



Council Meeting: July 15, 2008

SUBJECT: Adoption of a Resolution Vacating a 10-foot Wide Public Utility Easement at 974 East Arques Avenue

REPORT IN BRIEF

There is a 10-foot wide Public Utility Easement (PUE) on a property located at 974 East Arques Avenue. The subject PUE is not needed for present or prospective public use. Staff recommends that the City Council adopt the resolution (Attachment A) to vacate the subject PUE as shown in Attachment B, pursuant to Section 8335 et. seq. of the California Streets and Highways Code.

BACKGROUND

There is a 10-foot wide PUE crossing the property at 974 East Arques Avenue. The subject PUE was accepted by the City and recorded with the County Recorder on May 16, 1967. The PUE allows the City and other utility companies the right to construct, reconstruct, operate, repair, maintain, replace, relocate and enlarge public utility facilities within this 10-foot area of the property. There are no existing City utility lines and no prospective City utilities in the subject PUE area (see Attachment C). As to date, there are also no other public facilities located within the subject PUE and the subject PUE is not being used for the purpose in which it was dedicated/acquired.

Ms. Kathleen Henline with Applied Materials, the manager of construction authorized to act on behalf of the property owner, Applied Materials, Inc., wrote a letter to the City on April 18, 2008 requesting that the PUE be abandoned (see Attachment D). In her letter, Ms. Henline indicated that the subject PUE is a burden on the site and restricts the installation of a one megawatt solar photovoltaic system (see Attachment E).

EXISTING POLICY

General Plan, Fiscal Sub-element.

Goal 7.1A: Revenue: Maintain and Enhance the City's Revenue Base.

Policy 7.1A.1. Revenue base: Maintain a diversified and stable revenue base for the City.

Action Statements

7.1A.1p. Annually review which of the City's land holdings are not actively utilized and whether there are holdings which have no foreseeable public purpose.

DISCUSSION

Pursuant to California Streets and Highways Code Section 8335 et. seq., the City may summarily, or in response to a request, vacate a PUE by adopting a resolution of vacation if it finds that the PUE has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

The PUE in question has not been utilized for the purpose in which it was dedicated/acquired for five consecutive years prior to the proposed vacation request. Letters were sent to utility companies, who might potentially be impacted by this PUE abandonment process, and they have no objections to the subject PUE abandonment (see Attachment F). There are other PUE's on this property that are to be retained.

FISCAL IMPACT

There is no fiscal impact as a result of this PUE vacation.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center, and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Adopt the resolution vacating the 10-foot wide Public Utility Easement at 974 East Arques Avenue; and authorize the City Clerk to cause a certified copy of the resolution to be recorded with the county recorder's office.
2. Adopt the resolution vacating the 10-foot wide Public Utility Easement at 974 East Arques Avenue with modifications and conditions as deemed appropriate by the City Council; and authorize the City Clerk to cause a certified copy of the resolution to be recorded with the county recorder's office.
3. Do not adopt the resolution vacation a 10-foot wide Public Utility Easement at 974 East Arques Avenue.

RECOMMENDATION

City staff recommends Alternative No. 1: Adopt the resolution vacating the 10-foot wide Public Utility Easement at 974 East Arques Avenue; and authorize the City Clerk to cause a certified copy of the resolution to be recorded with the county recorder's office.

Reviewed by:

Marvin A. Rose, Director, Public Works
Prepared by: Bennett Chun, Civil Engineer

Approved by:

Amy Chan
City Manager

ATTACHMENTS

- A. Resolution of Vacation
- B. Parcel and Location Maps
- C. Existing Utility Site Plan Letter of request from applicant
- D. Letter of request from applicant
- E. Photovoltaic Site Plan
- F. Letters of consent from utility companies

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE VACATING A 10-FOOT WIDE PUBLIC UTILITY EASEMENT AT 974 EAST ARQUES AVENUE, SUNNYVALE

WHEREAS, the City of Sunnyvale, pursuant to Streets and Highways Code Section 8335, *et seq.*, is authorized to summarily vacate public utility easement; and

WHEREAS, that certain 10-foot wide public utility easement at 974 East Arques Avenue, as more particularly described in Exhibit A attached hereto, is not needed for present or prospective public use; and

WHEREAS, that certain 10-foot wide public utility easement has no existing City facilities or other public utilities; and

WHEREAS, Pacific Gas and Electric, Comcast Cable Communications, AT&T California, Air Products Manufacturing Company, and Santa Clara Valley Water District have no objection to the vacation of that certain 10-foot wide public utility easement.

