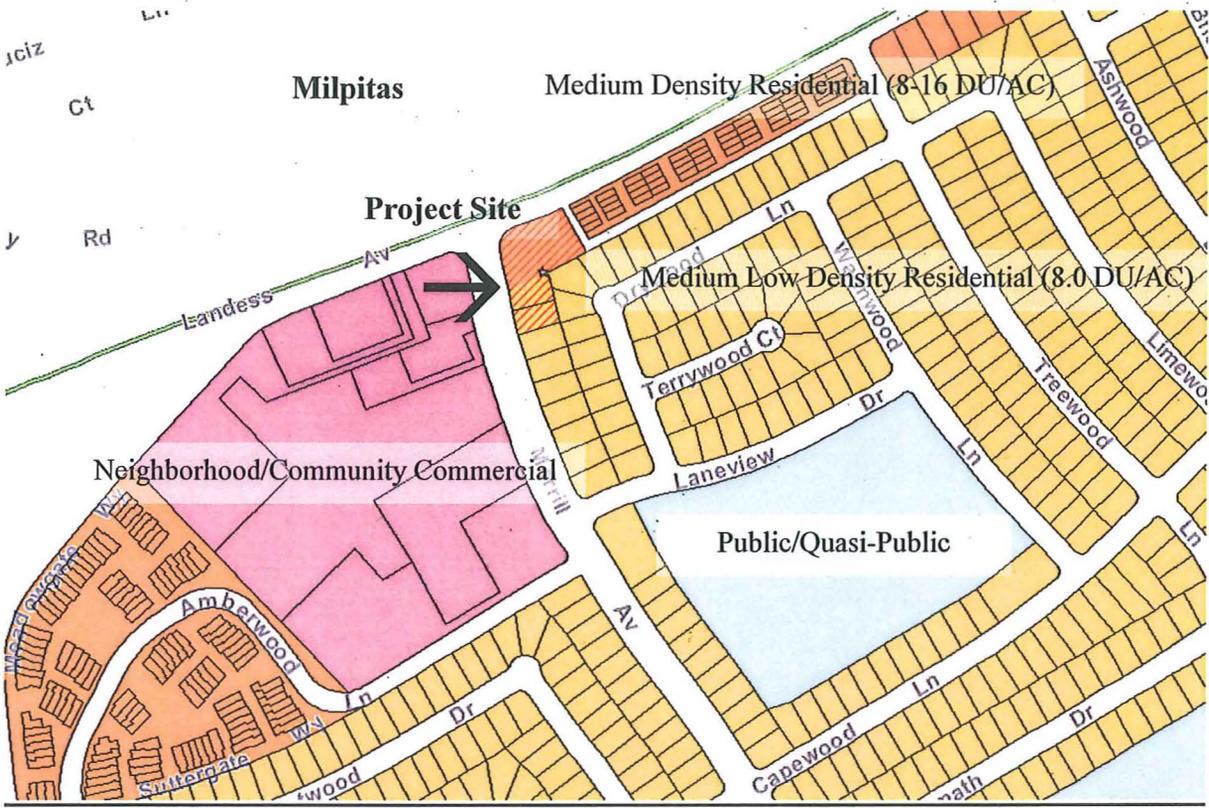
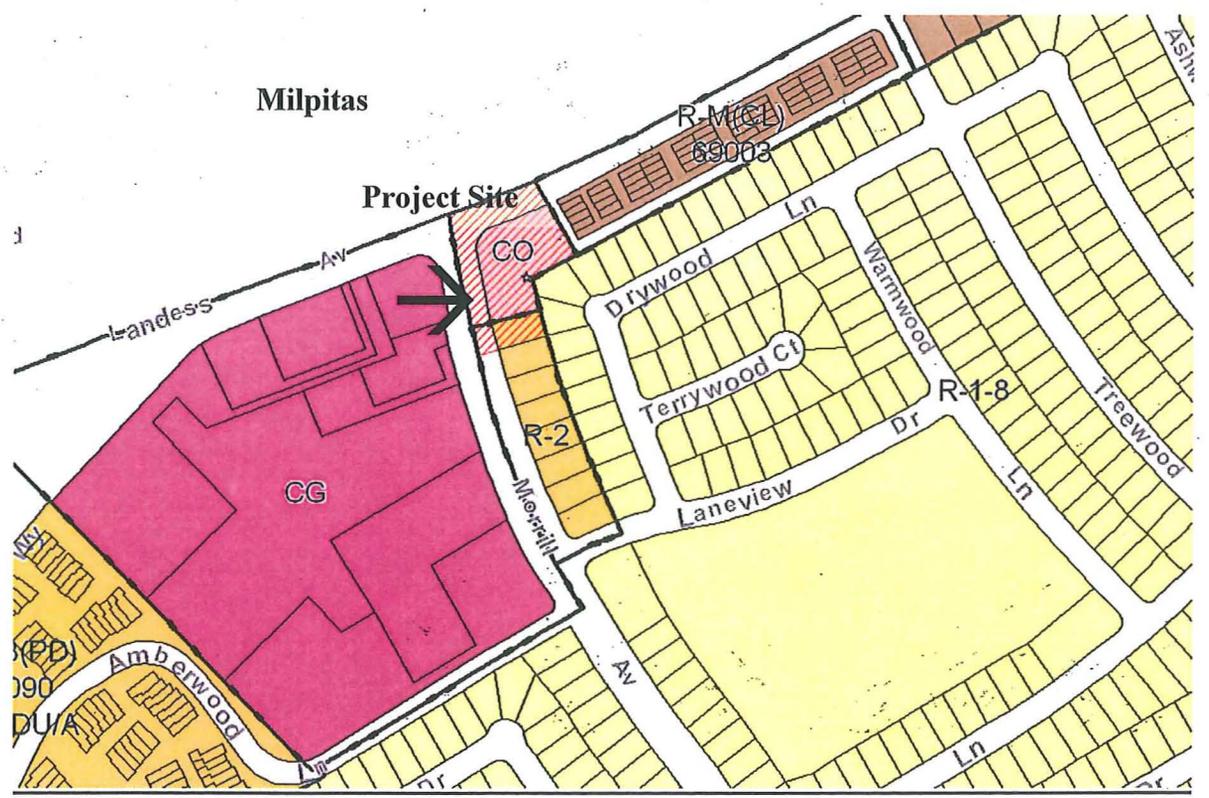




