



## MILPITAS PLANNING COMMISSION AGENDA REPORT

**PUBLIC HEARING**

Meeting Date: March 14, 2012

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**APPLICATION:** **CONDITIONAL USE PERMIT NO. UP12-0002**

APPLICATION  
SUMMARY:

A request to allow a 1,440 square foot massage college (vocational or trade school) with massage service within an existing commercial center

LOCATION: 106 South Abel Street (APN: 022-24-045)

APPLICANT: Ninh Nguyen, 106 S. Abel Street, Milpitas, CA 95035

OWNER:

**RECOMMENDATION:** **Staff recommends that the Planning Commission: Adopt Resolution No. 12-013 approving the project subject to the conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation: Mixed Use (MXD) / Mixed Use with Site and Architectural Review Overlay (MXD-S)

CEQA Determination: Categorically exempt from further environmental review pursuant to Section 15301 for Existing Facilities

PLANNER: Janice Spuller, Assistant Transportation Planner

PJ: 2797

ATTACHMENTS: A. Resolution No. 12-013  
B. Project Letter & Plans

# LOCATION MAP



**BACKGROUND**

On January 13, 2012, Ninh Nguyen submitted an application to locate a massage college within the neighboring tenant space to Abel Plaza at 106 South Abel Street. The project is considered a “vocational or trade school” and is submitted pursuant to Table XI-10-6.02 for Mixed Use Zone Uses within the Municipal Code for conditionally permitted uses.

**PROJECT DESCRIPTION**

The project site is currently an existing commercial property with surrounding properties zoned Mixed Use. A vicinity map of the subject site location is included on the previous page. The applicant proposes to relocate Milpitas Massage College from 500 E. Calaveras Blvd to this location on 106 South Abel Street. The school will be located in the existing 1,440 square foot tenant space consisting of one classroom, two offices, and six massage rooms for practice. Approximately 6-12 students attend class, with approximately 20-30 clients receiving massage service for a small fee. There are no proposed exterior changes.

***Parking***

The tenant space was developed as a commercial space and requires seven parking spaces per Section 53, Off Street Parking Regulations, of the Zoning Code. A vocational school is required the same amount of parking as the designated parking spaces and therefore 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**

<b>Policy</b>	<b>Consistency Finding</b>
<i>Implementing Policy 2.a-1-3:</i> Encourage economic pursuits which will strengthen and promote development through stability and balance.	<b>Consistent.</b> The proposed Milpitas Massage College 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 educational enrichment.

***Zoning Ordinance***

The proposed vocational school is consistent with the Zoning Ordinance in that the use is a conditionally permitted use in the Mixed Use Zoning 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 and is considered to be a compatible use with the neighboring uses in terms of the land use and hours of operations. The parking standards are the same for vocational schools as commercial establishments.

***Midtown Specific Plan***

Since the project will not require additional parking or propose modifications that increase the floor area, or propose new building construction, the application is not subject to site and architectural upgrades as required by the Midtown Specific Plan.

**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 in that the use is a commercial use locating within an existing commercial center tenant space.

**PUBLIC COMMENT/OUTREACH**

Staff publicly noticed the application in accordance with City and State law. To date, one comment was received in objection with concern of the potential for illegal activity in conjunction with the business.

**CONCLUSION**

The project is consistent with the Municipal Code and is a compatible use with the existing businesses. The Milpitas Massage College will bring diversity in the types of commercial services the City has to offer to the community and neighboring residences. The City's operational standards included in the Municipal Code as well as the proposed conditions of approval will ensure the school does not create a nuisance.

**RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. approving UP12-013, subject to the attached Resolution and Conditions of Approval.

*Attachments:*

- A. Resolution No. 12-013
- B. Project Plans

**RESOLUTION NO. 12-013**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP12-0002, MILPITAS MASSAGE COLLEGE (VOCATIONAL SCHOOL), TO ALLOW A 1,440 SQUARE FOOT VOCATIONAL SCHOOL WITHIN AN EXISTING COMMERCIAL CENTER, LOCATED AT 106 SOUTH ABEL STREET**

**WHEREAS**, on January 13, 2012, an application was submitted by Ninh Nguyen, 106 S. Abel Street, Milpitas, CA 95035, to allow a 1,440 square foot massage school in an existing commercial center at 106 S Abel Street. The property is located within the Mixed Use Zoning District (APN: 022-24-045); 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 exempt.

**WHEREAS**, on March 14, 2012, 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 Section 15301 for Existing Facilities in that the use is a commercial use locating within an existing commercial center tenant space.

