



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

August 13, 2008

SUBJECT: **2008-0053 – Herguan University** [Applicant] **Od Equities LLC**. [Owner]: Application for a property located at **1183 Bordeaux Drive** (near 5th Ave.) in the MP-TOD (Moffett Park – Transit Oriented District) Zoning District.

Motion Special Development Permit to allow an educational use (institution of higher learning) within a 5,075 square foot tenant space.

REPORT IN BRIEF

Existing Site Conditions Two single-story industrial/office buildings

Surrounding Land Uses

North	R&D Office (Juniper Networks)
South (across Sunnyvale West Channel)	Institution of Higher Learning (Cogswell College)
East (across Bordeaux)	Office (Professional Graphics); Institution of Higher Learning (UC Extension)
West	R&D Office (Juniper Networks)

Issues Parking

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Moffett Park Specific Plan	Same	Moffett Park Specific Plan
Zoning District	MP-TOD	Same	MP-TOD
Lot Size (s.f.)	131,116	Same	22,500 min.
Gross Floor Area (s.f.)	39,763	Same	65,558 max.
Gross Floor Area of Tenant	5,075	Same	N/A
Lot Coverage (%)	30.3%	Same	45% max.
Floor Area Ratio (FAR)	30.3%	Same	50% max.
No. of Buildings On-Site	2	Same	N/A
No. of Stories	1	Same	N/A
Landscaping (sq. ft.)			
Total Landscaping	28,000	Same	26,224 min.
% Based on Site Area	21.4%	Same	20% min.
Parking			
Total Spaces	153	Same	339 min.
Standard Spaces	115 (80%)	Same	50% min.
Compact Spaces/ % of Total	30 (20%)	Same	50% max.
Accessible Spaces	8	Same	6 min.



Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The proposed project is to allow an institution of higher learning (Herguan University) in an existing tenant space in an industrial/office building. The use

is currently operating at the site. On December 13, 2007, the City’s Neighborhood Preservation Program received a complaint regarding an educational use operating at the site without permits. A Special Development Permit is required to allow educational uses including institutions of higher learning in the MP-TOD Zoning District. On January 18, 2008, the property owner submitted an application for a Special Development Permit to allow operation of Herguan University at the subject site.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2001-0302	Use Permit to allow installation of six panel antennas on an existing monopole	Withdrawn	06/21/2002
1977-0147	Use Permit to allow an on-site restaurant	Withdrawn	06/1977

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor modifications to existing facilities.

Special Development Permit

Detailed Description of Use: The proposed use is a small university offering business courses for adults. According to the applicant, there are approximately 4 employees and 25 or fewer students on the site at any given time (Attachment D). The proposed hours of operation are Monday through Friday from 6:00 p.m. to 10:00 p.m. and Saturday and Sunday from 9:00 a.m. to 5 p.m.

Site Layout: The subject site is located on the west side of Bordeaux Drive just north of the Sunnyvale West Channel. The site is developed with two single-story office buildings, which are occupied by multiple tenants having a mix of general office and R&D office uses. Surrounding uses include other institutions of higher learning (Cogswell College and UC Extension) as well as industrial office and R&D office uses.

Parking/Circulation: The subject site has 153 existing parking spaces provided in surface parking lots around the two buildings. The parking

requirement for the other uses on the site (excluding Herguan University is 93 spaces, leaving 60 spaces available for use by Herguan University (see Attachment E). As an educational use, Herguan University is subject to the “Schools – Grades Over 12” parking requirement in section 19.46.050 of the Sunnyvale Municipal Code. This calls for 1 space per 3 fixed seats plus 1 space per employee plus one space per special purpose vehicle. Applied to Herguan University’s 5,075 square foot tenant space, this rate would result in a parking requirement of 246 spaces for Herguan University alone (or a total of 339 spaces for the site as a whole). This greatly exceeds the total number of spaces provided on the site.

In response to the calculated parking deficiency, the applicant states that there are a limited number of students and instructors at Herguan University, so the large number of spaces calculated by the City’s parking rate will never be required. According to the applicant, a maximum of 4 employees and 25 students will be on site at any given time, resulting in a maximum requirement of 29 spaces. The applicant also states that many of the students use public transportation to reach the site and therefore require no parking, although no clear evidence has been presented as to the number of students using public transportation or how this information was obtained by the applicant. Finally, the applicant notes that Herguan University’s hours of operation are in the evening and on weekends only, which allows them to make use of the majority of the site’s parking, as most of the other businesses on the site are not open during these hours.

