



August 19, 2008

SUBJECT: 2008-0245 - Sheri DeCaire/Mission Bay Works
[Applicant] **Peter Van Dyck** [Owner]: Appeal by applicant of a decision of the Planning Commission denying an application for a Use Permit located at **230 Commercial St.** (near E. Arques Ave.) in an M-S (Industrial & Service) Zoning District. (Mitigated Negative Declaration) (APN: 205-35-007)

REPORT IN BRIEF

Existing Site Research and Development, office, warehouse building

Conditions

Surrounding Land Uses

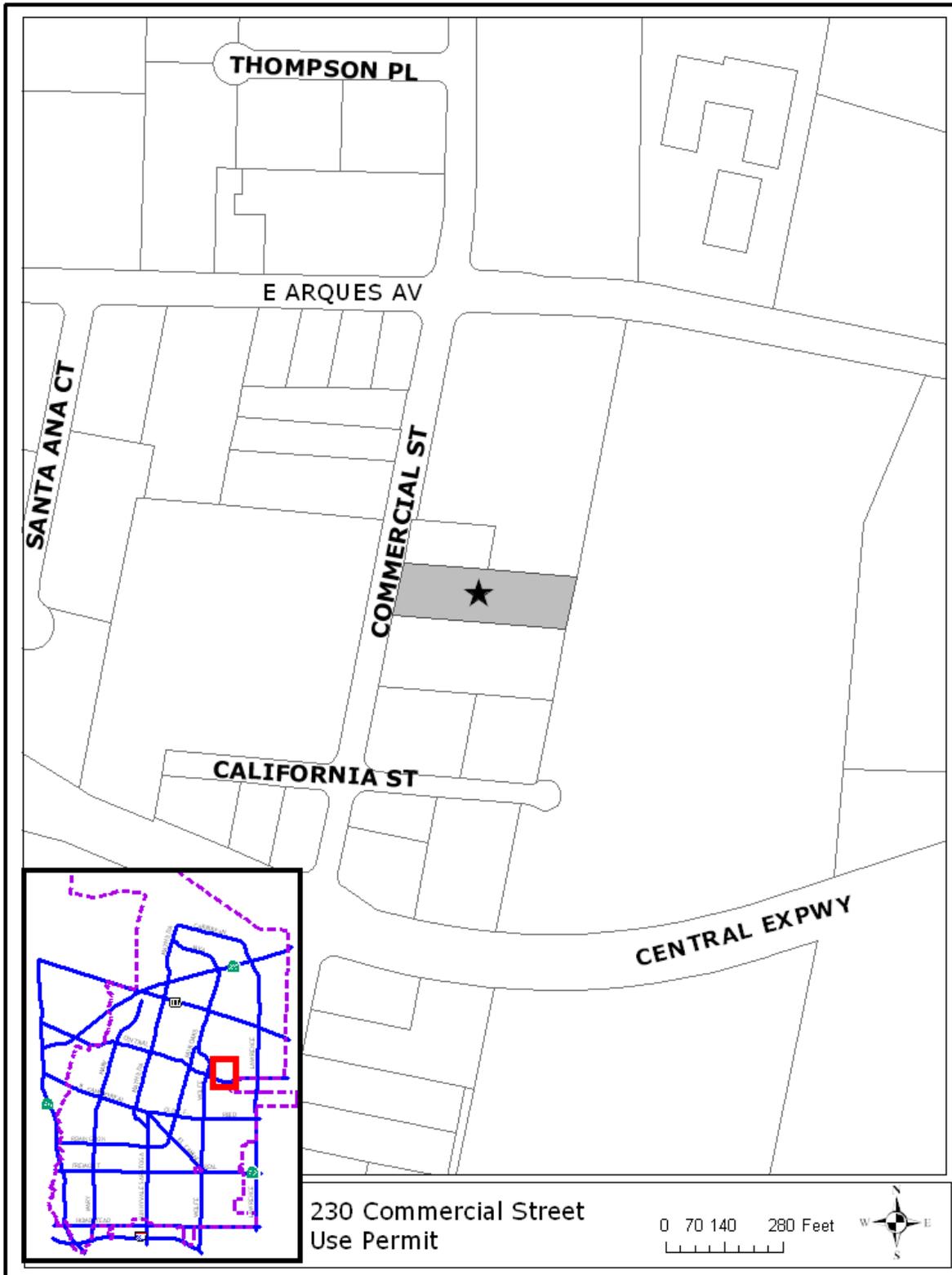
- North Vacant Research and Development, office, warehouse building
- South Pool supply company
- East Applied Materials Research and Development, manufacturing, and office campus
- West City of Sunnyvale Corporation yard

Issues Compatibility of the proposed use with the Industrial zone, compatibility with adjacent uses, and parking.

Environmental Status A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

Planning Commission's Action Denied the Use Permit (and encouraged staff to work with the Mission Bay Works owner to help identify other sites in Sunnyvale which may be more suitable).

Staff Recommendation Deny the appeal and uphold the decision of the Planning Commission to deny the Use Permit and to encourage staff to work with the applicant to identify more suitable sites.



230 Commercial Street
Use Permit

PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial	Same	Industrial
Zoning District	M-S	Same	M-S
Lot Size (s.f.)	51,836	Same	22,500 min.
Gross Floor Area (s.f.)	17,995	Same	21,300 max.
Lot Coverage (%)	35%	Same	35% max.
Floor Area Ratio (FAR)	35%	Same	35% max.
No. of Stories	1	Same	8 max.
No. of Tenants	1	Same	---
Landscaping			
★ Landscaping (s.f.)	5,992 (12%)	Same	20% min.
Parking			
• Total No. of Spaces	52	Same	Per Use Permit
• No. of Standards	50	Same	35 min.
• No. of Compacts / % of total	0	Same	17 max.
• No. of Accessible	2	3	3 min.

★ Starred item indicates existing deviations from Sunnyvale Municipal Code requirements.

ANALYSIS**Background**

The SMC allows consideration of an “Education-Institution of Higher Learning” use in an M-S (Industrial and Service) zoning district through a Use Permit application. “Education-Primary” and “Education-High School” uses are not permitted in industrially zoned properties. “Education-Recreation and

Enrichment” uses are only permitted in industrial zoned properties with the Place of Assembly (POA) combining district and approval of a Use Permit.

The SMC definition of “Education - Institution of Higher Learning” includes technical or trade schools where training is conducted and educational credits, degrees and “certificates of completion” are earned. The applicant represented such certificates of completion are issued to adult students upon program completion; therefore, the proposed school could be considered through a Use Permit.

Previous Actions on the Sites: This application was heard before the Planning Commission at their May 12, 2008 meeting. The Commission voted unanimously to deny the Use Permit. This decision was appealed by the applicant on May 20, 2008.

Description of Proposed Project

Mission Bay Works would be a new adult vocational center in the M-S Industrial Zone. Under the Sunnyvale Municipal Code (SMC) it is considered an institute of higher learning for adults, the same as a new college or trade school. The proposed use would be located in an existing industrial building of 51,836 square feet.

Mission Bay is a school for individuals with developmental disabilities ages 18-55 years of age. The program provides job training through daily instruction of job coaches and skill classes. The intent of the program is to better integrate trainees by providing them certain life skills. The applicant indicates that trainees typically are employed in places such as Costco, Wal-Mart, mail rooms, print shops, etc. No medical care or physical rehabilitation services are provided.

Different classes or areas of training include:

- Daily living activities
- Communication skills
- Money management skills
- Arts and crafts
- Table top activities
- Community access skills
- Employment training

Mission Bay Works is licensed through the State of California Department of Social Services and currently has another school location in the City of Santa Clara (see applicant’s Business Description Letter in Attachment C for details).

Environmental Review

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial

study has determined that the proposed project with mitigation would not create any significant environmental impacts (see Attachment F).

Included in the Initial Study checklist, there is a section on Land Use that discusses potential land use impacts. This section was checked as No Impact for this project since this type of use (institute of higher learning) does not conflict with existing City zoning codes. Institutes of higher learning are permitted to apply through a Use Permit and are reviewed for approval or denial on a case-by-case basis. Staff's concern is not a citywide policy issue related to the compatibility of institutes of higher learning in the industrial zone, as this section of the Initial Study checklist references. Staff's concern relates to the compatibility of an institute of higher learning at this specific site based on compatibility with existing General Plan goals and policies. As outlined in the Environmental Context section below, the surrounding uses have a heavy reliance on the storage, use, and release of chemicals. Staff believes there are a number of other more appropriate locations for a school in the City's Industrial, Commercial, Public Facility, or Office zones.

Environmental Context – Surrounding Uses: The project site on Commercial Street is surrounded by industrial and office uses including Applied Materials, a pool supply warehouse, City of Sunnyvale's corporation yard, and other vacant buildings. The site is located adjacent to two industrial tenants who use and store hazardous materials. The two tenants are Applied Materials located at 974 Arques Avenue and General Pool and Spa Supply located at 222 Commercial Street.

Applied Materials - Applied Materials is located directly to the east of the 230 Commercial Street site. 230 Commercial Street's east property line is entirely bound by Applied Materials property. Applied Materials contains research and development activities as well as manufacturing of products. Applied Materials utilizes a variety of hazardous materials including but not limited to: ammonia, arsine, boron, trifluoride, chlorine, diborane, dichlorosilane, fluorine, germane, hydrochloric acid, hydrogen chloride, hydrogen fluoride, hydrogen sulfide, nitric oxide, octafluorocyclopentene, phosphine, phosphorous pentafluoride, silicon trichloride, sulfur dioxide, trichlorosilane, and tungsten hexafluoride.

Due to the volume of hazardous chemicals and the associated risk, Applied Materials is required by the State code to do a worst case off-site Risk Assessment in the event of an accidental release. A release typically occurs during delivery to the storage facility. This Risk Assessment Plan shows the "zone of potential impact" for accidental release scenarios for several chemicals used at Applied Materials. For two of the most hazardous chemicals, ammonia and chlorine, the 230 Commercial Street site is entirely within the impact zones.

As part of Applied Materials manufacturing processes, the production facilities contain exhaust stacks with pollution filtration scrubbers. Some of the stacks are located close to the adjacent property line with 230 Commercial Street. The City's Hazardous Materials Specialist has stated that in 2006 there was a malfunction in the exhaust stack scrubbers and there was a release of hydrochloric acid which landed on the 230 Commercial Street site.

General Pool and Spa Supply - General Pool and Spa Supply is located a 222 Commercial Street, directly to the south of the 230 Commercial Street site. General Pool is a chain pool supply warehouse containing large amounts of hydrochloric acid, chlorine, as well as other oxidizers. The delivery route for trucks leading into the site is along the adjoining property line of the 230 Commercial site.

General Pool contains lower volumes of the above chemicals on-site, so is not required by the State to produce a worst case off-site Risk Assessment in the event of an accidental release. However, the City's Hazardous Materials Specialist has stated that if an accidental release occurs, the 230 Commercial Street site would likely be affected.

Environmental Mitigation Measures for Surrounding Uses: Based on the above discussion, the occupancy of the 230 Commercial Street site by a school, that includes a concentration of students, an irregular attendance, and irregular emergency training of students (as opposed to full time workers), could result in the exposure of a population to hazardous materials impacts in the event of an accidental release or upset. However, various local, State, and Federal laws, regulations, and ordinances require engineering controls to help prevent chemical releases, and in the event of a release, to help protect human health and the environment. The implementation and enforcement (State and City) of these regulations regarding the use, storage, transport, and disposal of hazardous materials, together with the proposed mitigation measures requiring emergency training and procedures, will reduce the potential for impacts to the school population to be Less Than Significant with Mitigation.

The following mitigation measures are proposed:

WHAT: The applicant shall develop a Site Safety Plan addressing the risks presented to employees and trainees/students, from the surrounding industrial facilities. The plan shall include the following components:

- Identification of high risk locations within 1000 ft.
- Knowledge of risks presented by these facilities (toxic gases, corrosive vapors, liquid leaks, fires).
- Contact information for nearby high risk facilities (names and phone numbers of management / safety personnel at nearby facilities).

- Arrangements with nearby facilities for phone notification in the event of a hazardous material release or potential release.
- Procedures for appropriate responses to chemical releases from nearby high risk facilities (complete evacuation / shelter in place procedures), addressing the specific needs of trainee/student population.
- Initial and ongoing safety training program for staff to insure on-site personnel are familiar with the Site Safety Plan and emergency procedures.
- Site and floor plan showing, at a minimum, building exits, evacuation routes, interior area of refuge (shelter in place), fire extinguishers and air handler shutoffs.
- The plan shall be reviewed and updated annually.

The applicant shall acknowledge in writing that it is locating in an industrial area that may result in higher levels of noise, traffic, and exposure to hazardous materials than would normally be encountered in non-industrial areas.

WHEN: These mitigation measures were converted into conditions of approval for this Use Permit prior to its review by the City's Planning Commission. The conditions will become valid when the Use Permit is approved. The mitigation measures are required to be approved by the City prior to occupancy of the site by either employees or trainees/students.

WHO: The applicant shall draft and submit Mitigation Measure #1 for review and approval of the Director of Community Development. The property owner will be solely responsible for implementation and maintenance of the mitigation measure.

The applicant shall draft and submit Mitigation Measure #2 for review and approval of the City's Hazardous Materials Specialist. The property owner will be solely responsible for implementation and maintenance of the mitigation measure.

HOW: The conditions of approval will require these mitigation measures if the project is approved.

Environmental Context – Underground Pollution - The 230 Commercial Street site is located within the Mohawk Laboratories plume. The Mohawk property is located at 932 Kifer Road in Sunnyvale, California near the intersection of Commercial Street and Kifer Road. The area that includes Mohawk Laboratories and other dissolved plumes is referred to as the Commercial Street Operable Unit (CSOU). Subunit 1 consists of the Mohawk

Laboratories site and the properties that extend north/northeastward, including the 230 Commercial site.

The Mohawk Laboratories site contained an above-ground storage tank farm with a capacity of 157,000 gallons, which was located onsite from the mid-1950s to 1988. Chemicals were transferred from the tank farm into the onsite warehouse building for blending prior to sale and distribution. Chemicals stored in the tank farm included chlorinated solvents, methylene chloride, mineral spirits, kerosene, xylenes and isopropanol. Mohawk removed the tank farm in 1988 when it was found that they were leaking chemicals into the soil and groundwater. Currently all chemicals at Mohawk Laboratories are stored within the plant warehouse.

The Mohawk Laboratories site is currently under regulatory oversight of the California Regional Water Quality Control Board (CRWQCB) and subject to Order No. 00-106, Revision to the Site Cleanup Requirements and Rescission of Order No. 97-112, adopted by the CRWQCB on October 18, 2000. The order directs Mohawk to implement a Self-Monitoring Program to monitor groundwater conditions within the CSOU and adjacent areas and monitor ongoing operation of remedial systems.

Under CRWQCB oversight, Mohawk initiated site characterization activities in 1987. Subsurface investigations detected metals, volatile organic compounds (VOCs) and petroleum hydrocarbon compounds in soil, soil gas and groundwater. The remedial investigations indicated that a plume extends offsite in groundwater to the north up to and across Arques Avenue. The predominant contaminants of interest associated with the plume include the following:

- tetrachloroethene (PCE)
- trichloroethene (TCE)
- cis-1,2-dichloroethene (cis-1,2-DCE)
- total petroleum hydrocarbons (TPH)

Environmental Mitigation Measures for Underground Pollution: Based on the above discussion, the occupancy of the 230 Commercial Street site by a school, that includes a concentration of students, an irregular attendance, and irregular emergency training of students, could result in the exposure of a population to VOCs and petroleum hydrocarbon compounds in soil, soil gas and groundwater. However, CRWQCB has determined that exposure to hazardous materials is within acceptable State and Federal levels and does not pose a health risk at this time, although this may change as circumstances at the site and/or acceptable levels change. The implementation and enforcement of CRWQCB regulations makes this impact Less Than Significant with Mitigation.

The following mitigation measure is proposed:

WHAT: The CRWQCB is the oversight agency which will determine all applicable requirements, and any remediation activities that need to be completed in accordance with all applicable Federal, State, and local regulations.

WHEN: This mitigation measure was converted into conditions of approval for this Use Permit prior to its review by the City's Planning Commission. The conditions will become valid when the Use Permit is approved. The mitigation measure is valid now and in the future.

WHO: The property owner will be solely responsible for implementation and maintenance of any CRWQCB requirements.

HOW: CRWQCB permits and compliance is required at this time.