WHEREAS, on July 15, 2008, the City Council considered the facts related to the proposed summary vacation of that certain 10-foot wide public utility easement; and

WHEREAS, the City Council finds that the public interest will be served by extinguishing the public interest in that certain 10-foot wide public utility easement being vacated.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The City of Sunnyvale finds and determines that:
 - (a) Vacation of that certain 10-foot wide public utility easement is in conformity with the General Plan; and
 - (b) That certain 10-foot wide public utility easement is unnecessary for present or prospective public use or purpose.
2. The City Council hereby vacates that certain 10-foot wide public utility easement, as more particularly described in Exhibit A, pursuant to Streets and Highways Code §§ 8335 *et seq.* The public utility easement is no longer necessary as there are no existing City facilities or other public utilities.
3. The City Council hereby authorizes and directs the City Clerk to record a certified copy of the resolution, attested by the City Clerk under seal, with the Santa Clara County Recorder's Office.

4. Commencing with the date of recordation of this resolution, that certain 10-foot wide public utility easement shall no longer be a public utility easement.

Adopted by the City Council at a regular meeting held on _____, 2008, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

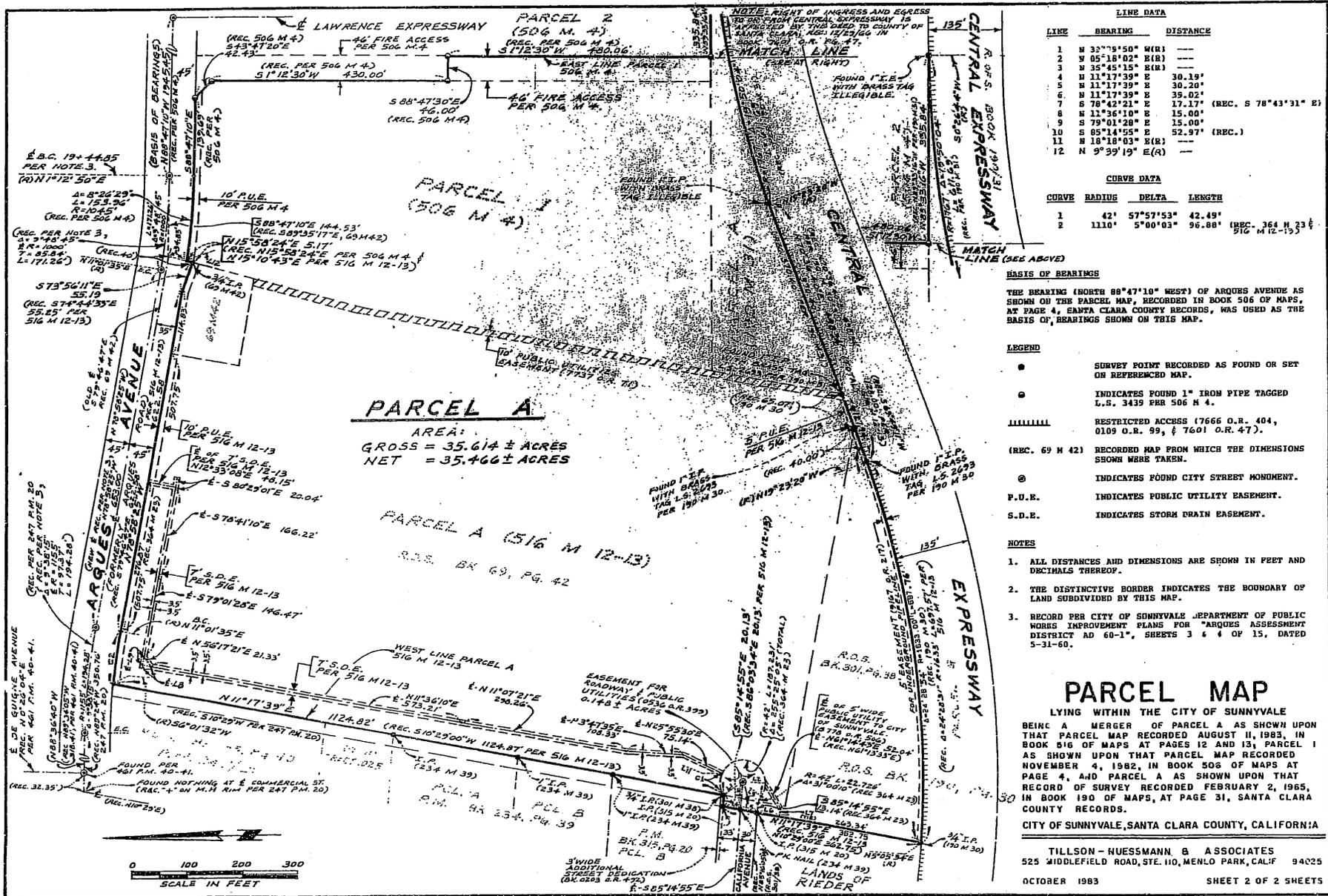
APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORMS AND LEGALITY

