



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**June 11, 2008**

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**SUBJECT:**           **2008-0164: Karoon Persian Cuisine** [Applicant] **Ahron Bogomilsky Trustee & Et Al** [Owner]: Application located at **897 E. El Camino Real** (near Wolfe Road) in a C-2/PD (Highway Business/Planned Development) Zoning District.

Motion                   Special Development Permit to allow a deli with indoor seating at an existing shopping center.

**REPORT IN BRIEF**

**Existing Site Conditions**           Shopping Center

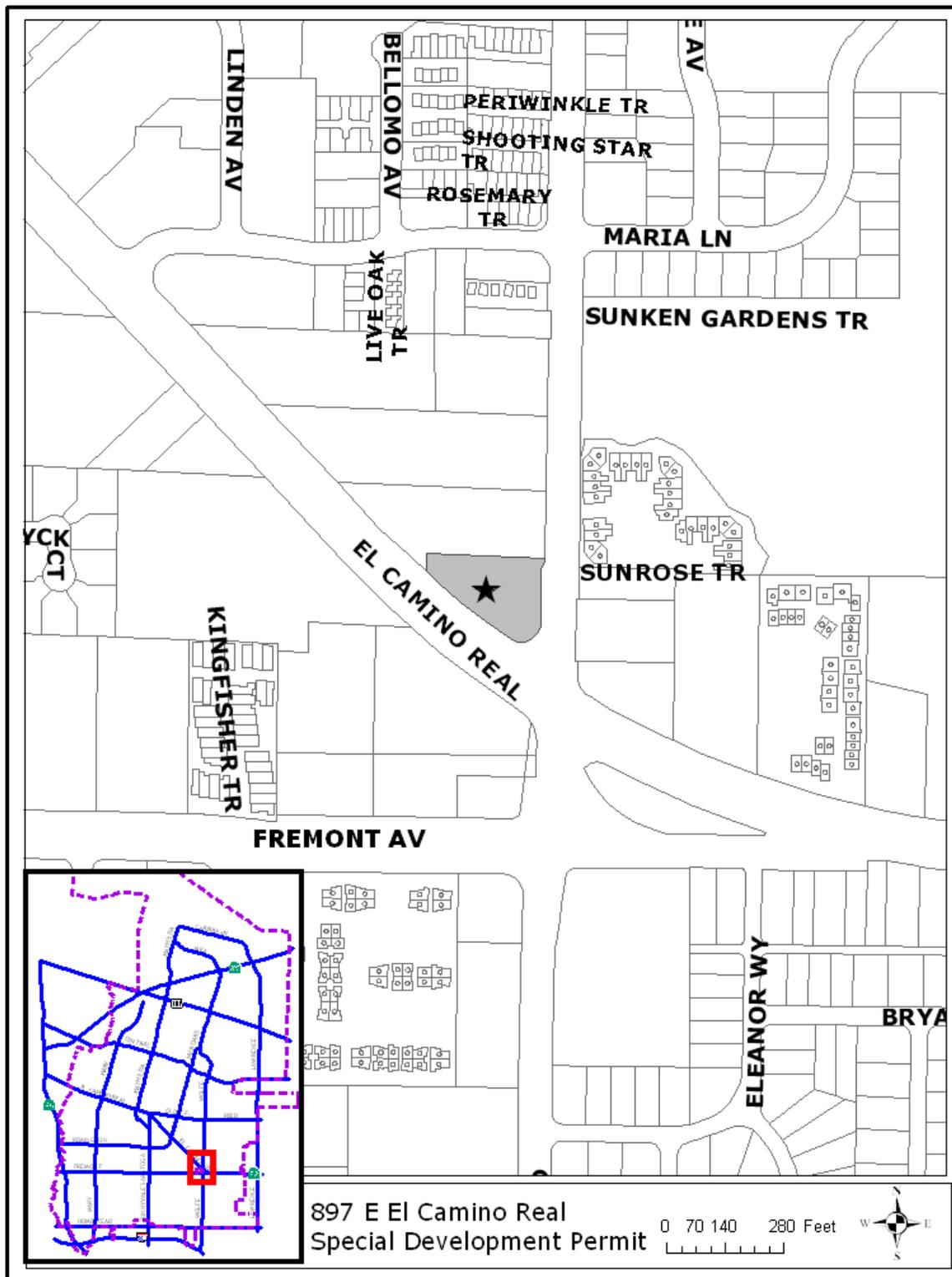
**Surrounding Land Uses**

North	Highway Business (Golfland)
South	Residential (Butcher's Corner)
East	Highway Business (Shopping Center)
West	Highway Business (Shopping Center)

