



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**March 31, 2008**

**SUBJECT:**           **2008-0194 – Arnold Gandeza** [Applicant] **Maple Leaf Invs  
Ii LLC.** [Owner]: Application located at **907 E. Duane Ave.**  
(near San Rafael Street) in a C-1/PD (Neighborhood  
Business/Planned Development) Zoning District.

Motion                   Special Development Permit to utilize an existing tenant  
space for a banquet hall, including live entertainment.

**REPORT IN BRIEF**

**Existing Site**           Vacant space within a shopping center (Fair Oaks  
**Conditions**           Plaza)

**Surrounding Land Uses**

North                   Single-family residential

South                   Multi-family residential (townhomes currently under  
construction across Duane Ave.) and  
Office/Industrial

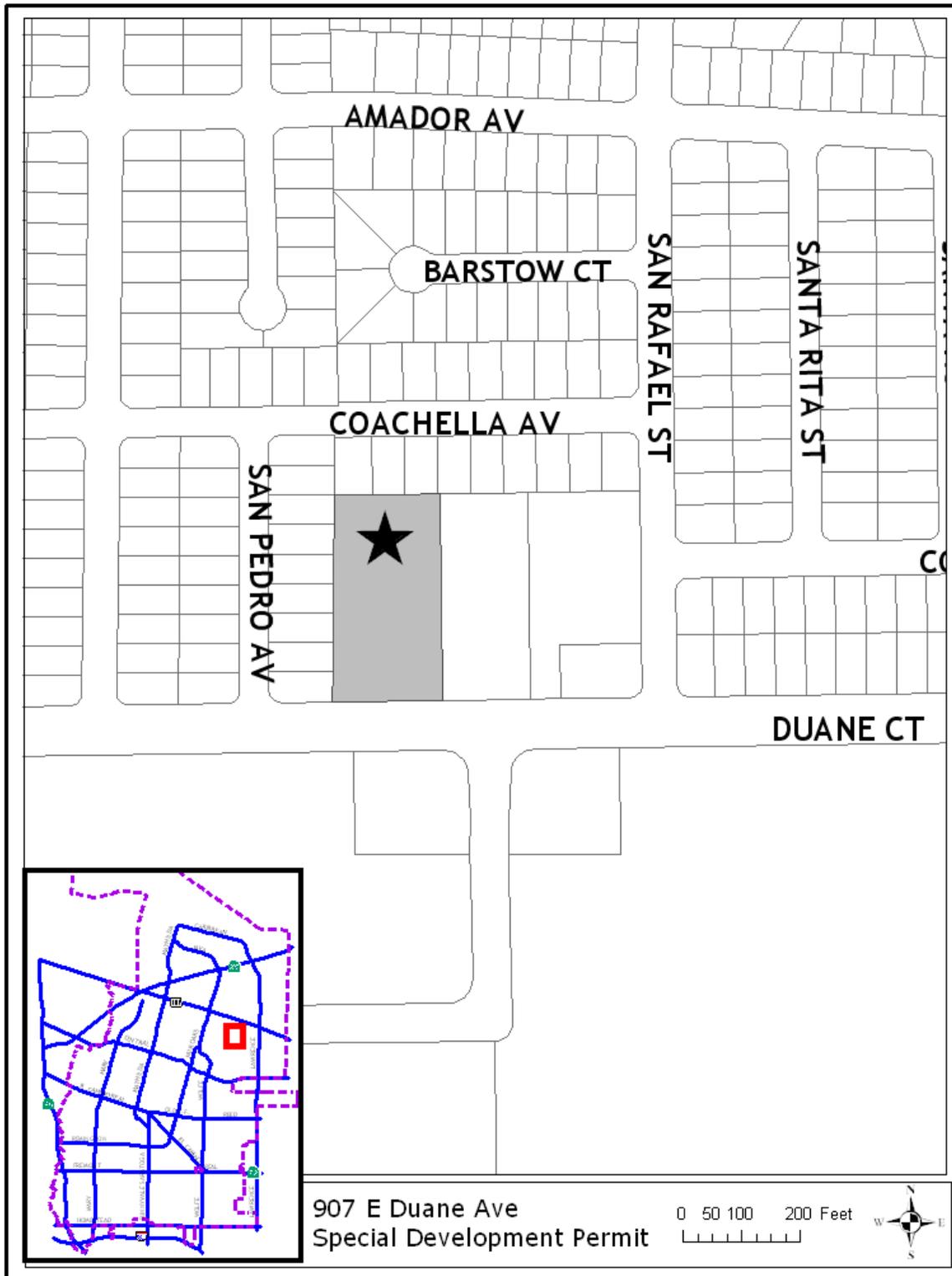
East                    Single-family residential (across San Rafael St.)