### GENERAL PLAN



### ZONING



## **RECOMMENDATION**

Planning staff recommends approval of the proposed conforming conventional rezoning for the following reasons:

1. The proposed rezoning to CP Commercial Pedestrian is in conformance with the General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial for the subject property.
2. The proposed rezoning would allow commercial uses that are compatible with the surrounding uses.

## **BACKGROUND & DESCRIPTION**

The applicant, Commercial Finance Corporation (CFC), on behalf of the property owner, Klifo Family Investments LLC, is requesting a conforming conventional rezoning of the subject property from the CO Commercial Office Zoning District on 0.8 acres (APN: 092-20-139) and the R-2 Two-Family Residence Zoning District on 0.16 acres (APN: 092-20-008) to CP Commercial Pedestrian to allow commercial uses. Because the proposed CP Commercial Pedestrian zoning district conforms to the General Plan land use designation of Neighborhood/Community Commercial as defined in the Zoning Code, no action or recommendation by the Planning Commission is required.

The project site consists of two parcels on the southeast corner of Morrill and Landess Avenues. The site is developed with an approximately 13,000 square-foot building, most recently used as a church, and surface parking. The San José-Milpitas boundary runs along Landess Avenue. The northwest and northeast corner of Morrill and Landess include two gas stations in the City of Milpitas. To the west of the subject properties, in the City of the San José, is another corner gas station, which is located in a CG Commercial General Zoning District. To the east and south of the subject properties, are townhouses and single-family uses that are also located in the City of San José.

The subject properties were annexed into the City on June 23, 1960 as part of Piedmont No. 1. The existing 13,000 square-foot commercial building was constructed in 1971 and used for a financial institution (Bank of America). A Conditional Use Permit was approved in 1993 to allow a church use in the commercial building. The multi-family development to the east of the subject properties was developed under a Cluster Zoning (a predecessor to Planned Development Zoning Districts) and a Cluster Permit that was approved in 1969. The single-family homes to the south of the subject properties were built in a conventional R-1-8 Single-Family Residence Zoning District.

