



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

September 14, 2011

**File Number:** 2011-7522

**Permit Type:** Use Permit

**Location:** 500 Lawrence Expwy., Suites H-I (near E. Arques Ave.) (APN: 216-44-118)

**Applicant/Owner:** Manton Wong / Manton and Johanna Wong

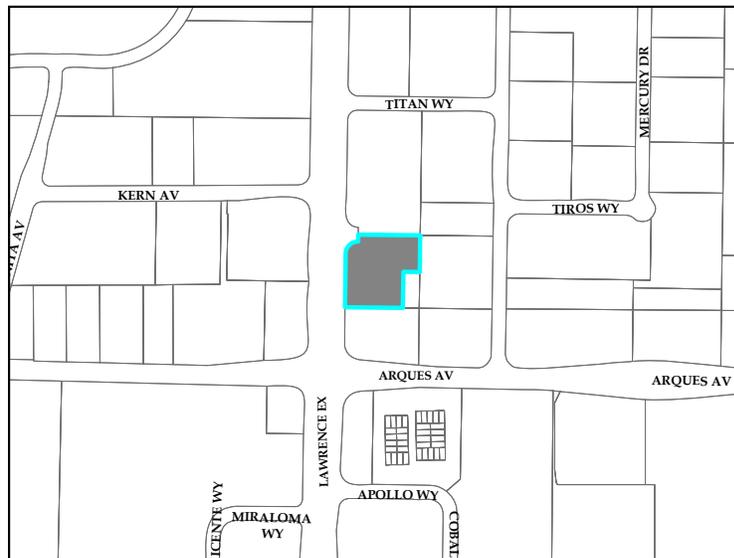
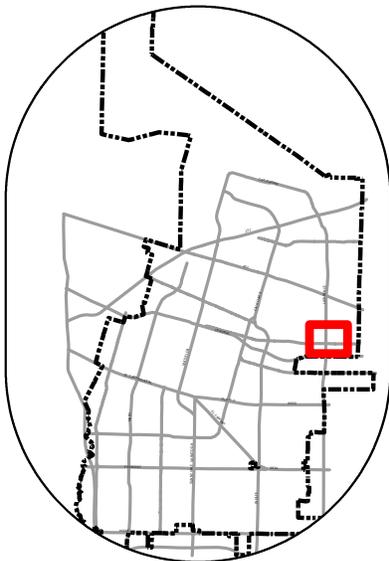
**Staff Contact:** Mariya Hodge, Associate Planner, (408) 730-7659

**Project Description:** To allow an education-recreation and enrichment use (yoga studio) within two tenant spaces in an existing shopping center.

**Reason for Permit:** A Use Permit is required for education-recreation and enrichment uses in an M-S/POA Zoning District.

**Issues:** Parking

**Recommendation:** Approve with Conditions



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Industrial	Same
Zoning District:	M-S/POA	Same
Total Sq. Ft. on Site:	16,300	Same
Tenant Sq. Ft.:	Suite H: 1,872 Suite I: 930 (2,802 total)	Same
Parking Provided:	92 (151 existing, with 59 dedicated to neighboring parcel by agreement)	Same

<p><b>Previous Planning Projects related to Subject Application</b></p> <p>The commercial center on this site was constructed in 1983 with a total of 150 parking spaces (Use Permit #4978). The actual parking provided for this center was 91 spaces due to a previously existing agreement to dedicate the use of 59 spaces to the adjacent site to the north. In 1987, a Variance was approved to allow a restaurant use within the center with 91 parking spaces where 118 are required (#87-39). In 1991, a Variance was approved to allow an additional restaurant with a total of 91 parking spaces provided where 140 are required (#91-05).</p>	<b>Yes</b>
<p><b>Neighborhood Preservation Complaints</b></p> <p>In June of 2011, the Neighborhood Preservation Division received a complaint of construction without permits within Unit I. The business owner stated that the construction was associated with expansion of the existing yoga studio from Suite H into Suite I. Neighborhood Preservation found that the yoga studio did not have an approved Use Permit or valid business license for either unit. The business owner stated that she has been operating in Suite H since 2006 and was unaware that a Use Permit was required. She stated that she applied for a business license in 2006 and was never contacted after making the application; therefore she assumed it had been approved (see Attachment C – Letters from the Applicant).</p>	<b>Yes</b>
<p><b>Deviations from Standard Zoning Requirements</b></p>	<b>No</b>

**Use Description:** The proposed use is a yoga studio (education-recreation and enrichment use) to be located within two tenant spaces totaling 2,802 square feet. Group yoga classes will be offered in Suite H. Suite I will be used for private instruction of individuals and small groups, as well as instructor training. Both tenant spaces were previously occupied by retail uses.