**Issues**                   Parking

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

**Staff Recommendation**           Deny due to parking constraints



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Commercial General Business	Same	Commercial General Business
<b>Zoning District</b>	C-2/ECR	Same	C-2/ECR
<b>Lot Size (s.f.)</b>	35,700	Same	No min.
<b>Gross Floor Area (s.f.)</b>	9,814	Same	12,495 max.
<b>Gross Floor Area Tenant</b>	2,851 total, 1,231 restaurant	Same	No max.
<b>Lot Coverage (%)</b>	27.4%	Same	35% max.
<b>No. of Tenants</b>	9	Same	No max.
<b>No. of Buildings On- Site</b>	1	Same	No max.
<b>Setbacks (Facing Property)</b>			
<b>Front (El Camino Real)</b>	62'	Same	Per SDP
<b>Left Side</b>	61'	Same	Per SDP
<b>Reducible Front (Wolfe Rd.)</b>	20'	Same	Per SDP
<b>Rear</b>	0	Same	Per SDP
<b>Landscaping (sq. ft.)</b>			
<b>Total Landscaping</b>	1,226 (3.4%)	Same	Per SDP
<b>Frontage Width (ft.)</b>	15' El Camino Real, 4' Wolfe Rd.	Same	Per SDP
<b>Parking</b>			
<b>Total Spaces</b>	51	Same	71 min.
<b>Standard Spaces</b>	44	Same	Per SDP
<b>Compact Spaces/ % of Total</b>	7 (13.7%)	Same	Per SDP
<b>Accessible Spaces</b>	2	Same	3 min.



Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## **ANALYSIS**

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### **Description of Proposed Project**

This application is to legalize an existing 1,231 square foot deli (retail) that was converted into a restaurant (Karoon Persian Cuisine) within an existing shopping center. The proposed restaurant is associated with an existing 1,620 square foot grocery store (Karoon Market), in which access between the two tenant spaces are provided by a door that is open during the hours of operation.

The deli did not initially include seating for customers; therefore, the deli was considered to be a retail use, which is permitted by right. Since that time, approximately 18 seats and 5 tables have been added to the tenant space, and is now considered to be a restaurant use. Restaurant uses within the C-2/PD Zoning District require a Special Development Permit.

### **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>
1988-0176	SDP to allow a pet grooming facility in unit #893 (currently Canine Showcase)	Planning Commission/ Approved	6/15/1988
1987-0226	SDP to allow a restaurant in unit #897 (currently Karoon Persian Cuisine)	Planning Commission/ Approved	9/23/1987
1987-0364	SDP to allow a fast food restaurant in unit #889 (currently Taj India Cuisine)	Planning Commission/ Approved	8/05/1987
1985-0310	SDP to construct a new shopping center	City Council/Approved	4/30/1985

The subject tenant space was previously occupied by a restaurant, in which an SDP (1987-0226) was approved by the Planning Commission in 1987. The restaurant use and SDP became discontinued, as retail uses and a beauty salon subsequently occupied the tenant space until 2004.

A building permit was issued in 2006 to convert the space into a deli, with associated cooking equipment. No seats were shown on the building permit

plans. Subsequently, the Neighborhood Preservation Division received an anonymous complaint in December 2007 that the space was being used as a restaurant with indoor seats.

### **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 alterations to existing facilities.

### **Special Development Permit**

**Detailed Description of Use:** The shopping center has a total of nine tenant spaces that are currently occupied by two existing restaurants (24.4% of building area), personal services (including Canine Showcase), and retail uses. The subject tenant space was approved as a deli and is 1,231 square feet in area. The deli was considered to be a retail use, as no seating for customers was provided. The Sunnyvale Municipal Code (SMC) allows retail uses to be permitted by right in the C-2/ECR Zoning District.

The applicant converted the use to a restaurant, with no alcohol service. The restaurant primarily functions as a take-out restaurant, though there are a total of 5 indoor tables and 18 indoor chairs for customers. No furnishings are proposed outdoors. If the project is approved, this will be the third restaurant on-site, occupying a total of 3,627 square feet or 40% of the total building area. All restaurant uses require an approval of an SDP in this Zoning District.