David Kahn, City Attorney



LINE DATA

LINE	BEARING	DISTANCE
1	N 33° 15' 50" W (R)	---
2	N 05° 18' 02" E (R)	---
3	N 35° 45' 15" E (R)	---
4	N 11° 17' 39" E	30.19'
5	N 11° 17' 39" E	30.20'
6	N 11° 17' 39" E	39.02'
7	N 78° 42' 21" E	17.17' (REC. S 78° 43' 31" E)
8	N 13° 36' 10" E	15.00'
9	S 79° 01' 28" E	15.00'
10	S 85° 14' 55" E	52.97' (REC.)
11	N 18° 18' 03" E (R)	---
12	N 9° 39' 19" E (R)	---

CURVE DATA

CURVE	RADIUS	DELTA	LENGTH
1	42'	57° 57' 53"	42.49'
2	1110'	5° 00' 03"	96.88'

BASIS OF BEARINGS
 THE BEARING (SHORTER 89° 47' 10" WEST) OF ARQUES AVENUE AS SHOWN ON THE PARCEL MAP, RECORDED IN BOOK 506 OF MAPS, AT PAGE 4, SANTA CLARA COUNTY RECORDS, WAS USED AS THE BASIS OF BEARINGS SHOWN ON THIS MAP.

- LEGEND**
- SURVEY POINT RECORDED AS FOUND OR SET ON REFERENCED MAP.
 - INDICATES FOUND 1" IRON PIPE TAGGED L.S. 3439 PER 506 M 4.
 - ||||| RESTRICTED ACCESS (7666 O.R. 404, 0109 O.R. 99, & 7601 O.R. 47).
 - (REC. 69 M 42) RECORDED MAP FROM WHICH THE DIMENSIONS SHOWN WERE TAKEN.
 - ⊙ INDICATES FOUND CITY STREET MONUMENT.
 - P.U.E. INDICATES PUBLIC UTILITY EASEMENT.
 - S.D.E. INDICATES STORM DRAIN EASEMENT.

- NOTES**
- ALL DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
 - THE DISTINCTIVE BORDER INDICATES THE BOUNDARY OF LAND SUBDIVIDED BY THIS MAP.
 - RECORD PER CITY OF SUNNYVALE DEPARTMENT OF PUBLIC WORKS IMPROVEMENT PLANS FOR "ARQUES" ASSESSMENT DISTRICT AD 60-1, SHEETS 3 & 4 OF 15, DATED 5-31-60.

PARCEL MAP

LYING WITHIN THE CITY OF SUNNYVALE
 BEING A MERGER OF PARCEL A AS SHOWN UPON THAT PARCEL MAP RECORDED AUGUST 11, 1983, IN BOOK 516 OF MAPS AT PAGES 12 AND 13, PARCEL 1 AS SHOWN UPON THAT PARCEL MAP RECORDED NOVEMBER 4, 1982, IN BOOK 505 OF MAPS AT PAGE 4, AND PARCEL A AS SHOWN UPON THAT RECORD OF SURVEY RECORDED FEBRUARY 2, 1965, IN BOOK 190 OF MAPS, AT PAGE 31, SANTA CLARA COUNTY RECORDS.

