



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**February 27, 2008**

---

**SUBJECT:**           **2005-0154 – Steve Wright** [Applicant] **Ismail Jan Unlu**  
[Owner]: Application on a 2,625 square-foot site located at  
**124 South Murphy Avenue** in a DSP-2 (Downtown Specific  
Plan/Subdistrict 2) Zoning District.

Motion               Special Development Permit to allow full alcohol service and  
live entertainment at a new restaurant.

**REPORT IN BRIEF**

**Existing Site**           One-story commercial building  
**Conditions**

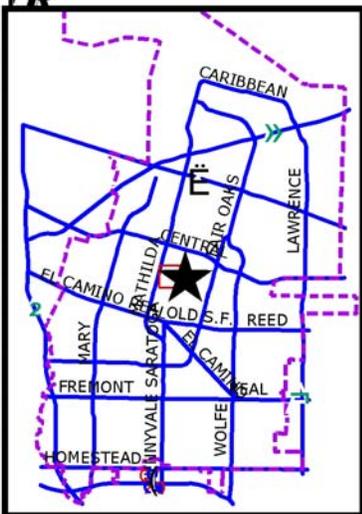
**Surrounding Land Uses**

North	Historic Commercial
South	Historic Commercial
East	Historic Commercial
West	Historic Commercial – across Murphy Avenue

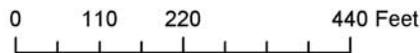
**Issues**               Neighborhood Compatibility

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

**Staff**                 Approve with Conditions  
**Recommendation**



**124 S Murphy Ave  
Special Development Permit**



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Downtown Specific Plan	Same	Same
<b>Zoning District</b>	DSP-2	Same	Same
<b>Lot Size (s.f.)</b>	2,625	Same	No min.
<b>Gross Floor Area (s.f.)</b>	2,375	Same	N/A
<b>Lot Coverage (%)</b>	90%	Same	100% max.
<b>Building Height (ft.)</b>	17'	Same	36'
<b>No. of Stories</b>	1	Same	2 max.

**ANALYSIS****Description of Proposed Project**

The applicant is proposing to serve beer, wine, and full liquor at a new restaurant (Rok) as well as have live entertainment. The alcohol service would be in conjunction with full meals, although there is a small bar area with approximately nine seats. The live entertainment would not be amplified and restaurant would not contain a stage or dance area.

**Background**

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

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2007-1287	Special Development Permit for building renovations	Heritage Preservation Commission/Approved	2/6/08
2005-0154	Special Development Permit for building renovations	Heritage Preservation Commission/Approved	3/23/05
1995-0270	Special Development Permit for new building with restaurant use	Planning Commission/Approved	9/6/95
1995-0384	Special Development Permit for new building	Heritage Preservation Commission/Approved	6/1/95

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 3 Categorical Exemption includes changes of use in existing buildings.

### **Special Development Permit**

**Use:** The applicant proposes to include full alcohol service with food service during all permitted hours of operation. The proposed project includes live entertainment primarily during evening hours of operation. Staff recommends the hours of operation are as follows:

- 10:00am – 11:00pm – Daily.

The proposed live entertainment consists of acoustical music only (i.e. jazz, solo guitar, solo saxophone). The applicant is not proposing amplified music, dancers, or other forms of entertainment.

**Site Layout:** This restaurant is located in an existing building on Murphy Avenue. Reference the site plan in Attachment C for more detail. No changes to the site are proposed with this application.

**Floor Plan:** The dining areas for customers are spread throughout the building, with a small separate bar area at the front of the building. The kitchen and restrooms are located near the center of the building space. Reference the floor plan in Attachment C for more detail.

**Parking:** This use is located in the City's Parking District. No additional parking is required at this time.

**Public Safety:** The Department of Public Safety (DPS) reviewed the proposed application for alcohol service on-site and live entertainment. DPS noted the applicant must comply with all requirements of the Department of Alcoholic Beverage Control (ABC), but did not have any further comments associated with the project.

**Compliance with Development Standards/Guidelines:** The proposed project complies with all current development standards. No further improvements are required at this time.

### **Expected Impacts on the Surroundings**

Staff believes that the proposed sale of alcohol and live entertainment at the site will not have a negative impact to the surrounding uses. The 100 Block of

South Murphy Avenue contains numerous restaurants and bars with the sale of alcohol that are open late into the evening.