Use Permit

Use: Mission Bay Works will operate from 9:00am to 2:30pm, Monday through Friday with trainees attending the school on an irregular basis. The school will have a maximum of 50 students (trainees) and 17 employees at any one time. The trainee to staff ratio is up to 8:1. There are no outdoor activities for the trainees at the site.

Transportation is provided to the trainees from their homes to the subject location. Drop-offs and pick-ups occur once in the morning and once in the evening only.

Land Use Compatibility: The proposed use would not likely have physical impacts (e.g. noise, traffic, pollution) on the current surrounding uses. However, the use may have an indirect impact through the introduction of a school in an industrialized zone. The indirect impact could be to the existing uses being made of the surrounding properties and the future development of this industrial area.

Several surrounding property and businesses owners have contacted staff to express their concerns with the proposed use (see Attachment D). These concerns include:

- Ability to safeguard a school in an environment of heavy industry and manufacturing, including release of pollutants in the air.
- Loss of current tenants who do not wish to be located adjacent to a school.
- Difficulty in leasing to future industrial tenants.
- Potential problems or changes with insurance on existing businesses when a school is adjacent.

Architecture: The applicant is proposing only minor changes to the existing roll-up doors on the rear elevation of the building. The proposed interior tenant improvements consist primarily of partition walls to create multiple class/training rooms.

Landscaping/Open Space: Current landscaping on site consists of linear lawn areas surrounding the site and a large lawn area in the front. The total square feet of the existing landscaping equals approximately 15% of the total site, where 20% is required by City Code. At the time this building was approved in 1968, landscaping was allowed to be less than 20%. The existing landscaping could be expanded to meet code, but this would require removing parking spaces or driveway area. Staff does not recommend this action in order to achieve compliance with the 20% required landscaping.

Parking/Circulation: There are currently 52 parking spaces on site, of which two are accessible spaces. As part of the California Department of Health license requirements, door-to-door transportation must be provided for all trainees on a daily basis. The applicant will utilize passengers vans varying in number as the number of the trainees demands. The vans will pick-up and drop-off once in the morning and once in the evening. There are approximately 11 vans needed to serve 50 trainees.

The following table represents the SMC parking requirements for an institute of higher learning:

Site Parking Analysis			
Square Footage	Parking Ratio for Schools	Parking Required by SMC	Number of Projected Spaces
Mission Bay 51,836 s.f.	1 space/ 3 fixed seats 1 space /21 sf open area 1 space/employee 1 space/special purpose vehicle	= 0 (no seats) = 426 (apprx. 8,951 sf) = 17 = 0	52
Total Spaces		443	52

Staff believes that the City’s current parking standards do not directly address the proposed use’s projected parking requirements for two reasons. First, there will not be a seating layout as found in a traditional classroom environment. Most open areas that could be used for seating will instead have tables, work stations, storage areas, and a minimal amount of seats. Second, all students will be bussed to the site, as required by the State.

If the City Council chooses to approve the use, staff is recommending that the Council recognize the operational characteristics of this school and allow flexibility in the number of required parking spaces. Staff has included a

condition of approval that requires either 100% of students are bussed to the site, or, if students drive (for a possible future school at this site), that enrollment is limited to the maximum number of seats (plus employees) supported by the number of available parking spaces.

Sidewalks: SMC requires certain uses in Industrial zones to provide sidewalks along public street frontages. Section 19.38.080 states the following:

Such sidewalks shall be required at the time of any of the following and may be made a condition of issuance of any building permit, certificate of occupancy or other permit required for any of the following:

(4) Change in use requiring a tentative map, special development permit, use permit or design permit having the potential to cause a significant increase in pedestrian traffic.

Staff finds that this change in use will have a potential to cause a significant increase in pedestrian traffic since the new use will be a school. The applicant has stated there will be no increase in pedestrian traffic since students are not allowed to drive to the site and are not allowed outside of the building. Staff acknowledges this point but also acknowledges that, if approved, the Use Permit will run with the land, not the initial user. Therefore the sidewalk should be required, the same as it would be required at another school location in the Industrial zone. A Condition of Approval has been added which requires the installation of a sidewalk on the Commercial Street frontage.

Applicant's Justification: The applicant has submitted a brief letter of justification (Attachment E) outlining the reasons for approval of the Use Permit. The letter states that the proposed use will not change the general appearance of the existing structure and will not impair the existing uses of existing adjacent properties.

Stormwater Management: This project does not require compliance with the new Stormwater Management requirements since the project is not disturbing 10,000 square feet or more of area.

Easements/Undergrounding: There are no overhead utilities located at the site. No new services are requested as part of this application.

Transportation Impact Fee: As a school, the project would be subject to a Transportation Impact Fee (TIF) as specified in the Conditions of Approval, since the new use would create additional PM peak hour trips in excess of the existing use. The fee is estimated to be \$1,227.44. The final fee is determined at the time building permits are issued for the tenant improvements. The TIF is based on 17 employees and 11 vans.

The TIF can be adjusted if the number of employees and/or van trips increases or if the vans remain on-site during the day (AM in and PM out trips only). Any future school that occupies the site may have a similar increase if the number of students and/or instructors is increased.

Compliance with Development Standards: With the condition of approval for a new sidewalk, the proposed project complies with current development standards with the exception of required landscaping, as previously discussed. No further improvements are required at this time.

Appeal

The applicant’s justification for the appeal is based on the opinion the City should provide reasonable accommodations for a vocational school on Commercial Street. The applicant did not present new information in their appeal justification.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Planning Commission Hearing: On May 12, 2008 the Planning Commission reviewed this application and received testimony from several members of the public. The speakers stated their support for the application and described how Mission Bay Works was already a successful business in Santa Clara. At the hearing, the Commission discussed the project issues including compatibility of a school in the Industrial zone, other similar schools in the City, alternative locations, and General Plan goals and policies. The Commission voted 7-0 to deny the application. The Commission stated that while this was a desirable use for the City, they were not able to make the required findings to approve the Use Permit at this site.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 53 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website

Staff has received letters of opposition to the proposed Use Permit stating concerns with potential impacts from a new school adjacent to their current and future businesses (see Attachment D).

Conclusion

Discussion: Staff's fundamental concern is the compatibility of this education use at this location where the land use is predominately, if not exclusively, heavy industrial oriented (research and development, warehouse, manufacturing). As previously discussed, the surrounding uses have a heavy reliance on the storage, use, and release of chemicals. Staff's concern is related not to the proposed business in the City, but rather with the site where the business has chosen to locate. Staff believes there are a number of other more appropriate locations for a school in the City's Industrial, Commercial, Public Facility, or Office zones. Other possible locations include Lawrence Expressway, El Camino Real, or Public Facility zoned parcels throughout the City.

Staff is also concerned with potentially unforeseen impacts to the proposed business from the surrounding industrial uses. The Mitigated Negative Declaration outlines possible impacts and suggest mitigation measures (included as conditions of approval) to cover those impacts. Staff believes these measures will be effective but also understands that physical environmental condition can change over time, as well as the levels of acceptable health and safety for school uses.

In most areas of the City's industrial zone there are hazardous materials stored or used that could create a compatibility issue with a non-industrial use applying to occupy an adjacent site. In these cases, staff studies the context of the area to determine if it is predominantly heavy industrial in character or if it is suitable for a non-industrial use. In many instances staff, Planning Commission, and City Council have determined that a specific use at a certain location is appropriate and compatible where it was found there was a suitable environment for such uses. In many other cases the Planning Commission and City Council have denied uses based on land use incompatibility and incompatibility with General Plan goals and policies. Staff finds the character of the Commercial Street area is clearly heavy industrial, and staff would not likely find another non-industrial use appropriate for this neighborhood.

There are a number of non-industrial uses in areas of the City's industrial zone that are not compatible with the surrounding uses. These uses would no longer be allowed under current City policies and zoning today. Most of these uses were approved prior to the creation of POA zoning overlay district and exist today as legal non-conforming uses. Although Mission Bay Works is not considered a place of assembly, the POA zoning study issue demonstrated that

some areas of the City's industrial zone are appropriate for non-industrial uses while others are not.

Staff is recommending denial of the appeal and therefore denial of the Use Permit. Staff is also recommending the City Council encourage staff to work with the business owner to help them identify a site in Sunnyvale which may be more suitable. This would entail Economic Development and Planning staff working together to identify available sites for the applicant that do not face similar compatibility issues.

Findings and General Plan Goals: Staff is recommending denial of the appeal and therefore denial of the project because the Findings (Attachment A) could not be made. However, if the City Council is able to make either of the required findings, staff is recommending the Conditions of Approval provided in Attachment B.

Staff is unable to make the required findings to recommend approval of the Use Permit based on the General Plan goals and policies and the existing uses being made of the adjacent properties (see Attachment A). While staff finds Mission Bay Works to be a unique and desirable use for the City, staff also finds the project is not appropriately located in a zone where the use will be compatible with the surrounding uses. Staff does not consider the subject site suitable for any school use and believes there are a number of more appropriate areas in the City where Mission Bay Works could be appropriately located and stay within Sunnyvale. Staff also cannot make the second finding based on concerns that the proposed school will impair the orderly development of, and existing uses being made of, the adjacent industrially zoned properties. Staff finds that this education use would adversely affect the existing uses on surrounding properties and has received correspondences from some of the adjoining businesses who have expressed concerns about the proposed school use.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Deny the appeal and uphold the decision of the Planning Commission adopt the Mitigated Negative Declaration and deny the Use Permit.
2. Grant the appeal and adopt the Mitigated Negative Declaration and approve the Use Permit with the recommended Conditions of Approval in Attachment B.
3. Grant the appeal and adopt the Mitigated Negative Declaration and approve the Use Permit with modified Conditions of Approval.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.
5. Encourage staff to work with the Mission Bay Works owner to help identify other sites in Sunnyvale which may be more suitable.

Recommendation

Alternatives 1 and 5.

Reviewed by:

Hanson Hom
Director of Community Development

Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Steve Lynch, Project Planner

Approved by:

Amy Chan
City Manager

Attachments:

- A. Recommended Findings for Denial
- B. Recommended Conditions of Approval
- C. Business Description Letter from the Applicant
- D. Letters from Other Interested Parties
- E. Applicant's Letter of Justification
- F. Mitigated Negative Declaration
- G. Photos of the Site
- H. Site and Architectural Plans
- I. Letter from Applicant to Planning Commission on May 12, 2008
- J. Letter of Appeal from Applicant
- K. Minutes of Planning Commission meeting of May 12, 2008

Recommended Findings for Denial- Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element: Strong Economy Policies:

Policy C4.1 - *Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.*

Policy C4.3 - *Consider the need of business as well as residents when making land use and transportation decisions.*

Mission Bay Works is a unique and desirable use for the City that provides a service to a student population that cannot be provided by other schools currently located in Sunnyvale. However, the project is not appropriately located in a zone where the use will be compatible with the surrounding uses. Staff does not consider the subject site suitable for any school use, due to the nature of the adjacent uses, proximity to the project site, presence of hazardous chemicals, and potential health risks. There are a number of more appropriate areas in the City where Mission Bay Works could be appropriately located and stay within Sunnyvale.

Land Use and Transportation Element: The Neighborhoods Policies

Policy N1.1 - *Protect the integrity of the City's neighborhoods; whether residential, industrial, or commercial.*

Action Statement N1.1.1 - *Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

Policy N1.3 - *Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.*

Action Statement N1.3.1 - *Review development proposals for compatibility within neighborhoods.*

Policy N1.6 - *Safeguard industry's ability to operate effectively, by limiting the establishment of incompatible uses in industrial areas.*

Policy N1.14 - *Support the provision of a full spectrum of public and quasi public services (e.g., parks, day care, group living, recreation centers, religious institutions) that are appropriately located in residential, commercial, and industrial neighborhoods and ensure that they have beneficial effects on the surrounding area.*

The proposed school would be located in an area that is predominantly industrial, warehouse, and research and development. While staff believes Mission Bay Works school is an appropriate use in Sunnyvale, staff finds that, based on the above report, the site selected by the applicant is not an appropriate site for any type of school use. Staff finds that a school is an incompatible use intruding in the Commercial Street industrial neighborhood and that it could realistically limit surrounding uses ability to operate effectively. Staff believes there are other areas of the City, including other industrially zoned areas, where a school would be compatible and would not impact the current uses in the neighborhood.

Socio-Economic Element: Economy and Employment

Goal B – *Maintain and establish policies that promote a strong economy which provides economic opportunities for all Sunnyvale residents within existing environmental, social, fiscal and land use constraints.*

Policy B.1 - *Provide existing employers with opportunities to expand employment within land use constraints and in accordance with regional planning goals.*

Policy B.3 - *Monitor the effect of City policies on business development and consider the effects on the overall health of business within the City.*

Goal C – *Endeavor to maintain a balanced economic base that can resist downturns of any one economic sector.*

Policy C.3 - *Maintain an attractive business community.*

Policy C.4 - *Promote business opportunities and business retention in Sunnyvale.*

Staff finds that the proposed school could hinder business development in this area of the City and would not promote a strong or balanced economy. As stated previously in this report, employers from surrounding businesses have stated they would not have the opportunity to expand their businesses if a school located in the immediate vicinity.

Socio-Economic Element: Education and Training

Goal E - *Support efforts to improve the availability and quality of education made available in Sunnyvale.*

Policy E.6 - *Support and/or consider the feasibility of attracting higher education into Sunnyvale and the region.*

Goal F - *Provide job training and employment services, within constraints of operative federal regulations and available federal funding, to address the locally-determined employment and training needs of economically disadvantaged residents and others with special needs.*

Action Statement F.1c - *Develop program alternatives to address the unique needs of special populations, such as youth, seniors, the disabled, welfare recipients and others.*

Action Statement F.1e - *Cooperate to the maximum extent feasible with other Federal, State and local agencies providing similar services or serving common clients.*

Mission Bay Works would provide unique job training to students who would otherwise not have access to this type of education within the City. Staff finds the proposed school would address the unique needs of certain students but also finds the site selected is not appropriate for a school. Staff believes the school should be located in an area of Sunnyvale with fewer impacts.

Socio-Economic Element: Health and Social Services

Policy H.9 - *Encourage programs and services that address the special needs of the disabled population and assure that disabled individuals have access to services.*

Action Statement H.9d - *Encourage and support efforts to allow disabled individuals to live independently.*

Action Statement H.9h - *Encourage and support efforts to provide residential, transitional facilities for disabled residents.*

Mission Bay Works would provide programs and services to students who would otherwise not have access to this type of education and training within the City. Staff finds the proposed school would address the unique needs of certain students but also finds the site selected is not appropriate for a school. Staff believes the school should be located in an area of Sunnyvale with fewer impacts.

Findings:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. *(Finding Not Met)*

As enumerated above, staff cannot make the first finding that the project meets the goals and policies of the General Plan of the City of Sunnyvale.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, impair either the orderly development of, or the existing uses being made of, adjacent properties. *(Finding Not Met)*

Staff cannot make the second finding based on concerns that the proposed school will impair the orderly development of, and existing uses being made of, the adjacent industrially zoned properties. Staff has received correspondences from the adjoining businesses who have expressed concerns about the proposed school use, as previously discussed in this report. Staff finds that this education use, at this location, where the land use is predominately heavy industrial oriented (research and development, manufacturing, warehouse), would adversely affect the existing uses on surrounding properties. As previously discussed, it would introduce an incompatible land use into surrounding uses that rely heavily on the storage, use, and release of chemicals. Staff's concern is related not to the proposed business, but rather to the site where the business has chosen to locate. Staff believes there are other more appropriate locations for this school in the City's Industrial, Commercial, or Office zones.

Recommended Conditions of Approval - Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Execute a Use Permit document prior to issuance of the building permit.
- B. Any expansion or modification of the approved use shall be approved by separate application at a public hearing by the Planning Commission. Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- C. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- D. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- E. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
- F. The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- G. 100% of the students will be transported to the site via bus, or, if students drive (future school), that enrollment is limited to the maximum number of seats and employees equal to the number of parking spaces.

2. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Obtain necessary permits from the Department of Public Works for all proposed off-site improvements.
- B. Obtain the necessary Building permits for all tenant improvements related to this use.
- C. Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed use prior to issuance of a Building Permit.