CITY OF SUNNYVALE, SANTA CLARA COUNTY, CALIFORNIA

TILLSON - HUESSMANN & ASSOCIATES
 525 MIDDLEFIELD ROAD, STE. 110, MENLO PARK, CALIF 94025
 OCTOBER 1983 SHEET 2 OF 2 SHEETS

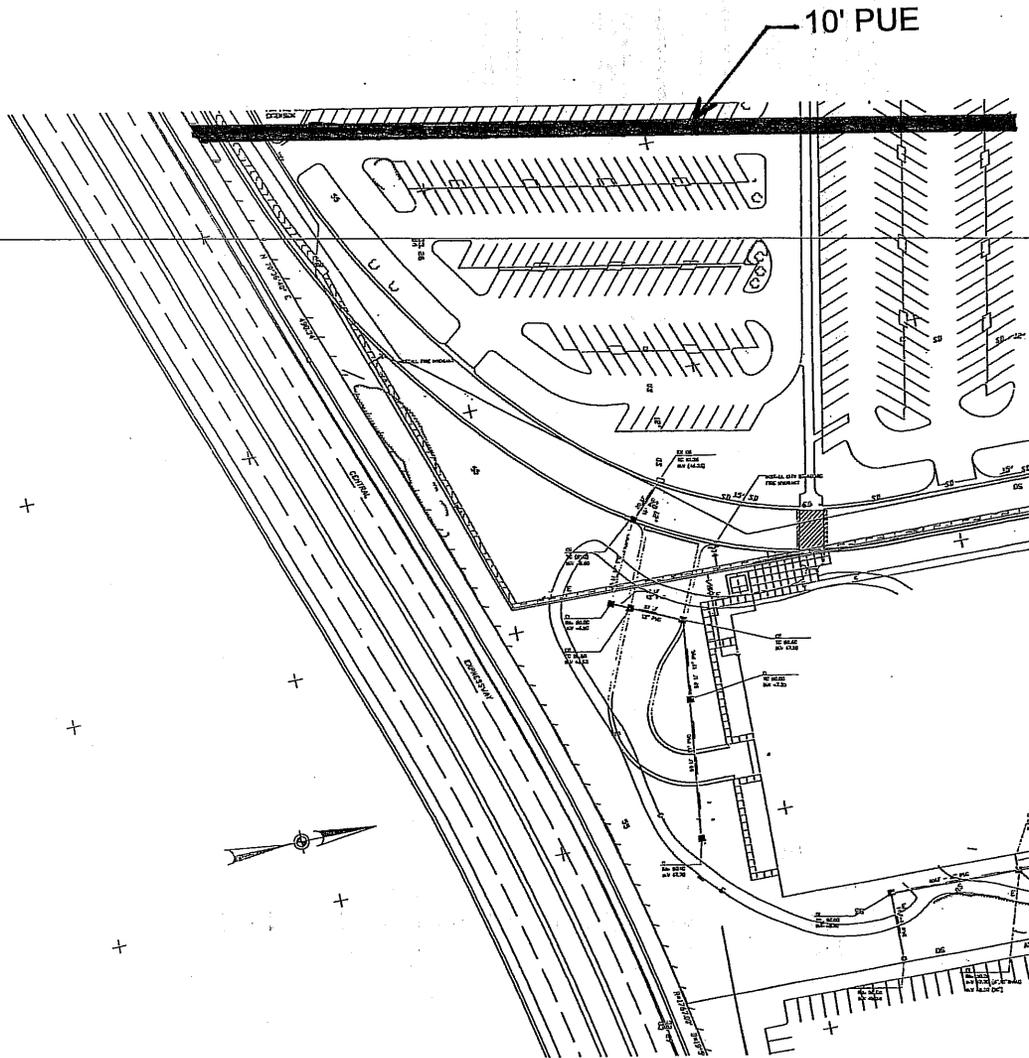
PARCEL A
 AREA:
 GROSS = 35.614 ± ACRES
 NET = 35.466 ± ACRES

FILE DATE 1-17-84 FILE # 7449495 BOOK 524 PAGE 617 SAN JOSE BLUE PRINT SERVICE & SUPPLY CO.
 835 West Julian St., San Jose, California 95128



10 FOOT-WIDE PUBLIC UTILITY EASEMENT (524 M 7) TO BE ABANDONED

ATTACHMENT B



SITES
 NOTE:
 LOCATIONS OF UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE APPROXIMATE. FIELD VERIFY EXACT LOCATION OF ALL UNDERGROUND CONSTRUCTION PRIOR TO ANY DIGGING OR TRENCHING.