West                   Single-family residential

**Issues**                   Neighborhood Compatibility  
Noise  
Parking

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

**Staff**                   Deny  
**Recommendation**



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Commercial Neighborhood Shopping	Same	Commercial Neighborhood Shopping
<b>Zoning District</b>	C-1/PD	Same	C-1/PD
<b>Lot Size (s.f.)</b>	173,192	Same	None
<b>Gross Floor Area (s.f.)</b>	46,400	Same	60,617
<b>Gross Floor Area of Tenant</b>	1,440	Same	None
<b>No. of Buildings On- Site</b>	4	Same	None
<b>Parking</b>			
<b>Total Spaces</b>	262	Same	232 (Using 1 space/200 s.f.)**
<b>Accessible Spaces</b>	4	Same	min.

\*\*See parking discussion.

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

The applicant proposes to use an existing tenant space in a shopping center as a banquet hall for a select community for private events. A banquet hall is considered a place of assembly (community serving), which is allowed with a Special Development Permit (SDP) in a C-1/PD Zone. A previous SDP was issued in 1984 which allowed a place of assembly use with live entertainment for a portion of the subject tenant space, but did not allow dancing or beer and wine service. The applicant proposes to use a larger portion of the tenant space for the place of assembly use, and for the live entertainment to include ballroom dancing in addition to amplified music and singing (karaoke). The project also includes the on-site sale and consumption of beer and wine. It does not include a kitchen/prep area for cooking, but does include the option of using a portable bar for beverages, which only staff members would be allowed to operate. The applicant proposes to have the banquet hall be

available for use from 6 p.m. – 1 a.m., Tuesdays through Sundays. No other changes to the site or building are proposed.

### **Background**

**Previous Actions on the Site:** The Fair Oaks Plaza shopping center was built in the 1950s. 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>
2002-0128	SDP to allow live entertainment (karaoke/DJ/band) at 927 E. Duane Ave. (currently Club La Ronda)	Staff/Approved	03/13/2002
1984-0162 Old File #5228	SDP to allow a cultural meeting room (activities including parties and live entertainment, but no dancing) and retail space (video tape rentals and travel agency)	City Council/ Approved	05/29/1984
1974-0161 Old File #2974	SDP to allow live entertainment for 917 E Duane Ave. (The Pizza Depot)	Planning Commission/ Approved	12/09/1974

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include operation, permitting, leasing, or licensing at existing facilities.

### **Special Development Permit**

**Use:** In 1984, a SDP was issued to allow the use of the tenant space as a “cultural meeting room” as it was then described, a travel agency and video rental store. The retail uses occupied the front portion of the space while the meeting room occupied the rest of the space in the rear. The allowed uses for the “cultural meeting room” included meetings for select groups, celebrations

for individuals, and live music. The SDP did not include dancing as an allowed use and required the approval of a separate SDP.

The applicant proposes to expand the “cultural meeting room” use to include dancing and to occupy a larger portion of the tenant space. An expansion of the hours of operation from 7 p.m. – 12 a.m. to 6 p.m. – 1 a.m. is also proposed. Food would be brought from external sources, as there would be no kitchen for cooking inside the space. The applicant is also proposing to serve beer and wine. Patrons would be given the option to purchase the beer and wine from the facility, or bring their own. In any case, beer and wine would be served by staff members only. There would be a total of four to five staff members and at least two or three staff members present to manage each event.

**Site Layout:** The Fair Oaks Plaza shopping center is comprised of three separate lots with shared parking and four contiguous buildings situated along the north and west perimeter. The shopping center is bound by Duane Ave. on the south side, by San Rafael St. on the east side, and by single-family residences on the north and west sides. There are three access points from Duane Ave. and two from San Rafael St. The main parking lot is located between the buildings and the public streets. There is a smaller parking lot located at the northwest corner of the property, but is gated off from public use.

