



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: July 13, 2011

APPLICATION: **Conditional Use Permit No. UP11-0013, Tutoring Center**

APPLICATION
SUMMARY:

A request to operate a 1,792 square foot tutoring center within an existing commercial building.

LOCATION:

1231 S. Park Victoria Drive (APN 88-36-043)

APPLICANT:

Shu-Chin Winnie Weng, 693 Modern Ice Drive, San Jose, CA 95112

OWNER:

Southeast Holdings, Inc. Care of Biagini Properties, Inc., 333 W. El Camino Real, STE 240 Sunnyvale, CA 94087

RECOMMENDATION:

Staff recommends that the Planning Commission: Adopt Resolution No. 11-026 approving the project subject to conditions of approval.

PROJECT DATA:

General Plan/

Zoning Designation:

Commercial Office (CO)/Professional and Administrative Office (PAO)

Overlay District:

Site and Architectural Overlay (-S)

Specific Plan:

N/A

Site Area:

0.75 acres

Building Square Footage:

10,240 sq. ft.

Tenant Square Footage:

1,792 sq. ft.

Parking Spaces Provided:

45 for site

Parking Spaces Allocated:

9 for tenant space

Parking Spaces Required

3

CEQA Determination:

Categorically exempt pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.

PLANNER:

Cindy Hom

PJ:

2722

ATTACHMENTS:

- A. Resolution No. 11-026
- B. Project Plans
- C. Project Description

LOCATION MAP



No scale

BACKGROUND

On April 29, 2011, Shu-Chin Winnie Weng submitted an application to operate a 1,792 square foot Chinese language tutoring center seven days a week between the hours from 8:00AM to 7:30PM. The application is submitted pursuant to Milpitas Municipal Code (MMC) XI-10-5.02-1 (Group Instruction) which requires Planning Commission review and approval.

PROJECT DESCRIPTION

The project proposes to convert a vacant office space to a 1,792 square foot Chinese language tutoring center. The proposed tutoring center is located within a 10,240 square foot multi-tenant commercial building that includes: Calayan Skin Care Center, Learning Star Education Center, Leffler School of Music (CUP approved on May 11, 2005), and Kingsfoil Acupuncture Office. The proposed layout includes approximately 1,271 square feet of classroom space, a 559 square foot office/reception area, and ancillary support areas. The tutoring center would provide private and group instruction for student between aged five to adults. The tutoring center will offer four tutoring sessions with a maximum capacity of 40 students at any given time. The morning sessions are set up for private tutoring only while the afternoon and early evening sessions are geared towards school age children. The program does accept adults for private tutoring. The percentage of adult student is very small compared to the anticipated enrollment of school age and high school kids. The project proposes no exterior or site modifications.

The subject site is located on a 0.75-acre parcel that is bounded by office buildings to the north and south, residential homes to the west, and S. Park Victoria Drive to the east. Adjacent land uses include various commercial and restaurant uses, Christ Community Church, and residential uses in the immediate vicinity. A vicinity map of the subject site location is included on the previous page.

Parking

The project site provides a total of 45 parking spaces for the office plaza. The project complies with the Parking Ordinance requirements by providing the five parking spaces required for the proposed group instruction and office uses. Currently, the tenant space is allocated nine parking spaces based on a parking ratio of 1 space/146 that was used to park the office plaza at the time of site and architectural approval. Compliance with parking requirements is demonstrated in Table 1 below:

Table 1
Parking Analysis

Uses	# of Rooms/Square Footage	Parking Ratio	# of Spaces Required
Classroom	3 / 1,271 s. f.	1 space per instruction area or classroom, whichever is greater. No fewer than 3 spaces.	3
Office/Lobby	729 s. f.	1 space per 240 s. f.	3
Total Number Required			6
Total Number of Spaces Allocated based 1/146 parking ratio			9
Total Number of Spaces in Excess			3

Development Standards

The project proposed no changes to the building or site that will impact development standards for setbacks, floor area ratio, and height.

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 2
General Plan Consistency

Policy	Consistency Finding
Implementing Policy 2.a-I-3 <i>Encourage economic pursuits which will strengthen and promote development through stability and balance.</i>	Consistent. The proposed Chinese language tutoring center provides diversity in the types of commercial services the city has to offer to the community and neighboring residents. The project would fulfill a community need for cultural and educational enrichment.

Zoning Ordinance

The project complies with the Zoning Ordinance in that the use is a conditionally permitted use in the Commercial Office “CO” district. There are no exterior modifications proposed that may impact any development standards. The proposed project is not anticipated to create any adverse impacts on the community. The proposed tutoring center is a compatible with neighboring uses in terms land use and hours of operations.