6	REVISION 6	8/10/99
5	REVISION 5	6/4/99
4	REVISION 4	4/15/99
2	REVISION 2	4/1/98
1	REVISION 1	2/19/98
NO.	DESCRIPTION	DATE

PROJECT:

PROJECT NO. _____ SEAL _____ SHEET NO. _____
 SCALE _____
 DRAWN BY _____
 CHECKED BY _____
 DATE 10/23/97

3 OF 4

SHEET TITLE:
 APPLIED MATERIALS
 TECHNOLOGY CENTER
 UTILITY SITE PLAN



3050 Bowers Avenue | P.O. Box 58039
Santa Clara, California 95054, U.S.A.
Telephone: 408 727 5555
www.appliedmaterials.com

April 18, 2008

Bennett Chun
City of Sunnyvale
Department of Public Works
456 W Olive Ave
PO Box 3707
Sunnyvale, CA 94804

RE: Vacation of Easement at 974 E. Arques Ave (Permit #20080592)

Dear Mr. Chun:

Thank you for your assistance in resolving the Public Utility Easement (PUE) issue at the Applied Materials Arques Campus. This property was purchased by Applied Materials in 1995. Since that time, we have not installed any utilities in the PUE (granted May 16, 1967, recorded in Book 7737 P.R. at Page 71, Santa Clara County Records) and we have no knowledge of any utilities contained in the easement which has been validated by the Quit Claim Letters obtained from the utility companies submitted to your office.

We contend this easement is not needed and is hindering our ability to construct and operate a 1 megawatt photovoltaic system. We therefore request vacation of the aforementioned PUE.

I have attached our current Utility Site Plan drawings. These show all the utility services currently on the campus.

Please advise if there are any further actions such as documents, fees, meetings etc. that may be required to assist you with vacation of the PUE and I will ensure that adequate measures are taken in a timely fashion.

On behalf of Applied Materials, thank you again for the cooperation and efforts of the City of Sunnyvale in helping us complete this environmentally important project.

Regards,


Kathleen M. Henline
Manager of Construction
Applied Materials, Inc.
3050 Bowers Ave. M/S 10864
P.O. Box 58039
Santa Clara, CA 95054

CC: Samuel T Pratt, SunPower Corporation

Attachments:
Applied Materials Technology Center Utility Site Plans (4 sheets)

ATTACHMENT D

INSTALLATION PLAN - SUNPOWER TRACKER ELEVATED PHOTOVOLTAIC ARRAY

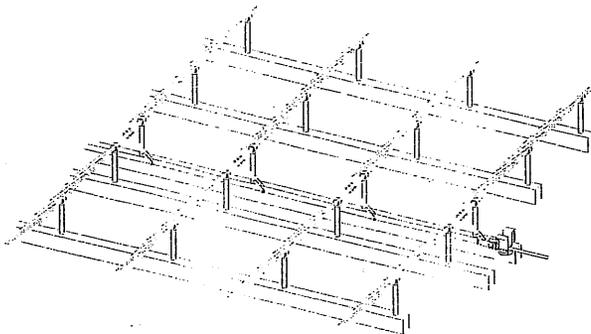
APPLIED MATERIALS PH2 ARQUES CAMPUS - SUNNYVALE, CA

DRAWING INDEX

Sheet Number	Sheet Title
01.1	TITLE SHEET
01.1	GENERAL NOTES
01.1	STAKING & ACCESS PLAN
01.1	POWERTRACKER SINGLE-LINE
01.1	FACILITY SINGLE-LINE
01.1	DC CIRCUIT DETAILS
01.1	ELECTRICAL SITE PLAN & APPRA LAYOUT
01.1	BOARDS PLAN
01.1	BOARDS DETAILS
01.1	DC CIRCUIT PLAN
01.1	WIRING & MOUNTING DETAILS
01.1	FOUNDATIONS DETAILS
01.1	FOUNDATIONS DETAILS
01.1	ELECTRICAL EQUIPMENT LAYOUT

