



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

July 29, 2009

SUBJECT: **2008-0341: La Ronda Night Club** [Applicant] **Maple Leaf Investments II LLC** [Owner]: Application for a Special Development Permit. The property is located at **927 E. Duane Avenue** (in Fair Oaks Plaza Shopping Center) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (APN: 205-12-001)

Motion Special Development Permit to allow the expansion of an existing restaurant (La Ronda Night Club) with live entertainment into an existing restaurant space for an additional 534 square feet.

REPORT IN BRIEF

Existing Site Conditions Existing business and adjacent vacant space within a shopping center (Fair Oaks Plaza)

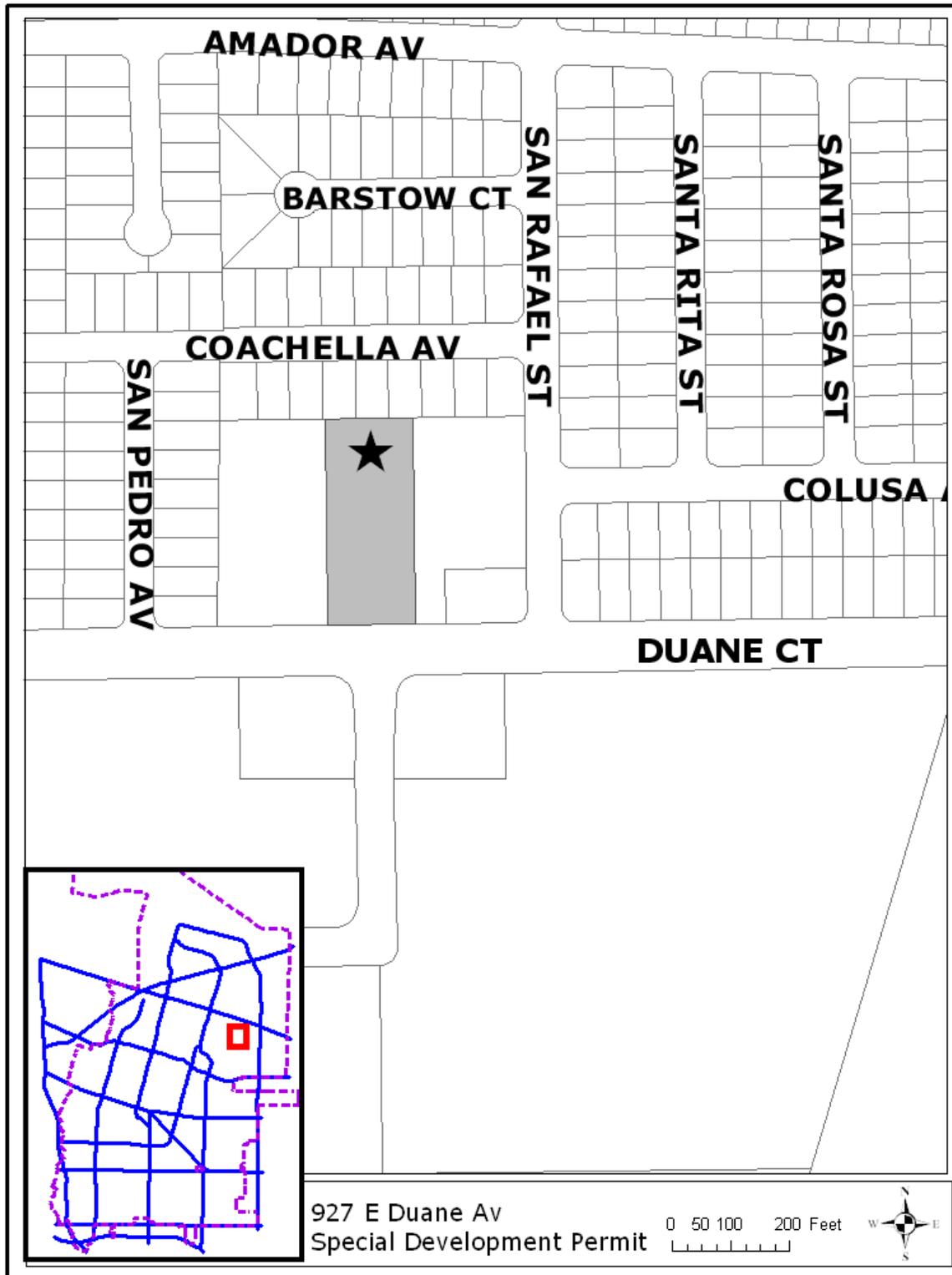
Surrounding Land Uses

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 Public Safety
Neighborhood Compatibility
Noise

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

Staff Recommendation Approval with conditions



927 E Duane Av
Special Development Permit

0 50 100 200 Feet



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Commercial Neighborhood Shopping	Same	Commercial Neighborhood Shopping
Zoning District	C-1/PD	Same	C-1/PD
Lot Size (s.f.)	173,192	Same	N/A
Gross Floor Area (s.f.)	46,400	Same	60,617
Gross Floor Area of Tenant	3,000	3,534	N/A
No. of Buildings On-Site	4	Same	N/A
Parking			
Total Spaces	262	Same	232 (Using 1 space/200 s.f.)
Accessible Spaces	4	6	Per Building Code Requirements

ANALYSIS**Description of Proposed Project**

The applicant is proposing to expand an existing business (La Ronda Night Club), which occupies a 3,000 square foot tenant space, into an adjacent 534 square foot vacant tenant space for a total of 3,534 square feet. The project includes the rebuilding of the restaurant kitchen, creation of a second bar, additional seating areas, modification of the morning hours of operation, and upgrades to interior décor. The subject business proposes to operate as a restaurant with full liquor service and live entertainment (not a nightclub). The business is currently operating without approval as a nightclub with full liquor service and live entertainment (no restaurant component). The restaurant area was previously removed but is proposed to be rebuilt as part of this application.