**Section 3:** The project is consistent with the General Plan Policy 2.a-I-3 in that the proposed Milpitas Massage College 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 educational enrichment.

**Section 4:** The proposed Milpitas Massage College is consistent with the Zoning Ordinance in that vocational schools are conditionally permitted uses in the Mixed Use Zoning District. There are no exterior modifications proposed that may impact any development standards.

**Section 5:** 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 proposed project is not anticipated to create any adverse impacts on the community and is considered to be a compatible use with the neighboring uses in terms of the land use and hours of operations

**.Section 6:** the proposed project is consistent with the Milpitas Midtown Specific Plan in that this vocational school encourages economic pursuits, which serves the existing community and future development as well as providing a compatible mix of uses in the Milpitas Midtown.

**Section 7:** The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP12-0002, Milpitas Massage College, 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 March 14, 2012.

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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 March 14, 2012, and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Garry Barbadillo				

**EXHIBIT 1**

**CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT NO. UP12-002**

A request to allow a 1,440 square foot vocational school within an existing commercial center.  
106 South Abel Street Main Street (APN: 022-24-045)

**General Conditions**

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on March 14, 2012, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of Occupancy Permit, 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)**

UP12-0002 shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:

- 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 UP12-0002 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**

**(P)** = Planning

Milpitas Massage College  
500 E. Calaveras Blvd, Suite 150  
Milpitas, Ca. 95035  
Phone: 408-946-9522  
Institution Code #60985589

To Whom It May Concern

My name Ninh Nguyen, I am the director of Milpitas Massage College. I send this letter to give information to clear up from our school. Our school M.M.C. has been opening since May 2<sup>nd</sup>, 2006 until now. Our students practice each other and sometime the students can practice for client free or charge \$20.00 each person.

Daily, we have about 6 to 12 students attend in class. Monthly, we have from 20 to 30 clients.

If you have further question about this school, please feel free give me a call.

Sincerely,

Ninh Nguyen

1-13-2012.



New address:

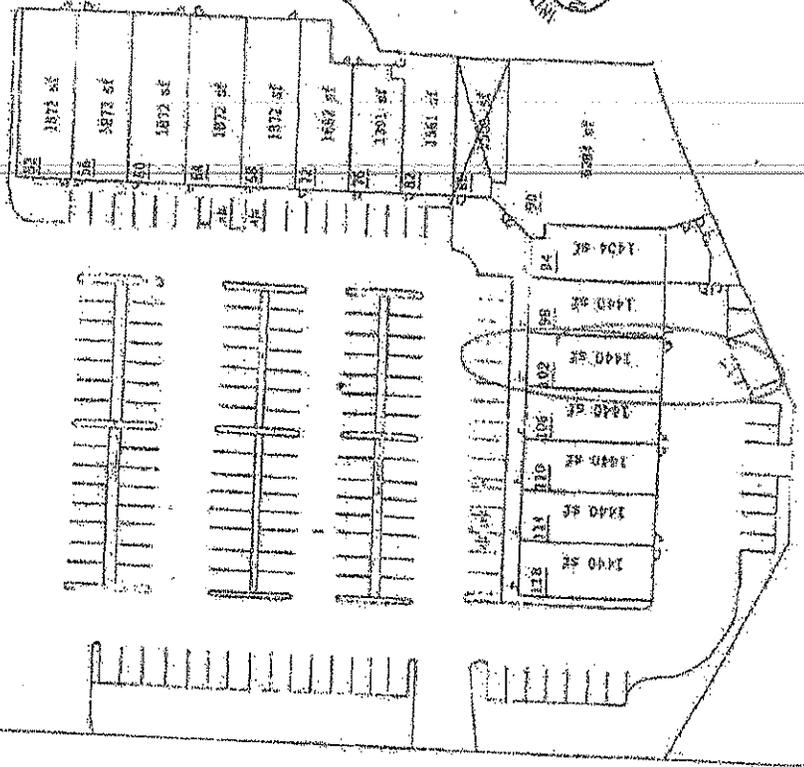
106 S. Abel St,  
Milpitas, CA 95035

ABEL PLAZA  
50 S. ABEL STREET

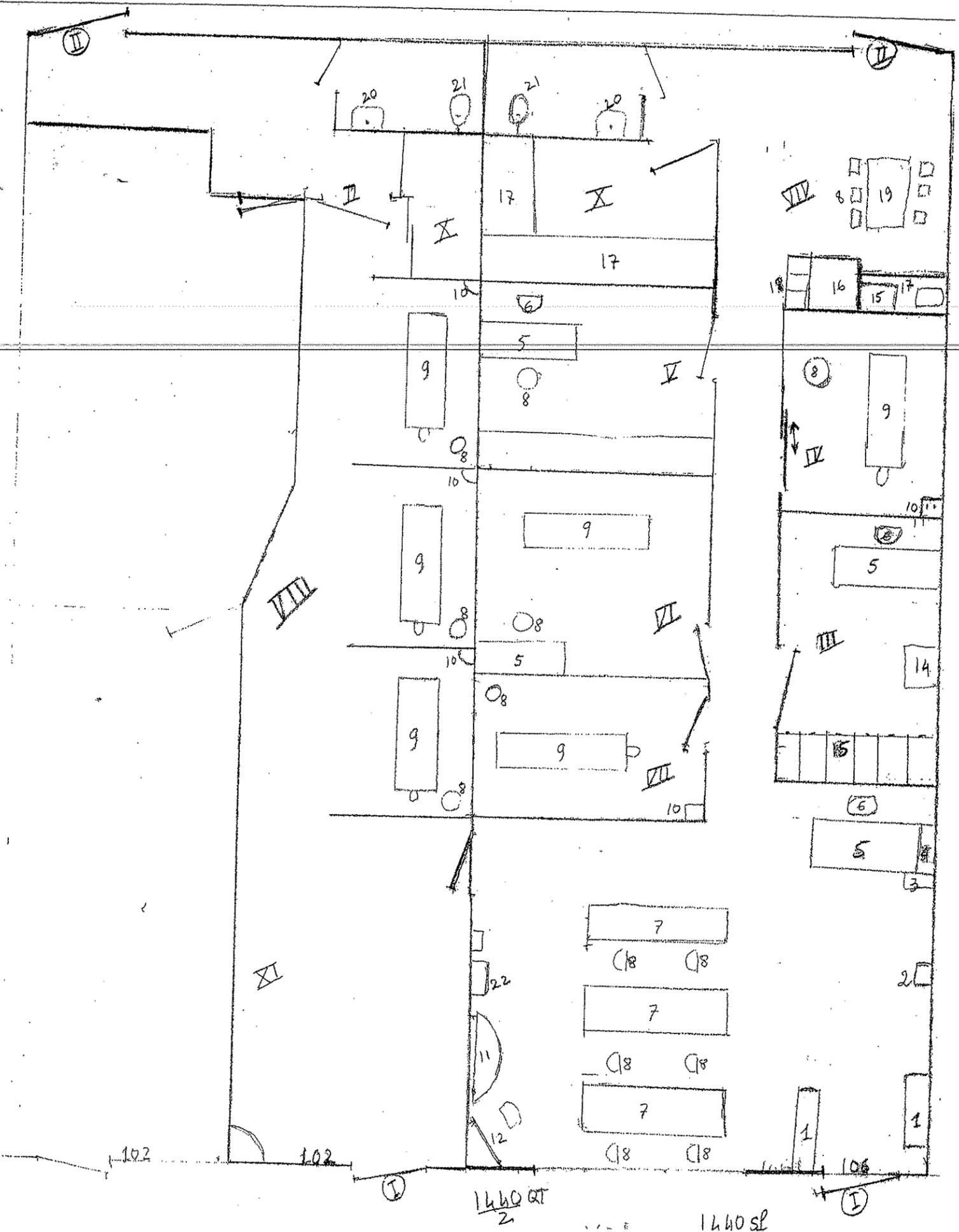
EXHIBIT "A"

South Abel Street

General Information:  
Building Area: 32,638 SF  
Parking: 177 Spaces (2)  
Zoning: Commercial  
Policy Application



106 S. Abel St.



- I From door
- II Back door
- III OFFICE
- IV Practice Room
- V OFFICE
- VI Practice Room
- VII Practice Room
- VIII Practice Rooms
- IX Lunch Room
- X Store Room
- XI Tai Chi Practice

- 23
- 22 skeleton
- 21 Toilet
- 20 Sink
- 19 Lunch Table
- 18 Locker
- 17 Shell
- 16 Re. Frigogeny to
- 15 Microwave
- 14 Copy machine
- 13
- 12 T.V. for lesson
- 11 Black board
- 10 small shell for oil,
- 9 Massage Tables
- 8 Chair
- 7 Tables
- 6 Chair
- 5 Desk
- 4 shell
- 3 Camera
- 2 Hot, cold, water
- 1 Waiting chair