To address the deficiency in parking, staff recommends a Condition of Approval limiting Herguan University to a maximum of 60 enrolled students and employees at any given time. This is equal to the number of available parking spaces not needed for the other on-site uses. Although a calculated deficiency in parking still results from this recommendation, staff finds it is reasonable to allow a reduction in total parking required given the complementary hours of operation of uses on the site. However, to ensure there are no adverse parking impacts as a result of this recommendation, staff also recommends a Condition of Approval to limit the hours of operation to the night and weekend hours proposed by the applicant. Staff notes that the hours of operation currently posted on the door at the site exceed those provided to staff, although these may be office hours rather than class hours.

Solid Waste Disposal: The site has one existing trash enclosure located in the parking lot to the rear of the buildings. The enclosure appears to be in good condition, but is being used to store loose debris. The trash receptacle is being stored outside the enclosure, and there are apparently no recycling receptacles on the site. To address these conditions, staff recommends Conditions of Approval to require appropriate maintenance of solid waste facilities.

Public Right-of-Way: The Transportation and Traffic Division recommends Conditions of Approval requiring the applicant to install sidewalks along the site's street frontage, remove and replace all driveways, remove and replace damaged curbs and gutters, and remove and replace City streetlight poles along the site's street frontage. Staff recommends imposing only the sidewalk installation condition. The requested improvements to the public right-of-way are described below.

Sidewalk installation

Sunnyvale Municipal Code section 19.38.080 requires installation of sidewalks along the street frontage of projects in industrial areas when a building is being constructed or significantly expanded, or when there is a change in use having the potential to cause a significant increase in pedestrian traffic. The proposed project does not involve new construction, reconstruction, or expansion of the building. However, the project does involve a new use which has the potential for an increase in pedestrian traffic. In fact, the applicant states that many of the university's students take public transportation to the site, therefore they will be engaged in pedestrian activity along Bordeaux Drive. As a result, Planning staff recommends requiring sidewalk installation as a condition of the Special Development Permit.

Driveway, curb, gutter, and streetlight replacement

Planning staff finds that the proposed use, as conditioned, will not result in an increase in automobile traffic beyond what would be typical of an office use not requiring a Special Development Permit. As a result, there would be no excessive impacts on the public right-of-way to be mitigated. Planning staff does not believe additional upgrades to the public right-of-way should be required for this project.

Compliance with Development Standards/Guidelines: As conditioned, the project complies with all City standards and guidelines with the exception of parking requirements. Staff recommends granting a deviation to allow 60 parking spaces for this use where 246 are required, along with conditions of approval to limit the hours of operation and number of students and employees.

Expected Impact on the Surroundings: Although Moffett Park is intended primarily for industrial and R&D office uses, other uses may be appropriate in limited locations. The proposed educational use is compatible with the other uses on the subject site, which are office uses rather than industrial uses. Surrounding sites are occupied by offices and several similar educational uses. As a result, the proposed use is compatible with surrounding development. The proposed project, as conditioned, will not have a negative parking impact on the subject site or surrounding sites.

Fiscal Impact

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

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 15 notices mailed to property owners tenants 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

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit as conditioned. Recommended Findings and General Plan Goals are located in Attachment A.

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

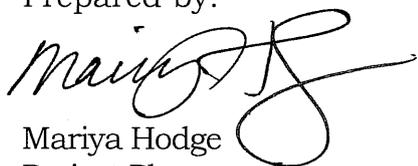
Alternatives

1. Approve the Special Development Permit with the conditions located in Attachment B.
2. Approve the Special Development Permit with modified conditions.
3. Deny the Special Development Permit.

Recommendation

Alternative 1

Prepared by:



Mariya Hodge
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Project Description and Justifications Provided by the Applicant
- E. Parking Analysis

Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

General Plan - Land Use and Transportation Element

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

N1.1.4 – *Anticipate and avoid whenever practical the incompatibility that can arise between dissimilar uses.*

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 that are appropriately located.*

Moffett Park Specific Plan

Guiding Principle 7.0 – *Enhance pedestrian accessibility.*

Guiding Principle 11.0 – *Preserve Moffett Park for Industrial Uses into the future and prevent erosion of its industrial base to non-compatible uses.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. *[Finding made]*

The proposed use is compatible with other uses on the site and in the surrounding area. Although Moffett Park is intended primarily for industrial and R&D office uses, other uses may be appropriate in some locations. The proposed educational use is compatible with the office uses on the site, as well as with the offices and educational uses in the immediate surrounding area. Due to its location and surroundings, it will not interfere with industrial activities in Moffett Park. The proposed use will provide an educational resource for the community. As conditioned, the proposed project will also enhance pedestrian accessibility of the area through the addition of a sidewalk along the project’s frontage.