The applicant proposes to continue the current hours of operation, which is 10:30 a.m. to 9:30 p.m. Monday to Friday and 10:00 a.m. to 9:00 p.m. on Saturdays and Sundays. These hours of operation coincide with Karoon Market. The remaining tenants have similar hours of operation. A list of tenants and their hours of operation are contained in Attachment E.

**Site Layout:** The shopping center was approved by the City Council 1985, and is developed with a 9,814 square foot building. The shopping center is located on the northwest corner of E. El Camino Real and S. Wolfe Road. No modifications are proposed to the site layout.

Staff consulted with the Building Division regarding interior building upgrades that would potentially be required with the proposed change of use. The City's Building Plan Checker stated that the recently approved building permit generally addressed these upgrades. The change of use was considered to be an expansion of the existing Karoon Market, in which the bathrooms in Karoon Market adequately meet the needs of the proposed use. If the project is

approved, the Building Division will review the project and determine if additional interior upgrades will be required.

**Parking/Circulation:** The existing site contains 51 parking spaces, including 44 standard, 7 compact, and 2 accessible spaces. Currently, the maximum number of compact spaces permitted is 10%, where 13.7% exists. The number and layout of the compact spaces were approved as part of the original SDP. In addition, the site is deficient by one accessible parking space. If the project is approved, staff recommends that the applicant provide one additional handicap parking space (Attachment B, Recommended Conditions of Approval).

**Existing Parking Requirement:** The parking requirements contained in SMC 19.46 state that shopping centers with less than 20,000 square feet of retail uses require one parking space for each 180 square feet of building area, which results in a minimum of 55 parking spaces required for this site. The original SDP was approved with 51 parking spaces (deficiency of 4 spaces), due to site constraints and the required street dedication.

Over the years, restaurant uses have been approved on-site, further increasing the on-site parking deficiency. Per SMC 19.46.020, individual parking rates apply to uses that occupy more than 10% of the total floor area. When the individual parking rates are applied to the existing uses, (calculating Karoon Persian Cuisine as a retail deli) a minimum of 66 parking spaces are required. This results in a current parking deficiency of 15 parking spaces.

**Proposed Parking Requirement:** Converting the subject tenant space from retail to restaurant use further increases the number of parking spaces required, increasing the deficiency of parking spaces. The proposed project would result in a minimum requirement of 71 parking spaces, which is a deficiency of 20 parking spaces. If the project is approved, the project would increase the current parking deficiency by 5 spaces. The following table outlines each of the uses and the resulting parking requirement, with the different types of restaurant uses specified:

<b>Use</b>	<b>Tenant Space (sf)</b>	<b>% Total</b>	<b>Parking Ratio</b>	<b>Required Parking</b>
Retail	4,395	45%	1/180	24
Personal Service	1,792	18%	1/180	10
Restaurant	3,627	37%	---	37
<i>Fast Food</i>	800	---	1/75.0	11
<i>Without Fixed Seats</i>	2,827	---	1/110	26
<b>Total</b>	<b>9,814</b>	<b>100%</b>	<b>---</b>	<b>71 required</b>
				<b>51 proposed</b>

**Site Observations:** Staff conducted an informal review of parking availability during the peak lunch times of 12:30 p.m. and 1:00 p.m. on Wednesday, May 21, 2008. During the 12:30 p.m. peak time, staff observed 12 vacant parking spaces. Subsequently, during the 1:00 p.m. peak time, there were 5 vacant parking spaces. Additionally, staff observed that patrons from the restaurants in the shopping center across the street at 1228 S. Wolfe Road were also parking on the subject property during these times.

Although the proposed use is already operating at this site, the current parking availability may not reflect the parking demand of the proposed project. The restaurant is fairly new (opened to the public in late 2007), and the actual demand for parking may increase as business increases.

**Architecture:** A sign permit (2008-0416) was issued by the Building Division in February 2008 to allow the existing wall sign. There are no changes proposed to the exterior elevations.

