



# MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: September 10, 2008

**APPLICATION:** Conditional Use Permit No. UP08-0024; beauty salon/day spa use

**APPLICATION SUMMARY:** A request to allow a beauty salon/day spa use in an existing tenant space at the property at 1630 South Main Street.

**LOCATION:** 1630 South Main Street (APN: 086-22-024)  
**APPLICANT:** Jerry Su, 1630 South Main Street, Milpitas, CA 95035  
**OWNER:** Simper Investments Inc. 1694 The Alamenda, San Jose, CA 95126

**RECOMMENDATION:** Staff recommends that the Planning Commission:  
**1. Close the public hearing; and**  
**2. Adopt Resolution No. 08-047 approving the project subject to the conditions of approval.**

**PROJECT DATA:**  
General Plan/  
Zoning Designation: Multi-Family Very High Density/R4  
Overlay District: Site and Architectural (S) Overlay  
Midtown Specific Plan: Yes

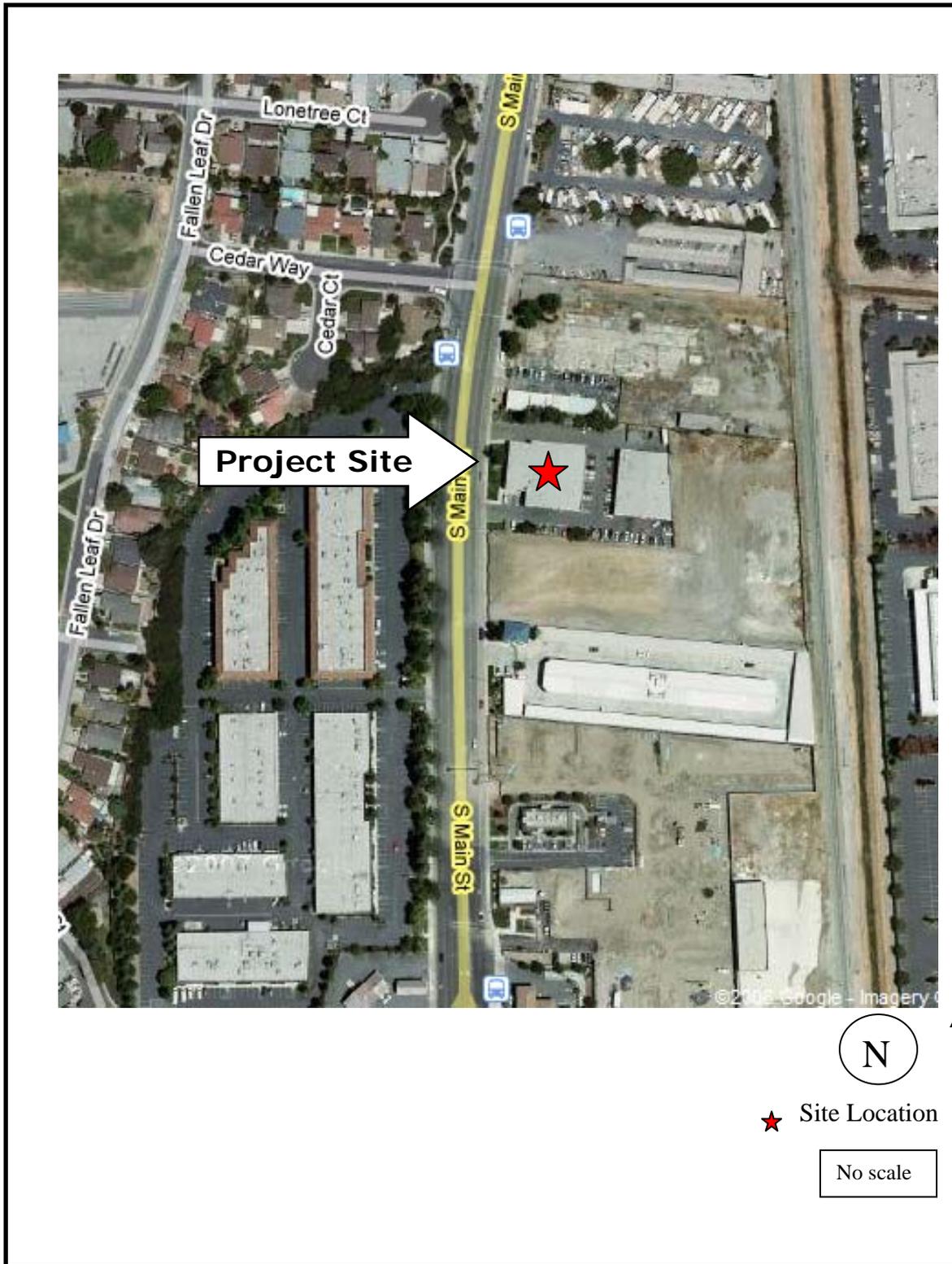
**CEQA Determination:** Categorically exempt pursuant to Section 15301 (Existing Facilities)