**Hours of Operation:** The yoga studio proposes to operate as follows:

- Monday/Wednesday – 7:00-8:00 a.m.; 12:00-1:00 p.m.; 5:00-9:30 p.m.
- Tuesday/Thursday – 6:00-7:00 a.m.; 12:00-1:00 p.m.; 5:00-9:30 p.m.
- Friday – 7:00-8:00 a.m.; 12:00-1:00 p.m.; 4:30-7:45 p.m.
- Saturday – 7:00-11:30 a.m.; 3:30-5:30 p.m.
- Sunday – 9:00 a.m.-12:15 p.m.; 3:30-5:30 p.m.

Classes and private instruction may be offered within both spaces during these hours. The applicant has provided a sample class schedule illustrating the proposed group and private classes in more detail (see Attachment C – Letters from the Applicant).

**Number of Proposed Students/Instructors:** The yoga studio has three employees and uses up to 20 independent contractors as instructors. However, the applicant states that the maximum number of staff and instructors expected to be on-site at one time is three. A maximum of 20 students is proposed for each group class in Suite H. A maximum of 5 students is proposed for a private instruction session in Suite I.

**Floor Plan:** The yoga studio proposes to occupy two separate suites within the shopping center. Upon expanding into Suite I, the applicant constructed an interior door between the two tenant spaces as well as several partition walls within Suite H (see Attachment B – Site and Floor Plans). These improvements have been completed without permits. No exterior changes to the building are proposed.

**Parking:** The site's parking lot is severely impacted during weekday lunch hours, as are the parking lots of the adjacent 24-Hour Fitness site to the south and the two shopping centers to the north. Parking shortages on these sites do not typically occur during other weekday hours, nor during weekends. Parking Variances have previously been approved to allow several restaurants within this center despite limited available parking. The site currently has approximately 5,000 square feet of permitted restaurant space. A 1,620 square foot food retail use ("Fresh U Order") was also approved for take-out service only. Staff observed the food retail tenant operating as a restaurant with seating and has referred the issue to Neighborhood Preservation for enforcement. Staff also noted the property owner has marked approximately 35 parking spaces for exclusive use by particular tenants. This is not consistent with the intent of shopping center parking rates, which assume the sharing of all spaces among uses and therefore a reduced total requirement.

Although the site is severely impacted with respect to parking, the proposed use is not expected to increase parking demand. Education-recreation and enrichment uses require parking at a rate of one space per employee plus one space per four students, or at a rate of one space per 250 square feet of floor

area, whichever is most restrictive. This use proposes to occupy 2,802 square feet (requiring 11.2 spaces) and proposes a maximum of 25 students and 3 instructors at any given time (requiring 9.3 spaces). In either case, the proposed use requires less parking than a retail use occupying Suites H and I (15.6 spaces). Based on the parking rate established per student and employee, the proposed use could expand to serve up to 40 students and up to 5 employees without exceeding the parking demand of a retail use. However, this parking rate assumes students will arrive in groups or be dropped off and picked up at the site. These patterns are more typical of an education-recreation and enrichment use serving children, such as a tutoring center. For a yoga studio primarily serving adults, students are more likely to arrive individually in their own vehicles and park on-site throughout the class.

To ensure parking demand for this use does not exceed the demand of a retail use, staff is recommending conditions of approval limiting the number of employees and patrons, particularly during weekday lunch hours. Staff is also recommending a condition of approval requiring the property owner to remove any markings dedicating parking spaces to specific tenants within the center. Markings prohibiting use of spaces by customers of adjacent properties such as 24-Hour Fitness may be retained.

**Public Contact:** 82 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No letters or comments were received.

**Environmental Determination:** A Class 1 Categorical Exemption (minor changes in use) relieves this project from CEQA provisions.

## **FINDINGS**

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In order to approve the Use Permit the following findings must be made:

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

**Staff was able to make the above finding.** The proposed use will provide an educational and recreational opportunity serving residents and employees of surrounding businesses. The proposed use is compatible with the adjacent office, retail, and restaurant uses. No negative impacts on surrounding uses or sites are anticipated. As conditioned, the use is not expected to increase parking demand beyond that of a retail use.

