

# Planning Commission Agenda Report

October 24, 2018  
Item 6.a.

<b>SUBJECT:</b>	<b>P18-0051</b>
<b>APPLICANT:</b>	Shengmeng Education Center
<b>PROPERTY OWNER:</b>	Southwind Properties, LLC
<b>PURPOSE:</b>	Application for Conditional Use Permit approval to operate a tutoring facility.
<b>LOCATION:</b>	6691 Owens Drive
<b>GENERAL PLAN:</b>	Business Park (Industrial/Commercial and Office)
<b>ZONING:</b>	PUD-I/C-O (Planned Unit Development – Industrial/Commercial – Office) District
<b>EXHIBITS:</b>	A. <a href="#">Draft Resolution and Conditions of Approval</a> B. <a href="#">Project Plans dated “Received September 21, 2018” and “Received October 10, 2018”</a> C. <a href="#">Public Comments</a> D. <a href="#">Location and Notification Map</a>

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## STAFF RECOMMENDATION

Staff recommends the Planning Commission approve Conditional Use Permit (CUP) Case No. P18-0051, based on the findings and subject to the draft conditions of approval in Exhibit A.

## EXECUTIVE SUMMARY

The applicant requests CUP approval to operate a tutoring facility for up to 80 students at certain times at 6691 Owens Drive, within the Pleasanton Park Business Center. At this location, tutoring facilities with more than 20 students on-site at a time require Planning Commission review and approval of a CUP. As proposed and conditioned, staff finds the use is consistent with the intent of the General Plan and objectives of the zoning district and will be compatible with the surrounding uses, and therefore recommends approval of the CUP.

## BACKGROUND

On December 17, 2017, Hong Chen, who represents Shengmeng Education Center (SME), requested zoning approval to operate a tutoring facility for no more than 20 students on-site at any one time at 6691 Owens Drive. The subject site is zoned PUD-I/C-O District. A tutoring facility with no more than 20 students on-site at a time is a permitted use; whereas a tutoring facility with more than 20 students on-site at a time is a conditionally permitted use within this

zoning district. Mr. Chen was proposing to operate a tutoring facility with no more than 20 students on-site at any one time; therefore, staff approved Mr. Chen's zoning certificate.

On March 8, 2018, Mr. Chen submitted a CUP application to allow a maximum of 60 students on-site at any one time for students in grades 4 through 12. Once Mr. Chen's application was deemed complete for processing the CUP application was scheduled for the July 11, 2018, Planning Commission meeting. Shortly before the meeting, staff received information from the adjacent tenant, Sunflower Academy, regarding certain uses occurring at the site that Sunflower Academy indicated were not addressed in the applicant's proposal, and/or raising concerns about the proposed operations. Key concerns included:

- Overlapping SME courses/sessions with Sunflower Academy
- Allowing students in kindergarten through 12<sup>th</sup> grade
- Having more than 20 students on-site at any one time
- Full-day sessions (during the summer); and
- Renting the tenant space to the public.

Sunflower Academy representatives also felt the shared parking lot had become more crowded, chaotic, and unsafe. Upon receiving this information, and with a lack of time to investigate or discuss the issues with the applicant, staff requested the CUP application be continued to a future meeting date. Following the meeting, staff informed SME their existing operation must only reflect uses that are permitted (i.e., a tutoring facility with no more than 20 students at any given time) until a CUP is secured; SME immediately ceased operation of the non-permitted uses.

Since the July 11<sup>th</sup> Planning Commission meeting, the applicant has revised the proposed operation to:

- Increase the maximum number of students on-site from 60 to 80, at certain times.
- Reducing the number of staff from 12 to 10.
- Providing transportation service for students from their schools to the facility.
- Expanding the business hours.
  - Previous proposal was Monday through Friday from 3:50 p.m.-9 p.m., Saturdays from 9 a.m.-noon, 1 p.m.-3 p.m., 3:30 p.m.-5:30 p.m., and 6:30 p.m.-8:30 p.m., and Sundays from 1:30 p.m.-3:30 p.m., 4 p.m.-6 p.m., and 6:30 p.m.-8:30 p.m. The proposed business hours are discussed in the Project Description section of this report.
- Expanding the grade range from 4<sup>th</sup> through 12<sup>th</sup> to kindergarten through 12<sup>th</sup>.
- Offering tutoring in German and Chinese languages.
- Offering a fencing class on Saturday afternoons; and
- Offering tutoring camps during school breaks (summer, fall, winter, and spring breaks).