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. *[Finding made]*

The proposed project does not involve noise, odor, or other detrimental impacts. As conditioned, the use will be limited to avoid potential parking impacts on the subject site and surrounding sites. Due to its location and surroundings, the proposed use will not interfere with or limit industrial activities in Moffett Park.

Recommended Conditions of Approval - Special Development 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 Special Development Permit document within 60 days of final approval of the permit.
- B. The project shall be in conformance with the plans approved at the public hearing(s). Any expansion or modification of the proposed use, including but not limited to change in operating hours, number of students, number of instructors, or floor area occupied by the use, shall be treated as an amendment of the original approval and shall be subject to review by separate application. Minor changes may be approved by the Director of Community Development. Major changes are subject to approval at a public hearing.
- C. The Special Development 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.
- D. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- E. Permitted hours of operation are as follows:
 - Monday through Friday: 6:00 p.m. to 10:00 p.m.
 - Saturday and Sunday: 9:00 a.m. to 5:00 p.m.
- F. To address parking deficiencies, Herguan University is limited to a maximum of 60 enrolled students and employees at any given time. A list of enrolled students and a list of employees shall be maintained at all times and shall be made available to the City for inspection upon request.

2. OBTAIN OTHER PERMITS

- A. Obtain Building permits for any construction including interior tenant improvements.

3. RECYCLING AND SOLID WASTE

- A. All exterior recycling and solid waste shall be confined to approved receptacles.
- B. Recycling and solid waste containers shall be stored within enclosures with their lids closed and with enclosure gates closed at all times. Loose debris shall not be placed in enclosures.
- C. Provide appropriate recycling receptacles along with the trash receptacle current located on site. Contact the City's Solid Waste Division to determine the appropriate number and size of recycling receptacles for the site.

4. RIGHT-OF-WAY IMPROVEMENTS

- A. Install a sidewalk along the project's frontage in accordance with City standards. Plans shall be approved by the Department of Public works. Sidewalk installation shall be completed within 180 days of final approval of the Special Development Permit.