The subject business is located at the end of the building in the northwest corner (see Attachment D). The building is less than 25 feet from the adjoining residential properties. No modifications to the site are proposed with this application.

**Floor Plan:** The tenant space includes a 112 square foot office that is occupied by a personal service use (cash remittance service) during daytime hours and would also serve as an office for the proposed banquet hall. The majority of the space would be the open seating and dance floor area with the restrooms located in the rear. Portable chairs, tables and an optional bar would be configured to the customers’ liking.

The Uniform Building Code requires uses such as the banquet hall a maximum occupancy of one person per 15 square feet of space. The open seating area is 1,184 square feet in size, which means the space would have a maximum occupancy of 78 people. The applicant is proposing no more than 50 people per event.

**Parking:** The site contains two parking lots. The main parking lot that is open for public use contains 221 spaces. The smaller parking lot at the rear of the property contains an additional 41 spaces, but is closed off from public use by gates.

Sunnyvale Municipal Code Section 19.46.020 (b) states that any one use occupying 10% or less of the total floor area shall be treated as though it were part of the major uses of the property. The subject space represents about 3.1% of the total floor area, so the standard shopping center rate can be used to calculate parking for the proposed use.

Parking requirements for shopping centers are based on a flat rate for all uses in the center, and not by describing each use in the center individually, unless the shopping center has a high concentration of uses with similar peak hours of operation. Currently, the shopping center is approximately 30% restaurant. Because of this high concentration, parking requirements could be calculated using the restaurant ratios for the restaurant uses and then the standard shopping center rate for all other uses. However, as determined by recent shopping center approvals, 30% restaurant would not change the character of a shopping center, and therefore the standard shopping rate could still be used to calculate parking requirements.

The following table summarizes the maximum required parking spaces using both methods at the subject property.

<b>Using individual rates</b>			
Type of Use	Size (sq. ft.)	Required Parking per SMC 19.46.050 (space/sq. ft.)	Required Number of Spaces
Restaurants	9,930	1/110	90.3
Restaurant w/ bar	4,000	1/75	53.3
Other uses	32,470	1/200	162.4
		Total Required Spaces	306
		Spaces Provided	262
		Spaces Available for public use	221
<b>Using shopping center rate</b>			
Shopping Center	46,400	1/200	232
Total Required Spaces			232
Spaces Provided			262
Spaces Available for Public Use			221

Using the standard shopping center rate, the spaces provided for public use do not meet the total required spaces. However, the total spaces provided on the site exceed the amount of spaces required, and the proposed use would operate during non-peak hours of most of the other uses. If this project is approved, staff recommends a condition of approval to require tenant employees to park

in the northwest corner parking lot that is currently closed off from general public use.

**Public Safety and Noise:** Staff has referred this application to the Department of Public Safety (DPS) for review and comments. Currently there are two other businesses on the property that are permitted to have live entertainment at late night hours. One business in particular has been a source of public nuisance to the adjoining residential properties. DPS has strong concerns regarding the current uses on the site and the potential intensification of existing problems that the proposed use could cause.

**Compliance with Development Standards/Guidelines:** The proposed project complies with all development standards and guidelines.

**Expected Impact on the Surroundings:** Staff believes that the proposed use may have a negative impact to the site and the surrounding residential neighborhood because of the additional noise that may be generated by the expansion of live entertainment, beer and wine service, the gathering of people, and the proposed hours of operation. Staff is concerned that the proposed use may add to the existing problems with current businesses at the shopping center. If the project is approved, staff has included recommended conditions to limit these impacts to the adjoining residential neighborhood.

**Fiscal Impact**

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

**Public Contact**

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Staff has received contact from three different individuals who have some concerns with the project. Staff was able to meet with two persons (members of the San Miguel Neighborhood Association) to further explain the project description and the review process. Attachment E contains a letter outlining their concerns, which include noise, security and garbage on the property.