**PLANNER:** Julie Moloney, Associate Planner

**PJ:** 2540

**ATTACHMENTS:** A. Resolution No. 08-047  
Exhibit 1: Conditions of Approval  
B. Site/Floor Plans/Pictures  
C. Letter from applicant

# LOCATION MAP



**BACKGROUND**

In 1986, the subject site at 1630 South Main Street, and surrounding area, was zoned M1 (Light Industrial) and the property owner obtained a Use Permit for automotive related uses. Subsequently, as part of the Midtown Specific Plan, the site was rezoned to High-Density Multi-Family Residential and under Section 10.56.03 of the Milpitas Zoning Ordinance, the automotive uses were permitted to continue as legal-non-conforming.

On June 9, 2008, Jerry Su applied to request the allowance of a beauty salon/day spa use to locate on the site. The applicant stated that the physical design of one of the tenant spaces in the building has prevented him from leasing the space to an automotive related user. The addition of the new use to the site requires the approval of a Conditional Use Permit. Under Section 10.56.03 of the Milpitas Zoning Ordinance, the Planning Commission may allow a more restricted classification with the approval of a Conditional Use Permit. The applicant requests that the Planning Commission find a beauty salon/day spa use to be more restrictive than an automotive use and approve the Conditional Use Permit.

**PROJECT DESCRIPTION**

The beauty salon/day spa use is proposed to occupy a vacant tenant space of approximately 1,271 square feet in an existing building on the site. The other tenants include automotive repair and service uses, as well as bicycle and motorsports retail and repair business. The site is surrounded by other commercial/industrial users to the north and south, a residential neighborhood across South Main Street to the west, and a City trail and industrial buildings to the east. See previous page for a vicinity map.

The tenant will be Sun Day Beauty and will provide hair and skin care related services. Staff has determined that this use is “more restrictive” than auto uses because there is an equal or lesser demand for parking, does not generate noise or odors, and does not general a high volume of customer traffic. Also, the use is compatible with residential uses, should the surrounding sites redevelop to multi-family uses.

***Parking***

There are approximately 50 parking spaces on site for this building (the parking lot is shared by two buildings). Per Section 53.23(4) of the Milpitas Zoning Ordinance, personal service businesses require one parking space for every 200 square feet of gross floor area, thus, the new business will require six parking spaces. The other businesses on site are considered to be automotive and repair uses (automobile and motorsports equipment) which require three spaces per service bay, plus parking for any retail or office component. The proposed tenant space was previously used as a showroom/office/customer waiting area and would have been parked at a ratio of one space per 200 square feet of net floor area. Based on the square footage of the tenant space, this use would have also required six parking spaces. Therefore, the proposed project meets the parking requirements.

**ADOPTED PLANS AND ORDINANCES CONSISTENCY*****General Plan***

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

**Table 1**  
**General Plan Consistency**

Principles/Policies	Consistency Finding
<i>2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance</i>	Consistent. This application is a business opportunity in a tenant space that has not had successful tenants over the past two years, due to the space configuration.
<i>2.a-I-5: Maintain policies that promote a strong economy which provides economic opportunities for all Milpitas Residents within existing environmental, social fiscal and land use constraints.</i>	Consistent. This application is a business opportunity in a tenant space that has not had successful tenants over the past two years, due to the space configuration.

