



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

July 16, 2008

SUBJECT: **2008-0451: Sunnyvale Car Spa Inc.** [Applicant/Owner]:
Application for a property located at **1097 E. Duane Ave.**
(near Lawrence Expressway) in an M-S (Industrial & Service)
Zoning District.

Motion Variance from Sunnyvale Municipal Code section 19.38.070
to allow less than 20% landscaping of the net lot area for an
existing car wash and gas station.

REPORT IN BRIEF

Existing Site Conditions Automobile service station and car wash

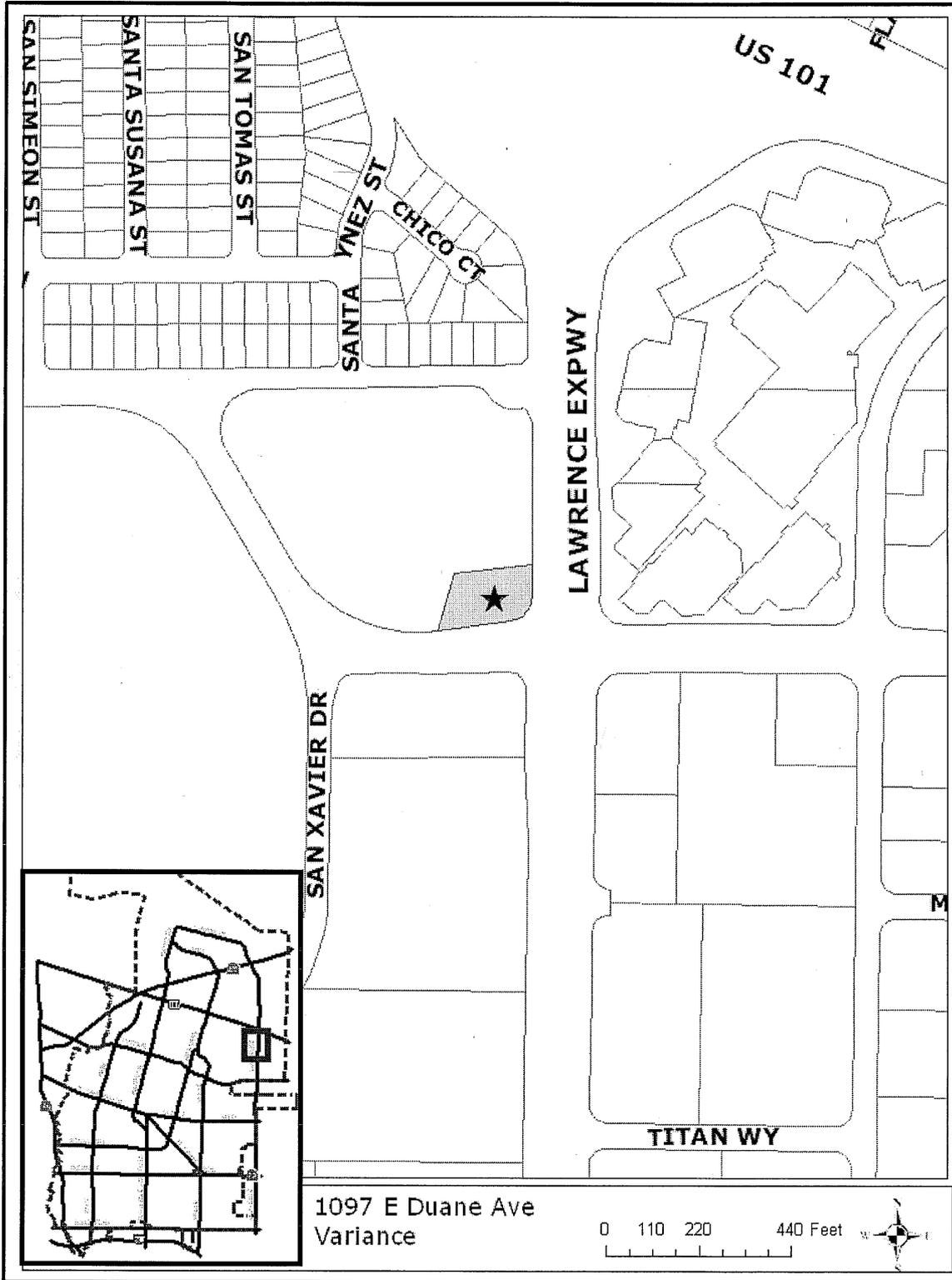
Surrounding Land Uses

- North Vacant lot (condominiums and townhomes currently
under construction)
- South Industrial/Office
- East Multi-family residential (apartments across Lawrence
Expressway)
- West Multi-family residential (condominiums and
townhomes currently under construction)

Issues Landscape area

Environmental Status A Class 5 Categorical Exemption relieves this project
from California Environmental Quality Act provisions
and City Guidelines.