3. ENVIRONMENTAL

A. Under the oversight and direction of the CRWQCB, the applicant shall conduct yearly indoor air quality testing.

4. ENVIRONMENTAL MITIGATION MEASURES

A. In addition to complying with applicable City Codes, Ordinances, and Resolutions, the following mitigation measures are incorporated into the project to minimize the identified potential environmental impacts:

IMPACT HAZ (a) and (b)

- 1) The applicant shall develop a Site Safety Plan addressing the risks presented to employees and trainees/students, from the surrounding industrial facilities. The plan shall include the following components:
 - Identification of high risk locations within 1000 ft.
 - Knowledge of risks presented by these facilities (toxic gases, corrosive vapors, liquid leaks, fires).
 - Contact information for nearby high risk facilities (names and phone numbers of management / safety personnel at nearby facilities).
 - Arrangements with nearby facilities for phone notification in the event of a hazardous material release or potential release.
 - Procedures for appropriate responses to chemical releases from nearby high risk facilities (complete evacuation / shelter in place procedures), addressing the specific needs of trainee/student population.
 - Initial and ongoing safety training program for staff to insure on-site personnel are familiar with the Site Safety Plan and emergency procedures.
 - Site and floor plan showing, at a minimum, building exits, evacuation routes, interior area of refuge (shelter in place), fire extinguishers and air handler shutoffs.
 - The plan shall be reviewed and updated annually.

- 2) The applicant shall acknowledge in writing that it is locating in an industrial area that may result in higher levels of noise, traffic, and exposure to hazardous materials than would normally be encountered in non-industrial areas.

These mitigation measures are required to be approved by the City prior to occupancy of the site by either employees or trainees/students.

The applicant shall draft and submit Mitigation measure 1) for review and approval of the Director of Community Development. The property owner will be solely responsible for implementation and maintenance of the mitigation measure. The applicant shall draft and submit Mitigation measure 2) for review and approval of the City's Hazardous Materials Specialist. The property owner will be solely responsible for implementation and maintenance of the mitigation measure.

IMPACT HAZ (d)

- 1) The California Regional Water Quality Control Board (CRWQCB) is the oversight agency which will determine all applicable requirements, and any remediation activities that need to be completed in accordance with all applicable Federal, State, and local regulations.

The property owner will be solely responsible for implementation and maintenance of any CRWQCB requirements.

5. OPERATIONS

- A. The maximum number of students, trainees, or participants at any given time, shall not exceed 50.
- B. All students shall be a minimum of 18 years old.

6. TRANSPORTATION IMPACT FEE

- A. Pay Traffic Impact Fee (TIF) estimated at \$1,227.44, prior to issuance of a Building Permit (SMC 3.50). The final fee is determined at the time building permits are issued for the tenant improvements. The TIF is based on 17 employees and 11 vans. The TIF can be adjusted if the number of employees and/or van trips increases or if the vans remain on-site during the day (AM in and PM out trips only). Any future school that occupies the site may have a similar increase if the number of students and/or instructors is increased.

7. LANDSCAPING

- A. All landscaping shall continue to be maintained in a neat, clean, and healthful condition.

8. PARKING

- A. At no time shall the number of students, employees, and teachers exceed the total number of available parking spaces on site.
- B. Employees shall be required to park on the site.

9. RECYCLING AND SOLID WASTE

- A. Per zoning code 19.38.030, a refuse/recycling enclosure shall be provided.
- B. Equal space shall be provided for recycling and refuse within enclosure.
- B. All exterior recycling and solid waste shall be on masonry construction and shall be confined to approved receptacles and enclosures.
- C. The required solid waste and recycling enclosure shall match the design, materials and color of the main building.

10. FIRE REGULATIONS

- A. As applicable, comply with the requirements contained in Sunnyvale Municipal Code Chapter 16.52, 16.53 and 16.54; California Fire Code, Title 19 California Code of Regulations.
- B. Provide required number of approved fire extinguishers (minimum size of 2A10BC and/or K-class for kitchens as required) (CCR Title 19: 568)
- C. Buildings in excess of 3600 square feet require an automatic fire sprinkler system. Provide a fully automatic fire sprinkler system in accordance with NFPA 13. (16.52.270 SMC & Section 903 CFC)
- D. The water supply for fire protection and fire fighting shall be approved by the Department of Public Safety
- E. Provide information/locations of any onsite and City fire hydrants. Project may require the installation of fire hydrants.
- F. A fire access road is required. Fire access roads require a minimum unobstructed width of 20 feet and a minimum inside turning radius of 30 feet. (MC 16.52.180)
- G. Fire access roads shall be marked in accordance with MC 16.52.170.
- H. Trash enclosures, within 5 feet of building exterior walls or overhangs require fire sprinkler protection (304.3.3 CFC, MC 16.52.270).
- I. If the facility is deemed to contain a public assembly occupancy (over 50 occupants) multiple exits, exit signs, and emergency lighting may be required depending on the occupant load.
- J. Places of assembly require a Fire Operations permit, to be obtained/issued at the time of the Fire Prevention inspection, after completion of all construction.
- K. Prior to any combustible construction or materials on site, provide fire access drives and operational on-site fire protection systems if applicable. (Chapter 14 CFC)
- L. Provide a written Fire Protection Plan. (Section 1408 CFC)(Refer to Unidocs.org , Fire Prevention documents).

11. SIGNS

A. All existing/new signs shall be in conformance with Sunnyvale Municipal Code and require separate review and permits.

12. STORAGE

A. All unenclosed materials, equipment and/or supplies of any kind shall be maintained within an enclosed area. Any stacked or stored items shall not exceed the height of the enclosure.

B. Unenclosed storage of any kind shall be prohibited on the premises.

C. All exterior trash shall be confined to approved receptacles and enclosures.

13. SIDEWALKS

A. This project requires installation of sidewalks and curb and gutter along the frontage of Commercial Street. Consult with Trees and Landscaping Division for any tree relocation or removal as a result of new improvements.

14. PUBLIC WORKS

A. The owner/developer shall pay all applicable Public Works development fees associated with the project, including but not limited to, utility frontage and/or connection fees and off-site improvement plan check and inspection fees, prior to any permit issuance.

B. All public improvements shall be installed per City's design standards pursuant to Sunnyvale Municipal Code Sections 18.12 unless otherwise approved by the Director of Public Works.

C. All public improvement plans shall be submitted to and be approved by the Department of Public Works.

D. Any existing deficient public improvements shall be upgraded to current City standards as required by the Director of Public Works.

E. Obtain a separate encroachment permit with insurance requirements for all public improvements.

F. Provide the Public Works Department with a detailed estimate of water consumption in gallons per day and peak water demand in gallons per minute, and estimate of sanitary sewer generation in gallons per day.

G. If applicable, install cleanout(s) at the property line.

H. Upgrading to new radio-read disk-type water meters shall be required.

I. If applicable, upgrade/install an approved backflow prevention device on the discharge side of the irrigation, domestic (non-residential) and fire service meters.

15. TRAFFIC/ROAD IMPROVEMENTS

- A. Provide on-site bike racks, and lockers per the latest VTA standards (for workers and other potential users).
- B. Traffic control plan is required for any work being done in the public right-of-way, short-term and/or long-term. This plan must be submitted with the Encroachment Permit and must be approved by a Transportation Engineer.

16. MISCELLANEOUS

- A. Replace existing underground Detector Assembly with new above ground Double Check Detector Assembly for Fire Services per City Standard Dwg. 26B. Fire Service-Double Check Detector Assembly shall be Wilkins 450DA or Febco 876, no substitutions.



Mission Bay Vocational Program

Maria Coker, RN is currently President and Program Director for Mission Bay Works located at 3269 Kifer Rd in Santa Clara. It is a state licensed site of approximately 11K sq ft. For the past 18 years she has worked with the developmentally disabled adult population. 14 of those years were with the Agnews Developmental Center as MS Coordinator, and Psychiatric Technician.

Brandon Coker is Vice President and Creative Director responsible for job opportunity's for consumers along with human resource responsibilities.

Mission Bay Works is licensed through the Department of Social Services California since 2004.

The new site will have 50 trainees and 12 employees.

Mission Bay Vocational Program is be a highly-structured program for individuals with developmental disabilities ages 18-55 years of age. The program operates from 9:00 A.M. to 2:30 P.M. (Monday through Friday). This program does not provide medical care. The program provides transportation for the trainees to and from the homes by way of company owned vans. There are no drop offs or pick ups by parents nor do any of the trainees drive. The ultimate goal is geared toward normalization where the services refer to integration of people with special needs into everyday community life, so that they may enjoy what we normally value for ourselves. Different areas of training will focus on assistance of daily living activities, communication skills, money-management skills, arts and crafts, table-top activities, community access skills, employment training (pre-vocational) and employment opportunities. One example of work site activities is kitting of projects such as counting parts and bagging them for electronic companies. With the assistance of the job coaches consumers can have a source of income.

There are currently 110,000 disabled adults in the Bay Area needing this kind of service. This is a very professional environment, with daily instructions of job coaches through written behavior plans from social workers. The clients work in places such as Costco, Wal-Mart, printing shops, mail rooms, and office environments.

On a daily basis, clients to staff ratio is 8 clients to 1 staff ratio. There are no outside activities on the building grounds and clients are required to stay indoors. Passenger van pick-up and drop-off occur only once in the morning and once in the afternoon.

Mission Bay Works, Inc is a for profit organization.

3269 Kifer Rd Santa Clara, CA 95051 • 408-636-0194 • Fax 408-636-0195

commercial property services
CORFAC INTERNATIONAL

475 El Camino Real, Suite 100, Santa Clara, CA 95050 • P (408) 615-3400 • F (408) 615-3444 • www.cps-co.com

May 7, 2008

Mr. Steve Lynch
City of Sunnyvale
456 W. Olive Ave.
P.O. Box 3707
Sunnyvale, CA 94086

RE: 230 Commercial Street Mitigated Negative Declaration

Dear Steve:

On behalf of the owner of 242 Commercial, Christopher Grimes, we are against approving the use for the neighboring tenant at 230 Commercial Street. The Commercial Street corridor is zoned M-S (industrial service) and allowing a school-use here would significantly hurt this industrial pocket of Sunnyvale. The City has designated areas where they allow for this type of use and if they permit a school-use here, the value of my client's property at 242 Commercial would be significantly decreased for the following reasons:



- o Allowing a school use in a commercial area will limit the potential tenant base that my client can attract on his commercial property.
- o The marketability of the property will suffer as most industrial tenants will not want to be near a tenant of that type.
- o Lease-up time will increase and therefore, rental rates and property value will decrease due to the effect on potential tenants.

Because of the nature of the potential neighboring tenant, it is not in my client's best interest to approve a school use in an industrial zoned area. Thank you for your consideration.

Sincerely,

Brian McClenahan
(408) 615-3463

cc: Christopher Grimes

ATTACHMENT D
Page 2 of 5

May 5, 2008

Steve Lynch
City of Sunnyvale
456 W. Olive Ave.
Sunnyvale, CA 94088

RE: 230 Commercial Street, Sunnyvale
File number 2008-0245
Application for Conditional Use Permit

Dear Mr. Lynch:

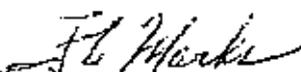
I am the managing partner of 222 Commercial which is next door to the subject property at 230 Commercial Street. We understand that a vocational school for developmentally disabled adults has applied for a use permit at the subject property. Based on the proposed use we do not support this application and request that the city deny its approval.

There are several reasons why we request denial of the application:

- 1) The proposed use would adversely impact the existing use in our building. General Pool & Spa has been our tenant since 2001. We have spoken with General Pool's management and they have told us that if this use is approved and occupies the neighboring building, they will leave. The chemicals that General Pool stores on site, although acceptable in an industrial area, are not conducive to being next to a school. (Note: The city yard across the street may also have chemicals stored on its site.)
- 2) The proposed use would make it difficult for us to release the building. A use that is not compatible with industrial uses common in the area would make it very difficult for us to find a replacement tenant.
- 3) We understand that there are other areas in the city designated for this type of use. These include the industrial area near Lawrence Expressway which we believe has an overlay for places of assembly which describes the proposed use. We also believe that the El Camino Real corridor has zoning that permits this type of use.
- 4) In the last few years, the city reviewed the zoning on Commercial Street and determined it should not be changed. This review was part of a city-wide review to change certain areas currently zoned industrial. Why would one particular applicant now change the zoning after the city has already determined to let it remain in its current state?

We are not opposed to having a vocational school for developmentally disabled adults in the city of Sunnyvale. We do believe that there are other locations designated for this type of use and believe the school should search for a building in those areas.

Sincerely,


Fillmore Marks
Manager and Principal
222 Commercial Street



May 5, 2008

Steve Lynch, Senior Planner
City of Sunnyvale
Department of Community Development
Planning Division
P.O. Box 3707
Sunnyvale, CA 94088-3707

Re: Project # 20008-0245
Project Address: 230 Commercial Street
Applicant: Mission Bay Vocation School Variance Request.

Dear Mr. Lynch,

As a stakeholder in the community, Applied Materials is obviously deeply interested in matters which may impact the long term growth and sustainability of the Sunnyvale community and Applied Materials' operations therein. While Applied Materials welcomes Mission Bay's decision to locate a vocational school in Sunnyvale, we are concerned that locating a school immediately adjacent to an advanced research and development center is not in the long term best interests of either the impacted parties or of the community overall.

The Arques Campus houses some of Applied Materials' most advanced R&D activities and we trust the City shares our interest in maintaining the long-term viability of those operations in Sunnyvale, along with all of the economic benefits. We are concerned whether our Arques operations will be impacted in the future by the introduction of possible "sensitive receptors" in immediate proximity to the Arques Campus. While we will always do our utmost to protect the environment and to safeguard our neighbors, there is no question that a school can pose issues for industry that commercial and industrial neighbors do not.

Given the circumstances, we recommend that the City preserve a land use scheme conducive to cutting edge R&D operations taking place in Sunnyvale, and further suggest that Mission Bay should select an alternate site so as to avoid the possibility of future adverse impacts to existing businesses such as Applied Materials.

Respectfully,

A handwritten signature in black ink, appearing to read "Victor M. Arrañaga, Jr.".

Victor M. Arrañaga, Jr.
Senior Manager Government & Corporate Affairs

May 9, 2008

Mr. Steve Lynch
City of Sunnyvale
456 W. Olive Ave.
Sunnyvale, CA 94088

RE: 230 Commercial Street, Sunnyvale
File Number 2008-4245
Application for Conditional Use Permit

Dear Mr. Lynch:

On May 5th my father, Fillmore Marks, submitted a letter on behalf of the ownership of 222 Commercial Street. Since submitting that letter, Brandon at Mission Bay sent him a letter (copy reportedly on file with city) clarifying the proposed use. As my father is now out of the country and not available to follow-up on the letter, he has asked me to do so. Below is the follow-up:

- A) My father does not have, nor do any of the owners of 222 Commercial Street have, issues with developmentally disabled people. We support helping disabled people. My mother has a disability and my family is very understanding of handicapped persons. The fact that the school (or adult day program) has disabled participants was not relevant to our letter.
- B) The May 5th statement that General Pool & Spa would leave our building if the use is approved and the applicant occupies the neighboring building was inaccurate. We have had subsequent discussions with General Pool's management and they have stated that they will continue to stay in our building if the conditional use permit is approved.
- C) Regarding points 3 & 4 in my father's May 5th letter, we wish to let the city determine if the proposed use is warranted and do not wish to comment. Accordingly, based on all the above, we wish to rescind the May 5th letter.

Because of the letter sent by Brandon to my father on May 6th, we did visit the applicant's existing facility at 3269 Kifer Road as well have a conversation with Brandon. Based on the visit and the conversation, we do have two requests if the application is approved:

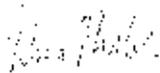
- 1) The exterior of 230 Commercial Street would remain similar to its current condition. Our understanding based on the conversation with Brandon is that this is the intent with exception of perhaps changing the paint color to another earth-tone color with which we are fine. We do request that exterior paintings/posters on windows/doors at Mission Bay's existing site (see attached) are not used on Commercial Street as that would seem somewhat incongruous with other property

and uses in the area. If the application is approved, keeping the exterior of 230 Commercial Street in a similar existing condition would support Mission Bay's position that "there is no difference in what we do than the business down the street" as stated in their letter.

- 2) Should Mission Bay commence outdoor activities, they would install screening (i.e. landscape or fence) between our properties. Brandon has indicated that there are no plans to have outdoor activities. Should Mission Bay change, that would be our request.

Please feel free to contact me should you have any questions.

Sincerely,



Doug Marks
W: 650-494-5567

cc: Rory Manley, General Pool & Spa
Brandon, Mission Bay
Fillmore Marks, Banker, Marks & Kirk
Elaine Kirk, Banker, Marks & Kirk



USE PERMIT/SPECIAL DEVELOPMENT PERMIT ATTACHMENT E

JUSTIFICATIONS

Page 1 of 6

One of the two following findings must be made in order to approve a Use Permit or Special Development Permit application.