Attachment C

Site and Architectural Plans

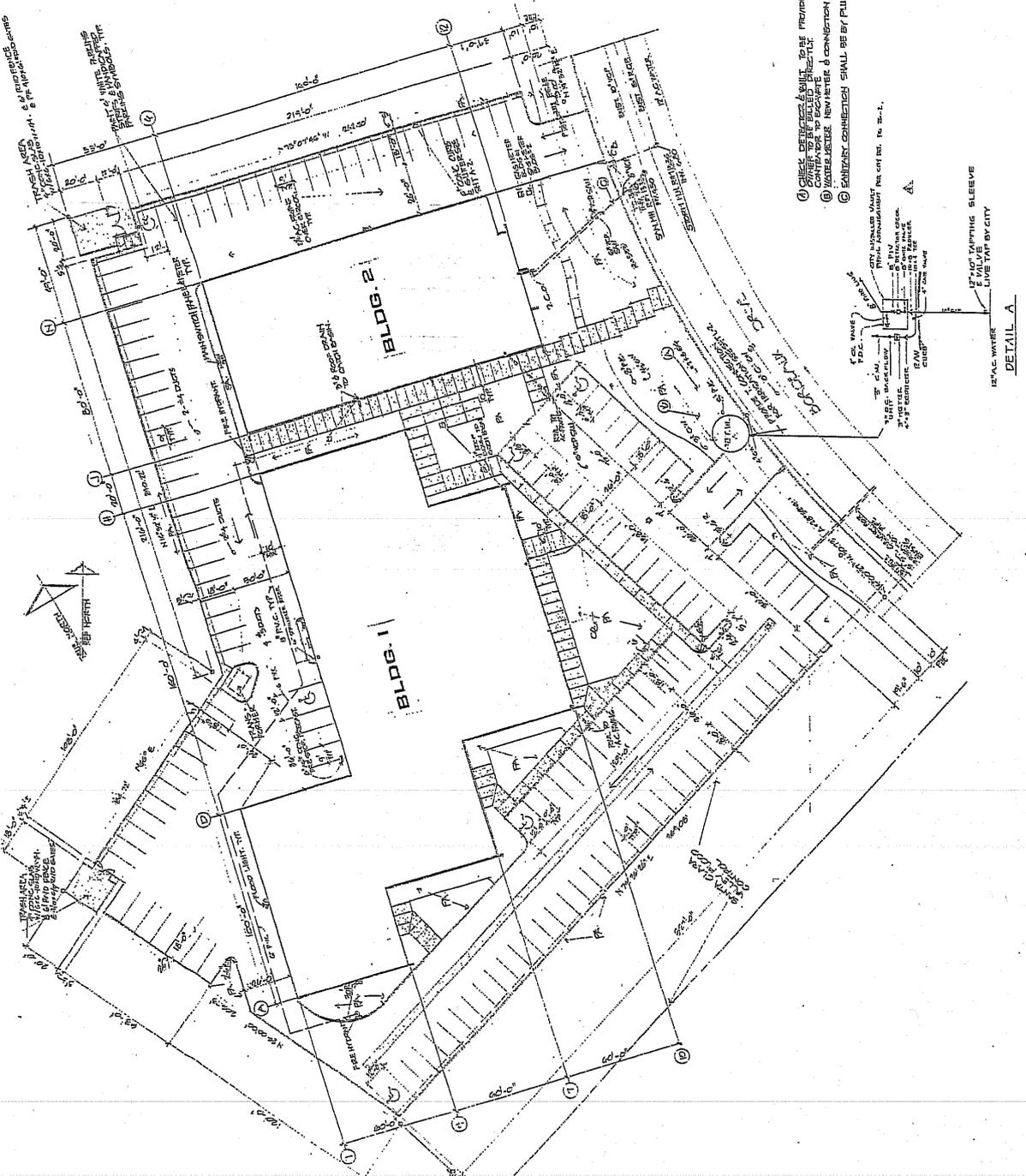
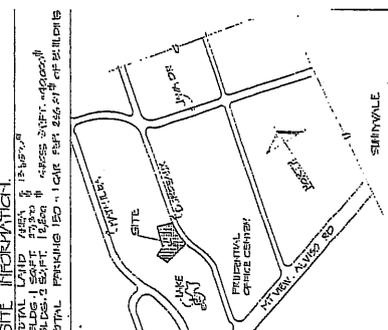
- A-1 SITE PLAN, LOCATION MAP, INDEX, GEN. NOTES
- A-2 GRADING & DRAINAGE PLAN & DETAILS
- A-3 FLOOR PLAN - BUILDING #1
- A-4 FLOOR PLAN - BUILDING #2
- A-5 EXTERIOR ELEVATION & DETAILS
- A-6 EXTERIOR ELEVATION & DETAILS
- L-1 LANDSCAPING PLAN
- L-2 IRRIGATION PLAN
- S-1 GENERAL NOTES & DETAILS
- S-2 ROOF FRAMING PLAN BUILDING #1
- S-3 INTERIOR PANEL ELEVATION
- S-4 EXTERIOR PANEL ELEVATION
- S-5 INTERIOR PANEL ELEVATION
- S-6 EXTERIOR PANEL ELEVATION
- S-7 INTERIOR PANEL ELEVATION
- S-8 EXTERIOR PANEL ELEVATION
- S-9 TYPE DETAILS

GENERAL NOTES:

1. PRIOR TO OCCUPANCY OF BUILDING #1, ALL UTILITIES SHALL BE VERIFIED AND RECORDED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND CONNECTIONS TO ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND CONNECTIONS TO ALL UTILITIES.
2. SHOULD THE BUILDING #1 TO BE OCCUPIED WITHIN 180 DAYS OF THE DATE OF THE PERMITS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND CONNECTIONS TO ALL UTILITIES.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND CONNECTIONS TO ALL UTILITIES.

SITE INFORMATION:

TOTAL LAND AREA: 15,457 sq. ft.
 TOTAL BUILDING AREA: 12,500 sq. ft.
 TOTAL PARKING: 150 - 1 CAR PER 250 sq. ft. OF BUILDING



DETAIL A

1. 1/2" DIA. TAPPING SLEEVE
 2. LIVE TAP BY CITY

REVISIONS:

NO.	DATE	DESCRIPTION
1	11-17-10	ISSUED FOR PERMITS
2	12-15-10	REVISED PERMITS

OWNER: BOEVA AIA ARCHITECTURE
ARCHITECT: BOEVA AIA ARCHITECTURE
DATE: 11/17/10

PROJECT: OFFICE AND RECREATION CENTER
ADDRESS: 12500 LINDSEY RD
CITY: BOEVA AIA ARCHITECTURE

SCALE: 1/8" = 1'-0"