01.1	PROJECT OVERALL SITE PLAN
01.2	EXISTING SITE, TOPO & U.G. PLAN
01.3	DEVELOPMENT PLAN
01.4	STRUCTURAL NOTES & SPECIFICATION
01.5	FOUNDATION PLAN - NORTH
01.6	FOUNDATION PLAN - SOUTH
01.7	STRUCTURAL PLAN - NORTH
01.8	STRUCTURAL PLAN - SOUTH
01.9	COLUMN SCHEDULE
01.10	STRUCTURAL ELEVATIONS
01.11	STRUCTURAL ELEVATIONS
01.12	STRUCTURAL SECTIONS & DETAILS
01.13	STRUCTURAL SECTIONS & DETAILS
01.14	STRUCTURAL SECTIONS & DETAILS
01.15	TRACKER ELEVATIONS
01.16	TRACKER DETAILS
01.17	TRACKER DETAILS

SUNPOWER TRACKER



ELECTRICAL ENGINEER CONTRACTOR:

SUNPOWER CORPORATION

1414 HARBOUR WAY SOUTH
FARMHIDE, CA 94534
PH: (916) 842-0880
FAX: (916) 842-0882

SHUML GPRIT, PROJECT MANAGER
ROBERT SCHMIDT, ELECTRICAL DESIGNER
CHRISTOPHER D. B-EPIER, P.E.
PETER TOEG, PROJECT DESIGNER
KENN HOFF, CONSTRUCTION MANAGER

SCOPE OF WORK

INSTALLATION OF 4,000 WHP ELEVATED SUNPOWER TRACKER PHOTOVOLTAIC ARRAY WITH SUPPORTING STRUCTURE AND ASSOCIATED ELECTRICAL EQUIPMENT.

CIVIL STRUCTURAL ENGINEER:

MATERIAL INTEGRITY SOLUTIONS

3324 CEDAR STREET, SUITE 200
EMERALD, CA 94525
PH: (916) 824-0300
FAX: (916) 824-0333

THOMASCH, SENIOR PRINCIPAL CIVIL STRUCTURAL ENGINEER

SCOPE OF WORK

DESIGN OF FOUNDATIONS & STRUCTURAL SYSTEM FOR SUPPORTING ELEVATED SUNPOWER TRACKER ARRAY WITH APPRAISED GEOTECHNICAL ELECTRICAL EQUIPMENT.

GEOTECHNICAL ENGINEER:

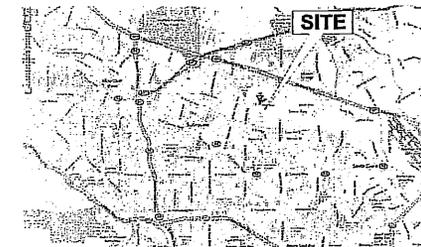
BROWN & MILLS, INC.

2412 LAMAR STREET (SUITE 140)
DUBLIN, CA 94568
PH: (916) 832-8500
FAX: (916) 832-2100

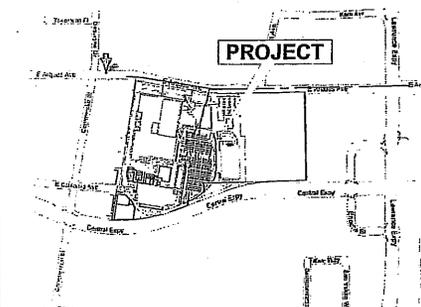
REFERENCES

1. GEOTECH REPORT - GEOTECHNICAL INVESTIGATION PROPOSED PHOTOVOLTAIC ARRAY, APRIL 15, 2011
BY: BROWN & MILLS, 2412 LAMAR STREET, SUITE 140, DUBLIN, CA 94568. B&M PROJECT NO. 073-142, 11-10-11
2. THE GRAPHIC EMPLOY - FOUNDATION PLAN BY CONCEPT & DESIGN, 1100 COLLEEN AVENUE, SUITE 200
DUBLIN, CA 94568. JOB NO. 073-142, 11-10-11.