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 ‘Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines. The project entails the operation of a 1,792 square foot tutoring center within an existing office building.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there is one comment from the public regarding traffic on S. Park Victoria Drive. The proposed tutoring center has a lower trip generation rate than the office use that was originally evaluated for the development of the site and therefore, staff does not anticipate any negative impacts.

CONCLUSION

The project is anticipated to have a positive community impact by providing a compatible land use that that can serve nearby residents.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 11-026 approving Conditional Use Permit No. UP11-0013 subject to the attached Conditions of Approval.

Attachments:

- A. Resolution 11-026
- B. Project Plans
- C. Project Description

RESOLUTION NO. 11-026

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,
CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0013,
TUTORING CENTER, TO ALLOW FOR THE OPERATION OF A 1,792 SQUARE
FOOT TUTORING CENTER LOCATED AT 1231 S. PARK VICTORIA DRIVE.**

WHEREAS, on April 29, 2011, an application was submitted by Shu-Chin Winnie Weng, 693 Modern Ice Drive, San Jose, CA 95112, to allow for the operations of a 1,792 square foot tutoring center. The property is located 1231 S. Park Victoria Drive (88-36-043); 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; and

WHEREAS, on July 13, 2011, 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 per Section 15311, (Class 11) Accessory Structures of the California Environmental Quality Act. The project proposal entails the operations of a 1,792 square foot tutoring center within an existing commercial office building.

Section 3: The proposed use is consistent with the Milpitas General Plan in that it meets General Plan Policy 2.a-I-3 and encourages economic pursuits that promote stability and development. The proposed Chinese language tutoring center provides diversity in the types of commercial services the city has to offer to the community and neighboring residents. The project would fulfill a community need for cultural and educational enrichment.

Section 4: The proposed use is consistent with the Milpitas Zoning Ordinance in that the proposed use meets all the requirements set forth by the Zoning Ordinance in that terms of land use. Tutoring center and group instruction are conditionally permitted in the Commercial Office Zoning District. The project complies with development standards and parking requirements.

Section 5: The proposed use will not be injurious or detrimental to property, improvements, general welfare or public health and safety in that the tutoring center is compatible land use with neighboring uses in terms of hours of operation and services provided.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP11-0013, 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 July 13, 2011

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 July 13, 2011, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Mark Tiernan				
Lawrence Ciardella				
Sudhir Mandal				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Zeya Moshin				
John Luk				

EXHIBIT 1

CONDITIONS OF APPROVAL
Conditional Use Permit No. UP11-0013

A request to operate a 1,792 square foot Chinese Language tutoring center at
1231 S. Park Victoria Drive (APN: 88-36-043)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on July 13, 2011, 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. **(P)**

Conditional Use Permit No. UP11-0013 shall become null and void if the project is not commenced within two (2) years from the date of approval. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas:

- a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Conditional Use Permit No. UP11-0013 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
 3. Prior to the issuance of building permits, the owner or designee shall include within the four first 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)**
 4. The use shall be conducted in accordance with all applicable local, state, and federal regulations.