<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>• 36 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 Findings (Attachment A) were not made. Staff believes that although the subject tenant space has been approved for a place of assembly and live entertainment use in the past, expansion of this use may result in increased noise and public nuisance at the shopping center. The shopping center abuts single-family residences and the subject space is less than 23 feet from the shared property line. As proposed, the project would have a negative impact to the site and surrounding properties, as it may exacerbate current noise and public nuisance problems with other businesses on the site. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending conditions of approval (Attachment B) to mitigate any potential negative impacts.

## **Alternatives**

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

## **Recommendation**

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Alternative 1.

Prepared by:

**Rosemarie Zulueta**

Project Planner

Reviewed by:

**Gerri Caruso**

Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Letter from the Applicant
- D. Site and Floor Plans and Photos
- E. Letters from Other Interested Parties

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

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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.*

*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. (*Finding not met.*)

The proposed use would provide an additional service to cater to the community. However, the subject space is less than 23 feet from a property line shared with adjacent residential properties. As proposed, staff believes that the expansion of the facility, live entertainment and beer and wine service may cause additional noise and public nuisance at the shopping center.

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.*)

The project does not propose any expansion or modifications to the site, so no visual impact to the surrounding area is anticipated. However, staff is concerned that the proposed expansion of the use may increase noise and other problems that currently exist at the shopping center, which would negatively impact the adjoining residential 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 and description approved at the public hearing. Minor changes may be approved by the Director of Community Development, major changes require consideration at a public hearing.
- B. The Conditions of Approval shall be reproduced on a page of the plans submitted for a 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. This Special Development Permit shall be restricted to 18 months from the date of occupancy. To continue the use on the site, the applicant must apply for another Special Development Permit which will include an analysis of impacts of the use on the existing and neighboring properties. The applicant shall apply for the new Special Development Permit at least three months prior to the expiration date of this Special Development Permit to allow for continuity of use.
- E. 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 and approved prior to expiration date.
- F. Install sound proofing materials to mitigate noise and vibration impacts on neighboring properties and adjoining tenant spaces.
- G. The hours of operation shall be limited to 6 p.m. – 10 p.m., Tuesdays through Thursdays and Sundays, and 6 p.m. – 1 a.m. Fridays and Saturdays.
- H. The noise level generated by the facility shall not create a nuisance to occupants or customers of adjacent commercial establishments. The noise or sound level shall not exceed forty-five dBA measured at the property line shared by the adjoining residential properties.

- I. All exterior doors, especially the rear door, shall have a self-closing mechanism and shall be kept closed at all times.
- J. Patrons shall be restricted from the rear area adjacent to neighboring properties at all times.
- K. The rear parking lot located at the northwest corner of the property shall be open for use by shopping center employees.
- L. There shall be at least two or three employees present to manage each event. The number of patrons shall be limited to 50 people.
- M. Tenant is responsible for ensuring customers do not smoke within 20 feet of any doorways, per State law.

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

- A. Obtain the appropriate license for on-site beer and wine service from the Alcoholic Beverage Control (ABC) Department and comply with all ABC regulations and license requirements. Failure to comply with all ABC regulations is grounds for revoking this permit.
- B. Comply with all requirements of the Santa Clara County Health Department. Failure to comply with all requirements is grounds for revoking this permit.

**3. RECYCLING AND SOLID WASTE**

- A. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures at all times. Containers shall not be placed in parking spaces or landscaped areas at any time.
- B. Submit plans for a new trash enclosure to the Director of Community Development for review and approval. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.
- C. The property shall remain clean and free of debris and garbage.

**4. SIGNS**

- A. Any new signs shall be in conformance with the Master Sign Program of the shopping center and the Sunnyvale Municipal Code.
- B. Obtain building permits for any new signs.

USE: The proposed use will be as a place for private parties, events, dance lessons, and meetings for smaller groups mostly catering to Filipino community members. Activities expected on such gatherings includes:

- A. Ballroom Dancing - tango, cha-cha, salsa, rumba, waltz, line dancing, etc.
- B. Singing - karaoke or sing-along
- C. Programs organized by host or celebrant's relatives or friends.
- D. Live and musical entertainment will be amplified. Musical systems will be provided by tenant/applicant.

We do not intend to operate as a club or bar. Our main objective is to have a place where members and their families can get together and have fun singing and dancing ballroom which is one of the most popular form of exercise recommended.

**PUBLIC SAFETY/NOISE:**

We will adhere to the restricted level of noise so as not to create any disturbance to the neighboring tenants and residents.