DATE: 11/17/10



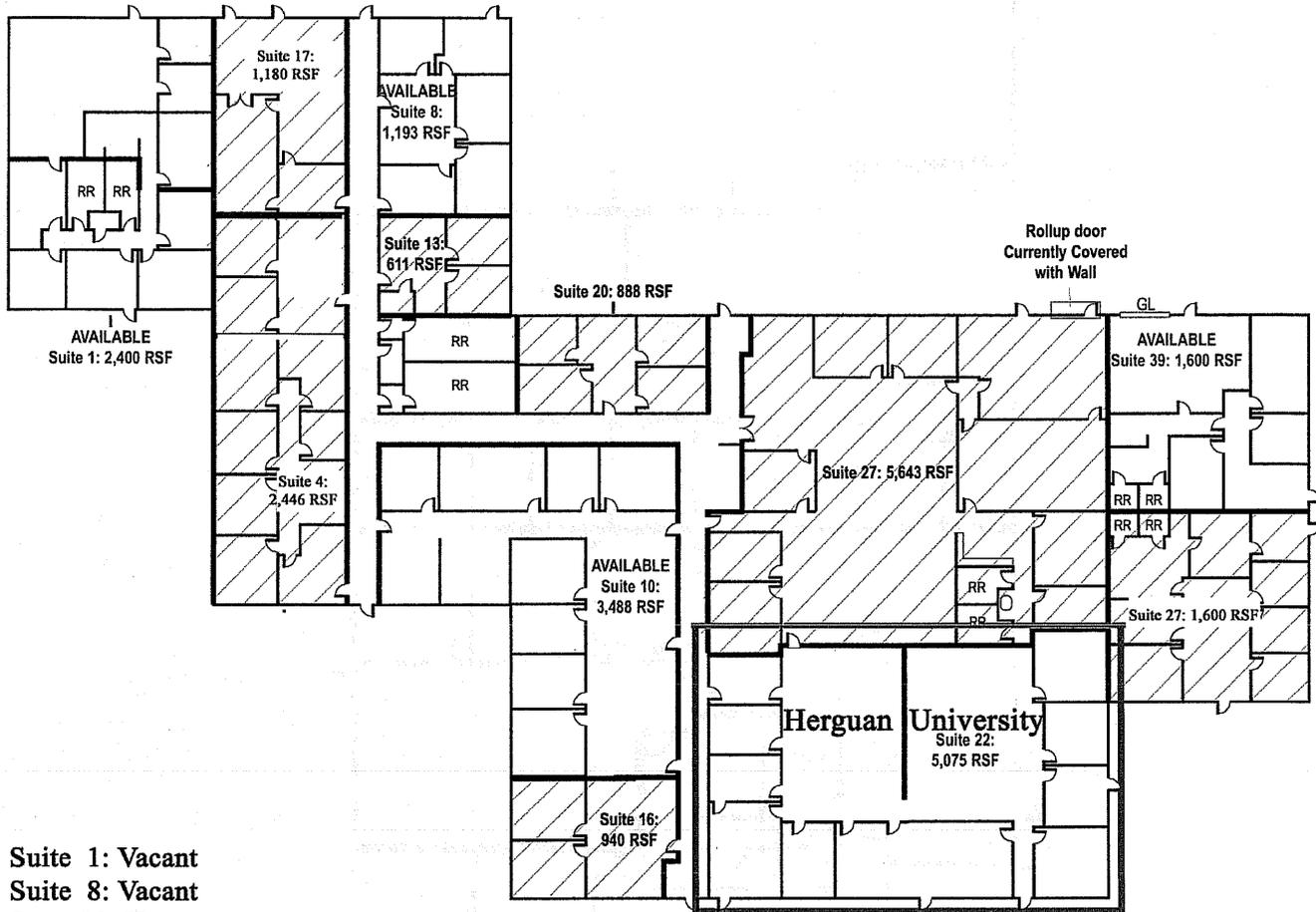
Point: 37.2429359° N, 122.012717° W elev: 14 ft