Staff Recommendation Deny



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial	Same	Industrial
Zoning District	M-S	Same	M-S
Lot Size (s.f.)	26,136	Same	22,500 min.
Lot Width (ft.)	> 170	Same	100 min.
Gross Floor Area (s.f.)	3,792	Same	9,147 max.
Lot Coverage (%)	14.5%	Same	45% max.
Floor Area Ratio (FAR)	14.5%	Same	35% max.
No. of Buildings On-Site	2	Same	N/A
Setbacks (Facing Property)			
Front (Lawrence Expressway)	35'	Same	35' min.
Left Side (Duane Ave.)	25'	Same	No min. 20' Total
Right Side (North)	5'	Same	min.
Rear (West)	25'	Same	min.
Landscaping			
★ Total Landscaping (sq. ft.)	4,892	Same	5,579 per Use Permit/ 5,227 min. per SMC
Frontage Width (ft.)	15	Same	15 min.
★ Landscaping (%)	18.7%	Same	21.3% per Use Permit/ 20% min. per SMC
Parking			
Total Spaces	21	Same	21 per Use Permit
Standard Spaces	7	Same	7 per Use Permit

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Car Wash/Pump Spaces	13	Same	N/A
Compact Spaces/ % of Total	2/9.5%	Same	10% max.
Accessible Spaces	1	1	Per California Building Code requirements

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The applicant is requesting consideration of a Variance with regard to the landscape area required for the subject site. As part of the approval of Use Permit (UP) 1995-0290 for the development of the automobile service station and car wash, 21.3% of the site was required to be landscaped. Sunnyvale Municipal Code (SMC) § 19.38.070 requires that the landscape area of all properties in the M-S Zoning District be at least 20% of the net lot area or 10% of the floor area, whichever is more. The site is currently 18.7% landscaped and not in conformance with either the approved UP or SMC.

Background

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

File Number	Brief Description	Hearing/Decision	Date
2007-1260	MPP to allow grocery sales at an existing gas station and car wash	Staff / Decision pending	N/A
1995-0290 (Old File # 8663)	UP to allow construction of a gas station with car wash and a gift shop.	Planning Commission / Approved	10/23/1995

This application is a result of a review of a previously submitted application to sell groceries at the subject business. On October 23, 2007, the City Council adopted an amendment to SMC to allow grocery sales at service stations, subject to approval of a Miscellaneous Plan Permit (MPP). All service stations selling groceries without a permit were required to apply for a MPP. The City

Council also directed staff to take enforcement action at all service stations to ensure all code requirements are met. During the review process, staff discovered that the subject site is not in conformance with the landscape plan approved with UP 1995-0290. Further review revealed that the site is also not in conformance with the 20% landscape requirement of SMC. The building permit issued for the development of the site was never finalized and had expired in 1999. Because the site is in violation of an existing permit, the MPP application to sell groceries cannot be processed until the deficiency in landscaping is resolved. The applicant was then required to either install landscaping as shown in the approved landscape plan for UP 1995-0290 (Attachment E), submit a new landscaping plan for approval by Planning staff that showed at least 20% of the lot landscaped or submit an application for a Variance from the 20% landscaping requirement.

Environmental Review

A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 5 Categorical Exemptions include minor alterations in land use limitations, including variances from required development standards.

Variance

Site Layout: The subject site is a corner property bound by Lawrence Expressway to the east and by Duane Avenue to the south. The main building sits at the rear (north side) of the site with the car wash tunnel closest to the rear property line and the retail store directly in front of it (see Attachment C). The canopy structure is located along the Duane Avenue frontage at the southwest corner of the site. Parking stalls are located perpendicular to the building at the west and south sides. The car wash entry is at the northwest corner of the site. The main entry to the retail portion of the building faces Duane Avenue.

Landscaping: The site currently provides 4,892 square feet of well-maintained landscape area (18.7% of the lot), as shown in the submitted site and landscape plan (Attachment C). The development of the site into an automobile service station and car wash was originally approved to provide 5,579 (21.3% of the lot) square feet of landscape area. This leaves a deficiency of 682 square feet of landscape area required by UP 1995-0290 and a deficiency of 335 square feet minimum required by SMC. The approved landscape plan for UP 1995-0290 shown in Attachment E shows the landscape areas (circled with a dashed line) that were either never installed or removed over time. These areas are located at the southeast end of the building near the car wash exit, along the car wash entrance, at the northeast corner of the site and in front of the building near the main entry. The intent of the required landscaping at the

northeast corner of the site was to provide sufficient screening to Lawrence Expressway. An aerial photo from 2002 (Attachment F) also shows that the tree and landscape area located near the entry to the main building existed at one time, but was removed without approval.