**Table 2**  
**Midtown Specific Plan Consistency**

Principles/Policies	Consistency Finding
<i>Goal 1: Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within the Midtown.</i>	Consistent. This application is for a new personal service establishment which is compatible with the existing, non-conforming uses on the site and any future residential uses in the area.

The project is consistent with the Milpitas General Plan and the Midtown Specific Plan in that the personal service use serves the civic, cultural, business and professional life as well as provides economic opportunities for all Milpitas residents.

***Zoning Ordinance***

The project site is located within the Very High Density Residential (R4) Zoning District and within the Site and Architectural Overlay Combining District. The proposed beauty salon/day spa use is a Conditionally Permitted Use because the existing uses on site are non-conforming. Per Section 10.56.03 of the Zoning Ordinance, if the new use is more restrictive than the previous uses, the Planning Commission may allow the use with the approval of a Conditional Use Permit.

Staff determined that the beauty salon/day spa use is less intense, and therefore more restrictive, since the parking requirement is the same as the previous use and the duration of vehicles parked on the site is much shorter than those of the auto repair businesses.

The proposed use will not be detrimental or injurious to the property or improvements in the vicinity in that the use is proposed in an existing building. The site is surrounded primarily by commercial and industrial type uses with some residential uses to the west across South Main Street. A beauty salon/day spa is a compatible use for both commercial and residential uses. Furthermore, the use will not be

detrimental or injurious to the public health safety or general welfare because the project will be consistent with the health department and Milpitas Building and Safety codes.

### **ENVIRONMENTAL REVIEW**

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15301 for “Existing Facilities.”

### **PUBLIC COMMENT/OUTREACH**

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

### **CONCLUSION**

The project is consistent with the General Plan, Midtown Specific Plan and the Zoning Ordinance and meets the parking requirements. The proposal will serve the neighboring uses and will provide alternate types of services in the area for residents and visitors.

### **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission adopt Resolution No. 08-047 approving Conditional Use Permit No. UP08-0024, subject to the attached Conditions of Approval.

#### *Attachments:*

- A. Resolution No. 08-047  
Exhibit 1: Conditions of Approval
- B. Site/Floor Plans/Pictuers
- C. Letter from applicant

**RESOLUTION NO. 08-047**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,  
CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP08-0024 TO  
ALLOW FOR A BEAUTY SALON/DAY SPA USE TO LOCATE AT 1630 SOUTH MAIN  
STREET**

**WHEREAS**, on July 9, 2008, an application was submitted by Jerry Su, 1630 South Main Street, Milpitas, CA 95035, to allow for a new beauty salon/day spa use to locate in an existing tenant space at 1630 S. Main Street (APN 086-22-024). The property is located within the Very High Density Residential Zoning District (R4) and is within the Midtown Specific Plan Area; and

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is categorically except pursuant to Section 15301 for "Existing Facilities" of the California Environmental Quality Act Guidelines; and

**WHEREAS**, on September 10, 2008, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The project is categorically except pursuant to Section 15301 of the California Environmental Quality Act Guidelines for "Existing Facilities."

**Section 3:** The project is consistent with the Milpitas General Plan Implementation Policies and Guidelines, the Midtown Specific Plan and the Zoning Ordinance in that the new personal service use is more restrictive than the existing, non-conforming uses on the site, serves the civic, cultural, business and professional life as well as provides economic opportunities for all Milpitas residents and conforms to the development and operational standards for the zone.

**Section 4:** 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 in that the use is conducted within a commercial building, is compatible with both commercial and residential uses and will be consistent with the County Health department and Milpitas Building and Safety codes.

**Section 5:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP08-0024 subject to the above 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 September, 2008.