We have contacted the Department of Alcohol and Beverage (ABC). We are in the process of securing license to serve beer and wine.

As to your concern on the security measures, our members are outstanding citizens of this community with good moral conduct and behavior, that we never thought the need of security personnel. But if your office requires us, we will conform to all the rules and regulations. The on-site management will be the applicant, owner, the manager and personnel on duty, who are also members and professionals, all residents of Sunnysvale and peace loving citizens.

Engagements or parties that includes children and teens below 21 year old, will not be served alcoholic beverages. Valid proof of identification will be requested at all times. Relatively, serving of beer and wine will be regulated and closely monitored.

*2-3 staff members at each event; 4-5 staff members total employed.*

**PROPOSED HOUR OF OPERATION:**

Since most parties are held on week ends and after office hours may we request the following hour of operations: Tuesdays to Sundays - 6:00pm to 1:00am.

Almost all members are working professionals and after some surveys we gathered, the preferable hours is from 6pm to 1am.

ATTACHMENT D  
of 5

30'0"

REAR

72 sq. ft.

72 sq. ft.

SPACE 907

1,184 sq. ft.

OPTION  
BAR

112 sq. ft.  
OFFICE

ELECTRICAL

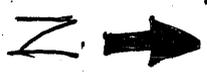
6" pipe bumper

48'0"

22'

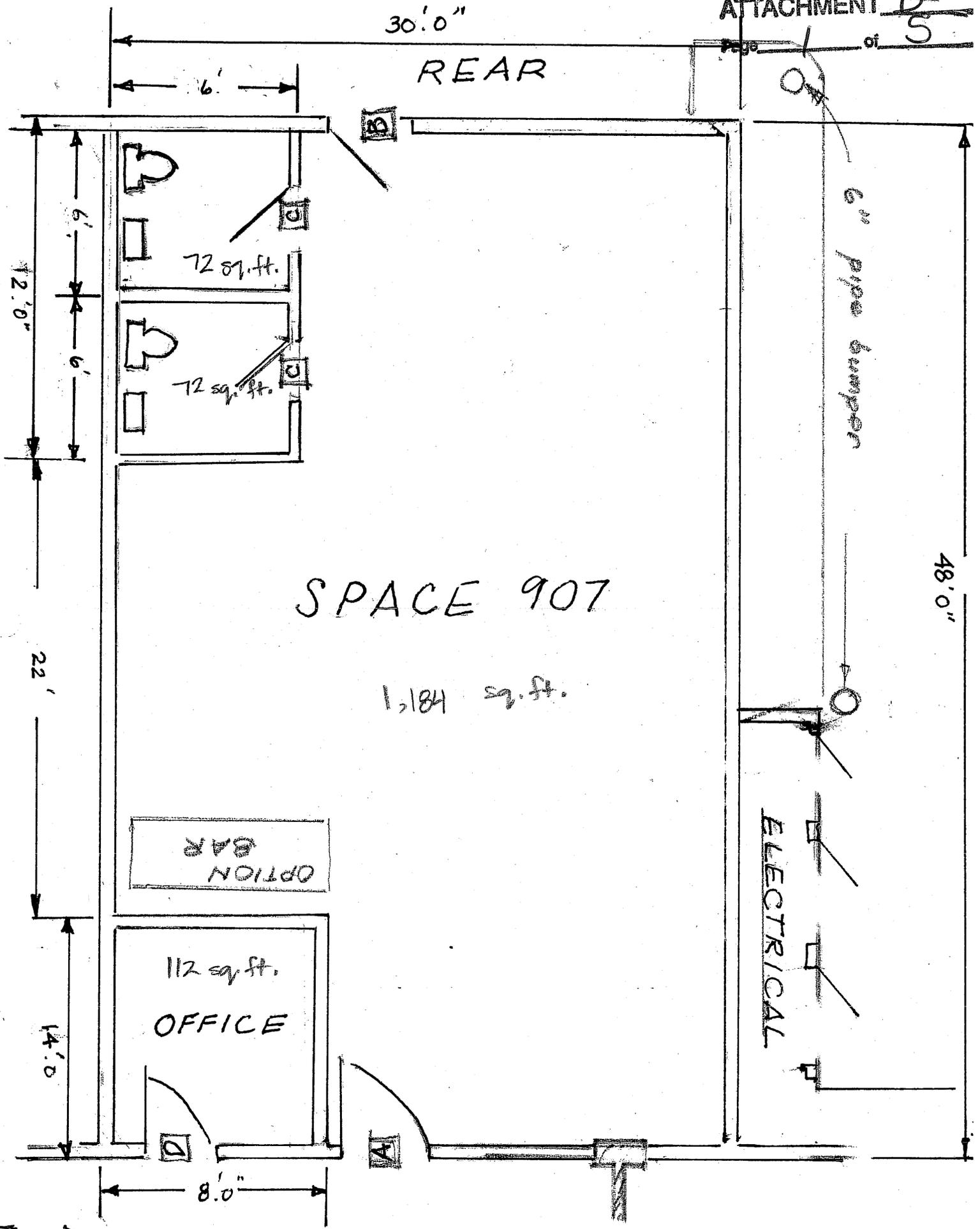
14'0"