The revised CUP application for SME's tutoring facility is before the Planning Commission for consideration.

## SITE AND AREA DESCRIPTION

The subject site is approximately 1.31 acres in area and is located on the west side of Johnson Drive (see Figure 1). The site is part of Pleasanton Park Business Center, which comprises multiple parcels, containing single-story buildings of various sizes. The subject building is approximately 17,029 square feet in area and currently has one other tenant (Sunflower Academy Heritage School at 6693 Owens Drive) besides the proposed use (See Figure 2). Uses within the business park and nearby consist mainly of office and commercial uses; there are two tutoring facilities to the west of the project site at 6640-6642 and 6665 Owens Drive.

Primary access to the site is provided by two shared driveways from Johnson Drive; however, the subject site is accessible by multiple shared secondary driveways from the Owens Drive loop that serve as primary access for the other buildings within the larger office complex. There are a total of 63 shared on-site parking spaces within the subject site.

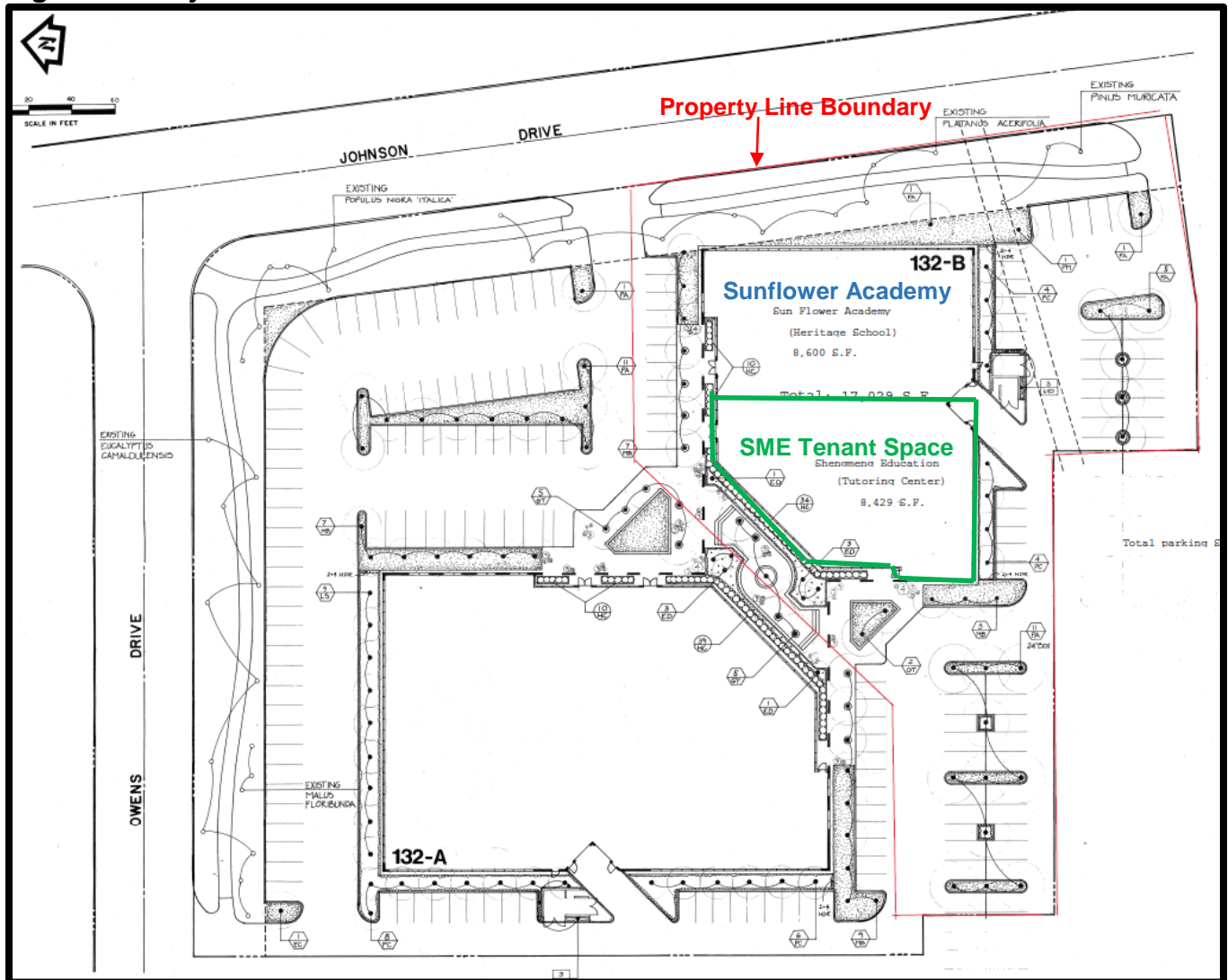
**Figure 1: Aerial photograph of subject site**