In December 2008, the City Council approved a General Plan Amendment for the site, changing the General Plan land use designation from Medium Density Residential (8-16 DU/AC) on 0.6 acres (a portion of APN 092-20-139) and Medium Low Density Residential (8 DU/AC) on 0.36 acres (a portion of APN 092-20-139 and all of APN 092-20-008) to Neighborhood/Community Commercial. It was found with that approval that the Amendment was consistent with key General Plan policies related to economic development, urban conservation/preservation, and balanced community and commercial land use.

No specific development proposal has been submitted for the property. However, the applicant has indicated an interest in demolishing the existing church and constructing an approximately 13,400 square-foot, single-story retail center with parking for approximately 58 vehicles in a surface lot behind the commercial building.

## **GENERAL PLAN CONFORMANCE**

The General Plan designation for the site is Neighborhood/Community Commercial. The proposed rezoning to the CP Commercial Pedestrian Zoning District would be consistent with this designation in that this designation supports a variety of neighborhood-serving commercial uses.

Neighborhood/Community Commercial is typified by shopping centers of a neighborhood or community scale. It is the intent of the General Plan that future Neighborhood/Community Commercial uses develop in the form of shopping centers, as a group of commercial establishments planned and developed as a unit and related in size and type of shops to the trade area it serves. The primary distinction between neighborhood and community commercial centers lies in the difference as to trade area served and the range of uses. Typical uses in the Neighborhood/Community Commercial designation are neighborhood-serving retail and service establishments. Future development should be compatible with the neighboring commercial and residential land uses.

## **ENVIRONMENTAL REVIEW**

A Negative Declaration was prepared for the previous General Plan Amendment that also addressed this rezoning. An Initial Study was prepared that concluded that environmental impacts would be less than significant.

The subject site is not listed on the San José Historic Resources Inventory. The existing church building is less than 45 years old and is not considered to be of historical interest.

## **ANALYSIS**

The proposed rezoning to CP Commercial Pedestrian Zoning District would facilitate commercial uses consistent with the enumerated uses noted in the Zoning Ordinance and the Neighborhood/Community Commercial General Plan land use designation, and compatible with surrounding residential and commercial uses

The proposed rezoning to the CP Commercial Pedestrian Zoning District would facilitate the potential neighborhood-serving retail as well as office uses. Under this zoning district, development would be required to occur near the street with a 0 to 10-foot front setback. A 25-foot rear building setback would also be required. Parking would generally be placed behind any new building(s).

## **City of San José's Retail Strategy**

In 2004, the San José Neighborhood Retail Model Summary Report prepared by Bay Area Economics for the Office of Economic Development noted that the City of San José was deficient in retail. Additionally, the Economic Development Strategy adopted by the City Council in November 2003 recommended that the City identify new retail sites located strategically at the edges of San José to prevent retail leakage to other jurisdictions so that resident dollars will be retained in San José and new shoppers will be attracted from nearby cities. The proposed rezoning helps implement this strategy by allowing retail uses on a site on the border of the City of Milpitas.

**PUBLIC OUTREACH**

The property owners and occupants located within a 500-foot radius of the subject site were mailed a notice informing them about a community meeting that was held May 8, 2008 at the San José Korean Presbyterian Church, located on the subject property. The developer shared a preliminary proposal for a two-story retail/office building with below-grade parking. Several concerns were raised during the community meeting, which had an attendance of four individuals from the public. These concerns included potential building heights, trash-related rodent problems, perimeter fencing, and after-hours late-night/early morning operation. In response to these concerns, the staff indicated that, upon application for development permits, future development would be required to follow development standards in the Zoning Ordinance, be subject to the Commercial Design Guidelines, and be designed to be compatible with existing neighboring uses. As previously noted, the applicant is planning to submit a scaled-back version of the original preliminary proposal that includes a single floor of retail with surface parking behind the building. A formal Site Development Permit application has not yet been submitted and the developer is not precluded from submitting a design that differs from the proposal described above.