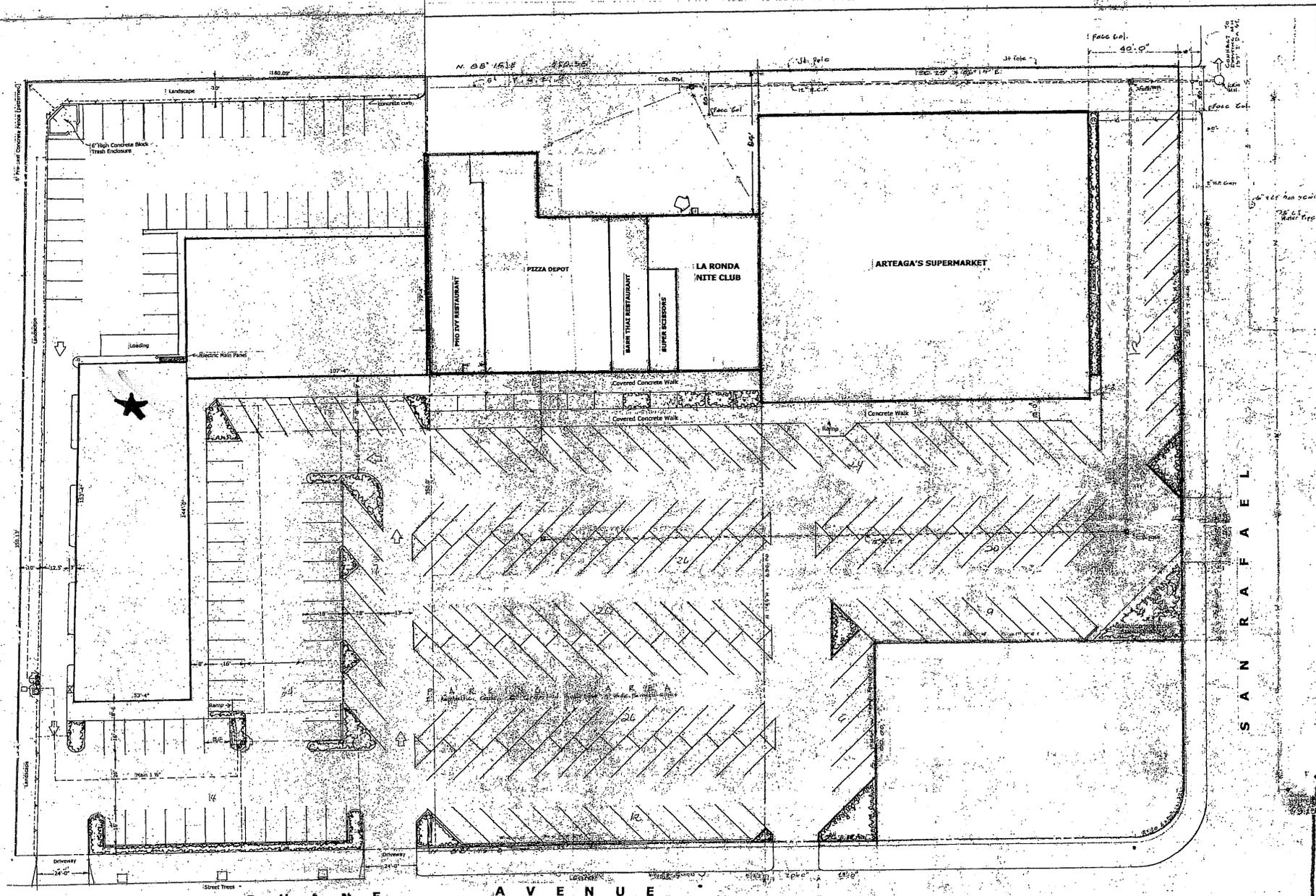
8'0"