Background

This application is a result of a complaint made with the Neighborhood Preservation Division in 2007 for unpermitted construction expanding the

subject business into the adjacent vacant space. Since the complaint, Neighborhood Preservation staff has met with residents of the San Miguel neighborhood who expressed additional concerns about the loud music that can be heard in the residential area behind the shopping center, and the public disturbances that have been caused by patrons of La Ronda Night Club. Neighborhood Preservation staff has been working with the Department of Public Safety (DPS) and the business owners to obtain all of the necessary permits for the expansion and to address other ongoing public safety issues.

The club owner's applied for a Special Development Permit (SDP) in 2008 that was reviewed at the May 28, 2008 Administrative Public Hearing. At that time the subject business was proposing to operate as a nightclub with full liquor service and live entertainment (no restaurant component) and expand the hours of operation. The Administrative Hearing Officer denied the SDP due to the inability to make the required findings because of ongoing public safety and noise issues that occur at the subject business site and the possible intensification of these issues if the business were to expand. This decision was appealed by the applicant to the Planning Commission on August 25, 2008. The Commission denied the appeal based on similar concerns about impacts to the neighborhood. The Planning Commission minutes are in Attachment D.

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 tenant space.

File Number	Brief Description	Hearing/Decision	Date
2008-0341	SDP to allow for expansion of restaurant and nightclub operations	Planning Commission/ Administrative Hearing/ Denied	8/25/2008
2002-0128	SDP to allow live entertainment (karaoke/DJ/band) at 927 E. Duane Ave. (currently La Ronda Night Club)	Staff/Approved	03/13/2002

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 or additions to existing facilities.

Special Development Permit

Current SDP Permit: The original SDP (2002-0128) was to allow live entertainment at a restaurant with full liquor service. Although there were no limits to the type of live entertainment allowed in the conditions of approval, the live entertainment proposed and discussed in the staff report was described to include karaoke, disc-jockeys, and live bands. Hours of operation were limited 11:30am to 2:00am, Tuesday through Saturday, and 11:30am to midnight on Sunday and Monday.

Proposed Changes to Special Development Permit: The applicant is proposing three change to the existing permits: 1) modify morning hours of operation from 11:30am to 9:00am to allow for breakfast service, 2) expand restaurant into adjacent tenant space to allow for additional restaurant seating, and 3) add a second bar area to allow for the rebuilding of the kitchen area. The applicant is also proposing changes to the restaurant's operations that are not required or reviewed under a Special Development Permit (discussed below). Other aspects of the business are proposed to remain the same including the dance floor area and late night hours of operation.

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 north end of the site, next to what is the old Arteaga's Supermarket (see Attachment C). The building is about 65 feet from the adjoining residential properties. No modifications to the site are proposed with this application.

Floor Plan: The existing floor plan consists of a stage and dance floor at the front of the space, seating areas along the sides and rear, a bar along the eastern side and restrooms, storage rooms, and office at the rear. The proposed expansion would create more seating, include a second bar, and rebuild a full commercial kitchen for the restaurant component.

Parking/Circulation: 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 has been closed off from public use by security gates. SDP 2008-0194 was approved with the

condition that the rear parking lot be open for use by shopping center employees.

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, La Ronda Night Club has peak hours in the evening and late night when most businesses are closed, and not during lunch hours when the shopping center reaches its peak trip hours.

The following table shows the required number of spaces at the shopping center:

Type of Use	Size (sf.)	Required Parking per SMC 19.46.050 (space/sq. ft.)	Required Number of Spaces
Shopping Center	46,400	1/200	232
Total Required Spaces			232
Spaces Provided			262

Public Safety and Noise: Staff has referred this application to DPS for review and comments. DPS provided data related to La Ronda Night Club regarding calls for service and noise generated by the business. In addition to the noise produced by the music, neighboring residents have also complained of noise caused by patrons.

DPS has strong concerns about the expansion of the use as problems currently exist and have not been resolved. If the project is approved, staff is recommending several conditions of approval to begin to address these problems. These include installing additional soundproofing materials (may have already been completed), additional on-site security guards, self monitoring of noise levels, limiting noise levels during night time hours as measured from the rear property line, and working with DPS to reduce crime and public nuisances at the site. See Attachment B for additional conditions of approval. DPS has reviewed and supports the staff recommended conditions of approval as a starting point to correct the calls to service at the site.

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

Expected Impact on the Surroundings: Staff believes that the proposed project with the conditions of approval will reduce or eliminate most of the current impacts to the site and the surrounding residential neighborhood.

Fiscal Impact

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

Public Contact

The applicant hosted an informational meeting at a regularly scheduled San Miguel Neighborhood Association meeting. No calls or written statements have been submitted to staff at the time of this report.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 116 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website

Conclusion

Staff is recommending approval of this project because the Findings (Attachment A) were able to be made. While the current operation of a nightclub with no restaurant component at this site has had a history of incompatibility with the abutting residential neighborhood, this is the result of the operations being turned from a restaurant into a nightclub. The applicant is proposing to return the business to the original 2002 SDP approved use which is a restaurant with alcohol service and live entertainment. Staff believes that the expansion of the current use into the adjacent tenant space will not result in additional noise or public safety issues at the shopping center and for the neighboring residential properties.

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

Recommendation

Alternative 1.

Prepared by:

Steve Lynch

Project Planner

Reviewed by:

Shaunn Mendrin

Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Planning Commission minutes from August 25, 2008.

Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element

Policy N1.1 – *Protect the integrity of the City’s neighborhoods; whether residential, industrial or commercial.*

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

Policy C4.3 – *Consider the needs of business as well as residents when making land use and transportation decisions.*

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

The existing restaurant with live entertainment and full liquor service was approved in 2002. The applicant is proposing to bring the current operations into compliance through this permit. Staff believes that the expansion of the current use into the adjacent tenant space will not result in additional noise or public safety issues at the shopping center and for the neighboring residential properties. In addition, the restaurant is appropriately located in a neighborhood retail 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 met.)*

The project does not propose any significant modifications to the exterior of the building or to the site, so no visual impact to the surrounding area is anticipated. The restaurant use was approved in 2002 and this application is only for expansion into the adjacent tenant space, which is not anticipated to impair either the orderly development of, or the existing uses being made of, adjacent 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. 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. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- D. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- E. Permit Lapse if not Exercised (Ordinance 2895-09): The Special Development Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of the permit approval. If the approval is not exercised within this time frame, the permit is null and void.
- F. The existing and proposed areas (3,534 square feet) and uses must comply with all requirements of previously approved Special Development Permit 2002-0128, unless modified herein.