## PROPOSED PROJECT

SME is proposing to occupy approximately 8,429 square feet of the 17,029-square-foot building (see Figure 3). The proposed tutoring use is for a maximum of 80 students (on Sundays from 1:30 p.m.-3:20 p.m.) ranging from kindergarten through 12<sup>th</sup> grade and will offer after-school tutoring and school break sessions in a variety of academic subjects with a focus on homework assistance, general skill development, and standardized testing preparation. The applicant is also proposing fencing practice on Saturdays during the school break sessions only.

**Figure 2: Subject site and tenant location**



Staff notes that the applicant’s written narrative and associated class schedule tables were not consistent regarding operating hours and number of attendees. The applicant clarified the operation with staff and the following description of the proposed operation, which have been incorporated as Attachment A.1, based on those clarifications.

**After-School Tutoring**

SME would provide after-school tutoring services Mondays, Thursdays, and Fridays from 3:30 p.m.-9 p.m., Tuesdays and Wednesdays from 3:30 p.m.-8:20 p.m., Saturdays from 9 a.m.-8 p.m., and Sundays from 1:30 p.m.-5:30 p.m.

Each grade has varying drop-off and pick-up times. Scheduled classes on Weekdays, Saturdays and Sundays are outlined below.

***Monday-Friday:***

- Three consecutive afternoon tutoring sessions (Grades K-5) held between 3:30 p.m. and 6:05 p.m. Monday-Friday.

- One evening tutoring session of between 1 hour, 50 minutes and two hours in length would begin at 6:30 or 7 p.m.

*Saturdays:*

- Two consecutive 80-minute German language sessions (Grades K-12) held between 9 a.m. and noon.
- A one-hour fencing class (Grades 3-8) held from 3 p.m.-4 p.m.,
- Two consecutive 80-minute computer programming class (Grades 7-12) held between 4:10 p.m. and 8 p.m.

*Sundays*

- A one hour, 50-minute Chinese course (Grades K-12), from 9 a.m.-10:20 a.m.
- A one hour, 50-minute computer coding class (Grades 7-12) graders from 9 a.m.-10:20 a.m.
- Three, one-hour, 50-minute computer coding (Grades 4-6), geometry (Grades 7-12), or Chinese course (Grades 9-12) from 3:40 p.m.-5:30 p.m.

A total of eight classrooms are proposed with ten-25 students per classroom with one or two instructors, depending on the class size.

SME is proposing a maximum of 50 students on-site during the first three weekday sessions/programs and a maximum of 10 students during the last weekday evening session. Those students attending the last evening session would not be driving age, except for Thursday evenings from 7 p.m.-9 p.m. when students in grades 10 and 11 will be attending. During the weekend sessions the attendance would peak at 45 students on Saturday and 80 students on Sunday between 1:30 p.m.-3:20 p.m.

School-break tutoring

SME would offer the following program during school breaks. None of the children attending during the school breaks will be driving age.

*Monday-Friday:*

- All day tutoring, for up to 30 students at any one time, between 9:10 a.m. and 3:50 p.m.
- Evening computer programming class on Tuesdays (up to 15 students) and Thursdays (up to 10 students), starting at 6:30 p.m.