Staff has encouraged the applicant to explore alternatives to provide more landscape areas on the site, but the applicant chose to go through the Variance process for approval of the existing landscaping on the site.

Circulation: There are two points of entry to the subject site, which are both located along Duane Avenue. Vehicles may enter and exit the site at both driveway locations. Car wash patrons enter the car wash tunnel at the western end. As approved by UP 1995-0290, the car wash use utilizes a “hand-wash” system of car washing. Customers drive through the car wash tunnel, remaining in the vehicle. The system was to be mostly automated, with the exception of two employees who work inside the wash tunnel, “hand washing” the vehicles. The cars are then blown dry as they approach the exit of the tunnel at the northeast corner of the site. Vehicles are to then exit the tunnel and either park on the site in the designated parking stalls or spaces at the pumps, or exit the site.

Currently, car wash customers wait at the benches, tables and chairs the business has provided at the front of the main building while their cars are serviced. While cars may still be blown dry as they approach the end of the tunnel, cars are parked at the driveway along the landscape buffer on Lawrence Expressway and Duane Avenue where additional drying and detailing are done. During several site visits, staff discovered that cars parked along the landscape buffer at the southeast end of the site make it difficult for cars to back out of the parking spaces in front of the building. SMC requires a minimum back-up distance of 26 feet for nonresidential uses. The space labeled “8” in the submitted site plan (Attachment C) is at about 26 feet from the edge of the landscape buffer, space “3” is at about 30-32 feet. Cars parked along the buffer leave inadequate space for cars to back out from the parking stalls.

The applicant justifies the lack (and removal of) originally approved landscape areas as a result of the car wash service. Benches, tables and chairs have been placed at the front of the building in place of the required landscape areas in order to provide customers a waiting area while their cars are washed. The landscape area at the southeast corner of the building was either not installed or removed to allow for the additional drying and detailing of cars after exiting the car wash tunnel.

Parking: There are two parking stall spaces located perpendicular to the building at the west side near the car wash entrance and six parking stall

spaces at the south side of the building near the car wash exit. The subject site was originally approved to provide 10 parking stall spaces, eight spaces at the pumps and five in conjunction with the car wash – a total of 23 spaces. However, as a result of the discussion during the public hearing for UP 1995-0290, two parking spaces located at the east side of the building were approved during the building permit plan check stage so that the landscape area at the northeast corner of the site could be increased. The purpose of the additional landscaping was to help screen the car wash tunnel from Lawrence Expressway.

Compliance with Development Standards/Guidelines: The subject site does not comply with the landscape requirements of the original Use Permit, nor does it comply with the minimum landscape requirements of SMC. The requested Variance would allow a landscape area of 18.7% of the lot in lieu of 21.3% as required by the original Use Permit approved for the subject site or 20% as required by SMC.

Expected Impact on the Surroundings: Approval of the Variance would not have a strong negative visual impact to surrounding properties, but would result in less landscaping than originally intended to further soften the appearance of the building from the public streets. Staff believes that approval of the Variance would set precedence in Variance requests. Development of the site and its uses were originally approved in conjunction with a certain landscape area requirement, which was violated as a result of an unpermitted change in the process of the car wash service and circulation plan.

Fiscal Impact

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

Public Contact

Staff has not received any comments regarding this application from the public.

This item was originally scheduled to be heard at the Administrative Public Hearing of May 28, 2008. The applicant requested a continuance to the Administrative Public Hearing of July 16, 2008, which the Administrative Hearing Officer announced at the hearing of May 28, 2008.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board

<ul style="list-style-type: none"> • 153 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • City of Sunnyvale's Website
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Conclusion

Discussion: The following is staff's discussion of the required findings:

1. The first required finding for approving a Variance is that the property or use involves a unique or exceptional circumstance. The lot width at the required front yard setback and size of the property exceeds the minimum required by the M-S Zoning District, and is therefore not unique in the M-S Zoning District. An automobile service station is a conditionally permitted use in the M-S Zoning District. The service station and car wash were approved subject to meeting the required development standards and the approved plans. At the time of approval, it was believed that these uses could function in conjunction with meeting the required development standards. The applicant states that the required landscape areas are lacking because these areas are necessary for customer waiting areas and for the additional drying and detailing/waxing of the newly washed cars. However, this change in the approved car wash use and circulation plan has not been permitted. Washed cars are currently being parked in the driveway behind the required parking stalls, which do not allow for enough back-up distance as required by SMC. Staff was unable to make the first finding.
2. The second required finding is that the granting of a Variance will not be detrimental to adjoining properties and uses. The applicant justifies that the uninstalled required landscape areas would prevent the business from conducting their car wash use. During several site visits at peak and non-peak hours, staff observed that circulation was tight and chaotic during peak hours because of the washed cars that were parked behind the parking stalls and along the landscape buffer at the southeast corner of the site. This process was not part of the approved UP for the car wash use. Washed cars were to be blown dry as they approached the car wash tunnel exit and then either park at the approved spaces or exit the site. This change in process has resulted in circulation problems on the site and has negatively impacted the public street by causing traffic on Duane Avenue as cars wait to enter and exit the site. Although approval of the Variance would not have a strong negative visual impact to surrounding properties, the change in use associated with it has negatively impacted circulation on and off the site. Staff was unable to make the second finding.