2. OPERATIONS**General:**

- A. Hours of operation shall be limited to the following hours:
Sunday – Thursday: 9:00am to midnight.
Friday – Saturday: 9:00am to 2:00am.
- B. All exterior doors, especially the rear door, shall have a self-closing mechanism and shall be kept closed when not in use.
- C. The rear door shall be kept shut at all times from 9:00am to 9:00pm and during high noise generating activities (loud music).

- D. A sign shall be placed on the rear door as exit only. Business hours and contact information may also be posted on the sign. The sign shall be a maximum size of six square feet.
- E. An employee manual shall be created that informs employees the proper procedure in dealing with drunk and disorderly patrons.
- F. Employees shall be given training and education from the employee manual on a quarterly basis.

Events:

- G. No outside event promoters are allowed to operate at this location. All entertainment/entertainers must be hired directly by the business managers or owners.
- H. Private events (operated by La Ronda Night Club only) are permitted.

Security:

- I. The business operator shall retain private uniformed security guards (4-6 guards) who shall be responsible for monitoring noise, any patrons loitering outside of the building, and shall be on-site at all times when entertainment is occurring.
- J. The security guards shall be responsible for working closely with Public Safety to resolve problematic operational issues.
- K. Private security guards shall be responsible for removing any patrons loitering in the rear area (northern area) adjacent to neighboring properties, at all times.
- L. One private security guard shall be stationed in the front parking lot (southern area) at all times.

Noise:

- M. Private security guards shall be responsible for monitoring the noise generated by the club through the use of sound meters. Readings should be taken approximately every hour at the front and rear (back property line) of the business. Noise readings shall be entered into a sound log that will be kept on-site at all times. This log shall be made available to Public Safety if requested.
- N. Private security guards shall ensure that any noise generated by patrons loitering in the front parking lot area (south side) shall not be audible at the property line of the residential development to the south of this site.
- O. Install sound proofing materials to mitigate noise and vibration impacts on neighboring properties and adjoining tenant spaces.
- P. Install a Sound Trap device at the front entry doors.
- Q. Install sound proofing materials in tenant space walls to mitigate noise and vibration impacts on neighboring properties and adjoining tenant spaces.

3. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Comply with all ABC regulations and license requirements. Failure to comply with all ABC regulations is grounds for revoking this permit.
- B. Obtain approval from the Crime Prevention Division of the Department of Public Safety for crime and public nuisance prevention measures appropriate to the proposed development prior to issuance of a Building Permit.
- C. Tenant is responsible for ensuring customers comply with smoking regulations, per California State law.
- D. The existing fire sprinkler system shall be modified for the new use, per SMC.
- E. Fire alarm systems and other upgrades shall be completed per California Fire Code.

4. PARKING

- A. Employees shall park in the rear parking lot located at the northwest corner of the property.
- B. Submit a revised parking plan to the Director of Community Development for review and approval prior to issuance of a Building Permit.

5. RECYCLING AND SOLID WASTE

- A. All trash and recycling activities shall be conducted during daytime hours of operation (9:00am-6:00pm).
- B. A permanent sign shall be placed near the rear entrance of the restaurant stating the hours of operation (9:00am-6:00pm) for trash and recycling activities.
- C. 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.
- D. Submit plans for a new trash enclosure to the Director of Community Development for review and approval prior to issuance of a Building Permit. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.
- E. The property shall remain clean and free of debris and garbage.

6. SIGNS

- A. All existing/new signs shall be in conformance with the Master Sign Program established for the shopping center and the Sunnyvale Municipal Code.

CONDITIONAL USE PERMIT FOR **LA RONDA** 927 E. DUANE AVE, SUNNYVALE

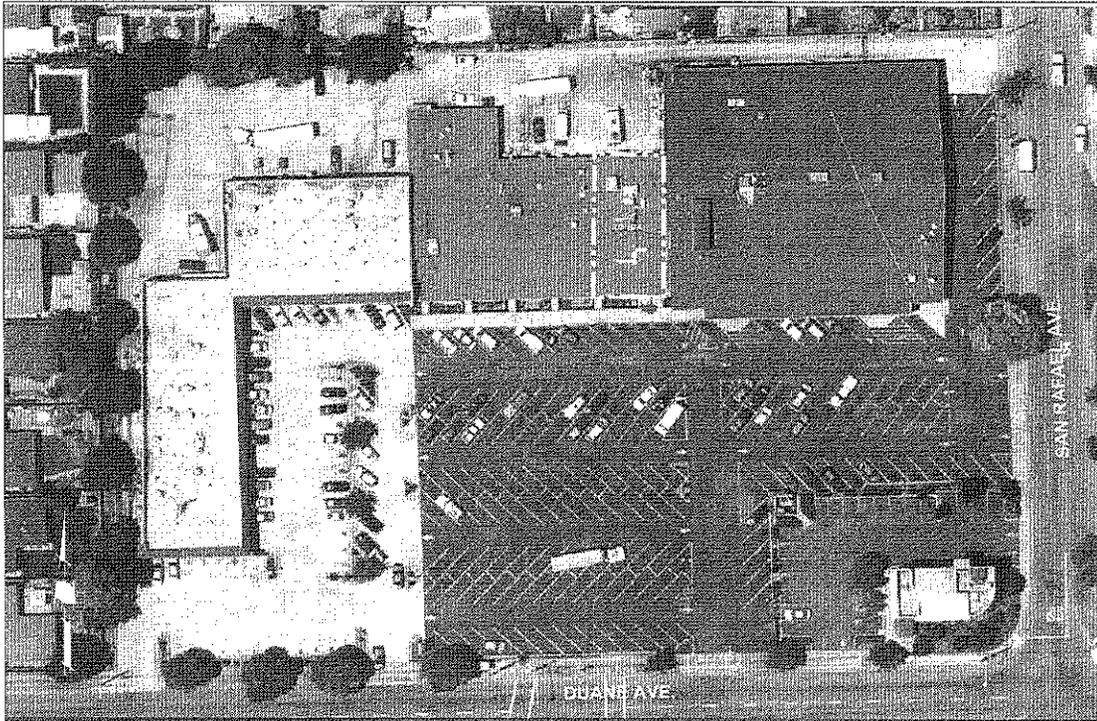


Table of Contents

- C-1 Cover Sheet
- C-2 Site Plan
- C-3 Floor Plan
- C-4 Security Deployment Plan