The property owners and occupants within a 500-foot radius were sent public hearing notices for the City Council hearing. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

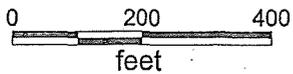
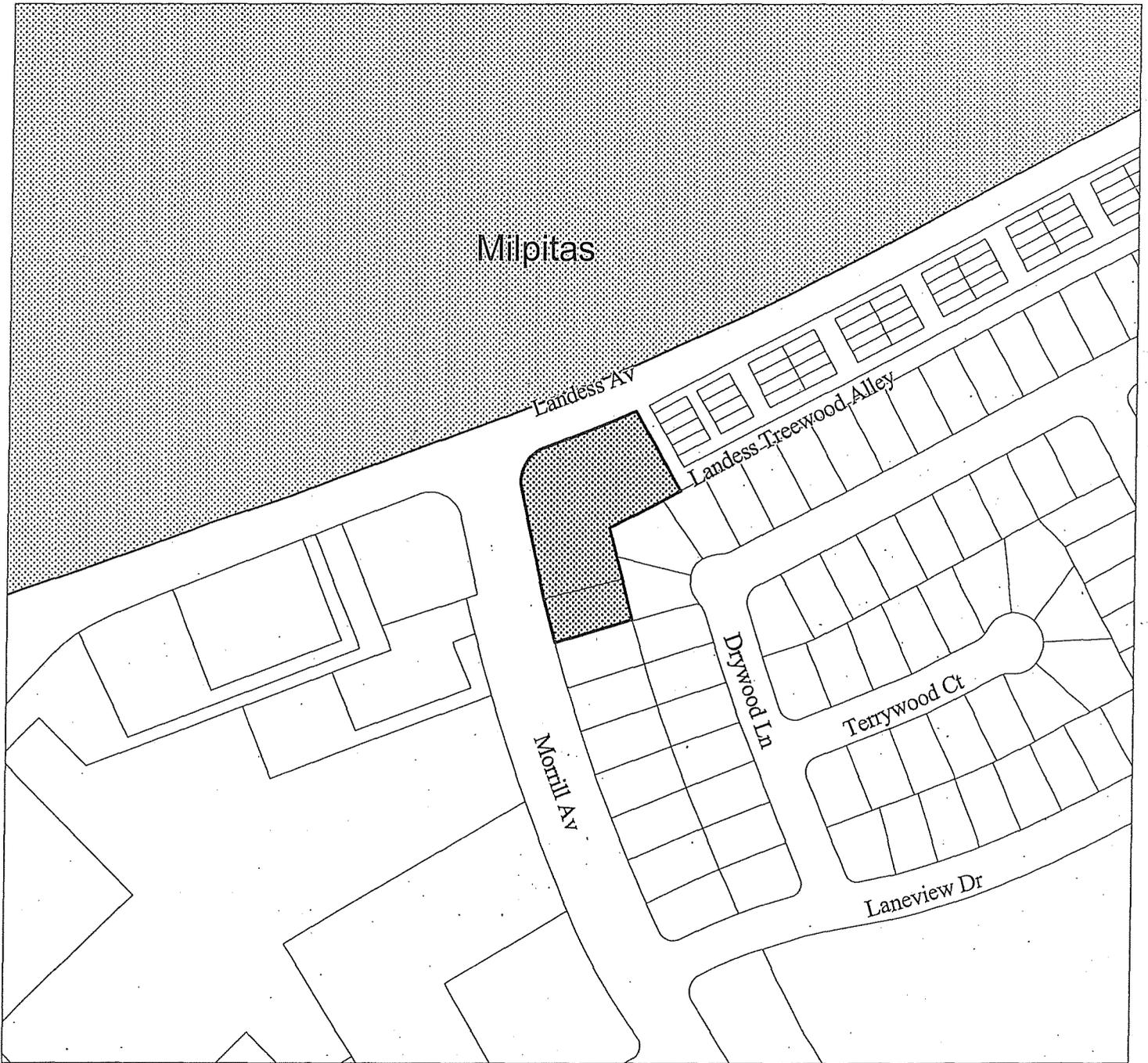
**CONCLUSION**

The proposed request to rezone the subject property to CP Commercial Pedestrian to allow commercial uses is in conformance with the General Plan land use designation of Neighborhood/Community Commercial. Approval of this conforming conventional rezoning would enhance the City's ability to provide community-serving retail services, preserve employment opportunities, maintain a diverse economy, and provide long-term growth potential for the City's tax base.