**Fiscal Impact**

---

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

**Public Contact**

---

<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 10 notices mailed to property owners, residents adjacent to the project site and the Downtown Business Association</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> </ul>

**Conclusion**

---

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

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

**Alternatives**

---

1. Approve the Special Development Permit subject to the recommended Conditions of Approval.
2. Approve the Special Development Permit subject to modified Conditions of Approval.
3. Deny the Special Development Permit.

**Recommendation**

---

Alternative 1.

Prepared by:  
Steve Lynch  
Project Planner

Reviewed by:  
Andrew Miner  
Principal Planner

Attachment:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site Plans
- D. Site Photos
- E. Applicant's Special Development Permit Justification

**Recommendation Findings - Special Development Permit**

---

Goals and Policies that relate to this project are:

**Land Use and Transportation Element**

*Policy C4.1 - Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.*

**Land Use and Transportation Element**

*Action Statement N1.1.1 - Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. The proposed use will allow the restaurant to provide additional services to its patrons and will not negatively affect the surrounding properties.
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. The project does not include any expansion or other modifications to the existing building so no visual impacts to the surrounding area are anticipated. The site is appropriately located on the 100 Block of South Murphy Avenue. Through compliance to the Conditions of Approval, the proposed business will not be a detriment to neighboring properties.

**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. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- B. The Conditions of Approval shall be reproduced on a page of the plans submitted for any Building Permit for this project.
- C. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- D. 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.

**2. OPERATIONS**

- A. Hours of operation shall be limited to the following hours of operation: 10:00am – 11:00pm - Daily
- B. No outside event promoters are allowed to operate at this location.
- C. If amplified sound is used as part of the live entertainment, an amplified sound permit shall first be obtained from Sunnyvale's Department of Public Safety.
- D. Any change to the described entertainment use (i.e. acoustical music jazz, solo guitar, solo saxophone) shall require a new Special Development Permit.
- E. The business operator shall be responsible for monitoring any patrons loitering outside of the building.
- F. The business operator shall ensure that any noise generated by patrons loitering outside of the building shall not be audible at the property line of the residential development across Arques Avenue.

**3. COMPLY WITH OR OBTAIN OTHER PERMITS**

- A. Obtain the proper alcohol service licenses from the Department of Alcoholic Beverage Control (ABC), and comply with all ABC license

requirements. Failure to comply with all ABC requirements is grounds for revoking this permit.

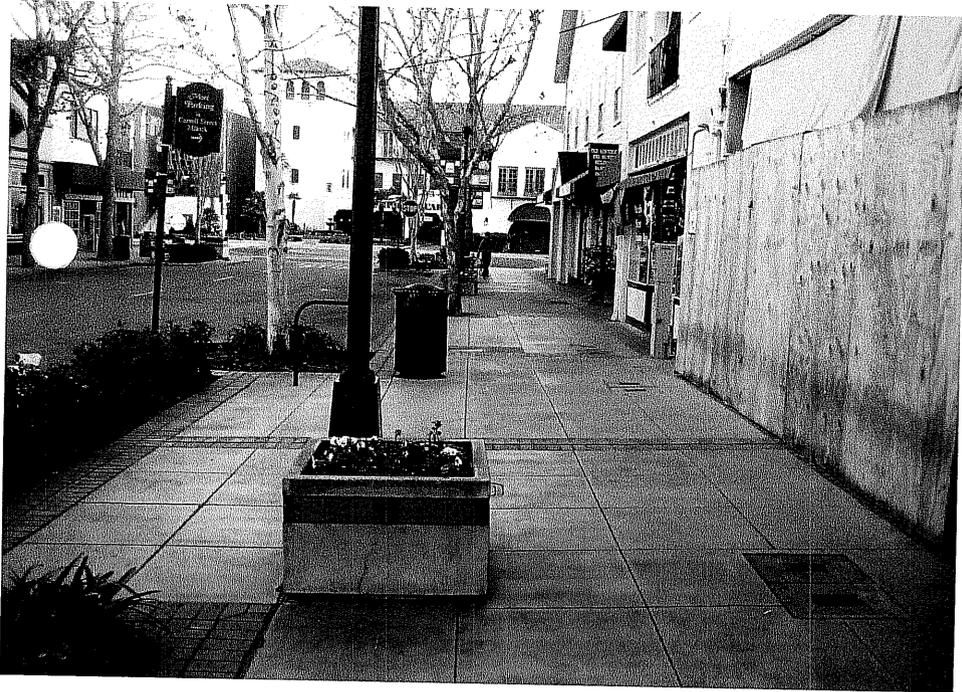
B. All modified/new signs must be obtained with a separate sign permit approval.