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Streaming 100%

1185 Bofdesux Dr Sunnyvale, CA 94089

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Google™
Eye alt 578 ft

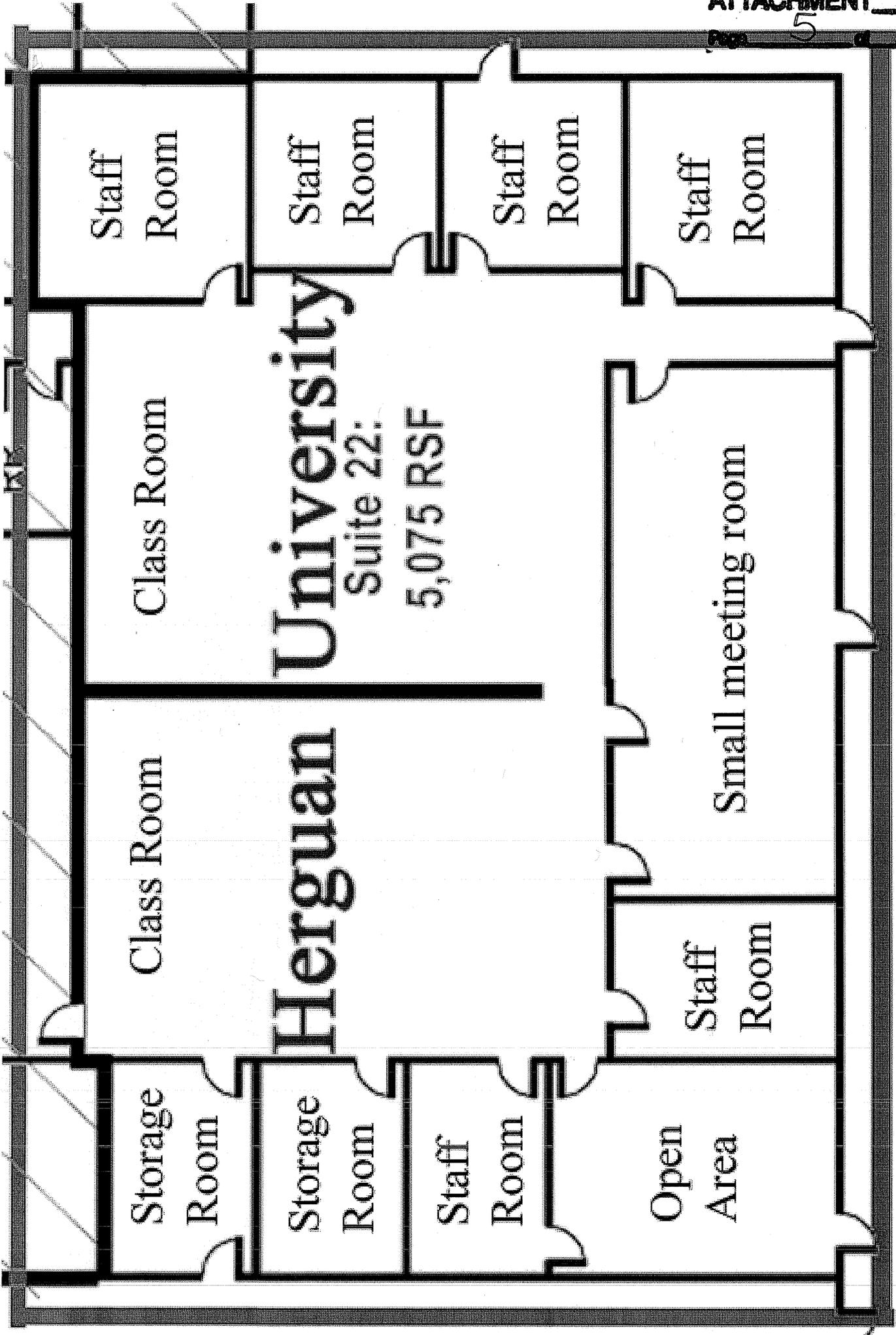
1183 Bordeaux Drive
Sunnyvale, California



- Suite 1: Vacant
- Suite 8: Vacant
- Suite 39: Vacant
- Suite 10: Vacant
- Suite 4: Esuate Inc. Manufactory Product Office
- Suite 17: Kinetic Technologies. High Tech Company
- Suite 13: Leung and Associates. General Office
- Suite 20: Travel I Love. Travel agency
- Suite 16: Onespin Solution GMBH, Inc.
- Suite 27: Gigabean Corp. High Tech Company
- Suite 22: Herguan University

- Hours M-F 8:30AM-5:30PM, Sat-Sun Closed
- Hours M-F 8:30AM-5:30PM, Sat-Sun Closed
- Hours M-F 8:30AM-5:30PM, Sat-Sun Closed
- Hours M-F 9:00AM-6:00PM, Sat-Sun Closed
- Hours M-F 8:30AM-5:30PM, Sat-Sun Closed
- Hours M-F 8:00AM-5:00PM, Sat-Sun Closed
- Hours M-F 6:00PM-10:00PM, Sat-Sun 9:00AM-5:00PM

LOCAL PRESENCE





USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

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 ...

See below in Paragraph 2

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 ...

Application relates to educational services that includes a small classroom use for business classes in a small portion of a 30 year old mature, established, generic 1-story, 2-building, multi-tenant 40,000 office project. Project flexibly accommodates small users. Existing suites, including this one, are self-contained with direct entrance to the outside.