*Saturday:*

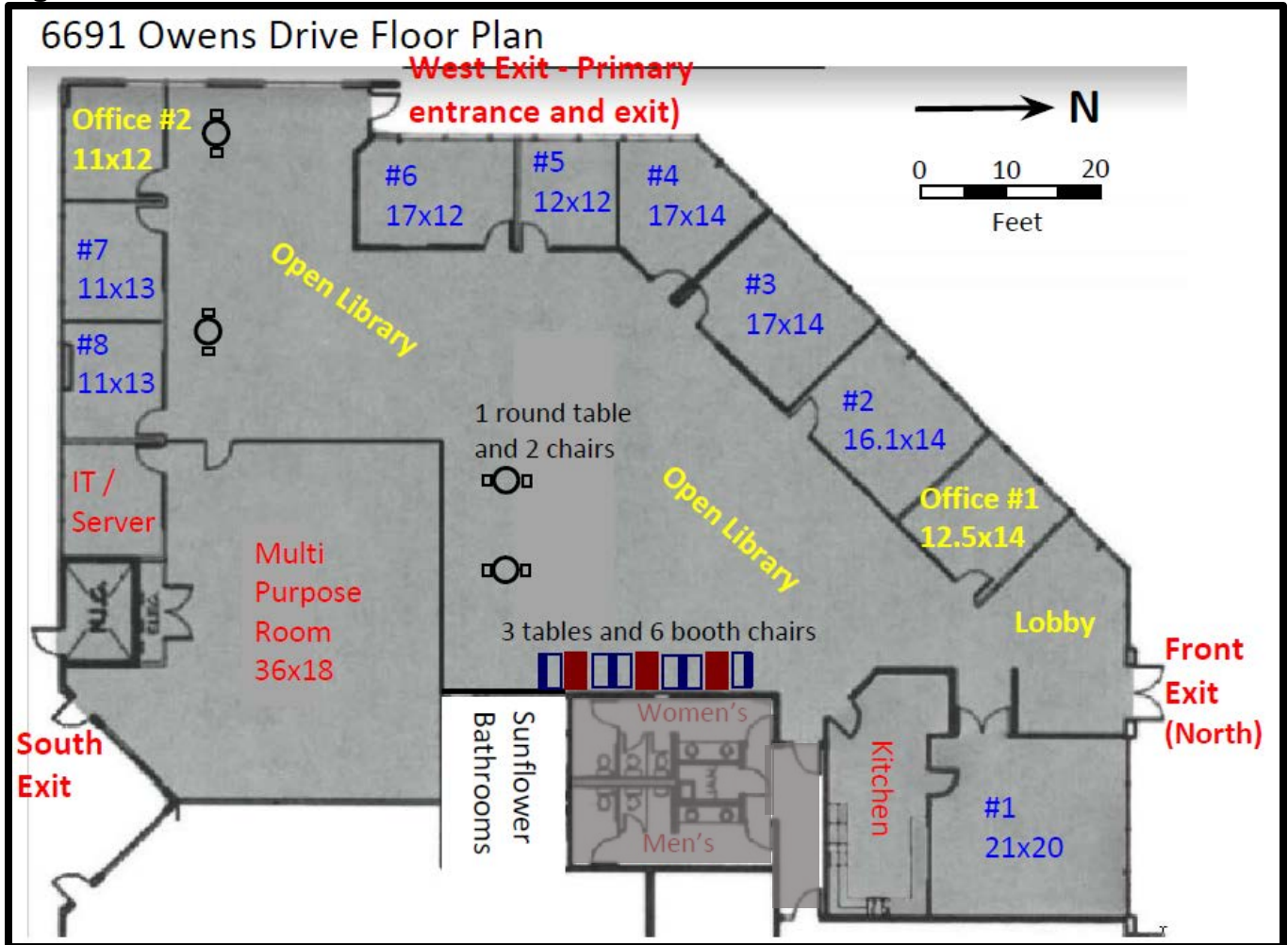
- Two fencing classes (maximum of 10 students) from 9 a.m.-11 a.m. and 1 p.m.-3 p.m.

The applicant is proposing a maximum of 10 staff members (paid or volunteer) on-site during after-school and school-break sessions. SME's operation primarily targets elementary and middle school-aged children. Therefore, the majority of the students attending are not driving age and the applicant has indicated that many parents/guardians are working during the start of the first after-school session and cannot transport students to the facility. Therefore, SME is proposing to offer transportation services to the facility by SME staff when parents are not able to drop their child/ren off and when there will be more than 20 students on-site at any one time,



except for weekends and school breaks. SME will have six vans that will remain on-site when they are not being utilized for transportation and driven by SME employees that are already on-site.

**Figure 3: Floor Plan**



**STAFF REVIEW/ANALYSIS**

Conditional uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for CUP's.

Land Use

The subject site has a General Plan designation of Business Park (Industrial/Commercial and Office) and is zoned PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District. The City previously approved a PUD Minor Modification (Case No. PUD-80-14-12M) for Pleasanton Park that conditionally permits tutoring facilities with more than 20 students on-site at any given time. Accordingly, the applicant has applied for a CUP. If the CUP is granted, the proposed tutoring facility would be consistent with the applicable land use regulations.