**4. RECYCLING AND SOLID WASTE**

A. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.

B. The property shall remain clean and free of debris and garbage.





## Use Permit/Special Development Permit Justifications

### Attachment – RoK Bistro

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project will contribute to the continued revitalization of the downtown Sunnyvale area and particularly historic Murphy Avenue. The project will provide an upscale dining establishment unlike anything else in Sunnyvale or the entire Bay Area. The project will bring to the residents of Sunnyvale the benefits of casual fine dining in a classy, European-style bistro with an open-air storefront and front patio and sidewalk dining, possible mid-week and/or weekend entertainment consisting of piano players, saxophone players and/or small combo groups and a full bar so customers can enjoy the drink of their choice. The applicant may start with a beer and wine only license but intends to obtain a full liquor license as soon as possible.

Not only will the residents of Sunnyvale be able to enjoy the dining experience of a lifetime but we know that RoK Bistro will draw customers from all over the Bay Area to experience its unique Hot Rock dining concept. It is proven that people will drive long distances to enjoy the Hot Rock experience. We intend to develop a marketing campaign that will reach out to customers all over the South Bay and, therefore, bring many non-Sunnyvale residents into the downtown area that might not otherwise have a reason to come. This will benefit other retailers in the area as well. Hopefully, these new customers will like what they see and keep coming back again and again.

As part of this application, we would like to ask the city if they might consider removing the bike rack in front of the restaurant (there has been a bike lock attached to it for 3 months but no bike), move the planter box down (south) 4 feet and move the trash can up (north) 4 feet. This would provide for a very elegant patio dining area without a lot of obstacles for customers to have to navigate around. It would make for a nice addition to our restaurant as well as for that end of Murphy street. We could then accommodate 8 table with umbrellas which we believe would look very attractive.

**Steve Lynch - 124 S. Murphy Ave.**

**From:** "Anne R. Dugan, L.Ac." [REDACTED]  
**To:** <slynch@ci.sunnyvale.ca.us>  
**Date:** 2/8/2008 7:37 PM  
**Subject:** 124 S. Murphy Ave.

Dear Mr. Lynch,

I have had my acupuncture practice and lived at 123 S. Murphy Ave., above number 124 for six years.

As you most probably know, acupuncture requires a peaceful, relaxing environment to be effective. For the most part, daytime on Murphy Ave. provides such an atmosphere. While I have adjusted to the unbelievable night noise by retreating to the furthest part of the residence and wearing ear plugs, I did have severe problems with my last neighbor in 124 over loud music (that wasn't even live) during the day while I was working.

My serious concern is regarding live entertainment directly under my home at night. I can only imagine the cacophony resulting between that and the bar noise from the street. This problem is compounded by the fact that music ends at 1:30AM. I rise at 5:30AM.

As I have stated, I have been here for six years and have a well established practice, including classes I teach in the evenings. These and my sleep are in jeopardy from live entertainment. It doesn't seem right to destroy my business in order to start a new one under me.

I will attempt to meet with my new neighbor and discuss the issue, but past experience has proved this to be not only inconclusive, but useless. I need lawful protection of my rights.

I would greatly appreciate your contacting me with any facts you have regarding the new business and the type of live entertainment that is proposed. You may reach me at this e-address, or at the telephone or address below.

Sincerely,  
Anne R. Dugan, L.Ac.



Never miss a thing. [Make Yahoo your homepage.](#)

ATTACHMENT F  
Page 2 of 2

**Steve Lynch - 124 S. Murphy Ave.**

**From:** "Anne R. Dugan, L.Ac." [REDACTED]  
**To:** Steve Lynch <slynch@ci.sunnyvale.ca.us>  
**Date:** 2/10/2008 5:41 PM  
**Subject:** 124 S. Murphy Ave.

Dear Mr. Lynch,

I am embarrassed to admit that I just realized that #124 is the property across the street from my business, not the one beneath it, and that the concerns I wrote you about are now moot. Thank you for your attention to this matter, and please accept my apologies for wasting your time.

Sincerely,  
Anne R. Dugan, L.Ac.

[REDACTED]

Looking for last minute shopping deals? [Find them fast with Yahoo! Search.](#)