There is no adverse parking impact. Operations will on average use less than typical parking of other tenants, especially direct technology companies. Attendees arrive, attend class and then leave. 95% of the typical students will travel to and from the facility on public transportation. Proposed use would typically involve 2 classes of 10-12 people each. They arrive, go to class, and then leave. It is important to note that one of the specific reasons for having operations at this location is access to public transportation *students are adult over 18 yrs old. 25 or less students and 4 employee at given time*

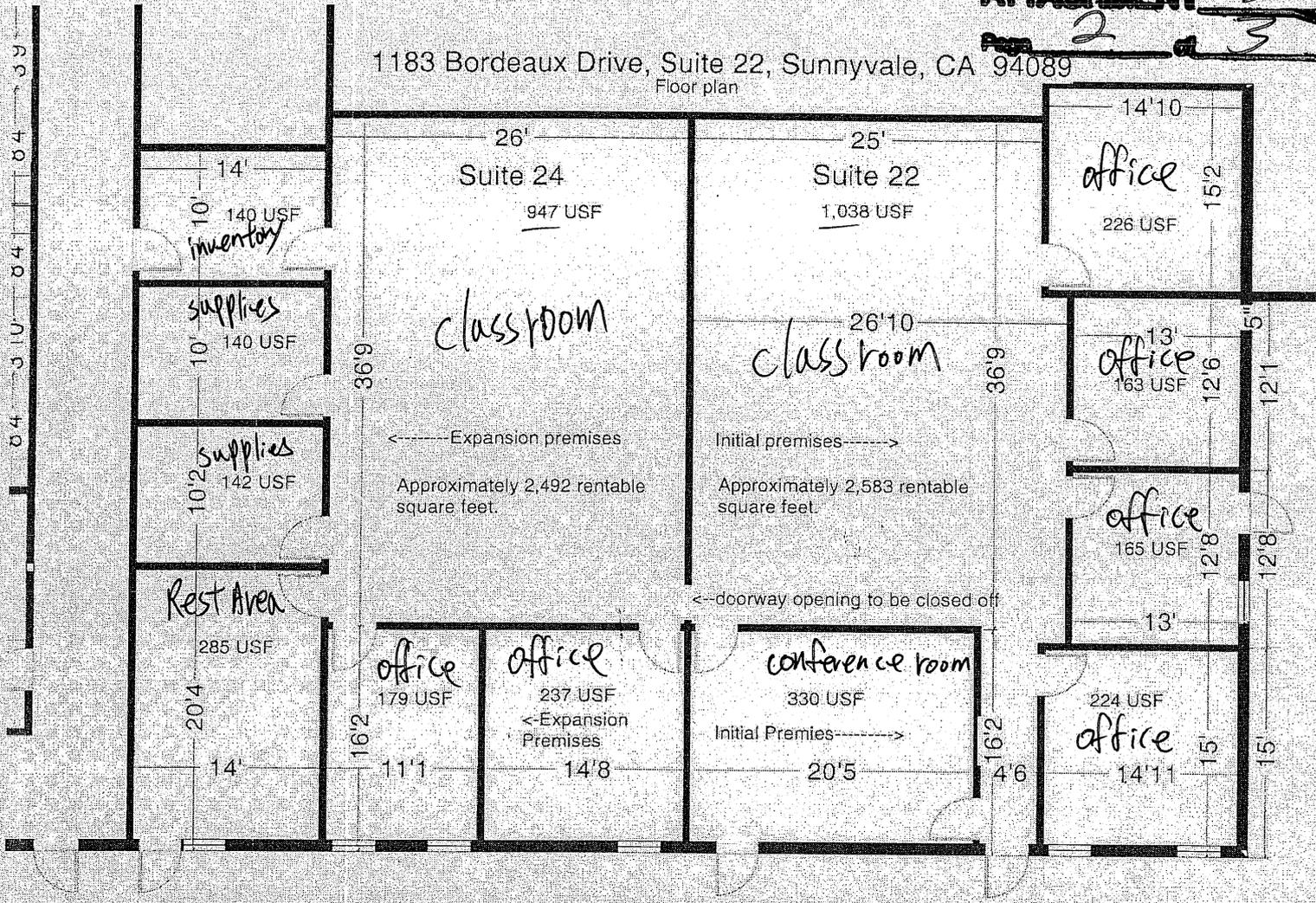
The use creates a new business operating in Sunnyvale, including employees and related business that uses mass transportation and additional retail support business in Sunnyvale. Use is compatible with the existing facility.

There is no change to the site or the project. This is a project with existing 100% generic office buildout that has existed for almost 30 years, and gets modified from time to time as tenants needs and sizes change.