One of the primary concerns in reviewing a CUP application is the effect on, and compatibility of a proposed use with surrounding uses, including consideration of the operational characteristics of the project with respect to nearby uses.

The facility will be located on a parcel within a larger office complex, primarily occupied by office uses, as well as a variety of other uses, including tutoring facilities and a heritage school. Uses beyond the office complex consist of office, commercial, and light industrial uses. There are no residential uses in proximity to the subject site.

The subject building is on a site that has adequate on-site parking (as discussed in the Parking section) and SME will be operated exclusively indoors. The types of activities occurring at the center, by their nature, are not expected to generate significant noise levels, and, as outlined in below, would not cause unacceptable traffic or circulation impacts. All students would be supervised by staff at all times, and exterior doors are conditioned to be closed except when being used. Staff considers it unlikely that the operation of the proposed use would adversely impact the surrounding businesses within the office complex or, in turn, be impacted, by these businesses.

In the past, the Planning Commission has granted CUP's for similar facilities in office/commercial-dominated complexes and these approvals have not resulted in any major impacts to the surrounding uses or general area. Should future problems arise with the proposed use, the City would have the ability to bring the application back to the Planning Commission for mitigation, or possible permit revocation, if necessary. Based on past experience with similar uses, staff feels that such an action would be unlikely. In addition, staff has included conditions of approval that will ensure the proposed use would not generate noise, traffic, or parking shortages such that surrounding uses would be adversely affected. Therefore, from a land use perspective, staff finds the proposed use to be acceptable at this location, as conditioned.

#### Traffic and Circulation

The Traffic Engineering Division has reviewed the project narrative and plan that was prepared for the proposed use and conducted multiple site visits to the business park and subject building. On this basis, staff has determined that the proposed hours of operation and the associated number of attendees would not have a significant impact on existing traffic levels. However, should the applicant wish to increase the proposed attendance numbers and/or alter the hours stated in its narrative, review by the City's Traffic Engineer would be required to assess whether a traffic study would be required and/or whether payment of traffic fees and implementation of mitigation measures would be warranted. Additionally, the Traffic Engineering Division has recommended a condition of approval requiring that all parents/guardians be required to park in an available parking space when dropping off or picking up children. Double parking, parking in drive aisles, and curbside drop-off and pick-up would also be prohibited.

#### Parking

There are 63 parking spaces on-site that are shared between the subject building's tenants, meaning no specific parking spaces are assigned to any of the tenants. With a total floor area of approximately 17,029 square feet, the parking ratio on the site is one space for every 270

square feet of floor area<sup>1</sup>. With the proposed use occupying approximately 8,429 square-feet of floor area, 31 parking spaces would, theoretically, be allocated to the proposed use.

Section 18.88.030 (E) of the Pleasanton Municipal Code (PMC), *Schedule of off-street parking space requirements*, requires one parking space for each employee, including teachers and administrators, and one parking space for each four students in Grade 10 or above. The student parking requirement, one space for each four students, is only applicable during the last Thursday session, and on weekends when students in grade 10 or above will be on site, with 10 students expected on each of those days.

The number of parking spaces required by the PMC will vary depending on the session time. The following details the maximum number of parking spaces required by the PMC for the proposed use based on the number of students in Grade 10 or above (1 space/4 students) and 10 staff (paid and volunteer) on-site at any one time:

**Table 1: Maximum Number of Parking Spaces Required by the PMC**

	<b>Students 10<sup>th</sup> Grade + Above (1 space/4 students)</b>	<b>Staff (1 space/staff)</b>	<b>Total Parking Spaces Required per PMC</b>
Monday	0	10	10
Tuesday	0	10	10
Wednesday	0	10	10
Thursday	3 (based on 10 students)	10	13
Friday	0	10	10
Saturday	3 (based on 10 students)	12	15
Sunday	3 (based on 10 students)	12	15

The highest-grade level for the tutoring during school breaks is eighth grade; therefore, student parking is not required. However, 10 parking spaces are required for staff during school breaks.