**Landscaping:** SMC 19.38.070 requires that the site provide a minimum of 7,140 square feet of landscaping area, which is 20% of the lot. The original SDP for the shopping center was approved with only 1,226 square feet of landscaping area, which is 3.4% of the lot or a deficiency of 5,914 square feet. At that time, staff found that the deficiency was appropriate, as a significant portion of the property was dedicated to the City in order to expand S. Wolfe Road. All areas not used as parking or walkways are adequately landscaped, and is consistent with the approved SDP. No trees are proposed for removal and no modifications are proposed to the existing landscaping as part of this project.

**Compliance with Development Standards/Guidelines:** The original SDP for the existing shopping center was approved with deficiencies from the landscaping and parking requirements (total number of spaces and compact spaces). The site is currently deficient by 15 parking spaces. The proposed project would further increase the parking deficiency by 5 parking spaces, for a total parking deficiency of 20 spaces. Staff has explored options to provide additional on-site parking spaces; however, the site cannot accommodate more spaces without decreasing the landscaping or removing a part of the building. Staff believes that these options are unreasonable.

**Expected Impact on the Surroundings:** The site is deficient by a total of 20 parking spaces, mainly due to the high percentage of restaurant uses in the shopping center (37%). Although the proposed restaurant primarily functions as take-out, that could change given the seating available which would exacerbate the parking deficiency on this site. This would potentially impact adjoining commercial uses due to spillover of traffic.

## **Fiscal Impact**

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

## **Public Contact**

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This project was the result of a complaint received by the Neighborhood Preservation Division. Staff has not received any letters from the neighbors.

<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>• 220 notices mailed to property owners and residents adjacent to the project site</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**

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**Findings and General Plan Goals:** Staff is recommending denial for this project because the Special Development Permit Findings (Attachment A) were not made. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B).

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

## **Alternatives**

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1. Deny the requested Special Development Permit.
2. Approve the Special Development Permit with attached conditions.
3. Approve the Special Development Permit with modified conditions.

**Recommendation**

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Alternative 1.

Prepared by:

**Noren Caliva**

Project Planner

Reviewed by:

**Andrew Miner**

Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Special Development Permit Justification Form
- E. List of Tenants
- F. Site Photos

## **Recommended Findings - Special Development Permit**

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Goals and Policies that relate to this project are:

### **Land Use and Transportation Element**

**Policy N1.3** *Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.*

**Policy N1.11** *Recognize El Camino Real as a primary retail corridor with a mix of uses.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale (*Finding met*).

The proposed restaurant use would provide a desired service to the nearby residents. The restaurant would be located within a site that is convenient for both nearby residents walking to the restaurant and for patrons driving to the restaurant, as the site is located near the corner of El Camino Real and Wolfe Road.

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 not met*).

Staff is not able to make this finding due to the fact that the project site is deficient in parking by a total of 20 parking spaces. The main reason for this is the high percentage of restaurant uses at the shopping center (37%). Although the proposed restaurant is primarily a take-out facility and increases the total parking demand on site by only 5 spaces, the project could impact adjoining commercial uses due to spillover of traffic. Staff has explored the option of adding parking spaces on the site; however, the unusual shape of the lot and current deficiencies to landscaping make this option impossible.

**Recommended Conditions of Approval if the Special Development Permit is Granted:**

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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 prior to issuance of the building permit.
- B. 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.
- C. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- D. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project, if one is required.
- E. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- F. 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.
- G. Comply with all requirements of previously approved Special Development Permit File Number 1985-0310.
- H. The maximum number of indoor seating shall not exceed 18 seats at any time.
- I. Alcohol service is not approved for this site. An additional Special Development Permit is required if alcohol service is requested in the future.