The Sunnyvale Municipal code states that at least one of the following two justifications must be met before granting the Use Permit or Special Development Permit. Please provide us information on how your project meets at least one of the following criteria.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project ...

OR

- 2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as ...

The proposed use will not change the general appearance of the existing structure and will not impair the existing uses of existing adjacent properties.

If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

One-Stop Permit Center - City Hall - 456 W. Olive Avenue - (408) 730-7444
Planners and Building Division staff are available 8:00 a.m. to noon and 1:00 to 5:00 p.m.
www.SunnyvalePlanning.com / www.SunnyvaleBuilding.com

Rev. 7/07 (white)



PLANNING DIVISION
CITY OF SUNNYVALE
P.O. BOX 3707
SUNNYVALE, CALIFORNIA 94088-3707

File Number: 08-0245
No. 08-07

ATTACHMENT F

Page 1 of 19

**NOTICE OF INTENT TO ADOPT A
MITIGATED NEGATIVE DECLARATION**

This form is provided as a notification of an intent to adopt a Mitigated Negative Declaration which has been prepared in compliance with the provisions of the California Environmental Quality Act of 1970, as amended, and Resolution #118-04.

PROJECT TITLE:

Application for a Use Permit filed by Sheri DeCaire.

PROJECT DESCRIPTION AND LOCATION (APN):

2008-0245 – Sheri DeCaire [Applicant] Peter Van Dyck [Owner]: Use Permit to allow a vocational school for developmentally disabled adults. The property is located at 230 Commercial St. (near E. Arques Ave.) in an M-S (Industrial & Service) Zoning District. (APN: 205-35-007) SL

WHERE TO VIEW THIS DOCUMENT:

The Mitigated Negative Declaration, its supporting documentation and details relating to the project are on file and available for review and comment in the Office of the Secretary of the Planning Commission, City Hall, 456 West Olive Avenue, Sunnyvale.

This Mitigated Negative Declaration may be protested in writing by any person prior to 5:00 p.m. on Monday, May 12, 2008. Protest shall be filed in the Department of Community Development, 456 W. Olive Avenue, Sunnyvale and shall include a written statement specifying anticipated environmental effects which may be significant. A protest of a Mitigated Negative Declaration will be considered by the adopting authority, whose action on the protest may be appealed.

HEARING INFORMATION:

A public hearing on the project is scheduled for:

Monday, May 12, 2008 at 8:00 p.m. in the Council Chambers, City Hall, 456 West Olive Avenue, Sunnyvale.

TOXIC SITE INFORMATION:

(No) listed toxic sites are present at the project location.

Circulated On April 17, 2008

Signed: Gerri Caruso
Gerri Caruso, Principal Planner

INITIAL STUDY
 City of Sunnyvale
 Department of Community Development
 Planning Division
 P.O. Box 3707
 Sunnyvale, CA 94088-3707

Project #: 2008-0245
 Project Address: 230 Commercial Street
 Applicant: Mission Bay Vocational School

2 of 19

Project Title	Application for a new institute of higher learning (adult vocational school) in an existing industrial building.
Lead Agency Name and Address	City of Sunnyvale PO Box 3707 Sunnyvale, CA 94088-3707
Contact Person	Steve Lynch, Senior Planner
Phone Number	(408) 730-2723
Project Location	230 Commercial Street Sunnyvale, CA 94086
Project Sponsor's Name	Mission Bay Vocational School Davidson & Seals Contact: Sheri DeCaire
Address	383 4 th St. #201 Oakland, CA 94607
Zoning	M-S (Industrial and Service)
General Plan	Industrial
Other Public Agencies Approval Required	None

Description of the Project: Application for a new institute of higher learning (Mission Bay adult vocational school) in an existing industrial building. Mission Bay is a school for individuals with developmental disabilities ages 18-55 years of age. The program provides job training through daily instruction of job coaches and skill classes. The intent of the program is to better integrate trainees by providing them certain life skills. The trainees typically are employed in places such as Costco, Wal-Mart, mail rooms, print shops, etc. The program operates from 9:00am to 2:30 pm, Monday through Friday. No medical care or physical rehabilitation services are provided.

Different classes or areas of training include:

- Daily living activities
- Communication skills
- Money management skills
- Arts and crafts
- Table top activities
- Community access skills
- Employment training

Transportation is provided to the trainees from their homes to the subject location. Drop-offs and pick-ups occur once in the morning and once in the evening only. The trainee to staff ratio is up to 8:1, with trainees attending the location on an irregular basis. There are no outside activities for the trainees at the site.

Surrounding Uses and Setting: The property is surrounded by industrial and office uses including Applied Materials, a pool supply warehouse, City of Sunnyvale's corporation yard, and other vacant buildings.

EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).
5. Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
6. Earlier Analysis Used. Identify and state where they are available for review.
7. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
8. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project
9. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

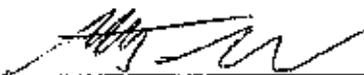
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards & Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities/Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Signature

Steve Lynch, Senior Planner

4/16/08
Date

For the City of Sunnyvale
(Lead Agency)

Environmental Checklist Form

Project Number: 2008-0245
 Project Address: 230 Commercial St.
 Applicant: Mission Bay Vocational School

	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
1. AESTHETICS. Would the project:					
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94
b. Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94, 101
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94
2. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 94, 100, 111
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 94, 100, 111
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 96, 97, 100, 111
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	62, 63, 111, 112
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	111, 112
3. BIOLOGICAL RESOURCES:					
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94, 111, 112, 109
b. Have a substantially adverse impact on any riparian habitat or other sensitive natural	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94, 111, 112,

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	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S Wildlife Service?					109
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94, 111, 112, 109
d. Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94, 111, 112, 109
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94, 111, 112, 109
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	41, 94, 111, 112
4. CULTURAL RESOURCES. Would the project:					
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	See disc.
b. Cause a substantial adverse change in the significance of an archaeological resources pursuant to Section 15064.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10, 42, 94
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10, 42, 94, 111
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 111, 112
5. LAND USE AND PLANNING. Would the project:					
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 11, 12, 21, 28
b. Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	31, 28, 111

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	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?					
c. Conflict with any applicable habitat conservation plan or natural communities conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 41, 94, 111
6. MINERAL RESOURCES. Would the project:					
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94
7. NOISE. Would the project result in:					
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 16, 26, 94, 111, 112
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 16, 26, 94, 111, 112
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 16, 26, 94, 111, 112
d. A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	See disc.
8. POPULATION AND HOUSING. Would the project:					
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 94
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 11, 111, 112
c. Displace substantial numbers of people, necessitating the construction of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 11, 111, 112

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	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
replacement housing elsewhere?					
9. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
a. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 111, 112
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	26, 65, 66, 103, 104
c. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	26, 65, 66, 103, 104
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 111, 112
e. Other services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	111
10. MANDATORY FINDINGS OF SIGNIFICANCE					
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 10, 26, 42, 59, 60, 61, 111, 112
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 111, 112
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	111, 112

	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
11. GEOLOGY AND SOILS. Would the project:					
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	UBC, UPC, UMC, NEC
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"
b. Result in substantial soil erosion or the loss of topsoil?					"
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"
d. Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"
12. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 20, 24, 87, 88, 89, 90,

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					111, 112
b. Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 20, 24, 25, 87, 88, 89, 111, 112
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 20, 24, 25, 87, 88, 89, 111, 112
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 20, 24, 25, 87, 88, 89, 111, 112
e. Result in a determination by the wastewater treatment provider which services or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 20, 24, 25, 87, 88, 89, 111, 112
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 22, 90, 111, 112
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 22, 90, 111, 112
13. TRANSPORTATION/TRAFFIC. Would the project:					
a. Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 12, 71, 75-77, 111, 112
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 12, 71, 75-77, 80, 84, 111, 112
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 111, 112, 113

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	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
d. Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 12, 71, 75-77, 80, 84, 111, 112
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 111, 112
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	37, 111
g. Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 12, 81, 111, 112
14. HAZARDS AND HAZARDOUS MATERIALS. Would the project?					
a. Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Discussion at end of checklist
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Discussion at end of checklist
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	65, 103, 104, 105, 108, 115
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.6 and, as a result would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Discussion at end of checklist
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	65, 103, 104, 105, 108
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	65, 103, 104, 105, 108
g. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	65, 103, 104, 105, 108

	Potentially Significant Impact	Less than Sig. With Mitigation	Less Than Significant	No Impact	Source
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	65, 103, 104, 105, 108
15. RECREATION					
a. Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 18, 111, 112
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 18, 111, 112
16. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:					
a. Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	94
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	94
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	94
17. HYDROLOGY AND WATER QUALITY. Would the project:					
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
b. Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112

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level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?					
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or surface runoff in a manner which would result in flooding on- or off site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
e. Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
g. Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 24, 25, 111, 112

DISCUSSION OF IMPACTS THAT ARE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED:

14. HAZARDOUS AND HAZARDOUS MATERIALS (a) The 230 Commercial Street site is located adjacent to two industrial tenants who use and store hazardous materials. The two tenants are General Pool and Spa Supply located at 222 Commercial Street and Applied Materials located at 974 Arques Avenue.

Applied Materials - Applied Materials is located directly to the east of the 230 Commercial Street site. 230 Commercial Street's east property line is entirely bound by Applied Materials property. Applied Materials contains research and development activities as well as manufacturing of products. Applied utilizes a variety of hazardous materials including but not limited to: ammonia, arsine, boron, trifluoride, chlorine, diborane, dichlorosilane, fluorine, germane, hydrochloric acid, hydrogen chloride, hydrogen fluoride, hydrogen sulfide, nitric oxide, octafluorocyclopentene, phosphine, phosphorous pentafluoride, silicon trichloride, sulfur dioxide, trichlorosilane, and tungsten hexafluoride.

Due to the volume of the above chemicals and the associated risk, Applied Material is required by the State code to do a worst case off-site Risk Assessment in the event of an accidental release. A release typically occurs during delivery to the storage facility. This Risk Assessment Plan shows the "zone of potential impact" for accidental release scenarios for several chemicals used at Applied Materials. For two of the most hazardous chemicals, ammonia and chlorine, the 230 Commercial Street site is entirely within the impact zones.

As part of Applied Materials manufacturing processes, the production facilities contain exhaust stacks with pollution filtration scrubbers. Some of the stacks are located close to the adjacent property line with 230 Commercial Street. The City's Hazardous Materials Specialist has stated that in 2006 there was a malfunction in the exhaust stack scrubbers and there was a release of hydrochloric acid which landed on the 230 Commercial Street site.

General Pool and Spa Supply - General Pool and Spa Supply is located a 222 Commercial Street, directly to the south of the 230 Commercial Street site. General Pool is a chain pool supply warehouse containing large amounts of hydrochloric acid, chlorine, as well as other oxidizers. The delivery route for trucks leading into the site is along the adjoining property line of the 230 Commercial site.

General Pool contains lower volumes of the above chemicals on-site, so are not required by the State to produce a worst case off-site Risk Assessment in the event of an accidental release. However, the City's Hazardous Materials Specialist has stated that if an accidental release occurs, the 230 Commercial Street site would likely be affected.

IMPACT HAZ (a) – Based on the above discussion, the occupancy of the 230 Commercial Street site by a school, that includes a concentration of students, an irregular attendance, and irregular emergency training of students, could result in the exposure of a population to

hazardous materials impacts in the event of an accidental release or upset. However, various local, State, and Federal laws, regulations, and ordinances require sufficient engineering controls to help prevent chemical releases, and in the event of a release, to help protect human health and the environment. The implementation and enforcement of these regulations regarding the use, storage, transport, and disposal of hazardous materials, together with the proposed mitigation measures requiring emergency training and procedures, will reduce the potential for impacts to the school population to be Less Than Significant with Mitigation.
(Less Than Significant Impact with Mitigation)

Mitigation Measures

The following mitigation measures are proposed:

- WHAT:
- 1) The applicant shall develop a Site Safety Plan addressing the risks presented to employees and trainees/students, from the surrounding industrial facilities. The plan shall include the following components:
 - Identification of high risk locations within 1000 ft.
 - Knowledge of risks presented by these facilities (toxic gases, corrosive vapors, liquid leaks, fires).
 - Contact information for nearby high risk facilities (names and phone numbers of management / safety personnel at nearby facilities).
 - Arrangements with nearby facilities for phone notification in the event of a hazardous material release or potential release.
 - Procedures for appropriate responses to chemical releases from nearby high risk facilities (complete evacuation / shelter in place procedures), addressing the specific needs of trainee/student population.
 - Initial and ongoing safety training program for staff to insure on-site personnel are familiar with the Site Safety Plan and emergency procedures.
 - Site and floor plan showing, at a minimum, building exits, evacuation routes, interior area of refuge (shelter in place), fire extinguishers and air handler shutoffs.
 - The plan shall be reviewed and updated annually.
 - 2) The applicant shall acknowledge in writing that it is locating in an industrial area that may result in higher levels of noise, traffic, and exposure to hazardous materials than would normally be encountered in non-industrial areas.

WHEN: These mitigation measures will be converted into conditions of approval for this Use Permit prior to its final review by the City's Planning Commission. The conditions will become valid when the Use Permit is approved. The mitigation measures are required to be approved by the City prior to occupancy of the site by either employees or trainees/students.

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WHO: The applicant shall draft and submit Mitigation measure 1) for review and approval of the Director of Community Development. The property owner will be solely responsible for implementation and maintenance of the mitigation measure.

The applicant shall draft and submit Mitigation measure 2) for review and approval of the City's Hazardous Materials Specialist. The property owner will be solely responsible for implementation and maintenance of the mitigation measure.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans.

14. HAZARDOUS AND HAZARDOUS MATERIALS (b) See notes for 14.(a)

IMPACT HAZ (b) – See discussion for **IMPACT HAZ (a)**.

14. HAZARDS AND HAZARDOUS MATERIALS (d) The 230 Commercial Street site is located within the Mohawk Laboratories plume. The Mohawk property is located at 932 Kifer Road in Sunnyvale, California near the intersection of Commercial Street and Kifer Road. The area that includes Mohawk Laboratories and other dissolved plumes is referred to as the Commercial Street Operable Unit (CSOU). Subunit 1 consists of the Mohawk Laboratories site and the properties that extend north/northeastward, including the 230 Commercial site.

The Mohawk Laboratories site contained an above-ground storage tank farm with a capacity of 157,000 gallons, which was located onsite from the mid-1950s to 1988. Chemicals were transferred from the tank farm into the onsite warehouse building for blending prior to sale and distribution. Chemicals stored in the tank farm included chlorinated solvents, methylene chloride, mineral spirits, kerosene, xylenes and isopropanol. Mohawk removed the tank farm in 1988 when it was found that they were leaking chemicals into the soil and groundwater. Currently all chemicals at Mohawk Laboratories are stored within the plant warehouse.

The Mohawk Laboratories site is currently under regulatory oversight of the California Regional Water Quality Control Board (CRWQCB) and subject to Order No. 00-106, Revision to the Site Cleanup Requirements and Rescission of Order No. 97-112, adopted by the CRWQCB on October 18, 2000. The order directs Mohawk to implement a Self-Monitoring Program to monitor groundwater conditions within the CSOU and adjacent areas and monitor ongoing operation of remedial systems.

Under CRWQCB oversight, Mohawk initiated site characterization activities in 1987. Subsurface investigations detected metals, volatile organic compounds (VOCs) and petroleum hydrocarbon compounds in soil, soil gas and groundwater. The remedial investigations indicated that a plume extends offsite in groundwater to the north up to and across Arques Avenue. The predominant contaminants of interest associated with the plume include the following:

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- tetrachloroethene (PCE)
- trichloroethene (TCE)
- cis-1,2-dichloroethene (cis-1,2-DCE)
- total petroleum hydrocarbons (TPH)

IMPACT HAZ (d) – Based on the above discussion, the occupancy of the 230 Commercial Street site by a school, that includes a concentration of students, an irregular attendance, and irregular emergency training of students, could result in the exposure of a population to VOCs and petroleum hydrocarbon compounds in soil, soil gas and groundwater. However, CRWQCB has determined that exposure to hazardous materials is within acceptable State and Federal levels and does not pose a health risk at this time, although this may change as circumstances at the site and/or acceptable levels change. The implementation and enforcement of CRWQCB regulations makes this impact Less Than Significant with Mitigation.
(Less Than Significant Impact with Mitigation)

Mitigation Measures

The following mitigation measures are proposed:

WHAT: The CRWQCB is the oversight agency which will determine all applicable requirements, and any remediation activities that need to be completed in accordance with all applicable Federal, State, and local regulations.