FRONT

Total = 1,440 sq. ft.





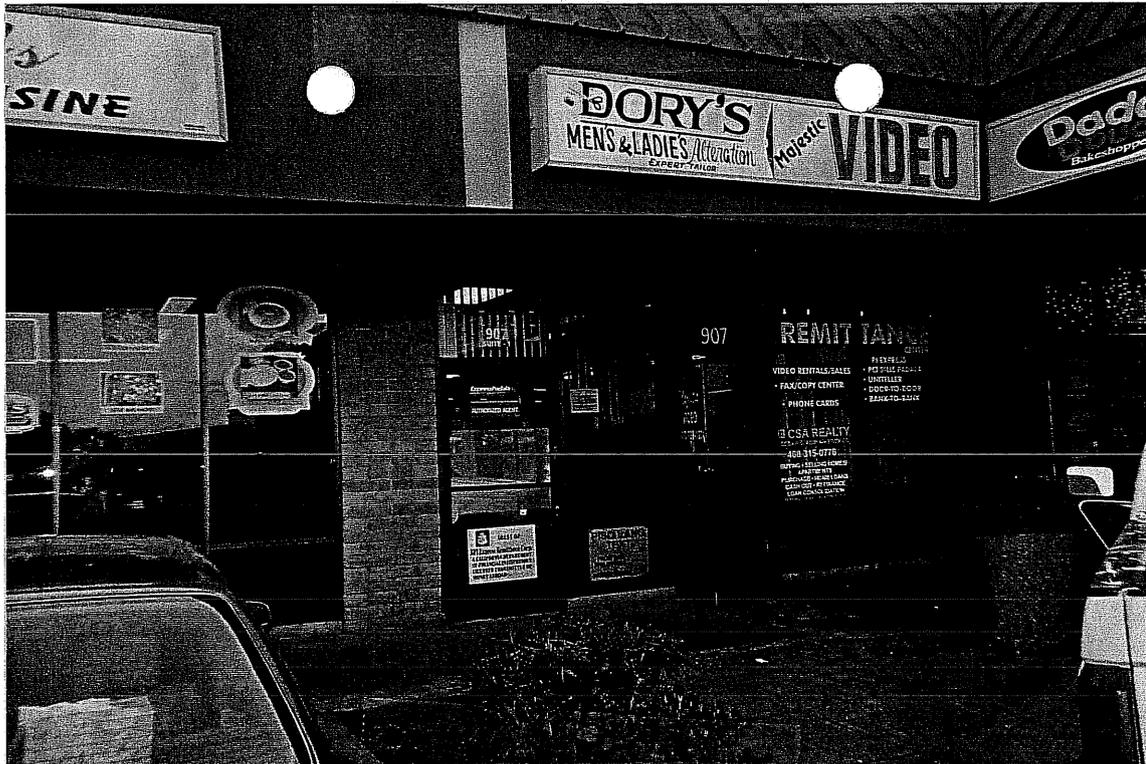
D U A N E A V E N U E

S A N R A F F A E L

Scale: 1" = 30'-0"

<b>FAIR OAKS PLAZA</b>			
911 - 933 DUANE AVENUE			
SUNNYVALE CALIFORNIA			
PADILLA / ASSOCIATES 1647 BELLEVILLE WAY, SUITE F SUNNYVALE, CALIFORNIA [408] 738-4002 Office • [408] 561-0656 Cell	DRAWN BY: JTP	DATE: Jan. 11, 2006	PROJECT #: 2006-01-001
P L O T P L A N		SHEET NO. 15	