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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 September 10, 2008, and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>OTHER</b>
Cliff Williams			
Gunawan Ali-Santosa			
Lawrence Ciardella			
Alexander Galang			
Sudhir Mandal			
Gurdev Sandhu			
Noella Tabladillo			
Aslam Ali			

**EXHIBIT 1**

**CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT NO. UP08-0024**

**General Conditions**

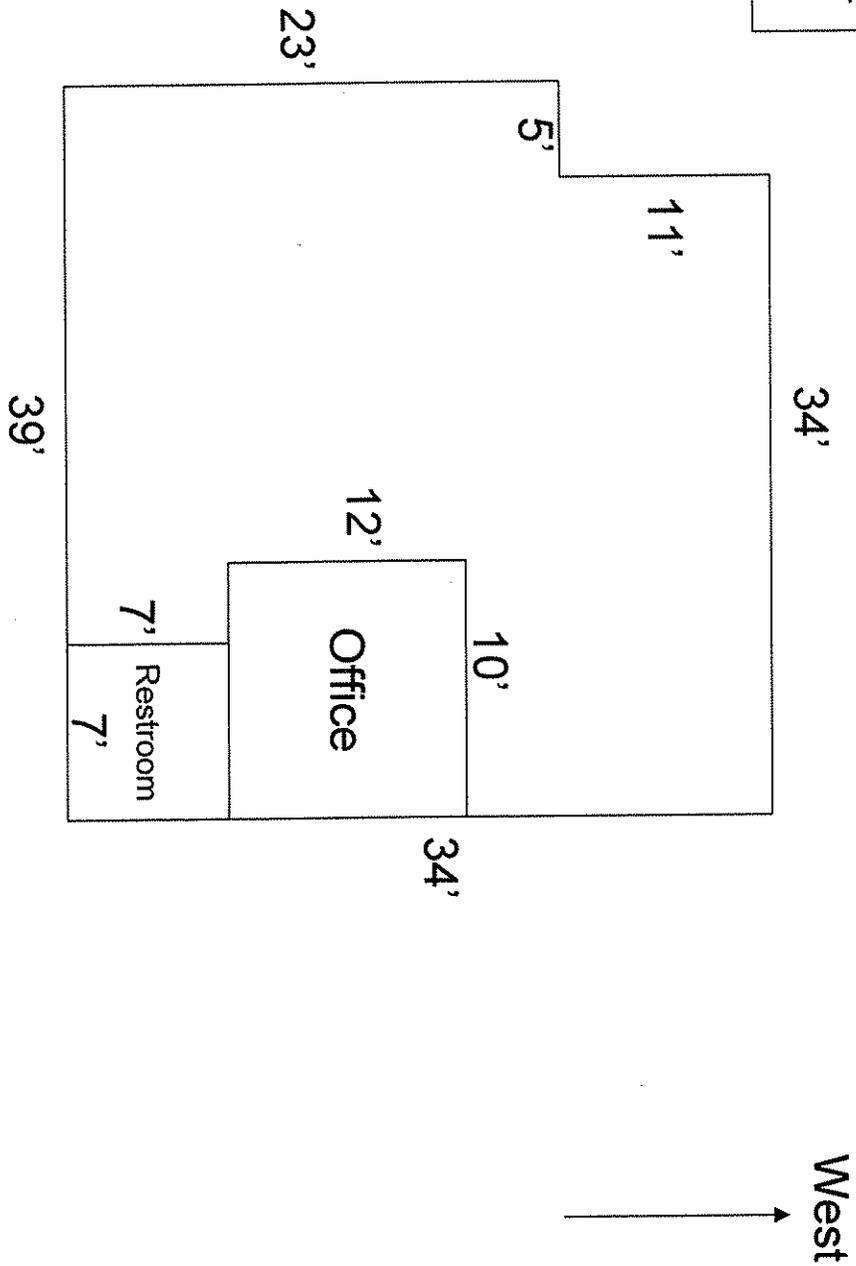
1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on September 10, 2008, in accordance with these Conditions of Approval. (P)
2. Any deviation from the approved site plan, floor plans, elevations, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (P)
3. Conditional Use Permit No. UP08-0024 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued. (P)
4. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of UP08-0024 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
5. This Conditional Use Permit is for a beauty salon/day spa use to occupy an existing tenant space within an existing building at 1630 South Main Street. (P)
6. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved plans. (P)
7. The new business shall adhere to the following guidelines in perpetuity:
  - a. Keep garbage dumpsters clean inside and out; replace very dirty dumpsters with new, clean ones.
  - b. Double or triple bag waste to prevent leaking.
  - c. Place, do not drop or throw, waste-filled bags, to prevent leaking.
  - d. Keep the ground under and around the garbage dumpsters swept.
  - e. Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.(P)

8. The business owner shall hold training sessions to instruct their employees on the proper procedures that would assist the business in complying with all State and local health and sanitation standards (refer to the County of Santa Clara Department of Environmental Health at (408) 729-5155 for their guidelines). (P)
9. Washing of containers and equipment shall be conducted in an area such that wash water may drain into the sanitary sewer. (P)
10. Prior to building permit issuance, the applicant shall submit tenant improvement plans that incorporate the following requirements: All floor drains and equipment washing areas shall drain to the sanitary sewer. (P)
11. If at the time of application for building permit there is a project job account balance due to the City for recovery of fees, review of permits will not be initiated until the balance is paid in full. (P)
12. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
13. No sign(s) are approved with this use permit. All signs shall comply with the Approved Sign Program for the Serra Center. (P)

1630 S. Main Street  
Milpitas, CA 95935

South Main Street

→ to Great Mall



Floor Plan for Conditional Use Application

1630 S. Main Street  
Milpitas, CA 95935

South Main Street

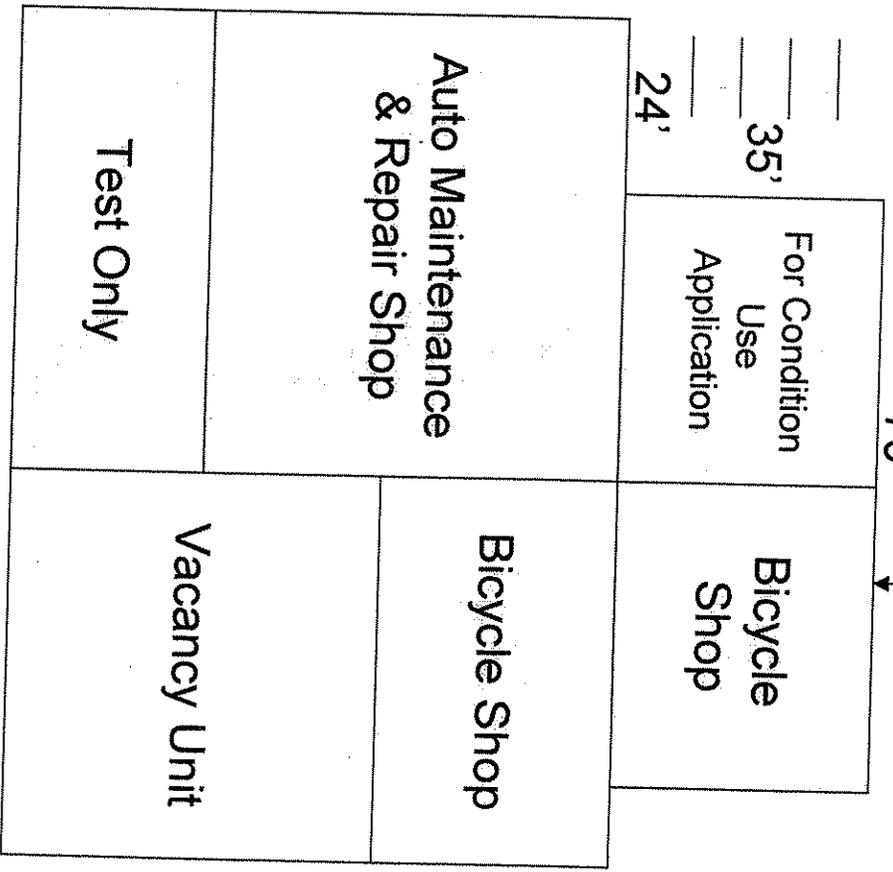
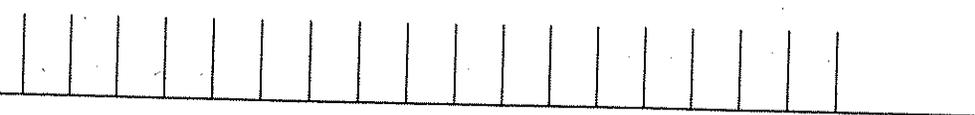
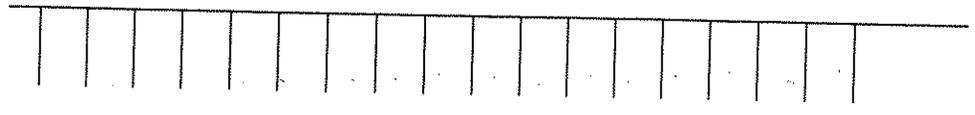
To Great Mall

30' away from street (lawn)

West

Apartment  
Under  
Construction

Planned  
Residential  
Construction



Site Plan for Conditional Use Application

Photos of 1630 S. Main Street for Conditional Use Application.



Photo 1: 1630 S. Main Street, Milpitas. View from the street exit, South-West side)  
(Note: the window with Precision Tune Auto Care sign on the top is belong to the vacant unit under Conditional Use Application)



Photo 2: 1630 S. Main Street, Milpitas. View from South side. The North side neighbor is a bicycle shop. (NOTE: According to the City, The building seen in the far back in the North side will be replaced by residential building soon)

Photos of 1630 S. Main Street for Conditional Use Application.



Photo 3: 1630 S. Main Street. View from the street. The east side neighbor is Precision Tune Auto Care.

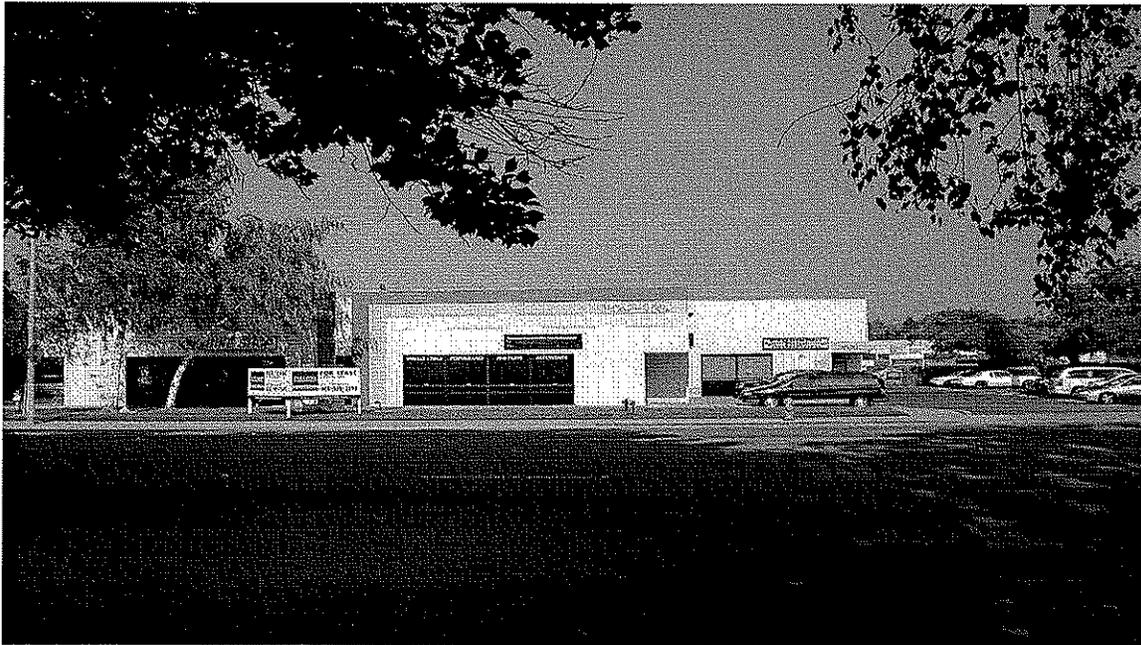


Photo 4: View from ~~east~~<sup>west</sup> across street. Left side is bicycle shop and right side is the vacant unit for Conditional Use Application.