WHEN: This mitigation measures will be converted into conditions of approval for this Use Permit prior to its final review by the City's Planning Commission. The conditions will become valid when the Use Permit is approved. The mitigation measure is valid now and in the future.

WHO: The property owner will be solely responsible for implementation and maintenance of any CRWQCB requirements.

HOW: CRWQCB permits and compliance is required at this time.

Steve Lynch, Senior Planner

4/16/2008

Completed By

Date

Environmental Checklist Form

Project Number: 2008-0245
Project Address: 230 Commercial St.
Applicant: Mission Bay Vocational School
Page 18 of 19

City of Sunnyvale General Plan:

- 2. Map
- 3. Air Quality Sub-Element
- 4. Community Design Sub-Element
- 5. Community Participation Sub-Element
- 6. Cultural Arts Sub-Element
- 7. Executive Summary
- 8. Fire Services Sub-Element
- 9. Fiscal Sub-Element
- 10. Heritage Preservation Sub-Element
- 11. Housing & Community Revitalization Sub-Element
- 12. Land Use & Transportation Sub-Element
- 13. Law Enforcement Sub-Element
- 14. Legislative Management Sub-Element
- 15. Library Sub-Element
- 16. Noise Sub-Element
- 17. Open Space Sub-Element.
- 18. Recreation Sub-Element
- 19. Safety & Seismic Safety Sub-Element
- 20. Sanitary Sewer System Sub-Element
- 21. Socio-Economic Sub-Element
- 22. Solid Waste Management Sub-Element
- 23. Support Services Sub-Element
- 24. Surface Run-off Sub-Element
- 25. Water Resources Sub-Element

City of Sunnyvale Municipal Code:

- 26. Chapter 10
- 27. Zoning Map
- 28. Chapter 19.42. Operating Standards
- 29. Chapter 19.28. Downtown Specific Plan District
- 30. Chapter 19.18. Residential Zoning Districts
- 31. Chapter 19.20. Commercial Zoning Districts
- 32. Chapter 19.22. Industrial Zoning Districts
- 33. Chapter 19.24. Office Zoning Districts
- 34. Chapter 19.26. Combining Zoning Districts
- 35. Chapter 19.28. Downtown Specific Plan
- 36. Chapter 19.46. Off-Street Parking & Loading
- 37. Chapter 19.56. Solar Access
- 38. Chapter 19.66. Affordable Housing
- 39. Chapter 19.72. Conversion of Mobile Home Parks to Other Uses
- 40. Chapter 19.94. Tree Preservation
- 41. Chapter 19.96. Heritage Preservation

Specific Plans

- 42. El Camino Real Precise Plan
- 43. Lockheed Site Master Use Permit
- 44. Moffett Field Comprehensive Use Plan
- 45. 101 & Lawrence Site Specific Plan
- 46. Southern Pacific Corridor Plan

Environmental Impact Reports

- 47. Futures Study Environmental Impact Report
- 48. Lockheed Site Master Use Permit Environmental Impact Report
- 49. Tasman Corridor LRT Environmental Impact Study (supplemental)
- 50. Kaiser Permanente Medical Center Replacement Center Environmental Impact Report (City of

- 51. Santa Clara)
- 52. Downtown Development Program Environmental Impact Report
- 53. Caribbean-Moffett Park Environmental Impact Report
- 54. Southern Pacific Corridor Plan Environmental Impact Report

Maps

- 55. City of Sunnyvale Aerial Maps
- 56. Flood Insurance Rate Maps (FEMA)
- 57. Santa Clara County Assessors Parcel
- 58. Utility Maps (50 scale)

Lists/Inventories

- 59. Sunnyvale Cultural Resources Inventory List
- 60. Heritage Landmark Designation List
- 61. Santa Clara County Heritage Resource Inventory
- 62. Hazardous Waste & Substances Sites List (State of California)
- 63. List of Known Contaminants in Sunnyvale

Legislation/Acts/Bills/Codes

- 64. Subdivision Map Act
- 65. Uniform Fire Code, including amendments per SMC adoption
- 66. National Fire Code (National Fire Protection Association)
- 67. Title 19 California Administrative Code
- 68. California Assembly Bill 2185/2187 (Waters Bill)
- 69. California Assembly Bill 3777 (La Follette Bill)
- 70. Superfund Amendments & Reauthorization Act (SARA) Title III

Transportation

- 71. California Department of Transportation Highway Design Manual
- 72. California Department of Transportation Traffic Manual
- 73. California Department of Transportation Standard Plan
- 74. California Department of Transportation Standard Specification
- 75. Institute of Transportation Engineers - Trip Generation
- 76. Institute of Transportation Engineers Transportation and Traffic Engineering Handbook
- 77. U.S. Dept. of Transportation Federal Highway Admin. Manual on Uniform Traffic Control Devices for Street and Highways
- 78. California Vehicle Code
- 79. Traffic Engineering Theory & Practice by L. J. Pegnataro
- 80. Santa Clara County Congestion Management Program and Technical Guidelines
- 81. Santa Clara County Transportation Agency Short Range Transit Plan
- 82. Santa Clara County Transportation Plan
- 83. Traffic Volume Studies, City of Sunnyvale Public

Environmental Checklist Form

Project Number: 2008-0245

Project Address: 230 Commercial St.

Applicant: Mission Bay Vocational School

Page 19 of 19

- works Department of Traffic Engineering Division
 84. Santa Clara County Sub-Regional Deficiency Plan
 85. Bicycle Plan

Public Works

86. Standard Specifications and Details of the Department of Public Works
 87. Storm Drain Master Plan
 88. Sanitary Sewer Master Plan
 89. Water Master Plan
 90. Solid Waste Management Plan of Santa Clara County
 91. Geotechnical Investigation Reports
 92. Engineering Division Project Files
 93. Subdivision and Parcel Map Files

Miscellaneous

94. Field Inspection
 95. Environmental Information Form
 96. Annual Summary of Containment Excesses (BAAQMD)
 97. Current Air Quality Data
 98. Chemical Emergency Preparedness Program (EPA Interim Document in 1985?)
 99. Association of Bay Area Governments (ABAG) Population Projections

100. Bay Area Clean Air Plan
 101. City-wide Design Guidelines
 102. Industrial Design Guidelines

Building Safety

103. Uniform Building Code, Volume 1, (Including the California Building Code, Volume 1)
 104. Uniform Building Code, Volume 2, (Including the California Building Code, Volume 2)
 105. Uniform Plumbing Code, (Including the California Plumbing Code)
 106. Uniform Mechanical Code, (Including the California Mechanical Code)
 107. National Electrical Code (Including California Electrical Code)
 108. Title 16 of the Sunnyvale Municipal Code

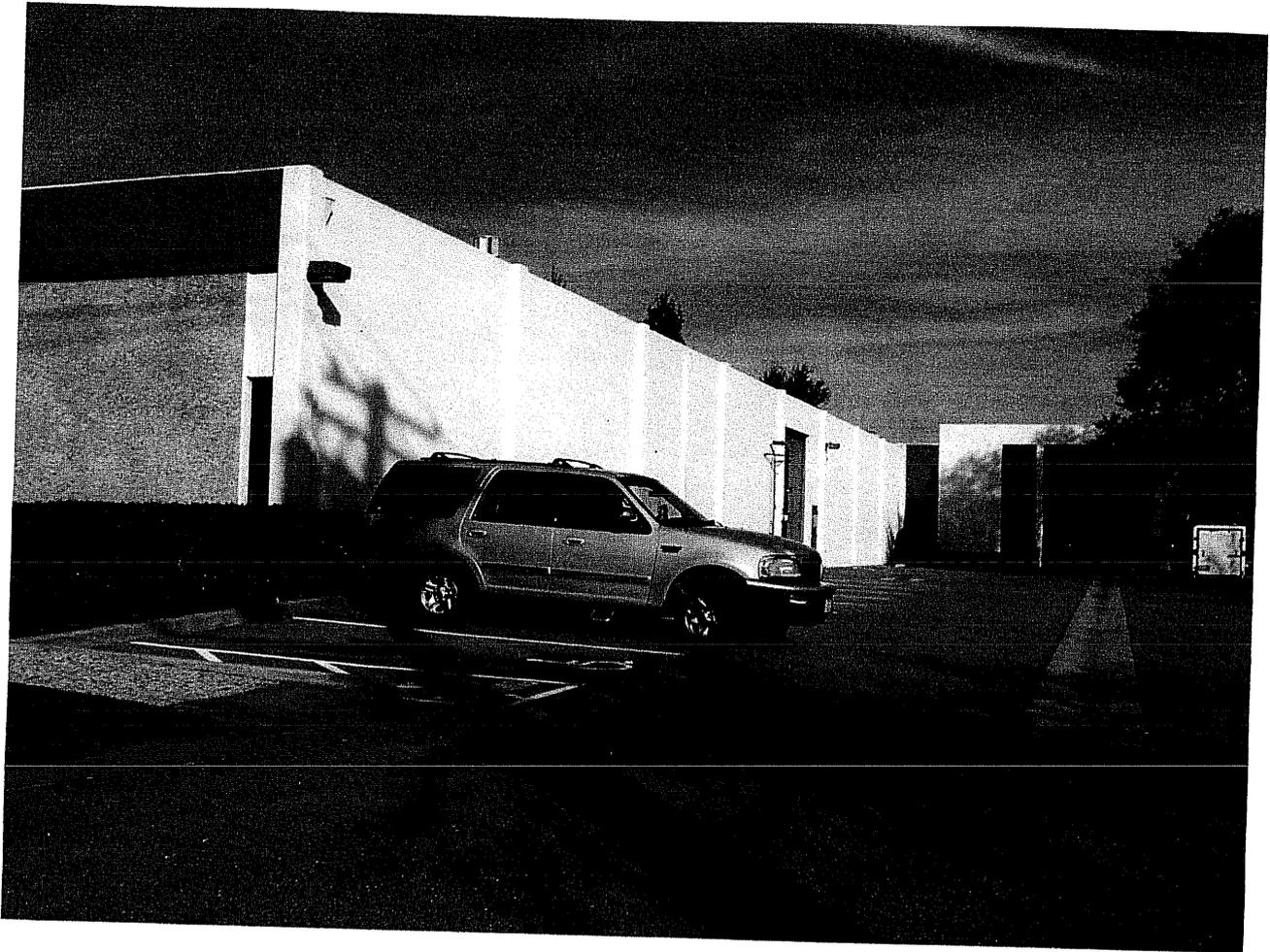
Additional References

109. USFWS/CA Dept. F&G Special Status Lists
 110. Project Traffic Impact Analysis
 111. Project Description
 112. Project Development Plans
 113. Santa Clara County Airport Land Use Plan
 114. Federal Aviation Administration
 115. State Cortese List

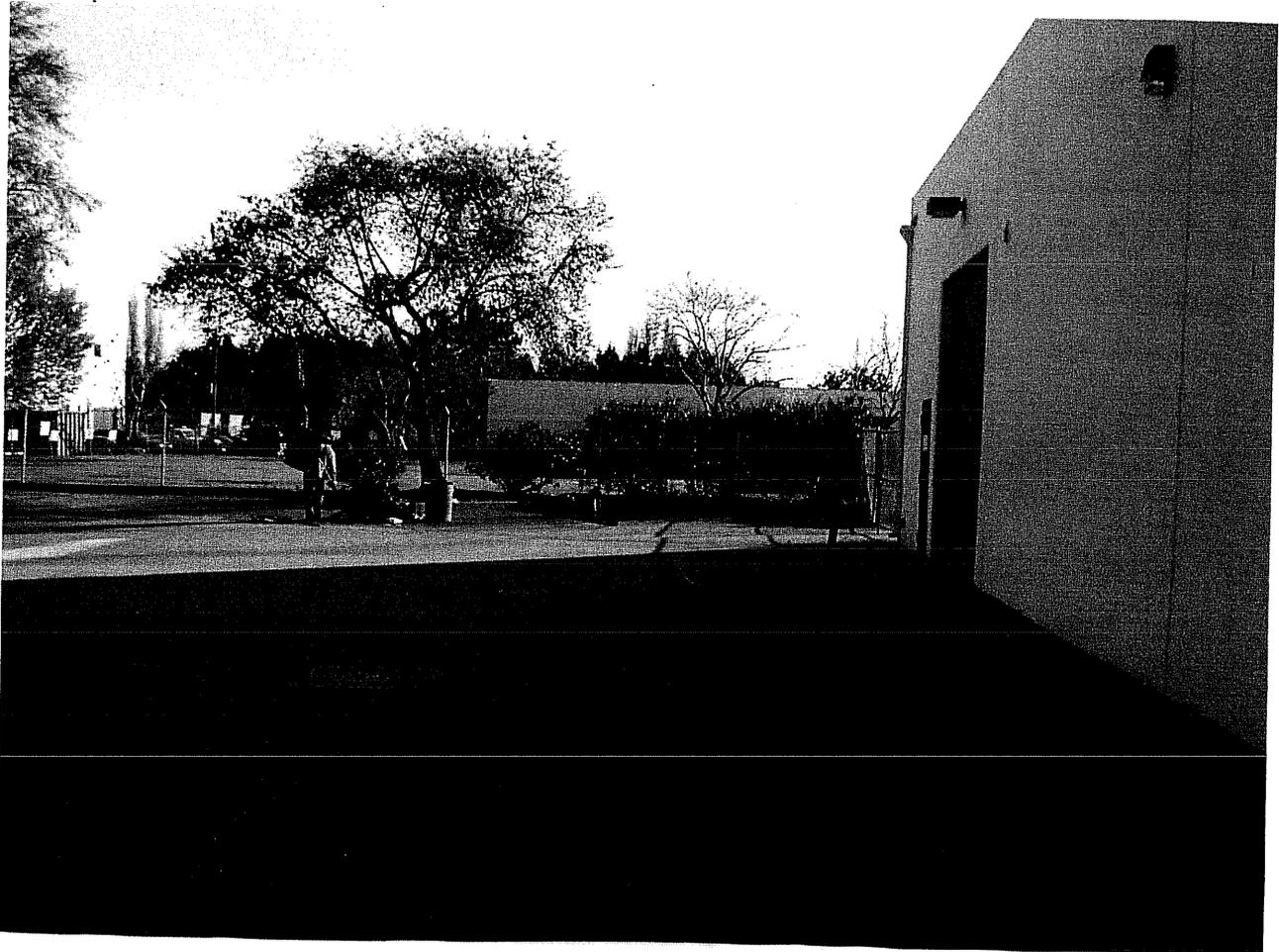
✱



SOUTH VIEW FROM COMMERCIAL ST.