Project Information

Assessor's Parcel Numbers:	205-12-003
Existing Use:	Restaurant and Nightclub
General Plan Designation:	General Commercial
Existing File Number:	2008-0341
Gross Site Area:	±2.16 Ac.
R/W Dedication:	N/A
Net Site Area:	±2.16 Ac.
Existing Building Square Footage:	+/-2,857 Sq.Ft.
Parking Provided:	+/- 172 Stalls

Project Description

Proposed Conditional Use Permit for entertainment and late night use at LA Ronda. The Ronda plans to build upon its potential as an entertainment venue by providing live music and a lively yet safe atmosphere. Additionally, the Ronda proposes to expand its use by increasing the current footprint and will adopt the following security schedule. The Ronda would operate under the following schedule:

PROPOSED OPERATION SCHEDULE	
WEEKLY SCHEDULE	RESTAURANT/ENTERTAINMENT VENUE
HOURS OF OPERATION	9:00AM-1:30 AM

PROPOSED SECURITY SCHEDULE		
NUMBER OR PATRONS	NUMBER OF SECURITY PERSONNEL	SECURITY SCHEDULE
Less than 100	3 Security Personnel will be on site	9:00pm - 2:30am
100 - 300	Additional Security Personnel will be added to Patrol Parking Lot.	9:00pm - 2:30am

LA RONDA

927 E. Duane Ave
Sunnyvale CA 94086

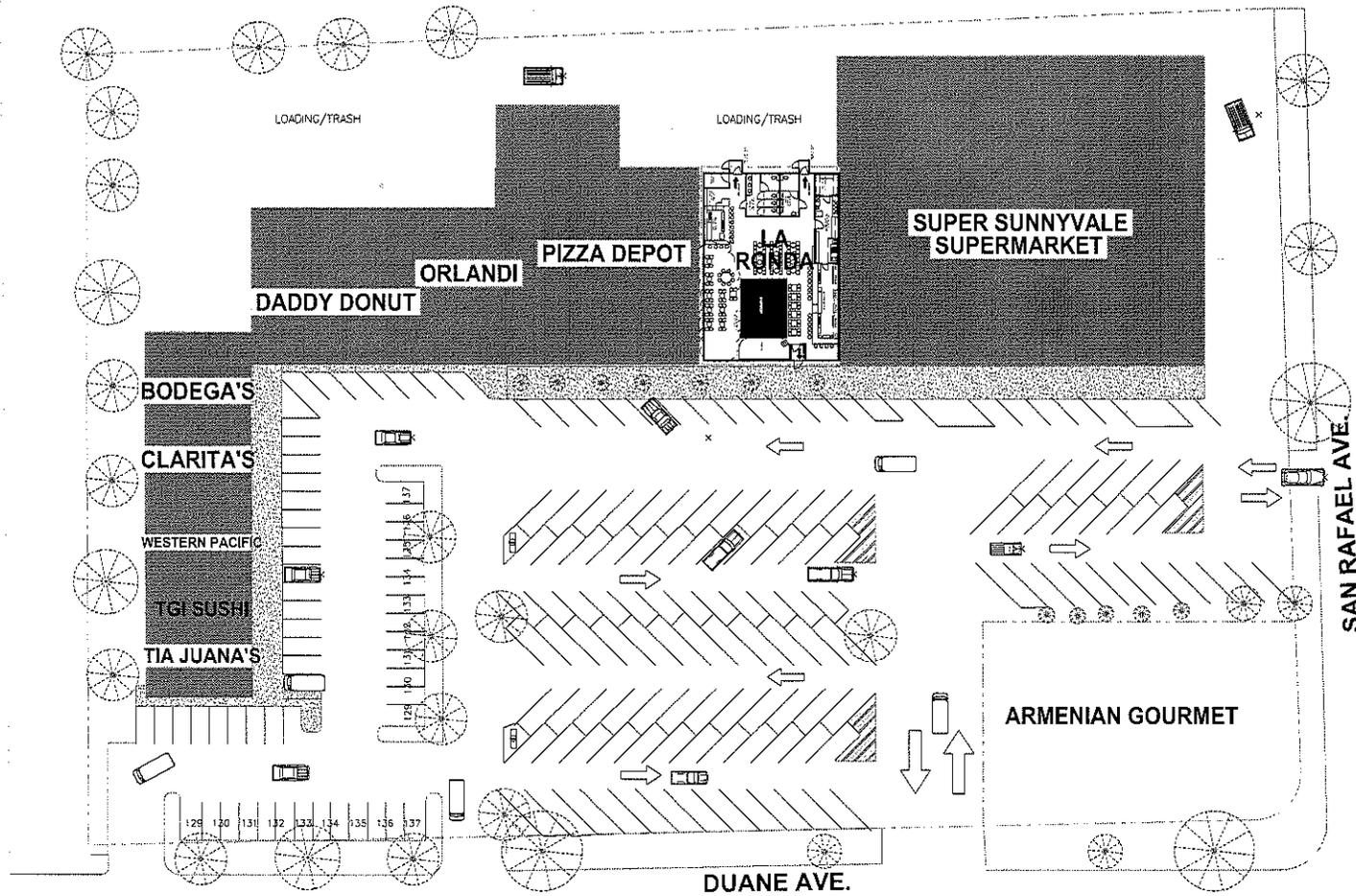
PERMIT #:2008-0341

Project Proposal | Installation of New Kitchen
ADA Restrooms, office/storage, and Sound Traps