(P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention

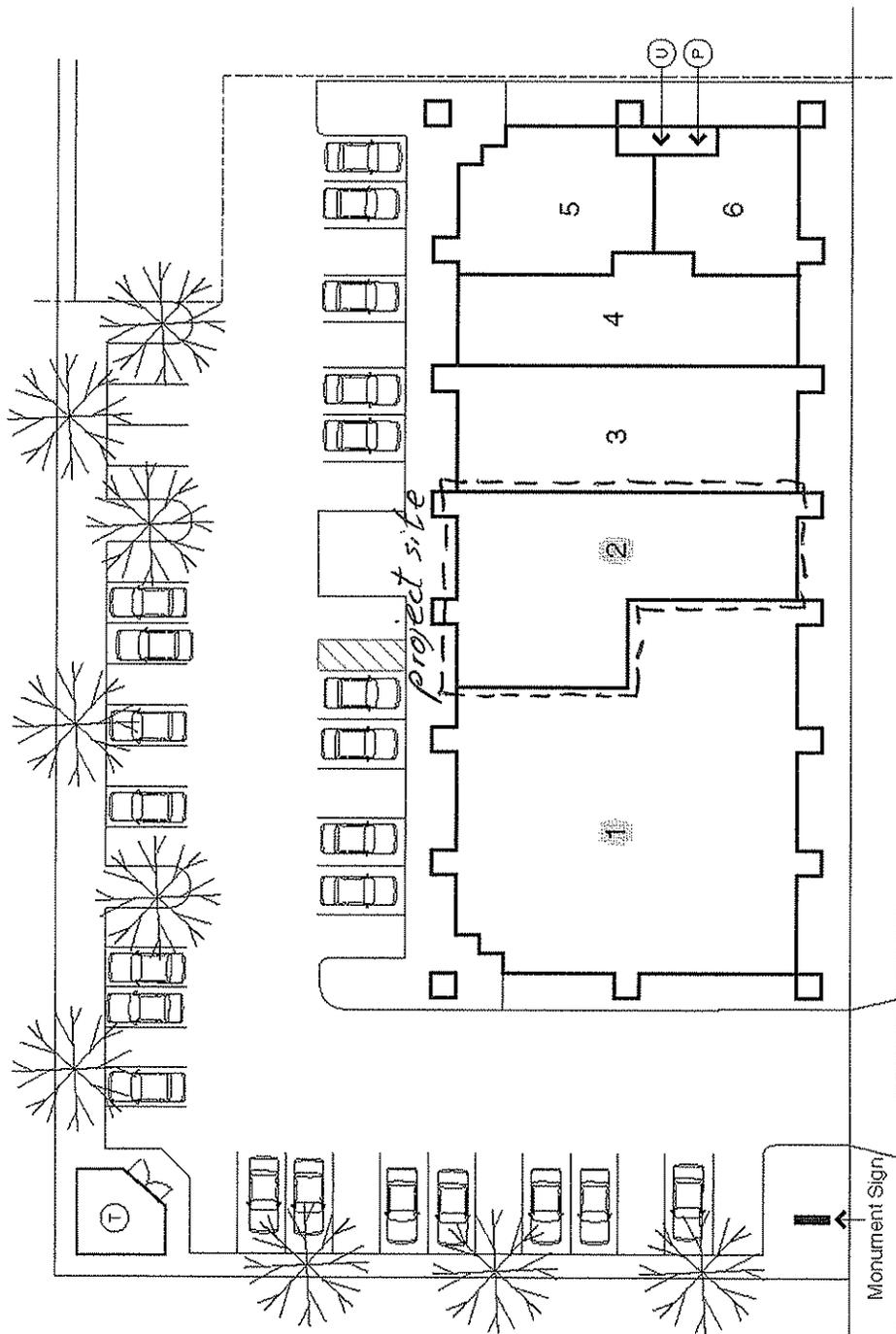
Park Victoria Plaza
 1205 - 1247 S. Park Victoria Drive
 Milpitas, California

- 1 ± 4,048 Usable Square Feet
- 2 ± 1,792 Usable Square Feet

- 3. Calayan Skin Care Aesthetics
- 4. Learning Star Educational Center
- 5. Leffler School of Music
- 6. Kingsfoil Acupuncture