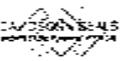
MISSION BAY VOCATIONAL CENTER
230 COMMERCIAL STREET
**Parking lot views of front building
and front view of rear building**



MISSION BAY VOCATIONAL CENTER
230 COMMERCIAL STREET
Rear of building from parking lot



**MISSION BAY VOCATIONAL CENTER
230 COMMERCIAL STREET
Front view from parking lot**

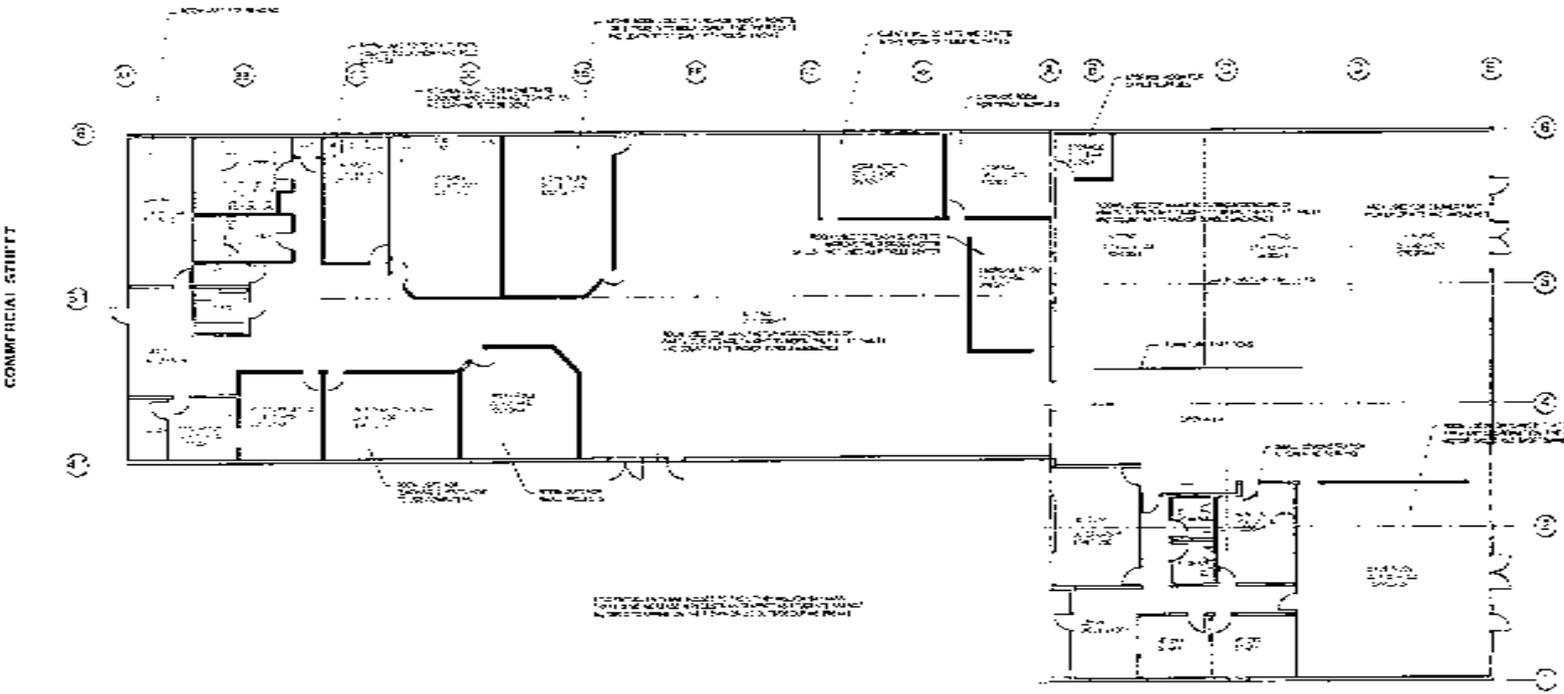
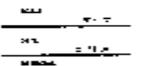


DATE OF
REVISION

MISSION BAY
EDUCATIONAL
CENTER
1200 COMMERCIAL
STREET
LOS ANGELES, CA

DATE

EXISTING FLOOR PLAN



COMMERCIAL STREET

A1.0

ATTACHMENT H
Page 2 of 3

1/2" = 1'-0"

THE LETITIA BUILDING
70 S FIRST STREET
SAN JOSE CA 95113-2406

MAILING ADDRESS
P O BOX 1469
SAN JOSE CA 95109-1469



TELEPHONE:
408.286.9900
FACSIMILE:
408.998.4790

hopkinscarley.com

May 12, 2008

JOAN R. GALLO
Of Counsel
jgall@hopkinscarley.com
408-299-1466

City of Sunnyvale
Planning Commission
P.O. Box 3707
Sunnyvale, CA 94088

Re: *Mission Bay - 230 Commercial Street*

Dear Planning Commission Members:

I represent Mission Bay Inc., the applicant, for the Use Permit at 230 Commercial Street. We are requesting that you approve the Use Permit with the modifications to condition Nos.: 5A, 8A and 13 as discussed below.

Mission Bay is a highly structured program for developmentally disabled adults, licensed by the Department of Social Services, which provides unique vocational and life skill training as well as employment services to adults with developmental disabilities. It is entirely State funded. Mission Bay prepares its participants for employment in precisely the kind of industries that surround the site. In addition to the training program, some participants are paid wages for on-site work projects that include kitting, packaging, collating and folding that would otherwise be performed in an industrial setting. Mission Bay also has a job placement component for participants who are ready to work directly in industry. Some participants work out in the community with support provided by Mission Bay. Some of the firms with whom participants are working off-site include California Mailing Services, Print It Here and Copy Inc., and Tails Magazine. Work projects are done on-site at Mission Bay for many companies, among others: ACF Components & Fasteners Inc., Cottage Grove, IHSS Public Authority, and Imperial Printing. (Please see attached letters.)

Discrimination/Accommodation

As you consider this application, please be mindful that local government runs afoul of the antidiscrimination laws when zoning ordinances, administrative practices, and decisions have the effect of unfairly limiting the access of people with disabilities to supportive services, whether intentional or unintentional. Indeed, your responsibility is to make reasonable modification to the Code or Policies, if necessary, to accommodate such use.

Staff is fundamentally concerned, in light of the fact that the participants are disabled, that they should not be near uses that use hazardous materials and that their presence will inhibit the growth of their industrial neighbors. The facts, discussed below, demonstrate that this use is not a threat to its neighbors nor are its neighbors' use of chemicals more of a threat to its participants than to the employees of industrial uses. It

is not credible that the proposal would be denied on this ground, if the same activity were proposed for the non-disabled community. This use cannot be treated differently based on its clientele. Hopefully, after training, participants will find employment in companies precisely like Applied Materials and General Pool and Spa Supply. The very notion that the participants are "sensitive receptors," who need to be treated differently from persons without a disability, is discriminatory. The ADA and the Rehabilitation Act apply to zoning as does the Unruh Civil Rights Act. Rehabilitation Act of 1973, §§ 504, 504(a), (b)(1)(A), 29 U.S.C.A. §§ 794, 794(a), (b)(1)(A); Americans with Disabilities Act of 1990, §§ 2 et seq., 2(a)(7), (b)(1), 202, 42 U.S.C.A. §§ 12101 et seq., 12101(a)(7), (b)(1), 12132; 28 C.F.R. Part 35, App. A, § 35.102 and California Civil Code §51. See for example: *Bay Area Addiction Research and Treatment, Inc. v. City of Antioch*, (1999) 179 F.3d 725.

FINDINGS

As you know, Municipal Code §19.88.050 allows approval of this use by the Planning Commission upon finding that the Permit will either:

- (a) Attain the objectives and purposes of the general plan of the City of Sunnyvale; or
- (b) Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties.

(a) General Plan Objectives

There is no question that the use proposed by Mission Bay meets objectives and purposes of the General Plan.

***Community Vision Element - Citywide Goal XIV. CARING COMMUNITY:
To provide support for those in the community who are not able to fully support themselves, so that all residents may enjoy the city's high quality of life.***

"Sunnyvale is fortunate that most residents are physically, mentally, and financially able to support themselves. A caring community provides support for those among them who are not fully self-supporting. Although responsibility for health and welfare programs rests primarily with the county, state, and federal governments, Sunnyvale can play a role to ensure that its residents have access to those services, to support local non-profit agencies which fill gaps in those services, to provide facilities in targeted areas of need for delivery of those services (such as the Columbia Neighborhood Center), and to promote

housing which is affordable to low-income households, the elderly, and those with special physical or mental needs."

This proposed use is one that a caring community encourages because it precisely fills in the gap that enables its participants to become more self sufficient.

Socio-Economic GOAL D: Support efforts to create employment opportunities for economically disadvantaged individuals, disabled individuals, minorities, women, youth and others with special employment needs; and

Socio-Economic GOAL F: Provide job training and employment services, within the constraints of Federal regulations and available Federal funding, to address the locally-determined employment and training needs of economically disadvantaged residents and others with special needs.

This proposed use is aimed directly at creating employment opportunities for individuals with special needs. The participants are trained and often given on-site employment opportunities based on contracts with local companies.

Policy H.9 Encourage programs and services that address the special needs of the disabled population and assure that disabled individuals have access to services.

H.9d Encourage and support efforts to allow disabled individuals to live independently.

H.9e Provide special job training services for the disabled through JTPA funds and seek out special grants for additional services.

This proposed use is undeniably a program which provides services which supports the efforts of disabled individuals to live meaningful lives by providing job training and experience. These General Plan policies all support the approval.

(b) This Use Will Not Impair Adjacent Uses

The General Plan policies cited by Staff all are based on the misconception that the participants are "sensitive receptors" and therefore the location presents a risk to the participants of Mission Bay and will inhibit growth of adjacent uses. Neither premise is correct.

The participants are adults with functional disabilities such as autism or some forms of retardation. They do not have health issues different from the general population. The Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines define Sensitive Receptors as "members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses." Mission Bay's participants are active healthy adults who have

developmental disabilities. As mentioned above, participants often work off-site at industrial businesses. This type of program is frequently located in industrial areas. The existing Mission Bay facility in Santa Clara is located directly next to Spinnaker Microwave. The back of Harbor Electronics, a manufacturer of complex printed circuit boards and who uses PCBs, faces the front of Mission Bay in its Santa Clara location. (Please see attached letters.)

The proposed use is regulated and monitored by the State Department of Social Services. Mission Bay holds practice evacuation drills every two months. Since 100% of the participants and most of the staff arrive and leave by vans, should evacuation from the area be needed, Mission Bay will be able to evacuate their facility much more quickly than their industrial neighbors. The cement building is sprinklered and alarmed. The use is "earthquake ready" which allows them to stay within the site should some exposure make it necessary not to leave the facility.

The Building Department has already determined that this is not a change in occupancy type. However, the Planning staff determined that a mitigated Negative Declaration was required before the use can be approved because neighboring uses have hazardous materials. The Mitigated ND imposed substantial mitigations with regard to the potential for contamination from the adjacent industrial uses. These mitigations are much more than is required of other similar uses located adjacent to industrial uses. They fully protect Applied Devices and other local industries which may expand in the future.

DISCRIMINATION

Silicon Valley is peppered with schools for young children (which are true sensitive receptors) in industrial zones. For example, Rainbow Montessori School and Day Care, 790 East Duane Ave. is virtually next door to AMD, a semiconductor facility, located at 1 AMD Place. AMD is also in the middle of a residential area where hundreds of children live. Stringent safety procedures imposed by the Federal, State, County and City officials provide strict protection, and the presence of even a school does not increase any liability.

There are uses viewed as "sensitive receptors" located in industrial areas. For example, Trinity Church of Sunnyvale is located at 477 N. Mathilda Ave located next to the Maxim Integrated Products, a wafer fabrication and test facility at 433 N. Mathilda Ave. Grace Adult Day Health Care has a Use Permit for 1197 East Arques Avenue although it is surrounded by manufacturing and R&D uses. Indeed, Applied Materials located at 3050 Bowers Avenue in Santa Clara is directly across the street from Silicon Valley Christian Church.

The most noteworthy comparison is Nine Star University, located at 441 De Guigne Drive, less than 1/4 mile away from 230 Commercial Street. It is described in

the Staff report recommending approval, dated October 2007, as an "institution of higher learning that would provide training in Oriental medicine." Directly in front to the entrance to this use (probably about 50 yards away) is ABD Bioquest, which manufactures bioanalytical reagents and kits. Nine Star University faces the back of Teledyne Cougar (which manufactures microwave cascable amplifiers and integrated assemblies), Mirage Systems (which designs radar technology), and Reliant Labs (which specializes in accelerated stress testing), all located on Thompson Road. The "hazmat" signs placed outside these uses are higher than the General Pool and Spa Supply and Applied Materials signs. Kitty-corner to the Nine Star University (about 300 yards) on San Gabriel Drive is Excelcis Semiconductor and Maxim Integrated Products (which manufactures digital circuits), again with "hazmat signs" for these uses are higher chemically rated than Applied Materials or the General Pool and Spa Supply.

Under the heading Expected Impact on the Surroundings Staff wrote, in recommending approval of Nine Star:

"Staff does not expect any significant impacts from the proposed oriental medicine institute use. The project has been conditioned to limit the maximum number of occupants at the site which in turn would limit the parking demand. The oriental medicine institute includes only adult students and employees and hence does not include any 'sensitive populations' that trigger an assessment of risks associated with hazardous materials or activities in nearby locations. The proposed use would not increase peak hour traffic to the site."

There is no non-discriminatory justification for the distinction between the Mission Bay and the Nine Star uses. Therefore, we are asking you to approve the proposed Mission Bay use.

CONDITIONS

Staff has proposed through the Negative Declaration and its recommendation a number of unnecessary and burdensome conditions on any approval. It requires unnecessary environmental conditions not imposed on any other use of which we are aware. (No. 4)

We are only requesting that you strike or modify condition Nos.: 5A and 8A which limits the number of participants and staff on-site to 50/52 based on concern about parking. None of the students drive. Mission Bay is required under its State license to provide transportation. All are picked up and delivered to Mission Bay or job sites in vans. Most of the staff accompanies them in vans. Therefore, there is very little parking used on site and no justification to limit the use. Staff has proposed to limit the number of persons on-site since this Permit runs with the land. There is no reason to limit the

service which Mission Bay provides when there are 52 parking spaces on site. Any such conditions for some unknown future use should state that if participants are not transported, then (and only then) does the limitation apply.

Likewise, condition No. 13 requires the unnecessary expense of sidewalk, curb and gutter although the use will not create any pedestrian traffic at all. Any such conditions based on some unknown future change in use should state that if the program ever changes so that there is pedestrian use, then (and only then) does the limitation apply.

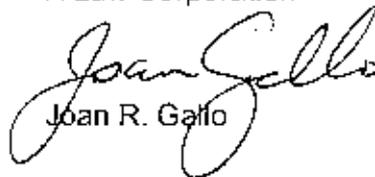
CONCLUSION

There is no non-discriminatory justification to deny this Use Permit. Therefore, we request that the Permit be granted with modifications to condition No.: 5A, 8A and 13. Since the participants are required to be transported by Mission Bay, these conditions should only become applicable if, at some time in the future, all clients are no longer required to be transported to the site by the program provider.

Thank you for your consideration.

Sincerely,

HOPKINS & CARLEY
A Law Corporation



Joan R. Gallo

JRG/bm

Enclosures

cc: Steve Lynch
Brandon Coker
John Seals
Joe Gorme

8 24 I

Cottage Grove Printing, Inc.
590 Lincoln Avenue
San Jose, CA 95126
Phone (408) 998-4240

May 5th

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

Subject: User Permit

Dear Planning Commission,

Cottage Grove is in the business of die cutting, numbering, and scoring. In the making of presentation folders some are too complicated for an automated machine, thus requiring the folders to be hand glued and closed. We contract this out to the people of Mission Bay. They send a van over to our place and we load a pallet into their van. They complete the projects for us and bring back to our place. It is then sent to the end user. We know that they are capable of working and do a very good job for us. We have contracted for them for 4 years since they first opened up. Cottage Grove fully supports all efforts to train and employ persons with developmental disabilities. We ask that you also support Mission Bay and award them their use permit

Sincerely,



Silicon Valley Animal Control Authority



Serving
Campbell
Monte Sereno
Santa Clara

February 25, 2008

City of Sunnyvale
Department of Planning
650 West Olive
Sunnyvale, CA 94086

Subject: User Permit

To Whom It May Concern:

Mission Bay has been a part of our volunteer program for over a year. They have done an admirable job and helped our staff in a number of ways. We believe that we need this type of program in the community as it benefits the people it serves as well as agencies like the Silicon Valley Animal Control Authority.

Sincerely,

Dan Soszynski
Executive Director



ACF Components
& Fasteners, Inc.

STAINLESS STEEL

BRASS

CORROSE

ALUMINUM

INDEL

NYLON

ALLOY STEEL

10 I
24

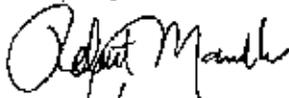
May 2nd

Planning Commission
450 West Olive
Sunnyvale, CA 94086

Dear Commission,

ACF Components fully support Mission Bay and ask that you allow them to open at the location in which they have applied. They put together kitting projects involving packaging of nuts, bolts, and screws. We understand that this brings employment opportunity's to the participants of Mission Bay and provides them with an income. The city should be sensitive to any business that offers services to those who are severely challenged. We ask that you fully support this program and grant them there permit.

Sincerely,


CFO/General Manager

31012 Huntwood Avenue
Hayward, CA 94544
(510) 487-2100
(800) 824-5449
(510) 471-7018 FAX
www.acform.com

PRUSSIA GRAPHICS, INC.

May 2, 2008

City of Sunnyvale
Planning Commission
450 West Olive Street
Sunnyvale, CA 94086

To Whom It May Concern:

Prussia Graphics has used the services of Mission Bay to collate, count and assemble a variety of projects for about 4 years now. They are able to put large groups together and get the work done efficiently. They are a gem in the rough and we will continue our full support of them.

The City of Sunnyvale would benefit by having them in their town and supporting local industry. We ask that you give them their permit and show that you support people with developmental disabilities.