ATTACHMENT
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LA RONDA

927 E. Duane Ave
Sunnyvale CA 94086

PERMIT #:2008-0341

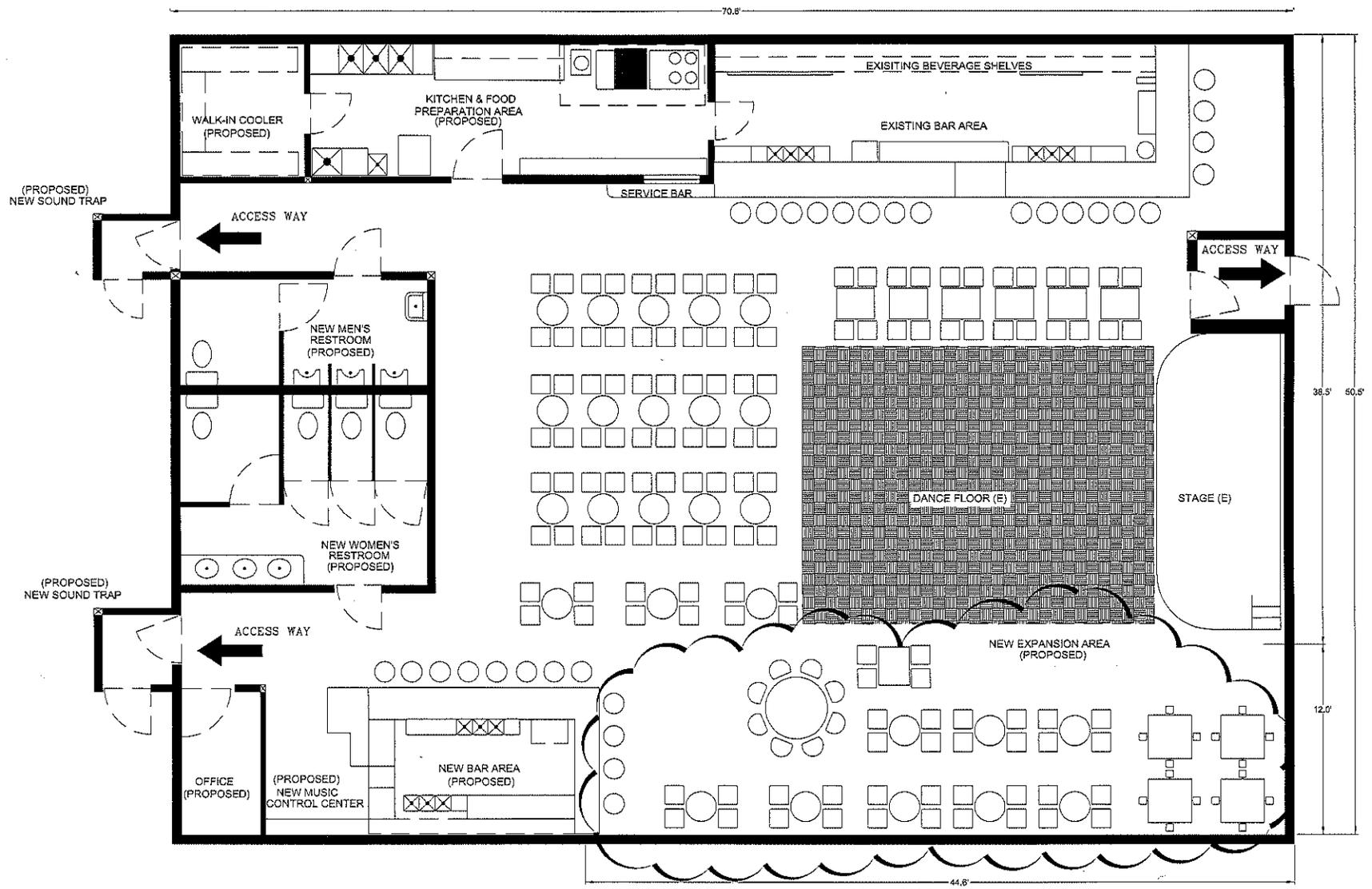
Project Proposal | Installation of New Kitchen
ADA Restrooms, office/storage, and Sound Traps



C-
SITE F

ATTACHMENT
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LA RONDA

927 E. Duan Ave
Sunnyvale CA 94086

PERMIT #:

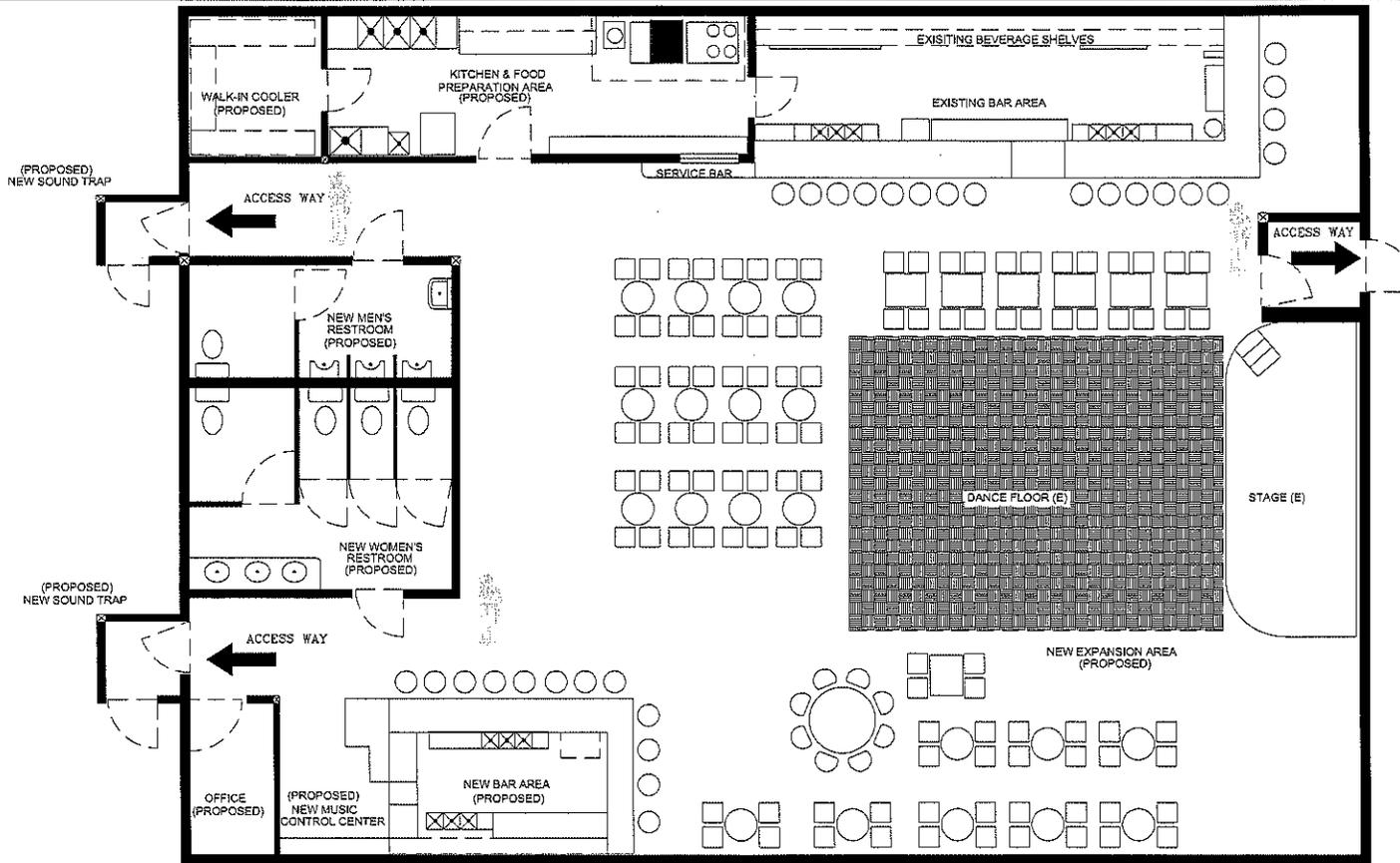
Project Proposal | Installation of New Kitchen
ADA Restrooms, office/storage, and Sound Traps