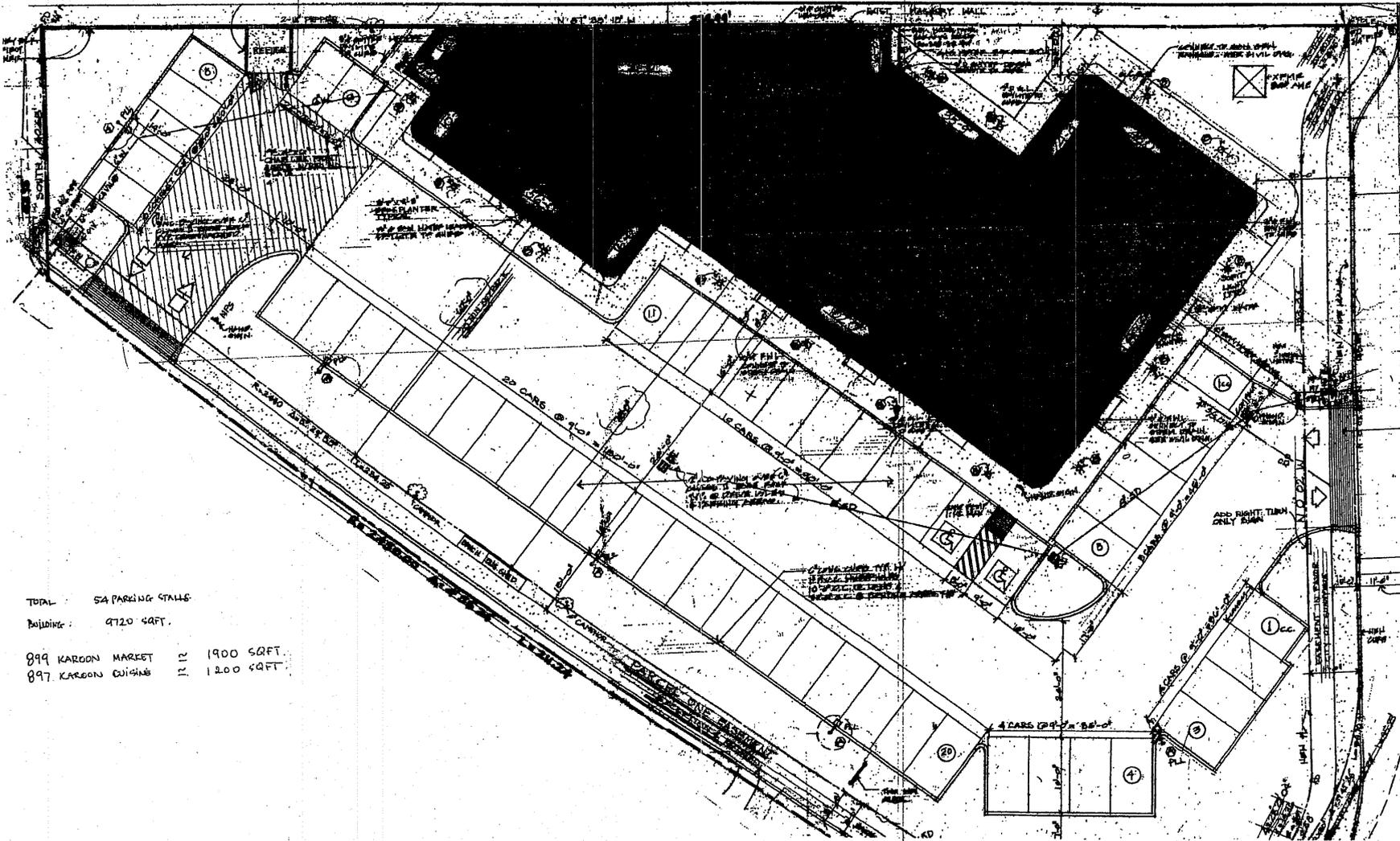
**2. COMPLY WITH OR OBTAIN OTHER PERMITS**

- A. Obtain a building permit if deemed necessary from the Building Division, which may require potential upgrades to the site.
- B. Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit.

**3. PARKING/LANSCAPING AREA**

- A. The applicant shall submit a revised site plan providing one additional accessible parking space, for a total of three on-site accessible spaces.
- B. All landscaping shall be maintained in a neat, clean and healthful condition.
- C. The applicant shall work with the Solid Waste Division of the Public Works Department to ensure that the centralized trash enclosure is adequate.