A maximum of 15 parking spaces are required and 31 shared parking spaces are theoretically “allocated” for the subject space. SME will also have six vans to transport students to the facility. Therefore, the maximum PMC parking demand (21 spaces, based on a maximum of 15 spaces, plus 6 van storage spaces) is less than what the proposed use is theoretically allocated. Furthermore, the adjacent tenant, Sunflower Academy, transports most of the children to/from the site and only requires the use of 19 parking spaces per the PMC. Therefore, the parking required by the PMC for both the proposed use and Sunflower Academy (40 spaces) could be accommodated by the 63 spaces.

To ensure the use would have minimal impact in terms of parking and circulation, and to be sensitive to the other tenants within the office complex, students will not be dropped off or picked up during the weekday PM peak traffic hours (i.e., 4 p.m.-6 p.m.) and the applicant will provide transportation services to the facility. The adjacent tenant currently occupying the other portion of the building, Sunflower Academy, begins/ceases operation before/after the proposed use’s after-school, weekend, and school-break programs. With the exception of the Monday, Thursday, and Friday 7 p.m. after-school tutoring session, there is no start/end time conflict

<sup>1</sup> 17,029 sf ÷ 63 parking spaces = 1 space/270 sf



between Sunflower Academy and SME. The proposed after-school program's Monday, Thursday, and Friday evening session will begin at 7 p.m., the same time Sunflower Academy ceases operation; however, since SME has less than 20 students on-site during this time, the 7 p.m. evening session would have adequate parking based on the low number of students arriving at SME and the number of students leaving Sunflower Academy by Sunflower Academy facility vans or parents picking their child(ren) up.

Staff notes that Sunflower Academy uses facility vehicles to transport most of their students to and from their facility during the weekday PM peak hours and weekends, freeing up parking spaces during the evening and weekend sessions/activities. Therefore, with the proposed operational provisions for the proposed tutoring facility in place and offering van transportation for students to the facility when parents are not able to drop-off their child(ren) and when more than 20 students will be on-site during the after-school program, peak hour overlap/conflicts with the surrounding uses would be minimized.

The PMC parking requirements do not directly address parking demand during drop-off and pick-up times, which would be the most impacted times from a parking standpoint. However, staff anticipates conflicts related to parking demand and potential congestion will be minimized since: (1) drop-off and pick-up activities generally require a short duration of time; (2) SME will transport children to the facility and when more than 20 students will be on-site at one time, further reducing any parking impacts on the surrounding uses; (3) conflicts related to parking demand and potential congestion after peak times and weekends, when up to 80 students could be on-site, will be minimized based on the drop-off and pick-up activities and staggered release times of Sunflower Academy and SME; and (4) the majority of the other businesses within Pleasanton Park Business Center will be closed.

Staff received comments from the adjacent tenant, Sunflower Academy, when the subject application was noticed for the July 11, 2018, Planning Commission meeting (please refer to Exhibit C). Sunflower Academy felt the parking lot had become crowded and unsafe due to SME parents parking in the drive-aisle to drop-off/pick-up their child(ren). Prior to and since the July 11 meeting, the City's Traffic and Planning Division staff conducted several parking surveys during various times of the day, when sessions are proposed in conjunction with existing uses in the subject building and adjacent buildings. There were up to 20 SME students being dropped-off/picked-up during the after-school and evening sessions and staff found that at least 38 parking spaces were available on-site at all of the times surveyed. Staff's observation was the spaces directly in front of Sunflower's and SME's tenant spaces were occupied most of the time, meaning that parents/patrons are not necessarily able to park in what is likely considered an "ideal" parking stall (i.e., a parking stall closest to a tenant's main entrance). The majority of the site's parking spaces are located on the south and west sides of the building. The applicant will inform parents/guardians and students that drive to the facility to park in those areas only.

SME representatives also met with Sunflower Academy representatives in an effort to address and attempt to resolve the parking concerns raised by Sunflower Academy. The outcome of their meeting is addressed in the public comments section of this report.

Based on the above parking analysis and recommended conditions of approval, staff believes that the proposed use would not adversely affect parking supply at the subject site or surrounding properties and that adequate parking exists to accommodate all existing and

proposed uses. However, should parking problems occur, staff has included a condition of approval which allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures (Exhibit A). Possible mitigating conditions could include reducing the number of students and/or modifying the arrival/departure times.

