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December 21, 2018

**VIA HAND DELIVERY**

City Clerk  
c/o Momoko Ishijima  
City of Sunnyvale  
603 All America Way  
Sunnyvale, CA 94086

**Re: Appeal of Planning Commission's Denial of Peery Park Specific Plan  
Conditional Use Permit  
Summit Denali High School, 824 San Aleso Avenue, Sunnyvale  
File #18-0887**

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Dear City Clerk:

This law firm represents Summit Public Schools in connection with the above-referenced application for a conditional use permit to construct Summit Denali High School, a 400-student charter public high school at an existing building located at 824 San Aleso Avenue in Sunnyvale. For the reasons explained herein, we respectfully appeal the Planning Commission's 4-3 denial of the requested CUP pursuant to Sunnyvale Municipal Code section 19.98.070. This appeal is accompanied by the City's required \$180.50 appeal fee.

**Background**

The project site is within the boundaries of the Peery Park Specific Plan and the PPSP's Neighborhood Transition subdistrict, the intent of which is to create a transition zone between the office/R&D district west of Mathilda Avenue and the residential neighborhood east of San Aleso Avenue. The project site is surrounded by existing residential land uses to the north, south, and east, and industrial office, motel, and residential land uses to the west.

The project proposes to transform an existing 27,012 square-foot building to create the Summit Denali High School for 400 students and 25 staff members. In so doing, the project would reduce the footprint of the existing 1960's-era building to 25,590 square feet, which currently houses an industrial ceramics manufacturer, and make various related interior and exterior improvements.

The project proposes to provide 69 parking spaces on site, 22 of which would be provided inside a mechanical parking lift structure located in the rear of the site. The front parking lot along San Aleso Avenue would accommodate 19 surface

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parking spaces and the rear parking lot would have 28 surface parking spaces with one parking space identified as compact. The mechanical lift parking would only be utilized by staff and teachers.

The project requires a Peery Park Specific Plan Conditional Use Permit and architectural review. In addition, however, because SMC section 19.46.100 requires 0.25 parking spaces per student for high school use, the project is short 31 parking spaces and has one compact parking space that is substandard in size. The project thus requires a "parking adjustment" pursuant to SMC section 19.46.130, which provides flexibility in parking requirements to address unusual or specific use or locational characteristics.

### **Decision Appealed From and Basis for Appeal**

In the recommended findings that accompanied the December 10, 2018 staff report, staff determined that the project is consistent with the PPSP Vision Statement, Guiding Principles, and District Policies as well as with the findings required to approve the Conditional Use Permit. Among other things, staff explained that (1) residential uses and educational uses are compatible, (2) it is appropriate to locate a charter high school adjacent to current and future residential uses as long as the school is designed and operated in a manner that will reasonably address the potential negative impacts on neighboring residents, and (3) schools are normally located in residential areas because that is where children live.

Staff also concluded that the project (1) is consistent with the PPSP, (2) will enhance the character of the site, surrounding neighborhood, and community by repurposing an existing industrial building, (3) will modify the building with contemporary architectural details and updated building, fire safety, and structural codes, (4) will increase landscaping and preserve existing street trees, (5) is consistent with the Program EIR and will not result in environmental effects that were not adequately examined in the Program EIR, and (6) meet the development standards for the PPSP.

In addition, staff concluded that a finding can be made to allow a "parking adjustment" to the standard minimum parking requirement. In order to grant such an adjustment, pursuant to SMC section 19.46.130, the Planning Commission would need to make any one of the following six findings:

- A. There are parking agreements with off-site properties;
- B. There is a parking management plan that includes valet parking, off-site employee parking, parking agreements, or other demand management tools;
- C. The uses on a site have complementary peak hours;

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- D. The use is commercial in nature and is intended to serve adjacent employment centers. The use provides adequate pedestrian connections to the site from nearby properties and businesses;
- E. The use is within one-half mile of a walk from a rail station, light rail station, or major bus stop. A major bus stop is defined as a stop where six or more buses per hour from the same or different routes stop during the peak period in core, corridor or station areas; or
- F. The proposed use has an unusual characteristic that results in less parking demand. This characteristic shall be described and limited in applicable conditions of approval for a discretionary land use permit. Land uses that are permitted by right may not apply for adjustment because of this criterion of unusual characteristics.

To allow the Planning Commission to make the findings set forth in subsections (B) and (F), Summit provided evidence of current and future parking management policies and engaged Kimley Horn to conduct an independent parking study of actual parking usage at current Bay Area Summit Public Schools.

According to Kimley Horn's parking study, the parking demand for Summit high schools was less than the standard Sunnyvale minimum parking requirement of 0.25 parking spaces per student. In contrast, the parking demand for Summit high schools is a weighted average of 0.13 parking spaces per student. Thus, using the actual Summit school ratio, the parking requirement would be 52 parking spaces rather than 100 spaces, and the 69 spaces provided for the proposed project (0.1725 spaces per student) would exceed the parking usage at other Summit schools by 17 parking spaces.

Summit would also comply with conditions of approval that serve as a parking management plan that include all of the following elements:

- Written parking rules that prohibit both students and staff from parking off site and enforcement of those rules through a student/employee disciplinary process;
- School policy promoting alternative transportation options - public transit, carpool, bicycle or walking;
- Annual notice to neighbors within 1,000 feet of project site providing a point of contact at Summit should students park in the neighborhood;
- Education of student drivers and parking rules;
- Education of students, staff and families of the drop off and pick up procedures;

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- Enforcement by school staff with parking and flag monitors during drop off and pick up.

We note that Summit already effectively deploys these parking management techniques at its other schools. In addition, as the Planning Commission learned during its December 10 public hearing, the Summit community engages in a robust informal carpool program that further reduces parking demand as well as potential adverse impacts to the community.

Several planning commissioners expressed concern about “deviating” from the City’s standard parking requirement despite the fact the City Council has provided a parking “adjustment” mechanism in the SMC that expressly provides the Planning Commission the authority to grant an adjustment where the circumstances warrant such action. At least one commissioner thought the proposed project would be under parked notwithstanding that it would provide 69 spaces where the SMC requires 100 spaces. The Commission ultimately denied the requested CUP on a 4-3 vote.

As we explained at the Planning Commission, and reiterate here, we believe the Kimley Horn parking study alone provides a factual basis to demonstrate that Summit Denali High School would in fact have less parking demand than the standard requirement established in the SMC if only because of the way Summit already operates its schools. In fact, the parking study demonstrates that the proposed project would actually be “over parked” in comparison with the City’s standard parking requirement for a high school. In addition, however, we believe the proposed project conditions of approval would effectively serve as a parking management plan to ensure that parking would be adequate and would not spill over onto surrounding properties or streets.

### **Relief or Action Sought**

For the foregoing reasons, we respectfully request that the City Council grant this appeal and make the findings set forth in SMC sections 19.46.130(d)(B) and (F).

Sincerely,

MILLER STARR REGALIA

*Bryan W. Wenter*

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Attachments

cc: John Nagel  
Momoko Ishijima  
Norman LoPatin