FLO

ATTACHMENT 2
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10/15/2021 10:10:10 AM



LEGEND

-  3 SECURITY-- OPENERS ON-SITE
-  1 SECURITY-- ADD-ONS
- TOTAL: 4 Security for 100-300 Patrons

PROPOSED SECURITY SCHEDULE		
NUMBER OR PATRONS	NUMBER OF SECURITY PERSONNEL	SECURITY SCHEDULE
Less than 100	3 Security Personnel will be on site	9:00pm - 2:30am
100 - 300	Additional Security Personnel will be added to Patrol Parking Lot	9:00pm - 2:30am

LA RONDA

927 E. Duane Ave
Sunnyvale CA 94086

PERMIT #:2008-0341

Project Proposal | Installation of New Kitchen
ADA Restrooms, office/storage, and Sound Traps

SECURITY SCHEDULE

ATTACHMENT C
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PLANNING COMMISSION MINUTES OF AUGUST 25, 2008

2008-0341 – Appeal by the applicant of a decision of the Administrative Hearing Officer denying a Special Development Permit to allow an existing nightclub to expand into a 534 square foot tenant space for a total of 3,534 square feet. **La Ronda Nite Club [Applicant] Maple Leaf Invs li LLC [Owner]** The property is located at **927 E. Duane Avenue** (in Fair Oaks Plaza Shopping Center) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (APN: 205-12-001) RZ

Gerri Caruso, Principal Planner, presented the staff report. She said staff was unable to make the findings due to a history of incompatibility with the adjacent residential neighborhood. She said staff recommends the Planning Commission deny the appeal and uphold the decision of the Administrative Hearing Officer. Ms. Caruso added that if the Commission approves the appeal that staff recommends the Commission approve the permit subject to the conditions in Attachment B.

Comm. Sulser confirmed with staff that in the C-1/PD Zoning District that the decision is discretionary whether a night club is allowed. Comm. Sulser and staff discussed that in most Commercial Zoning Districts night clubs can be allowed with a Use Permit, or a Special Development Permit and in any zoning district, a night club, which includes the serving of liquor, would require some level of public hearing review. Comm. Sulser and staff discussed that if the Commission denied the appeal that the applicant could appeal the Planning Commission decision to City Council. Staff said, ultimately, if the appeal is denied by City Council, that the applicant could look at other locations for a night club in Sunnyvale, which would need to be approved through a public hearing. Comm. Sulser said the report indicates that there have been 44 complaints regarding this address between December 21, 2007 and April 21, 2008 and asked if staff has numbers comparing the complaints about this site versus other night club sites. Ms. Caruso said that staff does not have comparison numbers and commented that not all night clubs are immediately adjacent to a residential use.

Comm. Hungerford clarified with staff that the staff recommendation is to deny the expansion. Ms. Caruso said the other issue, whether the applicant should reestablish the restaurant, is a code enforcement issue. Comm. Hungerford said the report indicates that on one of the Department of Public Safety's (DPS) call for service visits that the noise level was at 58 decibels (dBA) and asked staff what the allowed night time noise level is. Ms. Caruso said the night time level allowed is 45 dBAs adjacent to residential. Comm. Hungerford referred to Attachment E which indicates noise level measurements from several DPS calls. Ms. Caruso commented that the

applicant has made efforts to reduce the noise levels. Comm. Hungerford asked about two other sites nearby that have live entertainment. Ms. Caruso said there is a pizza parlor and banquet hall that have permits and confirmed that the history of complaints are not for these establishments and are for complaints specific to the La Ronda Nite Club.

Comm. Klein asked staff for clarification about the allowed dBA levels for this site and the different allowed levels for day and night. **Kathryn Berry**, Senior Assistant City Attorney, said that the allowed dBA levels would be 60 dBAs in the day and 50 dBAs at night, with the exception of certain operational noise, which includes music, which only 45 dBAs are allowed. Ms. Berry explained that the type of operational noise that only 45 dBAs would be allowed would be steady, audible tones such as a whine, staccato, or intermittent noise that includes music or speech. Comm. Klein and Ms. Ryan further discussed operational noise with staff explaining that the zoning code addresses all types of noise that are operational noise and with certain types of operational noise only allow 45 dBAs would be allowed. Comm. Klein commented about noise and how the noise has been considered for past projects. Comm. Klein referred to Attachment B, condition 1.G and confirmed with staff that the condition is the same as the code and that the applicant would be held to the code standard whether this condition were included or not.