3. The third required finding for a Variance is that granting a Variance meets the intent of the zoning ordinance and does not grant special privileges to the proposed use or site. All other properties with service station and car wash uses in commercial and industrial zones within the City have been required to meet the 20% landscape requirement. Although the subject site is the smallest property that contains a car wash in the City, its development was conditionally approved according to a certain description of use. The subject site is in violation of its current Use Permit and staff believes that granting a Variance would constitute a special privilege to the site. Staff was unable to make the third finding.

Findings and General Plan Goals: Staff is recommending denial for this project because the Findings (Attachment A) were not made. If the project is denied, landscaping shall be installed per the originally approved plans to bring the site into conformance with UP 1995-0290 (21.3% of lot area), or landscaping shall be installed to bring the site into conformance with the minimum required landscape area per SMC (20% of lot area). However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the Conditions of Approval located in Attachment B.

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

Alternatives

1. Deny the Variance.
2. Approve the Variance with the attached conditions.
3. Approve the Variance with modified conditions.

Recommendation

Alternative 1.

Prepared by:



Rosemarie Zulueta
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site/Landscape Plan
- D. Letter from the Applicant
- E. Use Permit 1995-0290 Approved Landscape Plans
- F. Aerial Photo of Site from 2002

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. *(Finding not met.)*

The subject site is not substandard with regards to the minimum lot size and lot width requirements for properties in the M-S Zoning District. The current uses on the site have been conditionally approved to meet all development standards as required by SMC. The unpermitted modification to the circulation of the car wash use is being used to justify the lack of required landscape areas on the site. Staff believes that the site could be brought into conformance with at least the 20% landscape area required by SMC and still properly function as a car wash, as approved by the original Use Permit (1995-0290).

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. *(Finding not met.)*

Staff finds that approval of the Variance would not have a strong negative visual impact to the surrounding properties, but would result in less landscaping than originally intended to further soften the appearance of the building from the public streets. However, the change in use associated with the deficiency of landscape areas has had a negative impact to circulation on and off the site.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. *(Finding not met.)*

Although the subject site is the smallest of all properties within the City with a service station and car wash, it was conditionally approved with a specific description of use and circulation to meet the required development standards of the M-S Zoning District. All other service station/car wash sites were required to meet the 20% landscape area requirement. Staff finds that approval of the Variance would grant a special privilege not enjoyed by similar properties.

Recommended Conditions of Approval - Variance

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. The Variance shall be null and void two years from the date of approval by the final review authority if the approval is not exercised.
- B. Submit a detailed site plan showing the maximum landscape area the subject site could accommodate (i.e., propose additional planters throughout the site and/or convert the paved area in front of the main building back to landscaping, etc.) for review and approval by the Director of Community Development by August 16, 2008, or 30 calendar days after the approval date of this Variance. All areas not required for parking, driveways or structures shall be landscaped.
- C. Comply with all requirements of the previously approved Use Permit (1995-0290, old file # 8663) for the site, including uses and circulation plan, unless modified herein. Any proposed changes in the approved uses may be approved administratively by the Director of Community Development. Major changes may be approved at a public hearing.
- D. Correct all Sunnyvale Municipal Code violations, including obtaining a Miscellaneous Plan Permit for grocery sales and other violations identified during the review process for the permit, by August 16, 2008, or 30 calendar days after the approval date of this Variance.
- E. The Variance shall be valid only in conjunction with detailed plans as submitted, or as may be modified by the reviewing authority of the City. Minor changes may be approved administratively by the Director of Community Development. Major changes may be approved at a public hearing.



VARIANCE JUSTIFICATIONS

All three of the following findings must be made in order to approve a Variance application.

The Sunnyvale Municipal code states that all three of the following justifications must be met before granting the Variance. Please provide us information on how your project meets all of the following criteria.

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

There is a high demand for a seating area in this area and there are usually 10-15 customers waiting for their cars at any time of day. Customers would be uncomfortable due to lack of seating area. AND

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

Furthermore, the car wash area is used to clean cars in the order they have been received and it prevents traffic during rush hours. It is important to have enough space for all cars and provide an excellent service. It will provide safe working environment for employees. AND

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The provided information will serve the purpose of the Variance and improve the functionality of the business to serve customers and the neighborhood.

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

1097 E Duane Ave