PROPOSE FOR THE USE PERMIT OF  
**KAROON PERSIAN CUISINE**  
 897 E. ELCAMINO REAL . SUNNYVALE CALIFORNIA



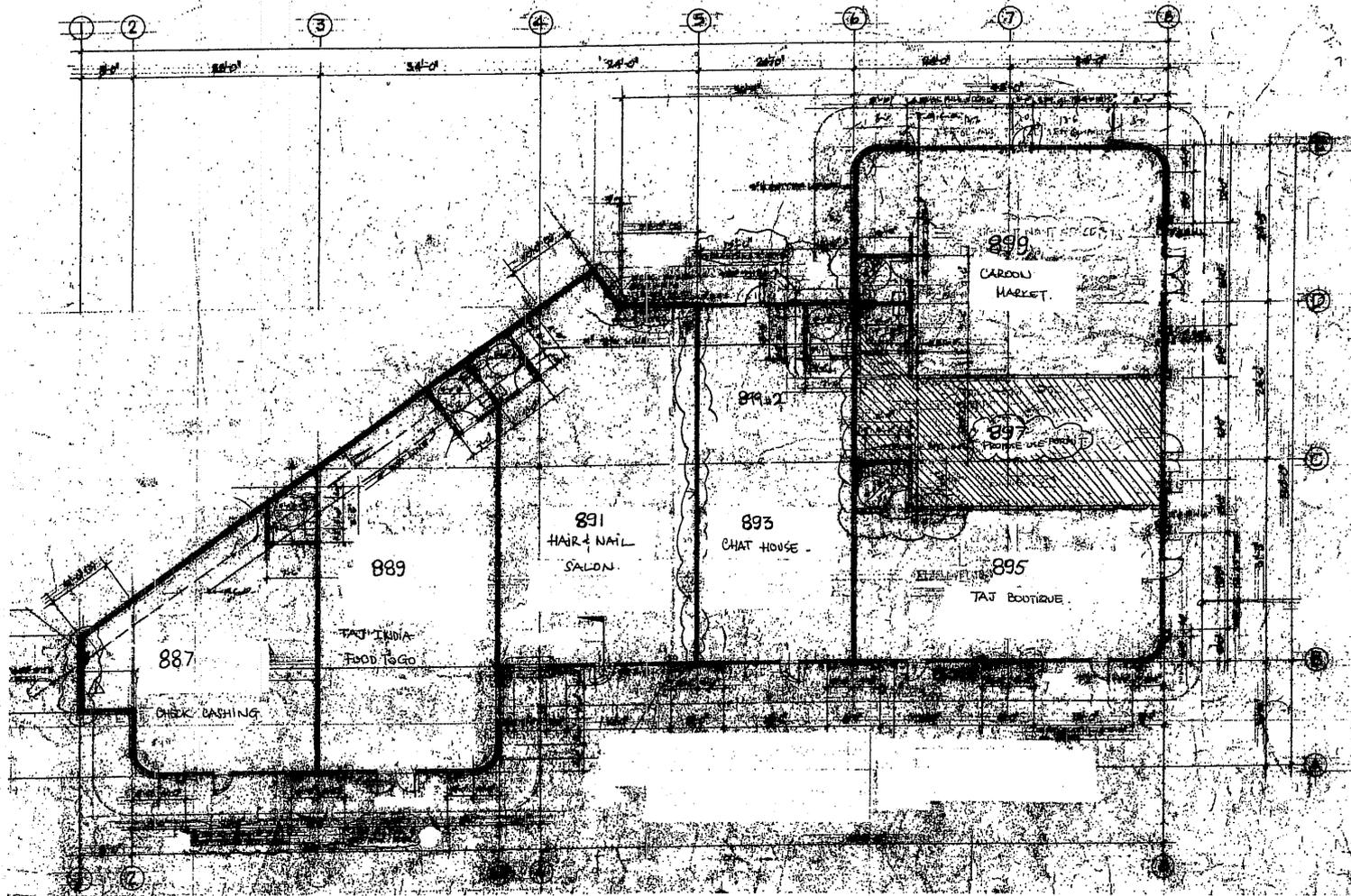
SITE PLAN

TOTAL: 54 PARKING STALLS  
 Building: 4720 SQFT.  
 899 KAROON MARKET 12 1900 SQFT.  
 897 KAROON CUISINE 12 1200 SQFT.

REVISIONS	BY

NGUYEN DESIGN GROUP  
 9075 CENTERWOOD WAY  
 SAN JOSE CA 95149  
 TEL: 408-661-0668

KAROON PERSIAN CUISINE  
 897 E. ELCAMINO REAL  
 SUNNYVALE CALIF 94086  
 (408)



REVISIONS	BY

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PERSIAN CUISINE  
 897 E. EL CAMINO REAL  
 JANNYVALE CALIF 94086  
 (408)





# USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

ATTACHMENT D  
Page 1 of 1

One of the two following findings must be made in order to app 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 ...