Comm. Travis referred to pages 6 and 7 of the report regarding calls for service to DPS confirming with staff that there were 44 calls from December 21, 2007 to April 21, 2008 and an additional 62 calls between April 21, 2008 and August 7, 2008.

Chair Rowe opened the public hearing.

Joseph T. Padilla, Management Consultant and resident of Sunnyvale, represented the appellant. He addressed an earlier comment regarding nearby venues that generate noise including the Filipino club that features Latin music every weekend, and the Pizza Depot which features Karaoke contests primarily on Fridays and Saturdays. He said that both locations keep their doors open and neighbors have complained about the other two venues, with more complaints regarding the Pizza Depot. He said the La Ronda Club features live music seven days a week, have listened to the concerns of the neighborhood, and made efforts to mitigate and monitor the noise, clean up the parking lot, and keep the doors closed. He explained some of the efforts that have been made including sound proofing the back doors, the HVAC (Heating, Ventilating and Air Conditioning) vents, and the ceiling. He said a mobile food cart was immediately removed when it became an issue. He said the Club has hired professional security staff which is on site, monitors the entire interior area and also periodically patrols the parking lot with dBA sound meters. He said

security also helps disperse patrons at closing time. Mr. Padilla said the applicant has blacktopped and striped the parking lot, and have worked with the landlord for enhancement upgrades with the tenants. He said the owners have been flexible and responsive to meet the City's requirements. He said the change of use has detained the permit process. Mr. Padilla commented that he feels this is one of the best uses for the location. He said the permits were not immediately obtained for the additions due to some personal situations. He said he would like the Planning Commission to allow the applicants the opportunity to continue making improvements and continue redeveloping the center. Mr. Padilla said he spoke with DPS' Lieutenant Vinny Mata, asking him if the La Ronda Nite Club was a real serious problem, and he said no. He said other areas have more complaints. He said no statistic can be valued unless it is quantified. He said unless the Commission has information on calls for service to DPS for other clubs to compare to the calls for service for this club, then the Commission would not be making a decision with valid information. He said there is an error in the report on page 3 and page 5 that indicates that the expansion includes a second bar, and said the second bar was constructed under a different permit in 2007. He said the owners are continuing to make other improvements to control the noise. He said he hopes the Commission will find the reasons he has given to justify the approval of the appeal.

Comm. McKenna confirmed with Mr. Padilla that he understood that the application is merely for the expansion. Comm. McKenna said that she has a difficult time understanding why Mr. Padilla, as a consultant, did not advise his client to delay the expansion until there was time to obtain the proper permits. Mr. Padilla said when he first spoke with the City about the expansion that he was told it would only take a 35 or 40 minutes to bring in the plans and get the permits. He further explained the sequence of events including efforts to pull building permits, the change in use and the involvement of the Neighborhood Preservation Division. Comm. McKenna asked Mr. Padilla if the applicant had already started the expansion before applying for the permit. Mr. Padilla said part of the expansion had begun and that he is aware of other projects where work, due to different circumstances, has started before the permits are obtained. Mr. Padilla responded that he does not recommend beginning work before the permits are obtained.

Comm. Travis asked Mr. Padilla how long the security upgrades have been in place. Mr. Padilla said there has always been security and that when the concerns came up that he worked with his clients to upgraded the security. Mr. Padilla said that now the orders are that security remains until the parking lot is completely clear, adding that security has been monitoring dBA levels with meters for the past three months. **Trudi Ryan**, Planning Officer, commented that Comm. Travis previously asked about the number of calls for services indicated in the report, clarifying that DPS officers visited

this site on 62 occasions between April 21, 2008 and August 7, 2008. Ms. Ryan said that 36 of the visits were calls for service and 26 were initiated as security checks. Mr. Padilla commented that he requested that DPS patrol around 1:30 p.m. or later to help eliminate some of the problems and that they welcome the DPS visibility.

Comm. Klein asked Mr. Padilla about the security sound monitoring and what the dBA levels have been. Mr. Padilla said if the security staff finds the levels to be excessive, as each band is different, that they go into the club and adjust the volume levels accordingly. He said the applicant is working on mitigating the noise on an ongoing basis.

Vice Chair Chang asked Mr. Padilla if the owner knows that even if this appeal is approved that they will need to reestablish the restaurant. Mr. Padilla said they would like to avoid reestablishing the restaurant, and would rather pursue a permit for a bar only as the zoning would allow a bar only. Vice Chair Chang said he wants to make sure the applicant understands there are two situations to be addressed. Vice Chair Chang said the applicant needs to have the proper permits, and that the current permit is for live entertainment with a restaurant, and the applicant is currently in violation of the code, which needs to be corrected.

Richard Walrod, a Sunnyvale resident and neighbor, said the super market and pizza parlor do not have live bands. He said the reasons for calls for service to the police range from fights, to drunk driving, and noted that since the security has been upgraded that the DPS has had to make more calls for service. He said the club does not help the neighborhood, and listed more problem situations that the club and patrons bring to the neighborhood. Mr. Walrod said the applicant started building without a permit. He said there are residential neighborhoods on all sides of the establishment. He said he does not feel the problems are resulting from other establishments. Mr. Walrod urged the Commission to deny the expansion of club as there are residential neighborhoods on all sides and there are many problems for the neighborhood because of the club's presence. He said if the Commission is in support of this expansion that he would like the club moved to the Commissioner's neighborhoods.

Comm. McKenna asked Mr. Walrod about the Filipino club located near the La Ronda Nite Club. Mr. Walrod said he thinks the Filipino club closes at 11 p.m. and said he has never had a problem with the Filipino club. He said they do not have live music, just a little Karaoke singing.

Susanne Edgerton, a Sunnyvale resident and neighbor, said she lives on the street behind the La Ronda Nite Club. She said the bass can be very loud and she has noticed improvement. She said she does not know why a night club use was ever

permitted in the residential neighborhood. She said she thinks night clubs should be other places than so close to residential neighborhoods. She said there are problems on their street late at night including, cars racing, and pedestrians walking through the neighborhood and breaking bottles.

