)**

- b. Premises Identification: New and existing buildings shall have approved address numbers, or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. The numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. The Fire Dept. may require the installation of address numbers at multiple building locations. CFC Sections 505 **(F)**
- c. Fire Department Emergency Knox Devices (aka Knox Box, Knox Locks, Knox Electric Switches, etc.): The Fire Code Official is authorized to require Knox devices to be installed in an approved location(s) if necessary for lifesaving or fire-fighting purposes. Quantity and location shall be as directed by the Fire Code Official. Locked mechanical closets, fire alarm closets, sprinkler riser closets, etc. will need a Fire Dept. approved Knox device. CFC Section 506. **(F)**
- d. Fire Equipment ID signs. Fire protection equipment shall be identified in an approved manner. Rooms containing fire alarm, automatic fire sprinklers, electrical, gas, mechanical systems, or other fire detection, suppression or control elements shall be identified for the use of the fire department. CA Fire Code Section 509. **(F)**
- e. Portable Fire Extinguishers. Portable fire extinguishers shall be selected, installed, and maintained in accordance with CFC Section 906. **(F)**
- f. Material Finishes. Interior wall and ceiling finish shall meet the requirements of the CA Building Code Section 803. **(F)**
- g. Combustible Decorative Materials. In Groups A, B, E, I, M and R-1 and in dormitories in Group R-2, curtains, draperies, fabric hangings and similar combustible decorative materials suspended from walls or ceiling area to which such materials are attached. Fixed or movable walls and partitions, paneling, wall pads and crash pads applied structurally or for decoration, acoustical correction, surface insulation or other purposes shall be considered to be interior finish, shall comply with CBC Section 803 and shall not be considered to be decorative materials and furnishings. **(F)**
- h. Fire Protection Equipment maintenance. Fire protection systems shall be inspected, tested and maintained with the referenced standards listed in CA Fire Code, Table 901.6.1 and the California Code of Regulations, Title 19, Division 1, Chapters 3 and 5. CFC Section 901.6 **(F)**
- i. Fire Protection Equipment. All fire alarm systems, automatic sprinkler or extinguishing systems, communication systems, and all other equipment, material or systems required by these regulations shall be maintained in an operable condition at all times in accordance with this code and California Code of Regulations, Title 19, Division 1. Upon disruption or diminishment of the fire protective qualities of such equipment, material or systems, immediate action shall be instituted to affect a reestablishment of such equipment, material, or systems to their original normal and operational condition. California Code of Regulations, Title 19, Division 1, §1.14 **(F)**
- j. Buildings or portions thereof shall be provided with a means of egress system as required by 2022 California Building Code Chapter 10. The provisions of this chapter shall control the design, construction and arrangement of means of egress components required to provide an approved means of egress from structures and portion thereof. **(F)**

- k. Egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort. CFC Section 1010.1.9 **(F)**
 - l. Panic hardware. Swinging doors serving rooms or spaces with an occupant load of 50 or more in a Group A or E occupancy assembly area not classified as an assembly occupancy E, I-2 or I-2.1 occupancies shall not be provided with a latch or lock other than panic hardware or fire exit hardware. California Fire Code Section 1008.2 **(F)**
 - m. Fire safety during construction of the building shall meet the requirements of the California Fire Code (CFC) Chapter 33. **(F)**
 - n. No approval is granted for the storage, use or handling of hazardous materials. CFC Section 5001 **(F)**
41. Inflatable amusement devices shall be designed, anchored, operated and maintained in accordance with the manufacturer's instructions and the requirements of ASTM F2374. **(F)**
42. Combustible materials. The fabrics, textiles, containment netting and combustible small mesh materials used in the construction of the inflatable amusement device shall meet the flame propagation criteria of Test Method 2 of NFPA 701. Additionally, a label and affidavit containing the information required in 2022 CFC Sections 3104.3 and 3104.4 of this code shall be permanently affixed. **(F)**
43. Plan submittal: Complete plans and specifications for all aspects of fire protection systems shall be submitted to the Fire Department for review and approval prior to system installation. CFC Section 901.2 **(F)**

Building Department Conditions

44. Compliance with California Code of Regulations. The Project shall comply with the requirements of the Office of Building Safety and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Office of Building Safety prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Office of Building Safety. **(B)**

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(PD) = Police Department

(CA) = City Attorney

ACCEPTANCE

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the project property on the terms and conditions set forth in this resolution.

Signature: _____

Printed Name: _____

Title: _____

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.



CITY OF MILPITAS

Planning Commission

MEETING MINUTES

7:00pm

Wednesday, August 28, 2024

BARBARA LEE SENIOR CENTER

40 N. MILPITAS BLVD., ROOM 140/141, MILPITAS, CA

and

via TELECONFERENCE (Zoom Webinar)

CALL TO ORDER

Chair Albana called the meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE

Commissioner Kong led the pledge of allegiance.

ROLL CALL

Recording Secretary Medina called the roll.