Noise

The PMC states that a proposed conditional use must be in accordance with the objectives of the Zoning Ordinance. One of those objectives is to “promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.” Staff anticipates the proposed use would generate interior noise levels comparable to and no different from those of an office or commercial use. The proposed sessions would be held indoors, with the exterior doors closed during business hours. According to the applicant, there would be no loud amplified noise, music or speech that would generate noise above typical speech levels. Based upon the interior floor plan of the proposed facility, in conjunction with operational features of the project, staff does not believe that any special noise mitigation (i.e., double layer of sheetrock on interior walls) will be necessary. Therefore, it is unlikely the noise produced by the proposed use will adversely affect adjacent tenant spaces or be in excess of 70 dBA at any point outside of the property plane as prescribed by the Municipal Code.

**ALTERNATIVES**

As outlined in the above analysis staff believes the use, as proposed and conditioned, would be compatible with the other uses in the vicinity and not create adverse impacts, and recommends the Planning Commission approve the project as proposed and conditioned. However, alternatives to the proposal that could be considered by the Planning Commission include:

1. Denial of the application (the applicant would be able to operate a tutoring center with up to 20 students at any given time as a permitted use in the subject PUD); or
2. Approval of the application with more than 20 students at any one time, but fewer than the number of students proposed by the applicant, with modified hours of operation and/or other changes to the proposal.

**SUMMARY OF PROS/CONS OF PROJECT**

<b>PROS</b>	<b>CONS</b>
Use is consistent with the General Plan and zoning designation.	The proposal may increase traffic and parking demand; however, traffic/circulation and parking impacts would not be adverse.
Provides educational services for children.	
Allows for operation of a new local business and tutoring center.	

**PUBLIC NOTICE AND COMMENTS**

Notices of this application were sent to surrounding property owners and tenants within a 1,000-foot radius of the site. Staff has included the public comments received as a result of the notification for the previous July 11, 2018, meeting as Exhibit C. Staff has provided the location and noticing map as Exhibit D for reference. At the time this report was published, staff had

only received additional public comments about the project from Sunflower Academy, which is included with Exhibit C.

Sunflower Academy stated that it is concerned with the drop-off/pick-up practices of SME parents, operation of non-permitted uses by SME, and similarities between the two businesses (SME and Sunflower Academy). SME has revised their application several times in order to clarify their intended operation and to try and anticipate potential growth of the proposed operation. Staff notes that there are inconsistencies between the written narrative and summary information provided in various tables in the applicant's submittal; SME's website was also found to have, in the past, advertised non-permitted uses that were not included in the initial CUP application (i.e., renting the facility to the public and offering day-long tutoring during school-breaks).

When these issues were discussed with the applicant, SME recognized the inconsistencies created confusion and since have made appropriate efforts to resolve them and stated their intent to operate as described in their application. However, due to the inconsistencies in the application material, staff recommends a condition of approval that requires SME to operate as outlined in Attachment A.1 to the Resolution, "Staff-clarified narrative." This exhibit reflects a scope of operations that have been discussed with and agreed to by the applicant.

In addition to staff discussions, SME representatives met with Sunflower Academy representatives in an effort to address and resolve the concerns Sunflower Academy raised. However, SME and Sunflower Academy could not come to an agreement on the operation of SME. In staff's understanding, Sunflower Academy does not want SME to provide similar services nor provide services to students in grades for which Sunflower Academy already provides services. Sunflower Academy also raised concerns with non-permitted uses that were not reflected in SME's original CUP application; however, as noted, SME ceased the non-permitted uses until such time their CUP application is approved. SME does not intend to rent out their leased space, as previously advertised on their website, and they will continue to inform parents to park vehicles in legal parking stalls for pick-up/drop-off of students, and to utilize spaces on the south and west side of the building whenever possible. If future activities, outside of the scope of the Use Permit, do occur at the site, they would be addressed through code enforcement, and potentially require modification of the Use Permit.

Please refer to Exhibit C for Sunflower Academy's comments regarding the proposed use.

## **ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt (Section 15301, Class 1, Existing Facilities) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

## **SUMMARY/CONCLUSION**

As proposed and conditioned, staff believes that the proposed use will be compatible with and will not detrimentally affect the existing or future adjacent/nearby uses. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area, and the City in general, is maintained. Staff have conducted multiple site visits to the property and found there is sufficient parking on-site to accommodate the use. Staff believes that the proposed use will fulfill a community need and that the proposed location is appropriate.

**Primary Author:**

Natalie Amos, Associate Planner, 925-931-5613 or [namos@cityofpleasantonca.gov](mailto:namos@cityofpleasantonca.gov)

**Reviewed/Approved By:**

Steve Otto, Senior Planner

Ellen Clark, Planning Manager