Tenant mix in this project change on an ongoing basis, sometimes more services and less hi-tech, and sometimes vice versa. A separate list is attached of the most current tenant roll, which includes a travel agency and accountant, as well as some technology related R&D and service companies. *student will receive diploma after finish the class.*

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

1183 Bordeaux Drive, Suite 22, Sunnyvale, CA 94089
Floor plan



Suite 24 = approx. 2,070 usable square feet ("USF")
 Suite 24 = approx. 2,492 rentable square feet (RSF)
 Suite 22 = approx. 2,146 usable square feet, 50.9% of Suite 22
 Suite 22 = approx. 2,583 rentable square feet, 50.9% of Suite 22

2,492 rentable square feet + 2,583 rentable square feet = 5,075 Rentable square feet
 Dimensions include the thickness of the outside walls, approximately 10" thick, and include half of the thickness of interior walls adjoining other tenants and the building's common area hallways. Usable square footages of various rooms and open office areas is approximate.

2,000 USF for classes
 3,000 USF for office, supply room, rest area.
 There is not any fixed seat.
 There is not any special use vehicle owned/operated by Herguan University.
 Hours operation: Mon - Friday 8pm - 9:30pm Sat - ~~Mon~~ Sunday 9:30 AM - 5:00 PM.
 There is no clinic, workshop, lab, etc.
 Herguan University is currently paying for all ~~the~~ student VTA (transit) card now, which at least 70% student use public transportation, bus 26, and light train both half block away. 85% of our student is international student, few of them have cars.

HERGUAN UNIVERSITY
 1183 BORDEAUX DRIVE, SUNNYVALE, CA 94089.
 SUMMER SEMESTER 2008

DAY	COURSE NO	COURSE TITLE	UNITS	TIME	INSTRUCTOR
MON	CS 501	COMPUTER ARCHITECTURE	3	6:30PM - 9:30PM	Dr. SIMON LUO
TUE	CS 533	ADVANCED COMPUTER NTKS	3	6:30PM - 9:30PM	Dr. ANDY
WED	CS 501	BUSINESS MANAGEMENT II	3	6:30PM - 9:30PM	Dr.ZHOU MIN
THUR	CS 536	OPERATING SYSTEM DESIGN	3	6:30PM - 9:30PM	Dr.JOHN LIU
FRI	CS550	.NET WEB PROGRAMMING	3	6:30PM - 9:30PM	Mr.ALURU PRASAD
SAT	CS 533	ADVANCED COMPUTER NTKS	3	2:00PM - 5:00PM	Dr.ZHANG
	CS550	.NET WEB PROGRAMMING	3	10:00AM - 1:00PM	Mr.ALURU PRASAD
SUN	CS517	DATABASE DESIGN	3	10:00AM - 1:00PM	Dr. ANDY
	CS560	BUSINESS MANAGEMENT I	3	2:00PM - 5:00PM	DR.CHARLES

NOTE: Any student who misses three or more classes for each course will be automatically dropped from the course
 Any late on attendance will be count as 1/2 missing class and the class limit is up to 60 students only.

Attachment E

Parking Analysis

Parking Analysis: 1183-1185 Bordeaux

Suite	Tenant	Type of Use	Floor Area	Parking Ratio	Required Spaces
1	Noosphere Communications	General Office	2,400	1 per 225	10.7
4	Estuare, Inc.	R&D Office	1,726	1 per 500	3.5
8	Linda Leung, CPA	General Office	1,193	1 per 225	5.3
10	Sunrich Technology	R&D Office	3,488	1 per 500	7
15	Kitz SCT	R&D Office	1,937	1 per 500	3.9
16	OneSpin Solutions GMBH	R&D Office	940	1 per 500	1.9
17	Kinetic Technologies	General Office	611	1 per 225	2.7
20	Chiang His Cheng/Love Travel	General Office	888	1 per 225	4
22	Herguan University (proposed)	Education	2,583	variable*	245.6
24	Herguan University (proposed)	Education	2,492	variable*	
27	Gigabeam Corporation	R&D Office	5,643	1 per 500	11.3
28	Gigabeam Corporation	R&D Office	1,600	1 per 500	3.2
39	Berkeley Communications	General Office	1,600	1 per 225	6.4
A	Vacant	General Office	3,263	1 per 225	14.5
B	Acbel (USA) Polytech	R&D Office	2,599	1 per 500	5.2
C	SK Communications, Inc.	R&D Office	3,270	1 per 500	6.5
D	Mevicon, Inc.	R&D Office	3,530	1 per 500	7.1
	TOTAL not including Herguan		34,688		93
	TOTAL including Herguan		39,763		339
	Available On-site Spaces				153
	Deficiency				186

* 1 space per 3 fixed seats + 1 seat per 21 sq ft open space/seating space + 1 space per employee + 1 space per special purpose vehicle

no fixed seats = 0 spaces
 5075 sq ft open & seating area = 241.6 spaces
 4 employees = 4 spaces
 no special purpose vehicles = 0 spaces

 245.6