PRESENT: Chair Albana, Vice Chair Medina-Ashby, Galang, Awasthi, Gupta, Caulkins, and Kong.

ABSENT: none

STAFF: Jay Lee, Christopher Creech, Randy Baez, Holly Pearson, and Elizabeth Medina

CONFLICT OF INTEREST/CAMPAIGN CONTRIBUTION DECLARATION

Assistant City Attorney Christopher Creech asked if any member of the commission had any personal or financial conflict of interest related to any of the items on the agenda. Commissioner Caulkins declared for Item IX-1 on the agenda that he owns an interest in real property within 1,000 feet of the project. Therefore, Commissioner Caulkins will recuse himself from any discussion or deliberation to prevent any appearance of impropriety.

APPROVAL OF THE MEETING AGENDA

By motion, approve the meeting agenda for August 28, 2024.

Motion/Second Awasthi/Caulkins

Motion carried by a vote of AYES: 7 NOES: 0

APPROVAL OF THE MEETING MINUTES

By motion, approve the meeting minutes for June 26, 2024.

Motion/Second Gupta/Caulkins

Motion carried by a vote of AYES: 7 NOES: 0

By motion, approve the meeting minutes for August 14, 2024.

Motion/Second Kong/Gupta

Motion carried by a vote of AYES: 7 NOES: 0

ANNOUNCEMENTS

Commissioner Caulkins shared that at the recent HOD community meeting, he was very impressed with how Director Jay Lee and Principal Planner Lillian VanHua handled the audience with feedback and questions.

Chair Albana shared appreciation for City staff and how they work so well with community members. Chair Albana also mentioned how grateful she was to IT staff, Ron Long and Sammy Yue for hosting the meeting in a different venue for while the chamber is being improved. Chair Albana also expressed appreciation for community members present at the meeting speaking on items related to the City of Milpitas.

Planning Director Jay Lee shared that the September 11th Planning Commission meeting is cancelled, there currently no items scheduled for September 25th, and the next regular scheduled meeting will be on October 9th. Planning Director Lee shared details regarding the HOD meeting held on September 26th and that more meetings and community outreach will be scheduled to encourage collaborative efforts of both staff and City of Milpitas residents.

PUBLIC FORUM

Chair Albana invited members of the public to address the commission, and there were none.

PUBLIC HEARING

IX-1 NEW HILLSIDE RESIDENCE - 1327 TERRA VISTA CT. (LOT 3) - P-SD23-0004 and P-PA24-0001: A request for an Amendment to the development standards for a single-family home within Planned Unit Development No. 68 (Countryside Estates) to deviate from the approved designs for that single-family home and a Site Development Permit to construct a 5,998 square-foot, one-and-a-half-story, single-family residence with an attached two-car garage on a 1-acre vacant site, located in the R1-H Single-Family Residential-Hillside Zoning District with a Site and Architectural (-S) Overlay at 1327 Terra Vista Ct. (Countryside Estates, Lot 3).

**Commissioner Caulkins leaves the room.*

[\(15:02\)](#) Project Planner Randy Baez and applicant team member, Kulwantbir Sandhu [owner] and Mohammed [designer] addressed commissioners' clarifying questions regarding the two-car garage, if the new development will have a HOA to enforce residential and architectural rules, if architectural design of project was approved by HOA, on-street parking/guest parking concerns, PUD amendments for neighboring parcels, fence material, impervious surface calculation, back patio design, approval of design from HOA, requirement of geotechnical study, crestline location, and road for public safety/fire access.

Chair Albana invited members of the public to address the commission and there were none.

Motion to close the Public Forum.

Motion/Second Kong/Galang

Motion carried by a vote of AYES: 7 NOES: 0

Recommendation: Staff recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA, and adopt Resolution No. 24-030, approving and recommending approval of Site Development Permit SD23-0004 and Planned Unit Development Amendment PA24-0001 to the City Council, subject to the attached Conditions of Approval.

Motion/Second Awasthi/Galang

Motion carried by a vote of AYES: 7 NOES: 0

**Commissioner Caulkins returns to the dais.*

NEW BUSINESS

(50:30) Study Session: Comprehensive Zoning Update Phase 2 – Holly Pearson, Senior Special Projects Associate

The Planning Commission received a presentation from Project Manager, Holly Pearson and Jennifer Murillo with Lisa Wise Consultants related to:

- Community survey responses
- Parking requirements
- Nonconforming uses
- Sustainable Building Standards and Incentives
- Single-Family Residential Design Standards

Chair Albana invited members of the public to address the commission and there were three community members who spoke: Sreevan Potlovi (Housing Opportunity District), Pallavi Pandit, Vishel Gandhi, and Vivek Suryanarayana.

ADJOURNMENT

Chair Albana adjourned the meeting at 9:01 pm

Motion/Second Kong/Gupta

Motion carried by a vote of AYES: 7 NOES: 0

Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina