



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: November 18, 2009

APPLICATION: Conditional Use Permit No. UP09-0039, Apex Dentalle Laboratory

APPLICATION SUMMARY: A request to operate an approximately 800 square foot dental laboratory within an existing commercial building.

LOCATION: 410 S. Main Street (APN 86-26-020)
APPLICANT: Voltaire Guzman, 410 S. Main Street, Milpitas, CA 95035
OWNER: Ricardo and Alicia A. Marcos Trusteel, 750 Holly Rd., Belmont, CA 94002

RECOMMENDATION: Staff recommends that the Planning Commission:
1. Close the public hearing; and
2. Adopt Resolution No. 09-052 approving the project subject to conditions of approval.

PROJECT DATA:
General Plan/
Zoning Designation: Mixed Use (MXD)/Mixed Use (MXD)
Overlay District: Site and Architectural Overlay (-S)
Specific Plan: Midtown Specific Plan (MSP)

Site Area: 0.34 Acres
of Parking Spaces Required: 3
Total # of Parking Spaces Required: 17
Total # of Parking Spaces Provided: 20

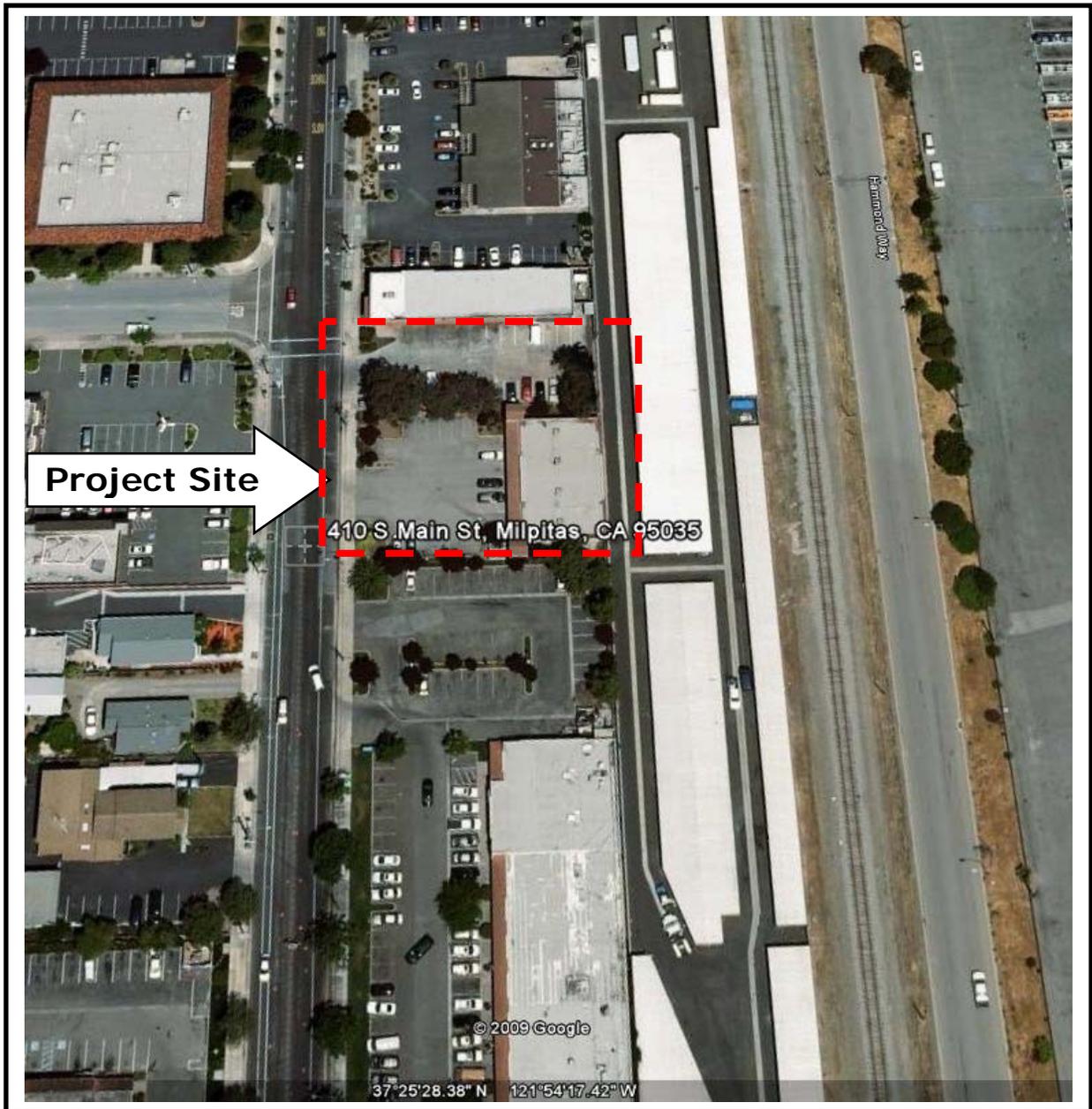
CEQA Determination: Categorically exempt from further environment review pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environment Quality Act (CEQA)

PLANNER: Cindy Hom, Assistant Planner

PJ: 2608

ATTACHMENTS: A. Resolution No. 09-052
B. Project Plans

LOCATION MAP



No scale

BACKGROUND

On October 26, 1994, the Planning Commission granted Site and Architectural approval for a 5-foot 8-inch internally illuminated monument sign on the south side of the driveway and installation of a new non-illuminated wall sign to an existing office development located on a 0.34 acre site.

On September 15, 2009, Voltaire Guzman of Apex Dentalle Laboratory submitted an application for the operations of a 800 square foot dental laboratory. The application is submitted pursuant to Milpitas Municipal Code XI-10-6.02-1 (Commercial Laboratories including medical and dental) which requires Planning Commission review and approval of a conditional use permit pursuant to Section 57 of the Zoning Ordinance.

PROJECT DESCRIPTION

The project proposes the operations of an approximately 800 square foot dental lab that entail minor interior improvements to create office area, workstation, and support areas. The project site is located on a 0.34 acre site located at southeast corner of the intersection at Corning Avenue and South Main Street. The site is developed with a 4,000 square foot multi-tenant commercial building and associated site improvements such as but not limited to landscaping, trash enclosure, and monument sign. The majority of the building is occupied by a single tenant dental office.

The project is surrounded by other commercial buildings and uses that include automotive services to the north; professional and medical offices to the west and northwest; and commercial retail uses to the south. A vicinity map of the subject site location is included on the previous page.

Development Standards

The project does not entail any exterior or site modifications that affect any existing setbacks or development standards.

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

Policy	Consistency Finding
<p><i>Implementing Policy 2.a-I-7</i></p> <p><i>Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.</i></p>	<p><i>Consistent.</i> The project promotes the development of small businesses and expands employment opportunities.</p>

Zoning Ordinance

The project conforms to the Mixed Use Zoning Ordinance in terms of land use in that dental laboratories are conditionally permitted. The project maintains the existing development standards in terms setbacks, height, floor area ratio, and parking. The proposed dental laboratory would also complement the adjacent dental office use.

The use would not be injurious or detrimental to property, improvements, public health, safety, and general welfare in that the use at this location is suitable and appropriate given the neighboring use is a dental office and is nearby other professional office uses. The proposed dental laboratory does not involve industrial operations or equipment. The project would entail the use of a small furnace for the fabrication of dental prosthetics. The operations of the dental laboratory shall be conducted in accordance with all building and fire code requirements and regulation to ensure compliance with public health and safety requirements.

Midtown Specific Plan

The project consistent with the Midtown Specific Plan in that it encourages compatible mixture of residential, commercial, office, service-oriented commercial and industrial uses within the Midtown area. The project does not require additional Midtown related improvement or upgrades pursuant to MMC XI-10-6.08. As proposed, the project is not subject to the Midtown Policies or Design Guidelines and Standards in that the project does not involve construction of a new building, does not increase the floor area by 10%, or expand or change the use that require 50% or more off-street parking.

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 pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act. The project entails the operations of a 620 square foot dental laboratory within an existing one-story commercial office building. The use is a negligible expansion beyond the existing use which consists of an existing dental office.

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 and conforms to the Mixed Use Zoning Ordinance in terms of land use and development standards. The project would be compatible with the existing dental office use at project location.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 09-052 approving Conditional use Permit No. UP09-0039, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 09-052
- B. Plans

RESOLUTION NO. 09-052

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP09-0039, APEX DENTALLE LABORATORY, A REQUEST TO OPERATE A 800 SQUARE FOOT DENTAL LABORATORY WITHIN AN EXISTING OFFICE BUILDING LOCATED AT 410 S. MAIN STREET.

WHEREAS, on, September 15, 2009, an application was submitted by Voltaire Guzman for the operations of an approximately 800 square foot dental laboratory within an existing 4,000 office building located at 410 South Main Street (APN 86-26-020). The property is located within the Mixed Use Zoning District; 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 exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities).

WHEREAS, on November 18, 2009, 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 exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) in that the project entails the operations of a 800 square foot dental laboratory within an existing one-story commercial office building. The use is a negligible expansion beyond the existing use which consists of an existing dental office.

Section 3: The project is consistent with the Milpitas General Plan in that the project would promote small businesses and expand employment opportunities.

Section 4: The project is consistent with the policies of the Milpitas Midtown Specific Plan in that it encourages compatible mixture of residential, commercial, office, service-oriented commercial and industrial uses within the Midtown area. The project does not require additional Midtown related improvement or upgrades because intensity thresholds are not met pursuant to MMC XI-10-6.08.

Section 5: The project conforms to the Milpitas Zoning in that the proposed dental laboratory is a conditionally permitted use in the Mixed Use Zoning District. The project

maintains the existing development standards in terms setbacks, height, floor area ratio, and parking

Section 6: The project with not be injurious or detrimental to property, improvements or to public health and safety in that the use at this location is suitable and appropriate given the neighboring use is a dental office and is nearby other professional office uses. The project would entail the use of a small furnace for the fabrication of dental prosthetics. The operations of the dental laboratory shall be conducted in accordance with all building and fire code requirements and regulation to ensure compliance with public health and safety requirements.

Section 7: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP09-0039, Apex Dentalle Laboratory, 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 November 18, 2009

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 November 18, 2009, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Aslam Ali				
Lawrence Ciardella				
Alexander Galang				
Sudhir Mandal				
Gurdev Sandhu				
Noella Tabladillo				
Mark Tiernan				

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP09-0039, APEX DENTALLE LABORATORY**

Planning Division

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on November 18, 2008, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, 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.

2. Conditional Use Permit No. UP09-0039 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.06(2) of the Zoning Ordinance of the City of Milpitas. If the project requires the issuance of a building permit, the project shall be deemed to have commenced when the date of the building permit is issued and/or a foundation is completed, if a foundation is a part of the project. If the project does not require the issuance of a building permit, the project shall be deemed to have commenced when dedication of any land or easement is required or complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Conditional Use Permit No. UP09-0039 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein.

3. The project shall be operated in accordance with all local, state and federal regulations.

APEX DENTALE
LABORATORY

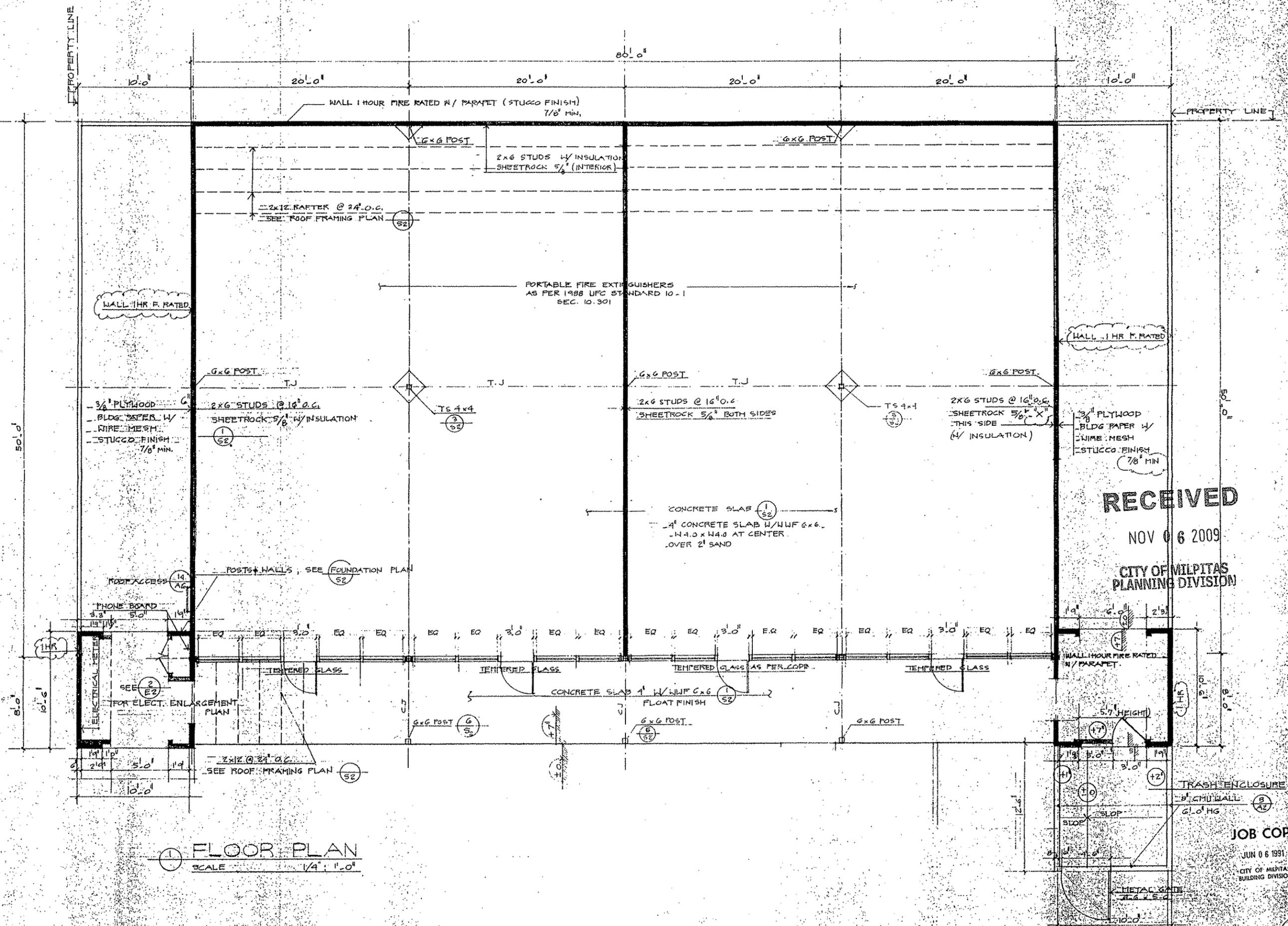
RETAIL CENTER
410 SOUTH MAIN STREET
MILPITAS - CALIFORNIA

RECEIVED
NOV 06 2009
CITY OF MILPITAS
PLANNING DIVISION

PROJECT TITLE:
REGISTERED PROFESSIONAL ENGINEER
ALLEN HAI-JING JUNG
No 36648
6782
CIVIL
STATE OF CALIFORNIA

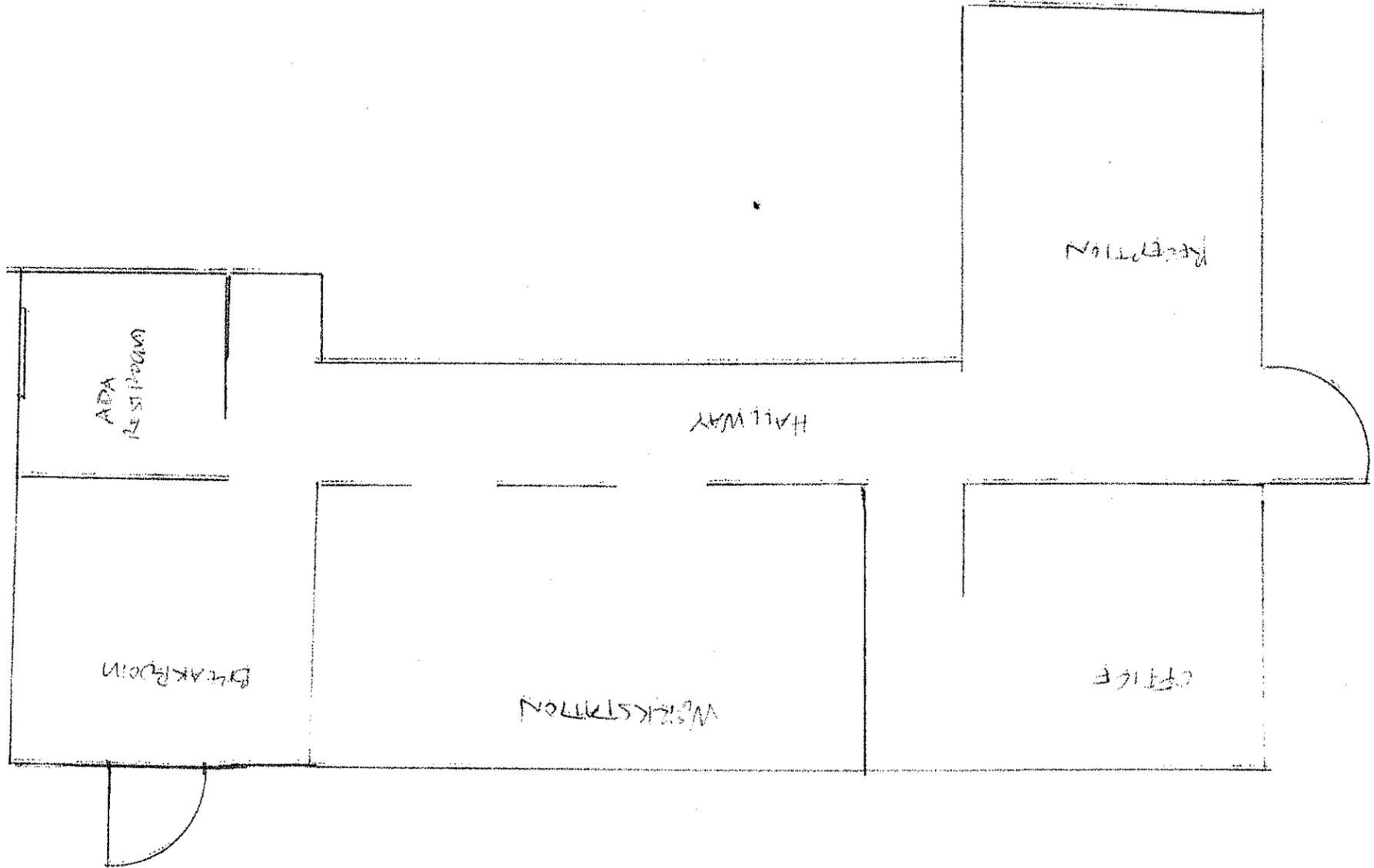
REVISIONS	
T6	11-15-90

DRAWN: KC
CHECKED: TC
JOB NO.
DATE: 5/12-90
SHEET TITLE:
SCALE:
SHEET A.3
OF 9 SHEETS



1 FLOOR PLAN
SCALE 1/4" = 1'-0"

JOB COPY
JUN 06 1991
CITY OF MILPITAS
BUILDING DIVISION



FLOOR PLAN

APPROX. 800 SQ FT.