Photos of 1630 S. Main Street for Conditional Use Application.



Photo 5: View from South-~~East~~ side. Apartment construction can be seen in adjacent lot on the South side. *West*

Precision Tune Auto Care  
1630 S. Main Street  
Milpitas, CA 95035

408-582-0129 (T)  
408-935-9947 (F)

June 23, 2008

LETTER OF EXPLANATION REGARDING PROPOSAL  
FOR CONDITIONAL USE

Dear City Planner

I am applying the conditional use permit for the front unit at 1630 South Main Street, Milpitas. I would like to provide some background information about the unit for your consideration in processing my application,

1. We want to apply a conditional use for lease the said unit to residential oriented businesses such as a beauty salon shop that provides hair, skin care services. .
2. The unit is an office/show-room without garage. And it has been empty for most of the time in the past few years. As far as we understood this unit is limited for auto related business by current zoning requirement
3. We have kept recruiting for auto business tenants all the time. And only got one each in 2007 and 2008 respectively. But none of them could stay longer than few months.
  - a. In 2007 we got one tenant of car wheel/tire business who stayed about five months. The reason they left was that (1) the space is too small for their business, and (2) there are too many strong competitions nearby: Wheelworks and another one down the streets, and giants competitor Costco and Wal-Mart not far away.
  - b. The second tenant was a car audio business who got in early this year, January 2008, and stayed for about 3 months and left. The reason they left was that (1) there is no garage for they to working inside for days of bad weather, and (2) there were complains from the cross-street neighbor business for the volume of the audio sound from their work. As a matter of fact, the property manager across the street called 911 twice when they were tuning their audio work outside at the parking lot with lauder volume.
4. After the last tenant gone in April this year, we tried to advertising for the vacancy and did get quite a few auto businesses interested. But unfortunately none of them would think this location would fit their business needs. Here are the whys:
  - a. A couple of the applicants are Smog Test Only. It doesn't fit them because there is no garage and there is a Smog Test Only already in one of the other units of the same building.
  - b. A few other applicants are for used car dealership. It doesn't fit them as they require quite a number of parking spaces that the property could not provide (their cars would occupy the parking lot days, weeks, or even months until were sold. There are not that many parking spaces for tenants to use this way). And they also need a garage in cases they need to do some necessary pre-sell repair.

- c. One applicant asked for use as car wash. Again there is no garage for them to perform the business.
- d. Back to late 2006, there was an auto parts vendor showed interests to the units but eventually gave up because (1) the unit is too small for their business, and (2) there is no storage space for stocking parts.

So, based on our experience in the recruiting, we strongly feel it is very hard to get an auto related business in the unit. And it would be equally hard for such business to be successful in the location even if they got in.

We got to know that there is a Mid-town project on the area covering S. Main Street. We got to know that most of the surrounding open space and quite some of the previous business buildings would be converted to high density residential. There is a residential constructions already started on one side of the said property, and other one on the other side soon.

We feel a beauty shop or similar residential service oriented businesses would well match the City's current and long term development plan in the area. I would appreciate it very much if you could take our application into consideration and have it approved as soon as possible. Please contact me should you have any questions or need any further info. I could be reached at 408-582-0120(W), or 408-857-1795 (C), or email at [jsu\\_us@yahoo.com](mailto:jsu_us@yahoo.com).

Sincerely Yours



Jerry Su  
Owner  
Precision Tune Auto Care, in Milpitas