Sincerely,



Jeanette LeGoulon
President

P.O. Box 7554 San Jose, CA 95150
TollFree: 866.312.8626 TollFree.Fax: 866.397.4365
www.prussiagraphics.com

ATTACHMENT I
Page 12 of 24



2115 THE ALAMEDA • SAN JOSE, CA 95126
408.350.3206 • Fax 408.249.8918 • publicauthority@scccoa.org

PUBLIC AUTHORITY
SANTA CLARA COUNTY

May 5, 2008

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

To the Planning Commission,

The IHSS Public Authority has a quarterly newsletter printed and in doing so enlists the services of Mission Bay for the mailing portion of the newsletter. They also assemble and package a benefits packet that goes to all our home care workers upon request. Most of our projects are large enough in nature that it is not practical to do in-house and more cost effective for us to send it out. The school is a wonderful program that fits into any community.

As you are aware Mission Bay is a training center for adults with developmental disabilities and provides them with the necessary skills to either remain employed while at Mission Bay or eventually seek and obtain employment elsewhere in the community. The city of Sunnyvale's planning department has chosen to look at their use as inappropriate or in the least detrimental to the surrounding uses. We don't agree with this assessment and think persons with disabilities should be afforded the same opportunities as the rest of society. Any effort to enable individuals with disabilities the opportunity to become self-sufficient should be embraced by the community not suppressed due to archaic opinions. In our view Mission Bay accomplishes that goal and the city of Sunnyvale and its residents should embrace this school and grant them their use permit.

Sincerely,

A handwritten signature in cursive script that reads "Mary Tinker".

Mary Tinker, Director
IHSS Public Authority

GOVERNING BOARD: Bianca Alvarado • Donald F. Gago • Liz Kniss • Pete McHugh • Ken Yeager



May 6th

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

Attention: Planning Commission

Cordero Printing outsources its bindery requirements to Mission Bay. We depend on them to assemble game pieces into the boxes that we print here. On occasion we ask them to work at our place on collating and stuffing projects. Mission Bay uses our projects as a way for people with mental handicaps to gain employment and vocational training. Mission Bay is outstanding in those efforts and we fully support them. The planning department's decision to not support the use is simply unfathomable to us and it would deny further employment and training opportunities for the people Mission Bay serves. Instead of Sunnyvale not supporting the community and persons with disabilities it is imperative you give them the use permit and allow them to proceed.

Scott Cordero,

President

Cordero Printing & Graphics

500 LANREWOOD ROAD, SUITE 10, SANTA CLARA, CA 95054 TEL: 408.986.8338 FAX: 408.286.0633 www.corderoprnting.com

ATTACHMENT #
Page 14 of 24



Matthies Services, Inc., 28 Escondido Dr. #296, La Honda, CA 94020

To:
Planning Commission
450 West Olive
Sunnyvale, CA 94086

5 May 2008

Dear Planning Commission,

Working with Mission Bay over the past two years on many projects in San Jose has been a pleasure and privilege. Mission Bay Works has provided teams of workers who consistently report to work on time, are as reliable and productive as any worker teams we have used, and provides better support and supervision than workers from any other agency we have worked with. Matthies Services is glad and proud to support Mission Bay Works outstanding efforts. They have created a safe and productive environment where developmentally challenged adults can make a positive contribution and be welcome and productive members of our working community.

We hope that the benefits Mission Bay Works provides can be expanded to serve more developmentally challenged adults and their clients, and we call on the Planning Commission to extend your support to the efforts of this outstanding organization.

Best regards,

A handwritten signature in black ink that reads "D. M. Matthies".

Dr. Detlef Matthies
President

ATT: O'CONNOR I
Date 15 of 24



May 8, 2008

Mr. Brandon Coker
Mission Bay
3269 Kifer Road
Santa Clara, CA 95051

Brandon,

I wanted to Thank You again for the opportunity to work with your group of fantastic challenged adults.

Every moment with them while explaining our needs and processes for ebay was a pleasurable one. Each of the persons I met were very polite and of great humor.

Just this last week I have had another request from our ebay contact now at Yahoo! for more fulfillment work. She requested your facility by name and stated the importance to Yahoo! of Faultline utilizing community based facilities such as Mission Bay.

I was surprised to hear what is going on with your future facility in the city of Sunnyvale; regarding to the great adults your facility cares for. Mission Bay is top notch and does so much more for their people than that of other facilities. It is simply a crime that anyone in City Planning is being discriminatory.

Again I want to stress "It's because of Mission Bay; we have been able to receive these awesome fulfillment contracts with the likes of ebay and Yahoo!"

Please feel free to contact me further regarding the City of Sunnyvale; perhaps I will get my corporate PR contacts at Yahoo! and the Mercury News involved I am certain this would be one story worth the print and on-line posts here in Silicon Valley.

Thank you again for the great work!

Regards,

A handwritten signature in black ink, appearing to read "Brad Cairns". The signature is stylized and fluid, with a large initial "B" and "C".

Brad Cairns



**American
Leadership
Forum**
Silicon Valley

16 I 24

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Santa Clara County Superior Court
- Jon Chinnock, Partner
Calyptic Systems
- Chris Eyer, Managing Director
Lagacy Homes
- Spunky Harlow, Executive Director
Bill Wilson Center
- Forster Jackson, Executive Officer
San Jose Newspaper Guild/Civil Lead 39494
- Greg Johnson, President & CEO
Silicon Valley Sports and Entertainment
- Hsing Kung, Managing Partner
Alpha Capital Partners
- Carol S. Larson, President & CEO
The David and Lucile Packard Foundation
- Patrick J. McGrath, Partner
Diaper of San Jose
- Walter McKinney, Managing Consultant
- Michael B. Mulcahy, Managing Partner
SDS Services Partners LP
- C.S. Park, Director, Board of Directors
Sonic Technology
- Randy Rand, Senior Vice President
Operations, Process and Systems
City Systems, Inc.
- Mark Mitchell, President
Ruhler Consulting
- Karen Rostafsky, Partner
Tom Rizzo, CEO, LLC
Renaissance Group of the Bay
Rendall and Simon, Inc.
- Diane Teloni Sings, President
Northwood High School, San Jose
- Hernandina Sapian, President & CEO
Center for Enterprise Training
- Joseph Szwedko, Senior
Consultant, San Jose
- Ann Gregg Skoet, CEO
American Leadership Forum - Silicon Valley
- Stephen S. Smith, Senior Managing Director
Loral Pannet
- Lisa Hopkins, Board President
Silicon Family Foundation
- Olivia Sosa-Mendiola, CEO
Mexican American Community Service Agency
MACSA
- Quinn Van, CEO
QVCT

May 8, 2008

City of Sunnyvale Planning Commission
665 W. Olive Avenue
Sunnyvale, CA 94086

Dear City of Sunnyvale Planning Commission:

American Leadership Forum – Silicon Valley has contracted with Mission Bay Works to assist with mailing projects for the past four years.

The developmentally disabled adults at Mission Bay have labeled, stuffed and stamped mailings to our Senior Fellows and community members in a timely and accurate fashion at reasonable rates. We are pleased to know that we are supporting Mission Bay's efforts to train and employ developmentally disabled adults.

We hope that you will consider this letter of recommendation as you review Mission Bay Works' application to open a training center in Sunnyvale and develop working relationships with local industry. We consider our relationship with Mission Bay a win-win business proposition.

Thank you.

Sincerely,

Ann Skoet
Chief Executive Officer
American Leadership Forum – Silicon Valley

"Joining and Strengthening Leaders to Serve the Common Good"

1171 Homestead Road, Suite 220 | Santa Clara, CA 95050 | 408 554 2000 | Fax 408 248 3655 | alfov@alfov.org

7 I 24

THE LEITIA BUILDING
70 S FIRST STREET
SAN JOSE CA 95113-2108

MAILING ADDRESS
P O BOX 1463
SAN JOSE CA 95109-1460



HOPKINS & CARLEY
A LAW CORPORATION

TELEPHONE:
408.286.9800

FACSIMILE:
408.998.4790

hopkinscarley.com

**Exhibits A
to letter from
Joan R. Gallo
5/12/08**

HAMBLY

STUDIOS

941 GEORGE STREET, SANTA CLARA, CA 95054
TEL (408) 496-1100 FAX (408) 496-0355
info@hamblystudios.com

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May 7th, 2008

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

Subject: Mission Bay Application

Planning Commission

Hambly Studios has a close working relationship with Mission Bay. We have them put sample stickers on our catalogue sheets for our sales team. They have also rolled our 20" x 16" calendars and packaged them into tubing. Mission Bay has many contracts throughout the bay area. Their work is impeccable. Our city constituents fully support this type of programming and they should not be a group that is withheld from an industrial area. You should do the right thing and give them their use permit.

Sincerely,



Kim Stadter
Art Director
Hambly Studios, Inc.



2115 The Alameda, San Jose, CA 95126-1141 tel: 408.296.8290 fax: 408.249.8918 email: info@seccoa.org

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May 5, 2008

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

To the Planning Commission,

Council on Aging Silicon Valley (COA) has considerable experience working with people with disabilities. COA is supportive of the services of Mission Bay in providing employment opportunities for adults with developmental disabilities. The school is a wonderful program that fits into any community.

As you are aware Mission Bay is a training center for adults with developmental disabilities and provides them with the necessary skills to either remain employed while at Mission Bay or eventually seek and obtain employment elsewhere in the community. The city of Sunnyvale's planning department has chosen to look at their use as inappropriate or in the least detrimental to the surrounding uses. We don't agree with this assessment and think persons with disabilities should be afforded the same opportunities as the rest of society. Any effort to enable individuals with disabilities the opportunity to become self-sufficient should be embraced by the community. In our view Mission Bay accomplishes that goal and the city of Sunnyvale and its residents should embrace this school and grant them their use permit.

Sincerely,

Stephen Schnell,
Executive Director

Information • Services • Leadership

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Dr. Rath Education Services USA, BV

May 7, 2008

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

Subject: User Permit Application

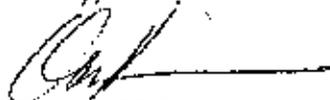
To the Planning Commission,

We are writing on the behalf of the interests of Mission Bay with whom we have a long standing relationship. We applaud their efforts and accomplishments.

We have contracted with them for kitting projects over the last couple of years and will continue to do so. For example, most recently, some of the projects they did for us have included the placing of self adhesive tape on the back of pads and placing self adhesive easels on the back of the stands. The stands were then put in over 3000 health food stores through out California in support of a ballot initiative to make vitamins tax deductible.

The hands at Mission Bay did this and other projects for us when we really needed it done quickly and efficiently. We appreciate them very much. The persons there are very good at this work and are quite capable. We are disappointed that the Planning Department is not in support of this use. The full supportive efforts to train and employ adults with developmental disabilities should be a given and not allowing them open in an industrial area because of the claim of a negative use is not only wrong but unfair. Any other business doing the same thing in the area would be allowed, however their population has caused a stigma and is being denied without cause. We implore that you do not give into the findings of the Planning Department and allow Mission Bay their user permit.

Sincerely,



Don Karn, CEO

Dr. Rath Education Services USA, BV
1260 Memorex Drive, Santa Clara, CA 95050 (408) 567-5000

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THE LEVITIA BUILDING
70 S FIRST STREET
SAN JOSE CA 95113-2406

MAILING ADDRESS
P O BOX 1469
SAN JOSE CA 95108-1469



TELEPHONE:
408 286.9800
FACSIMILE:
408 998.4790

hopkinscarley.com

**Exhibits B
to letter from
Joan R. Gallo
5/12/08**



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May 12, 2008

Planning Commission
City of Sunnyvale
456 West Olive
Sunnyvale CA 94086

Subject: Mission Bay Application

Planning Commission:

We are located across the street from the proposed site 230 Commercial Street. We spoke with Brandon Coker of Mission Bay and he described to us the use. We fully support this organization and the site in which they wish to locate. It has been my personal experience to see that when adults with developmental disabilities have the opportunity to work and train in an environment like this that they become well adjusted and contributing members of society. We don't think the proposed site will have any effect on our business and don't see how it would effect surrounding other adjacent businesses. Commercial Street has many vacant buildings and some fall into disrepair. The proposed tenant has told us they plan to paint the building and restripe the parking lot. This would help the neighborhood look nicer.

In summary, we fully support their efforts and welcome them to Commercial Street.

Sincerely,

Robert Schubert
Owner of Pro 1 Tires Services, LLC



22 24 ↓

SPINNAKER MICROWAVE, INC.

3281 Kifer Road
Santa Clara, CA 95051
Tel 408-732-9828 Fax: 408-732-9793
E-mail: spinmicro@compuserve.com

May 6th

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

Subject: User Permit

Planning Commission,

Some of the neighbors concerns around the proposed use have expressed that Mission Bay may not be conducive to the adjacent business's. We have been next door neighbors to Mission Bay for 4 years. We have never experienced a problem with them. It should be noted that we are in an industrial area.

Sincerely,

Chet Cimino

Office Manager

Spinnaker Microwave Inc.

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JAMES L. SAMMET
ATTORNEY AT LAW
179 Starfish Court
Marina, California 93933
Telephone (831) 384-6371

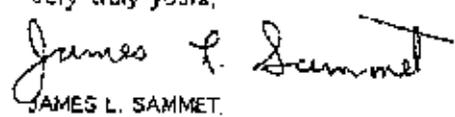
May 7, 2008

Planning Commission
City of Sunnyvale

Re: Mission Bay permit

I am the general partner of the two partnerships which own a 30,000 square foot multi-tenant building at 3255-3287 Kifer Road, Santa Clara, CA 95051. Mission Bay Works has leased space since May, 2004. They have never been a nuisance to property management nor to our other tenants. No tenants have moved out because of their occupancy nor have we had a problem leasing space because of their presence. In fact, I was delighted when they rented additional space in August, 2006.

Very truly yours,



JAMES L. SAMMET
General Partner for JLS Associates V
and JLS Associates VII, L. P.

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APPLIED THERMAL
TECHNOLOGIES, LLC
3255 Kifer Road
Santa Clara, CA 95051
T: 408-522-8730
F: 408-522-8729
www.athermal.com

May 6th

City of Sunnyvale
Planning Commission
450 West Olive
Sunnyvale, CA 94086

Subject: User Permit

Planning Commission,

Some of the neighbors concerns around the proposed use have expressed that Mission Bay may not be conducive to the adjacent business's. We have been next door neighbors to Mission Bay for 4 years. We have never experienced a problem with them. It should be noted that we are in an industrial area.

Sincerely,

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APPLICATION FOR PLANNING COMMISSION OR ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT, PLANNING DIVISION



PLEASE TYPE OR PRINT LEGIBLY (PRESS HARD)

ADDRESS OF PROPERTY 230 Commercial Ave.
ASSESSOR'S PARCEL NUMBER 205-35-007

PROPERTY Name _____
OWNER Address _____ City _____ Zip _____
Phone (Bus.) () _____ (Home) () _____

APPLICANT Name BRANDON COKER LLC Mission Bay, Inc.
Address 3269 K. FERRIS City SAN VICENTE Zip 95051
Phone (Bus.) (408) 773 1579 (Home) (408) 661 4883

CONTACT PERSON Name BRANDON COKER
Address 2325 Shadow Mountain Ct City ST. Zip 95137
Phone (Bus.) (408) 773 1579 (Home) (408) 661 4883
E-mail PRINT4CLRCADL.COM Fax (408) 773 8897

Application to Allow: REASONABLE ACCOMMODATION OF ANY CITY OF SAN VICENTE
ZONING ORDINANCE, PROVISIONS OR OTHER REGULATIVE PROCEDURES OR ORDINANCES THAT
PREVENT THE PROPERTY AT 230 COMMERCIAL FROM BEING USED AS A VOCATION TRAINING
CENTER FOR ADULTS WITH DEVELOPMENTAL DISABILITIES
I certify that the foregoing statements and information are true and that any submitted material, statements or plan designs are correct to the best of my knowledge and belief. I understand that the Planning fees are not refundable.