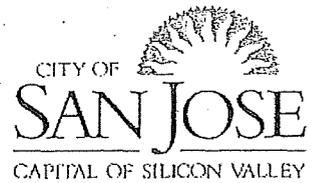
**Project Manager:** Bill Roth    **Approved by:** *Susan Walton*    **Date:** 2/18/09

Owner:	Applicant:	Attachments:
Klifo Family Invs LLC 1703 Mountaire Lane San José, CA 95138	Commercial Finance Corp. 7041 Koll Center Pkwy, Ste. 150 Pleasanton, CA 94566	Location Map Environmental Clearance – Negative Declaration Public Works Memorandum

C07-084  
Location Map



District: 4  
Quad: 36



Scale = 1:2400 1 In = 200 Ft  
Noting Radius = 500 Ft

Prepared by the Department of Planning, Building, and Code Enforcement  
City of San Jose, California

Joseph Horwedel, Director

Map Created On:  
10/22/2007

**DRAFT  
NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Landess/Morrill General Plan Amendment & Conventional Rezoning

**PROJECT FILE NUMBER:** GP07-04-03 & C07-084

**PROJECT DESCRIPTION:** General Plan Amendment to change the Land Use/Transportation Diagram from Medium Density Residential 8-16 DU/AC on 0.6 acres (a portion of APN: 092-20-139) and Medium Low Density Residential 8 DU/AC on 0.36 acres (a portion of APN: 092-20-139 and all of APN: 092-20-008) to Neighborhood/Community Commercial on a 0.96 gross acre site and Conventional Rezoning to rezone from CO Commercial Office Zoning District on 0.8 acres (APN: 092-20-139) and R-2 Two Family Residence Zoning District on 0.16 acres (APN: 092-20-008) to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.96 gross acre site and subsequent permits.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southeast corner between Landess Avenue and Morrill Avenue; APNs: 092-20-139, 092-20-008

**COUNCIL DISTRICT:** 4

**APPLICANT CONTACT INFORMATION:** CFC Commercial Finance Corp., 500 E. Calaveras Boulevard, Suite 329, Milpitas, CA 95035

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study does not identify potentially significant effects on the environment. No mitigation measures are required.

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- III. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IX. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XII. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

## PUBLIC REVIEW PERIOD

Before 5:00 p.m. on October 28, 2008, any person may:

1. Review the Draft Negative Declaration (ND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft ND. Before the ND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft ND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final ND.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: 10/8/08

SBWalsh  
Deputy

Adopted on: 10/3/08

SBWalsh  
Deputy

# Memorandum

**TO:** Sanhita Mallick  
Planning and Building

**FROM:** Ebrahim Sohrabi  
Public Works

**SUBJECT: FINAL RESPONSE TO  
DEVELOPMENT APPLICATION**

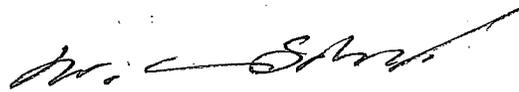
**DATE:** 10/26/07

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**PLANNING NO.:** C07-084  
**DESCRIPTION:** Conforming Conventional Rezoning to permit the demolition of a church and the construction of 31,060 sq ft of commercial space, consisting of ground floor retail and upper floor office space on a 0.96 gross acre site  
**LOCATION:** southeast corner of Morrill Av and Landess Av  
**P.W. NUMBER:** 3-01357

Public Works received the subject project on 10/22/07. We have no comments or requirements.

Please contact the Project Engineer, Vivian Tom, at (408) 535-6819 if you have any questions.



Ebrahim Sohrabi  
Senior Civil Engineer  
Transportation and Development Services Division