VICINITY MAP



SITE MAP



APPROVALS - FOR OFFICIAL USE ONLY

SUNPOWER

1414 HARBOUR WAY SOUTH
RICHMOND, CA 94804
(916) 842-0880

REGISTERED PROFESSIONAL ENGINEER
STATE OF CALIFORNIA
ELECTRICAL
NO. 14886

ENGINEER'S STAMP

APPLIED MATERIALS
ARQUES CAMPUS PHASE 2

421 ARQUES CAMPUS
SUNNYVALE, CA 94085

TITLE SHEET

REV.	DATE	USER	DESCRIPTION

OPPORTUNITY: _____

PROJECT: 10447

DATE DRAWN: 4.11.11

DRAWN BY: HJ

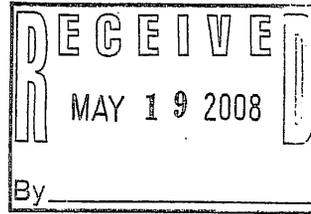
SCALE: AS SHOWN

61.1

ATTACHMENT E



May 13, 2008



Bennett Chun, P.E.
City of Sunnyvale
Department of Public Works/Engineering
456 West Olive Avenue
Sunnyvale, CA 94088

RE: Project #2008-0592: Applied Materials Photovoltaics
974 E. Arques Avenue, Sunnyvale
PG&E File No. Y08-AB-07

Dear Mr. Chun:

This letter is in response to a request from Sam Pratt with the SunPower Corporation, Systems regarding the proposed abandonment of the Public Utility Easement (P.U.E.) granted from Valley Title Company to the City of Sunnyvale. The document was dated May 16, 1967 and recorded in Book 7737 O.R. at Page 71, Santa Clara County Records.

In reviewing our records, PG&E has no facilities within the P.U.E. and therefore has no objections to the proposed abandonment referenced above.

If you have any questions concerning this matter, please contact me at the return mailing address, (408) 282-7347, or DAN9@pge.com.

Sincerely,

David Neal
Lead Land Technician



CC: Samuel T. Pratt, SunPower Corporation, Systems



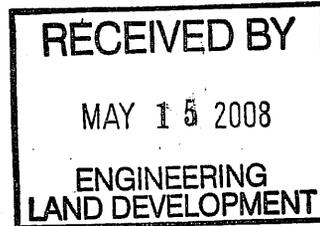
REC'D MAY 09 2008

Comcast Cable Communications, LLC
12647 Alcosta Blvd., Suite 200
P.O. Box 5147
San Ramon, CA 94583
Phone: 925-973-7000
www.comcast.com

May 2, 2008

VIA US MAIL

Mr. Bennett Chun, P.E.
City of Sunnyvale
Dept. of Public Works/Engineering
456 West Olive Avenue
Sunnyvale, CA 94088



RE: Public Utility Easement as pertaining to Project #2008-0592: Applied Materials Photovoltaics.

Dear Mr. Chun:

Comcast of California IX, Inc. ("Comcast") has reviewed the Public Utility Easement as described in deed 7737 O.R. 71, attached as Exhibit A, and as more particularly shown on the Parcel map of the area attached as Exhibit B. Comcast approves of the abandonment of said easement.

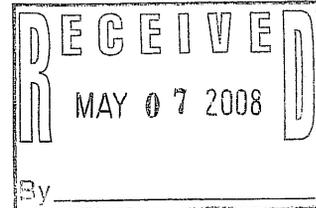
Sincerely,

James D. Carney
VP-Finance, Comcast of California IX, Inc.

cc: Samuel T. Pratt
SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804



3475B N. First Street, Rm. 600B
San Jose, CA 95123



May 2, 2008

Mr. Bennett Chun, P.E.
City of Sunnyvale
Department of Public Works
456 W. Olive Avenue
Sunnyvale, CA 94088

Subject: Project # 2008-0592, Applied Materials Photovoltaics
974 E. Arques Avenue, Sunnyvale (APN 205-36-007)

Dear Mr. Chun:

This letter replaces the denial letter dated April 28, 2008 regarding the abandonment of the ten-foot wide Public Utility Easement located on Parcel A of the Parcel Map recorded January 17, 1984 in Book 524 pages 6 and 7, County of Santa Clara.

The Public Utility Easement was granted on Document No. 3229954 recorded May 31, 1967 in Book 7737 at page 71.

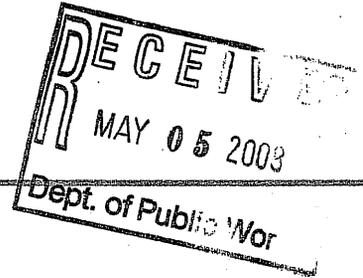
Engineering has revisited the request to abandon the Public Utility Easement described above and has determined that the abandonment of the easement will not compromise AT&T facilities. Therefore, AT&T California has no objection to the abandonment as requested.