Brandon Coker (Signature)

Property Owner's Name (Print) _____ Property Owner's Signature _____ Date _____

OFFICE USE ONLY				FEE	Account No.	Project Number:
<input checked="" type="checkbox"/> Major Permits (Planning Comm Hearing)	<input type="checkbox"/> SDP <input type="checkbox"/> Plan Review	<input checked="" type="checkbox"/> SUP <input type="checkbox"/> Large Fam	<input type="checkbox"/> DR <input type="checkbox"/> Appeal	\$ <u>117.00</u>	799106-1351	<u>2008-0745</u>
<input type="checkbox"/> Minor Permits (Administrative Hearing)	<input type="checkbox"/> SDP <input type="checkbox"/> SF VAR <input type="checkbox"/> PR	<input type="checkbox"/> UP <input type="checkbox"/> SF/Condo	<input type="checkbox"/> VAR <input type="checkbox"/> Appeal	\$ _____	799106-1352	Accepted By: <u>MLC</u> Date: <u>5/20/08</u> Preliminary Review
<input type="checkbox"/> Landmark Alteration	<input type="checkbox"/> Extension of Time	<input type="checkbox"/> L Alteration	<input type="checkbox"/> Review/Change	\$ _____	799106-1352	Committee (PRC) Meeting: _____ Tentative Hearing
<input type="checkbox"/> Env. Review	<input type="checkbox"/> Environmental Assessmnt <input type="checkbox"/> Environmental Initial Study	<input type="checkbox"/> EIR Preparation		\$ _____	799106-1654	Dates: Administrative Hearing: Planning Commission
<input type="checkbox"/> Legislative Actions	<input type="checkbox"/> GP Amendment <input type="checkbox"/> Rezone <input type="checkbox"/> Heritage Hsng/ Single PD Overlay	<input type="checkbox"/> Specific Plan <input type="checkbox"/> Street Rename <input type="checkbox"/> Planned Dev.		\$ _____	799106-1655	Hearing: City Council Hearing: <u>TBD</u>
<input type="checkbox"/> Tentative Maps	<input type="checkbox"/> Appeal <input type="checkbox"/> Subdivision Maps	<input type="checkbox"/> TM Mods # of Lots _____	<input type="checkbox"/> Parcel Maps	\$ _____	799106-1673	Existing Zoning _____ General Plan _____ Size of Property _____
<input type="checkbox"/> Preliminary Review - No Fee				\$ <u>-0-</u>		
<input type="checkbox"/> Other				\$ _____		
<input type="checkbox"/> Other				\$ _____		
				\$ <u>117.00</u>	TOTAL FEE	Check No. <u>10686</u> Receipt No. <u>8835</u>

PLANNING COMMISSION MINUTES OF MAY 12, 2008

2008-0245 – Sheri DeCaire [Applicant] Peter Van Dyck [Owner]: Use Permit to allow a vocational school for developmentally disabled adults. The property is located at **230 Commercial St.** (near E. Arques Ave.) in an M-S (Industrial & Service) Zoning District. (Mitigated Negative Declaration) (APN: 205-35-007) SL

Steve Lynch, Senior Planner, presented the staff report. He said staff thinks this use is desirable for Sunnyvale, and that this is the wrong site to locate the school. He said, regarding 230 Commercial St., staff feels there is a potential conflict with other uses on Commercial St. He said staff was not able to make the findings and is recommending denial. He said this is a discretionary permit. Mr. Lynch, referred to a letter submitted to staff after the report was completed that was provided to the Planning Commission on the dais this evening. He said the letter is from the applicant's lawyer. He referred to page 1 of the letter that states, "Staff is fundamentally concerned, in light of the fact that the participants are disabled, that they should not be near uses that use hazardous materials and that their presence will inhibit the growth of their industrial neighbors." Mr. Lynch said that this statement is incorrect, that staff is not concerned in light of the fact that the participants are disabled. He said staff is concerned that this is a new school use going into an Industrial zone. Mr. Lynch referred to page 3 section (b) of the letter that states, "This Use Will Not Impair Adjacent Uses" and then "The General Plan policies cited by Staff all are based on the misconception that the participants are "sensitive receptors" commenting that there is nowhere in the staff report that the participants are referred to as sensitive receptors. Mr. Lynch further commented about the same section that the General Plan polices cited by staff, that many of the policies find in favor of this use and that it furthers some of the General Plan policies, and does not further others. He said when staff balanced the two that they found this would not in general, further the General Plan goals and policies.

Comm. Babcock asked if this type of school would fall under the "Places of Assembly (POA)" definition. Staff said that this type of school could be considered in a POA zone and in an Industrial zone as an "institution of higher learning" through a Use Permit. He said this type of school would not be required to go in a POA zone. Comm. Babcock asked staff how many acres, parcels or square footage of POA has been approved in the City in the last year or so. **Trudi Ryan**, Planning Officer, said there have been several industrial areas in the City that received the combining district with the POA designation and that she could not recall the amount, noting that it has been approximately a year since that designation occurred.

Vice Chair Rowe referred to the page 1 of the letter on the dais from the applicant's attorney, which reads "to make reasonable modification to the Code or Policies, if necessary, to accommodate such use." Vice Chair Rowe discussed this with staff with Ms. Ryan clarifying that this type of use, an institution of higher learning, can be considered in M-S (Industrial and Service) or M-S/POA zoning districts. Ms. Ryan added this type of use could also be considered in many other zoning districts including Public Facility, several Commercial zones, several Residential zones, or Office zones. **Kathryn Berry**, Senior Assistant City Attorney, added that the Commission could allow an institution of higher learning in the proposed zoning district with a Use Permit only if the use is found to be compatible with the proposed location. Ms. Berry said the Commission needs to determine tonight whether this use is compatible or incompatible with this industrial area. Ms. Berry said that the Commission may determine this use is compatible and that staff is not finding this location compatible. Ms. Berry said approving the Use Permit depends on the location, that it is not a matter of right, and said that this is a discretionary decision for the public agency.

Comm. Simons asked if a vote tonight is for any educational use on this site, with the user able to exchange it for another type of educational use and whether this use is permanent for this site or is it just for this particular user. Mr. Lynch said a vote tonight would be for any school that could go in on the site. Mr. Lynch said one of the limiting factors is the amount of parking is 52 spaces which would not be able to accommodate a typical school. He said they are not going to limit based on the clientele. Comm. Simons commented that Brooks College, which came before the Planning Commission, that it is located in Industrial zone and confirmed with staff that they did not have a parking issue on their site.

Chair Sulser opened the public hearing.

Brandon Coker, applicant and Creative Director of Mission Bay, said he and his wife Maria, Program Director, have over 20 years combined experience working with developmentally disabled adults. He discussed the need for these types of services and said they have had a similar facility operating in an Industrial area in Santa Clara for the past 4 years. He said having a second site close to their Santa Clara operation would help alleviate upcoming challenges. Mr. Coker said Mission Bay is not a traditional school, and is a facility offering supportive employment and independent living skills. He said their participants are healthy adults, 18 years and older with developmental disabilities such as autism, mental retardation, cerebral palsy and developmental delays. He said participants come to the program to gain skill development and full integration into the community. He said his role is to procure paid contracts with the surrounding industries and to provide meaningful

work for the participants. He mentioned some of the companies the participants have worked for and said that about half of their projects are on-site. He described some of the activities and jobs that the participants are contracted to do through Mission Bay. Mr. Coker said the participants do not drive and Mission Bay will have 11, 12 passenger vans which pick up the participants from their homes and take them to the work site. He said very little parking would be on site and there would be no pedestrian traffic. He said they are licensed by the Department of Social Services and participants are placed by the San Andreas Regional Center. He said participants are supervised by staff, are in small structured groups, and that Mission Bay is mandated to do fire disaster and earthquake drills with staff and participants. He discussed the staff and safety procedures in place. He said their Santa Clara facility is in an Industrial zone and the neighbors in Santa Clara use the same types of chemicals as the neighbors on Commercial Street. He said they present no problem to the Santa Clara neighbors and the program participants are no more sensitive or at risk than the employees of the industries. He said they are a training center with contract work with surrounding industry just like their Industrial neighbors. Mr. Coker introduced, **John Seals**, architect, of Davidson + Seals of Oakland, CA and **Joan Gallo**, attorney, of Hopkins & Carley of San Jose, CA. Mr. Seals commented about the building architecture and described several proposed changes. Ms. Gallo commented about several items that have come up in the discussion this evening. She said the General Plan has several objectives in the policies in the Community Vision Element and the Socio-Economic goals that she quoted in her letter provided on the dais this evening. She said these objectives include that Sunnyvale is a caring community that supports efforts to create employment opportunities for disabled individuals and encourage programs like Mission Bay. She said she hopes these are not hallow words and congratulated Sunnyvale, commenting that she has worked with many General Plans and has never seen better language in terms of sensitivity to the disabled community. She said that this is an application for a Use Permit and conditions can be put with the permit to address issues, i.e. parking, issues related to this school not being a traditional school. She said that this is an amazing operation, and that it is not easy to find a building that is suitable for the needs. She said this is not a traditional school, that it looks more industrial, and that it has to be categorized some way. She reiterated that by use of conditions, the Commission can make sure that the uses remain as proposed. She said that her clients are buying the building and would hope to be a part of the community for a long time. Ms. Gallo said, regarding discrimination, that the intent may not be discriminatory, and that a court would look at the issue in terms of the affect. The City is supposed to give reasonable accommodation to an application for the disabled community. She said it is not a simple matter of saying "somewhere else in our town." She said this building would still look industrial and the students would not be outside. Ms. Gallo made reference

to the "Nine Star University of Health Sciences" that was approved in October 2007. She said the chemical use by Nine Star's neighbors is higher rated than the chemical use on Commercial St. and that this school was approved. She said she understands the concern that the permit runs with the land and said that with the use of conditions that the problems would be solved. She said they would appreciate the Commission's consideration.

Vice Chair Rowe commented that the applicant addressed specific emergency plans and asked the applicant to comment about what they would do in a chemical release emergency. Mr. Coker said the City has requirements and this issue is addressed in the mitigated declaration adding that they are inside a building and if needed, can leave quickly. Ms. Gallo said that the applicant is better prepared for a lockdown situation than most industries due to their earthquake preparedness. Vice Chair Rowe confirmed with Ms. Gallo and the applicant that the staff report had been reviewed. Vice Chair Rowe commented that Ms. Gallo addressed the Socio Economic goals of Sunnyvale and asked Ms. Gallo if she read the Business guidelines. Ms. Gallo said yes and said that she does not think there is anything about this use that impedes the industries around the proposed site. She said that some of the neighbors raised the concern that the participants might be sensitive receptors and that the neighbors might not be able to expand their businesses. Ms. Gallo said under the BAAQMD (Bay Area Air Quality Management District) rules the participants are not sensitive receptors. Ms. Gallo said that staff's concerns are misplaced and that the findings can be made. Vice Chair Rowe apologized for reading on the dais and said she was listening and trying to review the material that was provided by Ms. Gallo on the dais this evening. Ms. Gallo acknowledged that it is possible to look at the material and listen at the same time. Mr. Coker added that there are many letters of support included in the information provided tonight from businesses near their Santa Clara site and clients emphasizing that they have not had complaints. Vice Chair Rowe acknowledged that she read the letters commenting there was one letter from a Sunnyvale business and the rest are from Santa Clara and San Jose. Ms. Gallo said the businesses close to their Santa Clara site use similar chemicals to the businesses around the proposed site. Ms. Gallo commented that the proposed school is parallel to the Nine Star University and in fact that the Nine Star University has chemicals nearby that have a higher degree of concern than the proposed site. Vice Chair Rowe discussed with Ms. Gallo and staff about the chemicals with staff adding that staff has not evaluated the applicant's Santa Clara site so no comment can be provided from staff. Ms. Gallo suggested that the Commission could look at what the businesses do which would indicate that they used the same types of chemicals.

Virginia Grant, Executive Director of Area Developmental Disabilities Board VII, said they are part of the State Council on Developmental Disabilities. Ms. Grant discussed what their Board involves and spoke in support of this application. She introduced Julie Wilsted who is a typical person who would attend the proposed program and who enjoys working and being productive. She discussed the State's involvement in programs and said the many programs are concerned that people with development disabilities have the opportunity to be productive and engage in employment as other people do. Ms. Grant said that much of the work that Mission Bay participants do is work that is at or for Industrial facilities which are the facilities that staff is concerned about exposing them to. Ms. Grant said she is distressed that there was a letter sent by Applied Materials, and that the corporation has written a letter regarding this sensitive population. She said that she is concerned that the City of Sunnyvale is not giving adequate consideration to what is a vocational training program.

Comm. Simons said that he can understand why Ms. Grant would be concerned that staff did not recommend approval of this application and does not understand where Ms. Grant thinks the discrimination has occurred. Ms. Grant said that the activities that are performed at this vocational training program are identical to what is being done in the surrounding business. She said many of the clients travel to similar businesses and perform those duties. Comm. Simons said that staff does not have a concern about the uses, and that there is concern about an educational use on this particular site is the decision being made tonight. Comm. Simons said he appreciates Ms. Grant's comments and feels that the Commission's decision will be based on this use at this particular site. Comm. Simons discussed examples of past projects and the way the Commission has considered them. Ms. Grant reiterated that this is not a traditional school, is a vocational training site, and that it should be given the same consideration as the Nine Star University down the street. She mentioned again that they should not be considered sensitive receptors as mentioned as a concern by a neighbor.

Vice Chair Rowe asked Ms. Grant about the program and whether the students train and are sent out and then new students come in. Ms. Grant said some of the students do that and that this case is more of the clients working on the premises. She said the program is not set up where a student attends for a set amount of time. Vice Chair Rowe asked if the students make products at the school. Mr. Coker said they do not make products and do work including, kitting and working for printing companies.

Debra Van Curen of San Andreas Regional Center, one of 21 centers in the State, spoke in support of this application. She said the Regional Centers are the funding source for services provided to the developmentally disabled in California. She said

the funding comes from the State to the regional centers and is then provided to the program service providers. Ms. Van Curen said the Cokers are service providers that run an exemplary program for the individuals in Santa Clara. She said she would like to see the Cokers be able to provide a similar program in Sunnyvale adding that the building and industrial area is similar to the Santa Clara site. Ms. Van Curen said they would appreciate the Planning Commission's consideration of the application.

Barbara Stepp, a Mission Bay program participant, said she has been a participant for three years and has enjoyed the variety of work she has done and the people she has worked with.

Julie Wilsted, a Mission Bay program participant, said she has a disability, and that she lives and works in Santa Clara. Ms. Wilsted said she serves on the State Council on Developmental Disabilities and was appointed by the Governor. She asked why the City of Sunnyvale does not want the handicapped in Sunnyvale. Ms. Wilsted invited the Commission to visit the program in Santa Clara and see what they do. She said she would be happy to show the Commission around. She said she loves to work and never wants to quit. **Cher Goes** assisted Ms. Wilsted with her comments and said she provides facilitation for Julie Wilsted.

Ms. Gallo said when dealing with a service to the disabled, the City is required to make reasonable accommodations. Ms. Gallo said that, understanding the concern that the permit runs with the land, she said that the Commission can include conditions that can assure that traditional school does not come in and that that this facility is permitted. She said because this is a disabled community the City has the responsibility to make modifications and not treat a permit exactly the way it is treated in most cases.

Chair Sulser closed the public hearing.

Comm. Babcock moved for **Alternative 1 to adopt the Mitigated Negative Declaration and deny the Use Permit. Comm. Hungerford** seconded the motion.

Comm. Babcock commended the speakers for attending and for their comments this evening. She said she thinks the school and the program are outstanding. She said she would love to have a similar program in Sunnyvale, just not in the industrial zoned land. She said this is a land use decision and about the protection of Sunnyvale's industrial zoned lands as the City has lost a tremendous amount of industrial land over the years. She encouraged this organization to continue to work with staff to find another location in Sunnyvale and said she thinks the program would be a tremendous asset to the community.

Comm. Simons said he would be supporting the motion. He said he makes an effort to be consistent with previous decisions. He said he did not support the Trinity Church land use decision and this is also a land use decision.

Comm. Hungerford commented that this is a very difficult decision as the proposed organization is very commendable and performs a valuable service. He said we do want the applicant to locate in Sunnyvale. He said a non-industrial use at this location is incompatible with the surrounding businesses. He said there are elements in the City's General Plan that support that decision, limiting the intrusion of incompatible uses in areas. He encouraged the applicant to work with staff to find a more suitable location.

Vice Chair Rowe said this is a difficult decision. She said as a Planning Commission that they can only make their decision based on the findings and discussed those findings. She said she agrees with the Planning Division that this proposal does not meet the findings.

Chair Sulser said that this is a very difficult decision as this is a very worthwhile project. He said he would be supporting the motion because the educational use would run with the land. He said that he does not think this is an incompatible use now, that he is concerned that it could become incompatible in the future. He said he hopes to see this application again for a different property.

ACTION: Comm. Babcock made a motion on 2008-0245 to adopt the Mitigated Negative Declaration and deny the Use Permit. Comm. Hungerford seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than May 27, 2008.