ATTACHMENT D  
 Page 2 of 15



Every  
**HOME BAR**

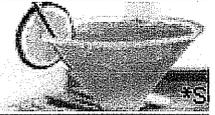
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SHOP BY ITEM	SHOP BY BRAND	SALES & PROMOTIONS	ADVICE CENTRAL	CUSTOMER SERVICE
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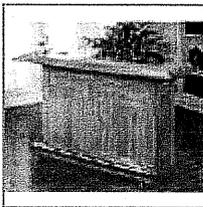
**PRODUCT DETAILS**

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- [Insights](#)
- [Product Details](#)
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**Hillsdale - Large Cherry W Bar**

This Product Has Not Yet Been Reviewed

**FREE SHIPPING!**

This Bar Set is the perfect fit for the home. The Large Bar has classic styl footrest and a gorgeous cherry finish which holds up to twelve bottles, as cabinets and drawers provide ample Coupled with the matching Bar Stool this Bar Set makes an excellent addition home. ... (See Full Description)

**OUR PRICE: \$1,248.00** (Varies with Original Price: \$2,470.00)  
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 SKU #HF3416

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**Step 2: Review Items Included In This Set**



[Enlarge Image](#)

**Large Cherry Bar**

Included In Set  
 Qty: 1 included



[Enlarge Image](#)

**Cherry Side Bar**

Included In Set  
 Qty: 1 included

Quantity:



FOR YOUR REFERENCE:

OUR SKU #HF3416

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March 25, 2008

San Miguel Neighbors Association Board  
762 San Miguel Ave  
Sunnyvale, CA 94085-3412

Rosemarie Zulueta, Assistant Planner  
Department of Community Development  
456 West Olive Avenue  
PO Box 3707  
Sunnyvale, CA 94088-3707

Re: file # 2008-0194, 907 East Duane Avenue

Dear Ms. Zulueta,

Thank you for meeting with us to discuss our concerns about the proposed project at 907 E. Duane Avenue. As you suggested, we are following up our meeting with this letter to list those concerns.

As you may know we are also working with La Ronda on sound reduction in the same mall. We would not like to have additional sound issues in Fair Oaks Plaza. The issues that were raised by adjacent neighbors and by SMNA board members are:

- Sound levels exceeding policy, especially on weekday evenings, and after 10:00 pm on weekends
- Security for neighbors—there is concern with drunkenness and safety
- Bottles and other trash in parking lots
- Broken glass from the bottles in parking areas and adjacent homes
- Lack of family-inclusive activities and businesses, SMNA Board members would like to see this as a family oriented strip mall
- Some neighbors are complaining about 'feeling the bass' when the music is played
- If the space is rented for an event how would security manage to screen minors from drinking alcohol
- On at least one occasion, drunks were found passed out in the parking lot, public safety was called—we do not want more of this
- Some of the current businesses have noticed people using the bushes for a bathroom—we don't want more of this
- Adjacent neighbors have said that when operating as a 'banquet hall,' the music has been a problem for them, all the bedrooms of the houses on the mall side of San Pedro back on the Plaza property
- Several women have reported that they do not feel comfortable and safe after dark with so many drinking men on the premises now, we don't want more of that

- We believe that the additional garbage and trash generated from a rental club/banquet hall would result in a less desirable environment and would require additional clean-up and maintenance by mall owners

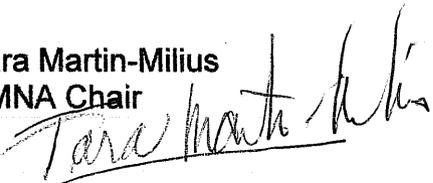
A more general issue is the time-frame of notification for these types of projects within the neighborhood. How could SMNA be notified earlier, so we could work with both planning and our neighborhood businesses before extensive plans are made? Our neighbors do not often have the ability to attend meetings during office hours with short notice.

Thank you for this opportunity to express SMNA neighbors' and board member concerns.

Sincerely,

SMNA Board

Tara Martin-Milius  
SMNA Chair



Elizabeth Morin  
SMNA Past Chair



Judy Santiago  
Newsletter Ed.



Ruth Noll  
Treasurer  
Acting Secretary



Elinor Sheldon  
Education Chair



cc: Maple Leaf Investments  
Dale Huber  
Officer Davis  
Jhoanne Navarro