If you have any questions regarding the information above, please call Dan Borja, AT&T Engineer, at 408 493-7127.

Regards,

Shirley Victor
Right of Way Manager
AT&T California

cc: Samuel T. Pratt
SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804



Air Products Manufacturing Company
17330 Brookhurst Street, Suite 260
Fountain Valley, CA 92708
Phone: (714) 968-5133

30 April 2008

Bennett Chun, P.E.
City of Sunnyvale
Department of Public Works/Engineering
456 West Olive Avenue
Sunnyvale, CA 94088

RE: Project #2008-0592: Applied Materials Photovoltaics

Dear Mr. Chun,

We have been advised that the Public Utility Easement (PUE) cited in Easement Deed 7737 O.R.71 in the public record of Santa Clara County, which encumbers a parcel owned by Applied Materials in Sunnyvale, California, is to be vacated. Air Products Manufacturing Corporation has no interest in the PUE and has no objection to the abandonment of this Easement.

Air Products Manufacturing Corporation continues to reserve all its rights under its recorded Easement Deed 9167 O.R. 217 in the public record of Santa Clara County, which encumbers the same parcel.

Sincerely,

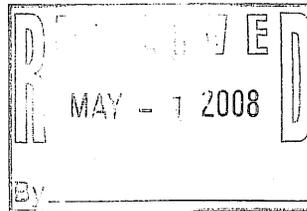
Jeffrey A. Lockett
President
Air Product Manufacturing Corporation

c: Sam Pratt
SunPower Corporation, Systems
1414 Harbour Way South
Richmond, CA 94804



3475B N. First Street, Rm. 600B
San Jose, CA 95123

April 28, 2008



Mr. Bennett Chun, P.E.
City of Sunnyvale
Department of Public Works
456 W. Olive Avenue
Sunnyvale, CA 94088

Subject: Project # 2008-0592, Applied Materials Photovoltaics
974 E. Arques Avenue, Sunnyvale (APN 205-36-007)

Dear Mr. Chun:

This letter is in response to the request for AT&T California's concurrence to the abandonment of the ten-foot wide Public Utility Easement located on Parcel A of the Parcel Map recorded January 17, 1984 in Book 524 pages 6-7, County of Santa Clara.

The Public Utility Easement was granted on Document No. 3229954 recorded May 31, 1967 in Book 7737 at page 71.

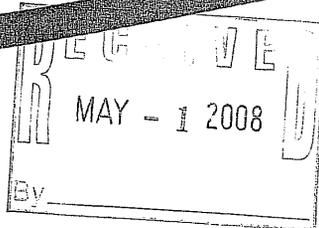
Engineering has determined that AT&T has aerial and underground plant located within the easement. Therefore, AT&T California does not approve the abandonment of the above described easement.

If you have any questions regarding the information above, please call Dan Borja, AT&T Engineer, at 408 493-7127.

Regards,

Shirley Victor
Right of Way Manager
AT&T California

cc: Samuel T. Pratt
SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804



File: 25397
Calabazas Creek

April 28, 2008

Bennett Chun, P.E.
City of Sunnyvale
Department of Public Works/Engineering
456 West Olive Avenue
Sunnyvale, CA 94088

Subject: Public Utility Easement Abandonment at 974 E. Arques Avenue (APN 205-36-006),
Project #2008-0592, Applied Materials Campus

Dear Mr. Chun:

The Santa Clara Valley Water District (District) received a request from Mr. Samuel Pratt at SunPower Corporation to comment on the proposed abandonment of the 10-foot Public Utility Easement located at 974 E. Arques Avenue in Sunnyvale.

We have reviewed the existing Public Utility Easement as described in deed 7737 O.R. 71. The District does not have any facilities at this location nor do we have any use for the Public Utility Easement through this site. The District has no objections to the abandonment of this easement.

Sincerely,

Sue Tippetts, P.E.
Engineering Unit Manager
Community Projects Review Unit

cc: Samuel T Pratt
SunPower Corporation, Systems
1414 Harbour Way South
Richmond, CA 94804

S. Tippetts, E. Hayes, File (2)

25397_50664eh03-28