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 the orderly development of, or the existing uses being made of, adjacent properties.

**Staff was able to make the above finding.** The proposed use is compatible with the adjacent office, retail, and restaurant uses. The majority of classes will take place during morning, evening, and weekend hours during which time there is ample parking on the subject site. As conditioned, the number of required parking spaces for the proposed use will not exceed the number that would be required for a retail use. The proposed use is not expected to have any noise or visual impacts on surrounding tenants or sites. There are no surrounding residential uses; therefore there are no expected negative impacts on the surrounding area resulting from early morning or late evening operating hours.

**ALTERNATIVES:**

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1. Approve the Use Permit with the recommended Conditions in Attachment A.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

**RECOMMENDATION**

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Alternative 1. Approve the Use Permit with the recommended Conditions in Attachment A.

Reviewed by:

Steve Lynch  
Senior Planner

Prepared By: Mariya Hodge, Associate Planner

**Attachments:**

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Floor Plans
- C. Letters from the Applicant

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
September 14, 2011**

**Planning Application 2011-7522**

500 Lawrence Expwy., Units H-I

Use Permit to allow an education-recreation and enrichment use (yoga studio)  
within two tenant spaces in an existing shopping center.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.**

**GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**

All building permit drawings and subsequent construction and operation shall substantially conform to the approved planning application, including: drawings/plans, use description, hours of operation, and other information submitted as part of the approved application. Any proposed amendments to the use, the approved plans, or the Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review by the Director of Community Development. Major changes are subject to review at a public hearing.  
[COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] [PLANNING]

GC-3. PERMIT EXPIRATION:

The 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 and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-4. BUILDING PERMITS REQUIRED:

Obtain building permits as required for all interior and exterior building modifications. [SDR] [PLANNING]

GC-5. SIGNS:

All existing/new signs shall be brought into conformance with Title 19 of the Sunnyvale Municipal Code and with the approved Master Sign Permit for the site. Building permits shall be obtained for signs as required. [COA] [PLANNING]

**BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).**

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

BP-4. ROOF EQUIPMENT

Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view as per Title 19 of the Sunnyvale Municipal Code and shall be painted to match the roof. [COA] [PLANNING]

**PF: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS AND/OR SHALL BE MET PRIOR TO RELEASE OF UTILITIES OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY.**

PF-1. PARKING LOT STRIPING:

The parking lot shall be shall be striped as per Public Works standards and as follows:

- a) Clearly mark all compact spaces. This shall be specified on the building permit plans and completed prior to occupancy.
- b) Remove all parking lot markings designating spaces for exclusive use by specific tenants. Markings prohibiting use by customers of adjacent sites (such as 24-Hour Fitness) may be retained. This shall be specified in the building permit plans and completed prior to occupancy. [COA] [PLANNING/ENGINEERING]

**DC: THE FOLLOWING SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.**

DC-1. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

**AT: THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.**

AT-1. HOURS OF OPERATION:

Hours of operation are limited to 6:00 a.m. to 9:30 p.m., 7 days a week. Extended hours, including for temporary events, shall require separate review and approval. [COA] [PLANNING]

AT-2. MAXIMUM NUMBER OF STAFF/STUDENTS:

The use permitted as part of this application shall comply with the following limitations on number of students/visitors and staff:

- a) Weekday lunch hours (Monday through Friday from 11:30 to 1:30): A maximum total of 15 persons are permitted on the site at one time during these hours, including staff, instructors, students, and visitors.
- b) All other operating hours: A maximum total of 5 staff members/instructors shall be permitted on the site at one time. A maximum total of 40 students/visitors are permitted on the site at one time. [COA] [PLANNING]

AT-3. CLASS SCHEDULES:

Schedules shall be developed to provide a minimum of 15 minutes between subsequent classes/sessions within each suite. This is intended to allow a natural turnover of parking spaces without overlap. [COA] [PLANNING]

AT-4. SPECIAL EVENTS:

Any proposed special events involving different uses, extended hours, or a greater number of attendees than has been authorized under this permit shall be submitted for review by the Director of Community Development through a Miscellaneous Plan Permit. [COA] [PLANNING]

AT-5. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-6. LOUDSPEAKERS PROHIBITED:

Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]

AT-7. LANDSCAPE MAINTENANCE:

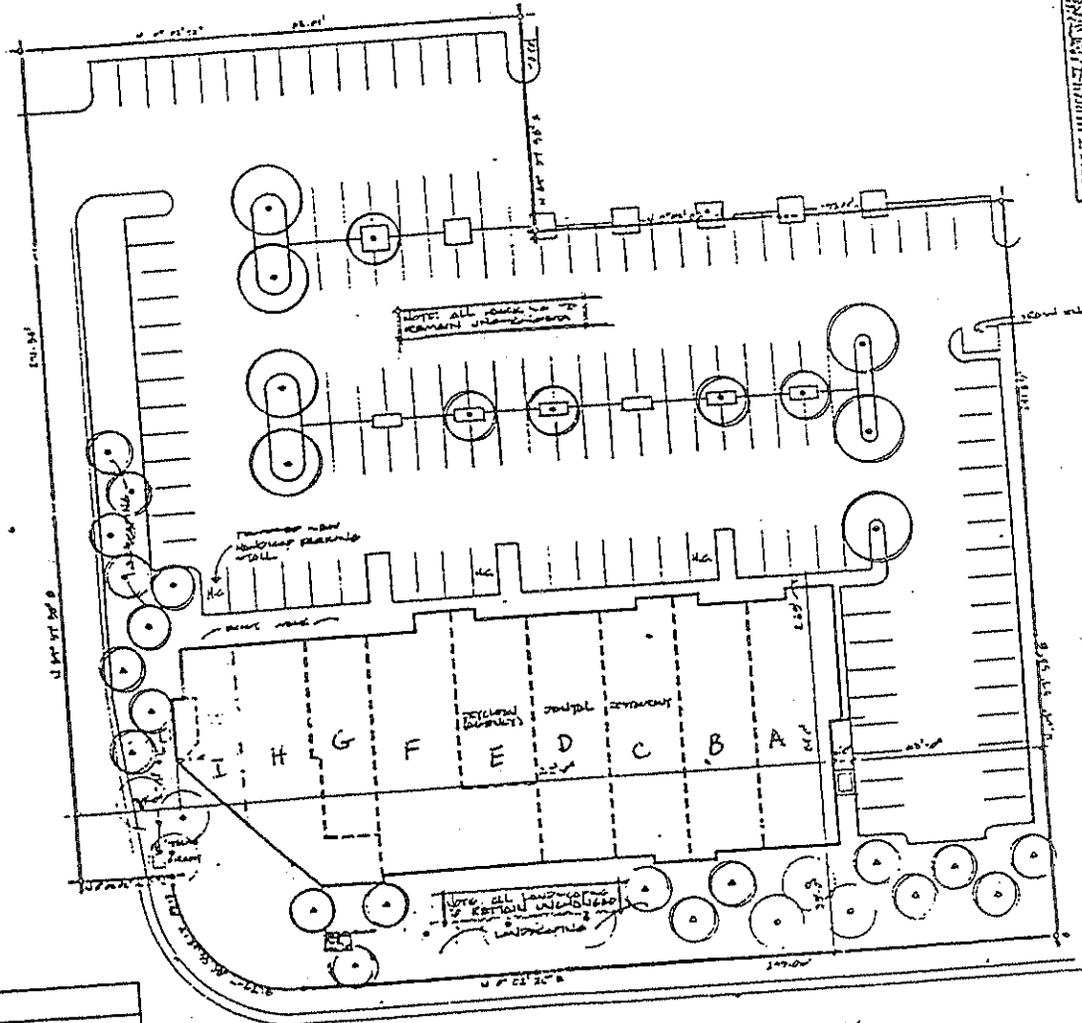
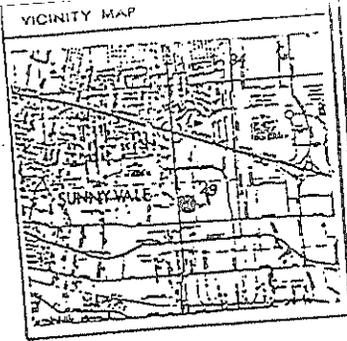
All site landscaping shall be maintained in accordance with the approved landscape plans and in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]

AT-8. PARKING LOT MAINTENANCE:

The parking lot shall be maintained in accordance with the approved plans and as follows:

- a) Clearly mark all compact spaces. This shall be specified on the building permit plans and completed prior to occupancy.
- b) Remove all parking lot markings designating spaces for exclusive use by specific tenants. Markings prohibiting use by customers of adjacent sites (such as 24-Hour Fitness) may be retained. This shall be specified in the building permit plans and completed prior to occupancy.
- c) Maintain all parking lot striping and markings in good condition.
- d) Assure that adequate lighting is available in parking lots to keep them safe and desirable for all uses during morning/evening hours. [COA] [PLANNING]

EQUIPMENT	
STREET LIGHTS	12
TRASH CANS	12
PLANTERS	12
ATM	1
TOTAL	
STREET LIGHTS	12
TRASH CANS	12
PLANTERS	12
ATM	1
TOTAL	



LOT : 85,813 SF  
 GR. FLOOR AREA : 16,246 SF  
 151 PARKING

LAWRENCE EXPRESSWAY

EXISTING SITE PLAN

FOR 500 LAWRENCE EXPWY

SUNNYVALE CA 94085

SITE PLAN



DATE: 11/11/11  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 SCALE: 1/8" = 1'-0"

SIGN DETAIL



**Project Description Letter – 500 Lawrence Expressway, Ste H&I, Sunnyvale,  
CA 94085**

To Whom It May Concern:

My Yoga studio, Yoga @ Cindy's, has existed in it's current location(ste H) since April 2006. When I initially applied for the business permit in February 2006 at the one stop permit center, I was told that everything was good and if the City of Sunnyvale had any questions/concerns that I would hear from them. If not, then I should expect my permit in the mail. I never heard anything from the City and honestly forgot about the business permit. My business is a sole proprietor and it has never been an issue. I've always paid my taxes every year and the business license issue(or lack of) never came up.

In June 2011 we took over the adjacent suite(I), for private lessons, small workshops and teacher tranings. When I was recently notified that we did not have a proper business license it came as a complete surprise to me. I just want it to be clear that I was not operating my business with the knowledge that I did not have a business license.

In an email dated June 30, 2011, between my landlord, Manton Wong, and Chris Khoelbe, from the City of Sunnyvale Department of Public Safety, Mr. Khoelbel stated that I had applied for a business license two years ago and that someone had tried to call me around that time to follow-up. This is not true. I never applied for a license 2 years ago, nor have I ever received ANY follow-up calls from the City of Sunnvale since the beginning. This is the first I've heard about not having a business license.

I'm proposing to continue to use the above location as it has been used for the past 5+ years, a community Yoga studio serving the city of Sunnyvale and the surrounding communities. Suite H consists of one(1) Yoga room that can serve a maximum of 20 students. There is also a large, long hallway, bathroom and changing areas and lobby/office area. The newly occupied Suite I consists of one(1) Yoga room that is used solely for private lessons, or small workshops and teacher trainings. Within this space, there is also one large bathroom.

Our hours of operation are as follows:

Monday, Wednesday: 7-8am, 12-1pm, 5-9:30pm  
Tuesday, Thursday: 6-7am, 12-1pm, 5-9:30pm  
Friday: 7-8am, 12-1pm, 4:30-7:45pm  
Saturday: 8-11:30am, 3:30-5:30pm  
Sunday: 9-12:15pm, 3:30-5:30pm

Our peak times(weekday evenings) do not interfere with the peak times of our

co-tenants(lunch hours, 12-1pm).

List of tenants at 500 Lawrence Expwy:

Suite A – vacant

Suite B – Thai restaurant

Suite C – Falafel Bite

Suite D – Dentist

Suite E – Real estate office

Suite F – Bagel/Sandwich shop

Suite G – Subway

Suite H(2006) & I(just took over in June 2011) - Yoga @ Cindy's

Yoga @ Cindy's has 3 employees, including myself, and 20 independent contractors.

Previously, Suite H was a retail computer store and Suite I was a retail cellular telecommunications store.

Sincerely,

Cynthia Ja  
Owner  
Yoga @ Cindy's

**Tenant List - 500 Lawrence Expressway, Sunnyvale, CA 94085**

- Suite A – vacant
- Suite B – Thai restaurant
- Suite C – Falafel Bite
- Suite D – Dentist
- Suite E – Real estate office
- Suite F – Bagel/Sandwich shop
- Suite G – Subway
- Suite H(2006) & I(just took over in June 2011) - Yoga @ Cindy's

**Planning – Additional Items Required after PRC Meeting on 08/15/11**

1. For each of the tenant spaces within the center, indicate the size (square feet). Include the sizes of spaces H and I separately for reference (do not combine them as on the data sheet). This information is needed to calculate parking requirements.