John Withington, a Sunnyvale resident and neighbor, said his main concern is about the sound levels. He said Mr. Padilla said that every step has been taken to reduce the sound levels, and they have improved, but he can still hear the bass noise. Mr. Withington referred to Attachment B, condition 1.H regarding the installation of sound proofing materials, and asked if the neighbors could be assured that the standard or sound proofing levels would be provided. Ms. Ryan stated that the objective would be to address the noise levels on adjacent properties to comply with the 45 dBA standard.

Amelia Chacen (with her daughter providing interpretation), owner of a restaurant near the La Ronda Nite Club, said that the noise does not bother her. She said that she stays open until 3 a.m. and sells food to patrons of the La Ronda Nite Club. She said there is noise, but it is typical noise for a club and that the owner's have the noise controlled. Ms. Chacen said different people interpret noise levels differently and invited the Commission to come to the area to see for themselves. She said the reason she stays open late is to serve people who may have been drinking at La Ronda and want to eat before they leave which can help reduce the affects of alcohol. She said this is a pretty good neighborhood.

Vice Chair Chang asked Ms. Chacen if she has witnessed any of the activities that that neighbor spoke of, i.e. police activity, cars screeching. Ms. Chacen said she has occasionally seen the police at the site, and feels that police presence is normal for clubs. She said she has not noticed other problems in the neighborhood.

Comm. McKenna asked Ms. Chacen what days her business is open until 3 a.m. Ms. Chacen said she is open Wednesday, Friday, Saturday and Sunday until 3 a.m. Ms. Chacen said that the club closes around 1:30 and patrons come to and eat, adding that she does not serve alcohol at her establishment.

Bob Vargo, a Sunnyvale resident and neighbor, said he lives behind the Pizza Depot. He said the previous bar at this site, the Raven, was worse with a lot of noise in the back parking lot. He said when La Ronda moved in that the only problem was the bass noise. He said the owners have reduced that noise by about 75% and that he can occasionally hear bass noise. He commented that he has no problem with the Pizza Depot, except for bad karaoke singing and people playing in the back parking lot during football season. He said he never hears noise from the Filipino club.

Mr. Padilla said it is fortunate that there have been a couple of neighbors testifying that some of the complaints are not real and that some of the calls for service to the police are not quantified. He said he also questions how some of the neighbors who have complained about the noise know that the noise is coming from La Ronda. He said the club keeps close watch and will deny entry to those without proper identification, or those inappropriately dressed. He said some of the things that happen in an entertainment venue are sometimes out of the operator's control, quoting two newspaper stories of problems at facilities owned by the City of San Mateo and the City of San Jose. Mr. Padilla said the demographics in different part of the City vary, providing example of different qualities of people, and said that some of the problems reported by the neighbors are not necessarily related to La Ronda. Mr. Padilla asked the Commission to please consider the issues he has discussed and said the applicant would follow the procedures required by the City and that the owners are willing to work with the community. Mr. Padilla said he hopes the Commission will set aside hearsay and treat his clients properly. He said, like Comm. McKenna, he lives on the west side of Sunnyvale and they do not have the same kind of problems due to the demographics. He said he sees the problems as part of the issues of society in different areas. He said that the La Ronda Nite Club provides a valuable community need. Mr. Padilla said he would continue to work with everyone to straighten out this situation.

Chair Rowe closed the public hearing.

Comm. McKenna moved for Alternative 1, to deny the appeal and uphold the decision of the Administrative Hearing Officer to deny the Special Development Permit. Comm. Klein seconded the motion.

Comm. McKenna said she would like to disassociate herself from the comments Mr. Padilla made about neighborhoods and the quality of different people in different neighborhoods. She said you can live in what is labeled "the best or worst of neighborhoods" and have or not have problems. She said the people who live in this neighborhood deserve the best that they can have. She said several of the people who spoke live on Coachella Avenue which is very close to this site. Comm. McKenna said the real issue is that the appellant did not get a permit for the expansion. She said the Planning Commission has to deal with whether a permit should be granted after the construction is already done, and she thinks, no. She said a permit needs to be approved before an expansion. Comm. McKenna said staff is recommending denial and her motion is the same as staff's recommendation.

Comm. Klein said he would be supporting the motion. He said he agrees with what Comm. McKenna said and said that the Planning Commission is being asked to approve an expansion of use. He said, from a nuisance standpoint, there are from other issues, i.e. sound. Comm. Klein agreed that the Commission does not have

complaint numbers to compare this establishment with other similar establishments. Comm. Klein said he applauds the applicant for trying to improve security and working on lowering the dBA levels. Comm. Klein said even with the improvements that there are still complaints. He said it is correct to fix problems, but it would be difficult to grant an expansion to this site where there are already existing problems. He said he hopes the applicant can fix whatever code and usage issues exist with the existing site.

Comm. Sulser said he would be supporting the motion. He said his concerns are land use issues. He said this is zoned Neighborhood Business and he does not find the expansion to be compatible with the zoning.

Vice Chair Chang said he would be supporting the motion. He said he thinks the current size of the business is challenging. He said that even with the efforts of the applicant to improve conditions that the neighbors still have to deal with the same issues. Vice Chair Chang said it is difficult to support this expansion and said that work should not have been done without permits. He encouraged the applicant to work with City staff to mitigate the current issues.

Comm. Hungerford said he would be supporting the motion. He said there is an allowable noise standard on the books of 45 decibels. He said this night club is violating this noise standard, has been for a long time, and still does on occasion. He said he cannot see expanding a use that is violating a noise standard set in the Municipal Code.

Chair Rowe said she would be supporting the motion. She said she feels like a permit was granted for one use and the owner changed the use. She commented that there is no need to quantifying figures for all bars as these are complaint based problems from neighbors. Chair Rowe addressed a comment about neighbors that might have sleep problems acknowledging that some people are sensitive sleepers and others are not. She said that she thinks the whole permit process for this restaurant needs to be looked into.

ACTION: Comm. McKenna made a motion on 2008-0341 to deny the appeal and uphold the decision of the Administrative Hearing Officer to deny the Special Development Permit. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than September 9, 2008.