The existing store is considered as take-out food store.  
Now I proposed to put 4 tables in the space that I leased.  
I leased the two space for almost 3,100 sqft. #

Enclord is the plans and site plane of the entire building with 55 parking stalls. I leased out almost one third of the building. but I cannot put table and chairs in the store.

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 ...

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

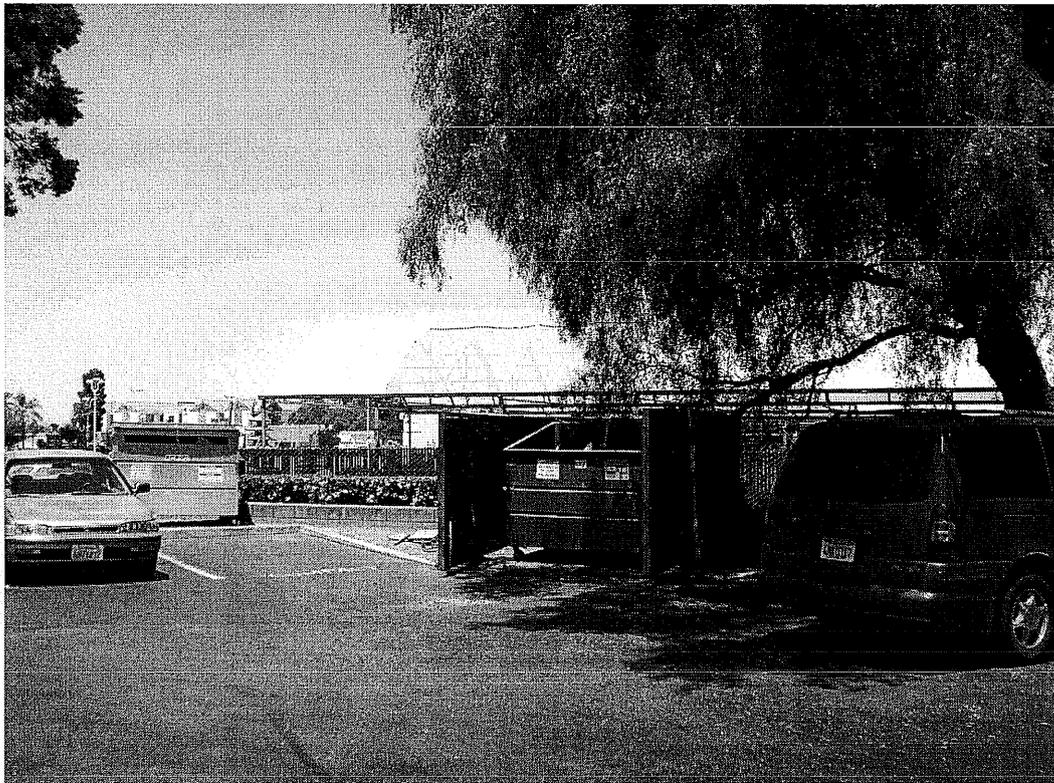
C2/ECR

TENANT LIST:

#	NAME	SQ Foot	HOURS
<u>887</u>	CHECK 2 CASH	<u>1183</u>	SAT+ SUN 11-4 M+ F 9-8
<u>889</u>	TAJ INDIAN CUSIN	<u>1596</u>	M-F 11:30 To 2:30 5:30 To 10:00
<u>891</u> (A)	LA BEATE SALON	<u>820</u>	SUN-MON CLOSED TUS-F 11:00-7:00 by APPOINTMENT
<u>891</u> (B)	ANN'S SALON	<u>972</u>	MON-SUN - 10:00-7:00
<u>893</u>	CHAAT HOUSE	800	MON-SUN 11:30-9:00
<u>895</u>	TAAAL BOUTIQUE	1024	MON-TUS-THU. CLOSED WED-FRI-SAT-SUN 12:00-7:00
<u>897</u>	KAROON DALI	1231	MON-SUN 10:00 TO 9:00
<u>899</u> -(1)	KAROON MARKET	1620	MON-FRI 10:30 To 9:30 <del>10:00 To 9:00</del> SAT+ SUN 10:00 To 9:00
<u>899</u> -(2)	CANINE SHOWCASE	568	SUN-MON CLOSED TUS-FRI 8:00 To 3:00



**View from E. El Camino Real**



**Existing trash enclosure**



**Indoor seating at Karoon Persian Cuisine**



**View from adjacent Karoon Market**