Suite A, vacant – 2,144sf  
 Suite B, Thai Restaurant – 1,968sf  
 Suite C, Falafel Bite – 1,980sf  
 Suite D/F, Carol Pham, DDS – 3,626sf  
 Suite E, Star River Realty – 896sf  
 Suite F, Fresh U Order – 1,620sf  
 Suite G, Subway – 1,210sf  
 Suite H, Yoga @ Cindy's – 1,872sf  
 Suite I, Yoga @ Cindy's – 930sf

2. The description letter notes that there are 3 employees and 20 independent contractors. Are the independent contractors yoga instructors? How many employees/instructors, at a maximum, would be present on the site at one time? Would there be special events during which the number of instructors/employees would increase above the typical maximum? Please provide detailed information.

**Yes, the independent contractors are Yoga instructors. At maximum – 3. Usually there will be 1-2. No, the max is always 3.**

3. The description letter notes that Suite H is used for up to 20 students while Suite I is used for private lessons and small workshops. How many students would typically be present in Suite I at one time? What is the maximum number of students expected in Suite I? Would there be special events during which the number of students on the site would increase above the typical maximum? Please provide detailed information.

**Typically, Suite I will have 1-2 students max. The room is used for private, semi-private classes and small specialized workshops. The maximum number expected in Suite I is 5, the max for a semi-private session, or teacher training. No, there would be no special events in Suite I which would increase above the typical maximum.**

4. Please provide a sample weekly or monthly class schedule to illustrate the number of classes, length, times etc.

**Monday/Wednesday – 7-8am, 12-1pm, 5:30-7:00pm, 6:15-7:45pm(private/semi-private), 7:30-9:00pm, 8:15-9:30pm(private/semi-private)**

**Tuesday/Thursday – 6-7am, 12-1pm, 5:30-7:00pm, 6:15-7:45pm(private/semi-private), 7:30-9:00pm, 8:15-9:30pm(private/semi-private)**

**Friday – 7-8am, 12-1pm, 4:45-6:00pm, 5:30-7:00pm(private/semi-private), 6:15-7:45pm**

**Saturday – 8-9:30am, 10-11:30am, 4-5:30pm**

Sunday – 9-10:30am, 10-11:30am, 11-12:15pm(pre/postnatal), 4-5:30pm

5. Is there any ~~exterior~~ equipment (exercise machines, etc.) or do the yoga rooms use a completely open floor plan?

The Yoga rooms are completely open. There is no ~~exterior~~ equipment.

6. Have there been any exterior modifications to the building associated with the yoga studio use? If the exterior of the building was (or will be) modified in any way, these changes must be reviewed. A description of changes including detailed elevation drawings showing existing and proposed conditions would be required.

No.

7. At the time the shopping center was constructed, an easement or agreement was in place granting the use of 59 on-site parking spaces to the adjacent parcel. Please confirm whether this agreement is still in place, and whether there are any other easements or agreements relating to parking on this site.

As far as my landlord is aware of, the agreement of 59 spaces with the parcel directly north of 500 Lawrence Expressway (not 24 hour fitness) is still in place. He says the City of Sunnyvale would have better knowledge/record of this as the agreement was between the city and the builder at the time of construction. There are no other easements or agreements relating to parking on this site.



# USE PERMIT/SPECIAL DEVELOPMENT 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 ...

Yoga @ Cindy's serves the community of Sunnyvale and the surrounding areas providing a space for all ages, <sup>backgrounds</sup> and abilities to improve their health and <sup>(mind, body, + spirit)</sup> well being. As years go by Yoga has proven to be a vital component of a healthy life, just as Yoga @ Cindy's has come to be known for it's great community providing quality Yoga in an intimate, welcoming environment.

Y@C works w/ charities, recently raising over \$3000 for SHFB of Santa Clara County, in just one month, feeding the hungry children of our community. As a Yoga Ambassador for Lululemon Athletica for the past two years we've led many <sup>community events</sup> We are a proud supporter of many

- 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 ...

We are an existing yoga studio that has had it's doors open for business since April 2006. We have done nothing to change the general appearance of the building, nor have done anything which effects/impairs the development of existing uses of adjacent properties and/or businesses. For over 5+ years we have been at this location without any problems.

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