333 W. El Camino Real, Suite 240
 Sunnyvale, CA 94087-1969
 Phone (408) 331-2300
 Fax (408) 331-2301

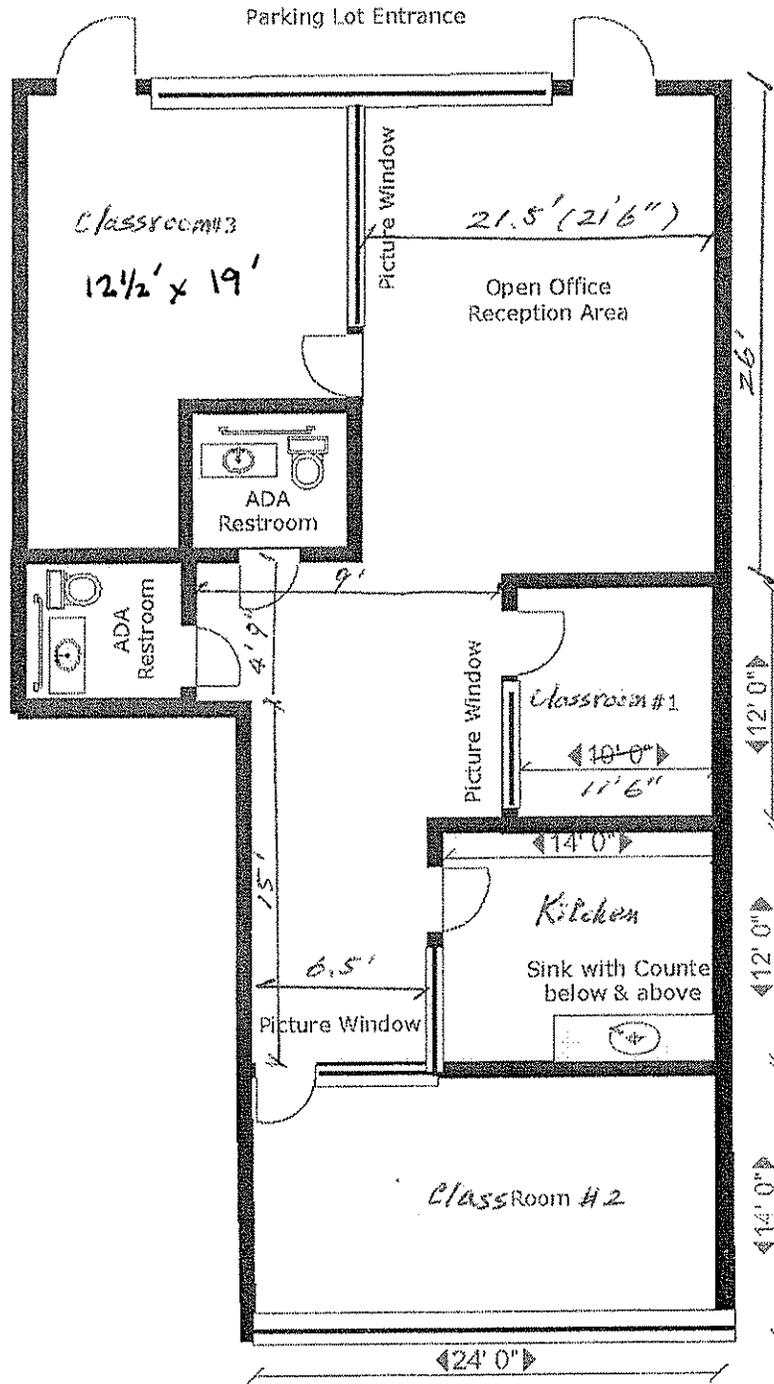


- (T) Trash Enclosure
- (U) Utility Closet
- (P) Phone Closet

South Park Victoria Drive

Site plan not to scale and subject to change without notice

PARK VICTORIA PLAZA
1231 S. Park Victoria Blvd. • Milpitas, CA 95035
± 1,792 Usable Square Feet



Rev. 05/12/2010

The information contained herein has been given to us by the owner of the property or other sources we deem reliable. We have no reason to doubt its accuracy, but we do not guarantee it. All information should be verified prior to purchase or lease. All dimensions are approximate only.



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 Sunnyvale, CA 94087-1969
 (408) 331-2300 Telephone
 (408) 331-2301 Facsimile
 www.biaginiproperties.com

Cindy Hom

From: Mike Weng [mweng@msn.com]
Sent: Thursday, June 30, 2011 2:50 PM
To: Cindy Hom
Cc: W
Subject: 1231 S. Park Victoria
Attachments: Schudel-2011-2012.xls

Hi, Cindy,

Attached please find the schedule that we are planning for the year of 2011 - 2012.

We will accept maximum of 40 students for the afternoon session (2:30 pm - 6:25 pm). These 40 students will be separated into 3 classes depending on the level of their Chinese language capability. Students will be the school kids, age 5 to 11 only. We will have 3 teachers for the afternoon classes, one at each. Totally there will be 40 students and 3 teachers in the afternoon session at any time.

The morning session will be for private tutoring only. There will be only 3 classes too. Our targeted people will be adults who are interested in learning Chinese, but we will accept school age students too. We will separate adults and school age students in separate classes. All private tutoring classes will have maximum 4 students in each class. Therefore there will be maximum of 12 students and 3 teachers in the morning session.

The week-end sessions accept older school students who are preparing Chinese AP test or SAT II. There will be two group classes and one private class at all time. The private class will be for either adults or high school students who need special tutoring. The group classes will be for middle/high school students only. The size of each group class will be 15 or less. The private class size will be 1 to 4. Each sub-session will last about 2.5 hours with break. For these week-end classes, there will be totally maximum 34 students (two group of 15, and one private class of 4) and 3 teachers at any time.

We will have one administration personnel at all time.

Should you have any questions, please give me a call. My cell phone is 408-821-0018, if I am not home. My other email is mweng@housematics.com.

Best regards,

Mike Weng

Antelope Chinese Language Learning Center

	Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
9:00 ~ 11:30	Private class (Tutoring) Chinese Language					Private Tutoring
11:30 ~ 2:30	Lunch and Recess					
2:30 ~ 3:00	Reception					
3:00 ~ 4:00	School Homework	School Homework	School Homework	School Homework	School Homework	
4:30 ~ 5:15	Chinese	Chinese	Chinese	Chinese	<i>Chinese story</i>	
5:40 ~ 6:25	Chinese Speech	Chiness Reading	Chinese Song	Chiness Poem	Chinese Calligraph	
6:25 ~ 7:00	Students Leaving School, Office Closes around 7:00 PM					

Admin	1
Chinese Teacher	3

Total Employee	4
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