



**CITY OF SUNNYVALE REPORT  
ZONING ADMINISTRATOR HEARING**

**December 29, 2010**

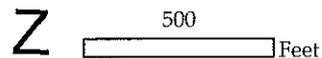
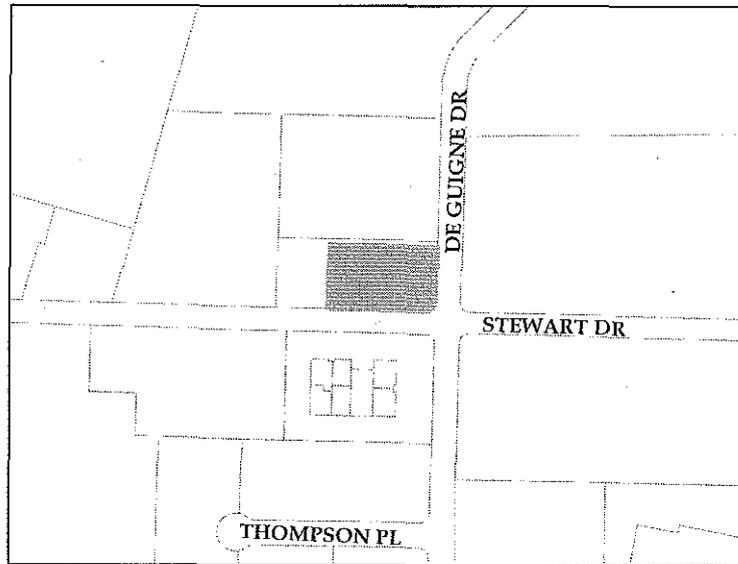
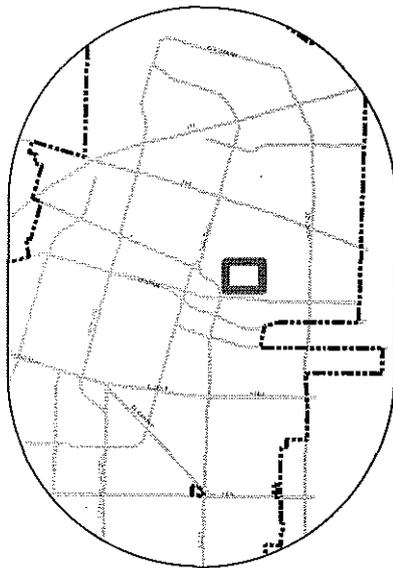
**File Number:** 2010-7817      **Permit Type:** Use Permit  
**Location:** 845 Stewart Drive (near Duane Ave.) (APN: 205-21-010)  
**Applicant/Owner:** Agape Grill / Khalil and Tiffany Jenab Et Al  
**Staff Contact:** Steve Lynch, Senior Planner, (408) 730-2723

**Project Description:** To allow general liquor service and live entertainment.

**Reason for Permit:** A Use Permit is required for new liquor service.

**Issues:** Neighborhood Compatibility

**Recommendation:** Approve with Conditions



**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Industrial	Same
Zoning District:	Industrial and Service	Same
Total Sq. Ft. on Site:	16,672	Same
Tenant Sq. Ft.:	4,150	Same
Parking:	77	Same

Previous Planning Projects related to Subject Application Original Use Permit for a restaurant was approved in this location in 1975. The tenant space appears to be in continuous operation since that time.	<b>Yes</b>
Neighborhood Preservation Complaints	<b>No</b>
Deviations from Standard Zoning Requirements	<b>No</b>

**Use Description:** Agape Grill is an existing restaurant with beer and wine service. The applicant has requested liquor service (ABC Type 25) in conjunction with meals. They also requested approval of their existing live entertainment use. Live entertainment includes DJ and dancing for private parties.

**Hours of Operation:** The restaurant is open Monday – Friday from 9:00am to 9:00pm and Saturdays from 9:00am to 3:00pm. Sundays they are closed but periodically host special events on Saturday and Sunday evenings.

**Exterior Changes:** The restaurant currently has an outdoor dining area (24' x 36') that has been in existence from the previous restaurant uses. Staff could not find a specific permit approval for this dining area but it likely was created prior to a requirement of a Miscellaneous Plan Permit.

**Parking:** The site has 77 parking spaces and requires 72 for the uses currently on site. The minimum 72 parking spaces include the 850 square foot outdoor dining area.

**Public Contact:** 17 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice.

**Environmental Determination:** A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

## **FINDINGS**

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In order to approve the Use Permit the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

The proposed use will contribute to the diversity of services in the City's industrial area. There is not a high concentration of alcohol service in this area and Sunnyvale Public Safety has no reported incidents at this restaurant.

**Staff was able to make this finding as described above.**

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

The project does not include any expansion or other modifications to the existing building so no visual impacts or effects to the surrounding area are anticipated. Through compliance to the conditions of approval, the proposed business will not be a detriment to neighboring properties and is not expected to have any impacts.

**Staff was able to make this finding as described above.**

## **ALTERNATIVES:**

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1. Approve the Use Permit with recommended Conditions in Attachment A.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

**RECOMMENDATION**

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Alternative 1. Approve the Use Permit with recommended Conditions in Attachment A.

Reviewed by:



Shaunn Mendrin  
Senior Planner

Prepared By: Steve Lynch, Senior Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site Plan
- C. Photos of Existing Restaurant

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
December 29, 2010  
Use Permit: 2010-7817**

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE  
APPROVED PROJECT.**

- GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:  
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors (dance floor area, seating, etc.), approved floor plans, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]
- GC-2. USE EXPIRATION:  
The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)
- GC-3. PERMIT EXPIRATION (ORDINANCE 2895-09):

The Use 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. [SDR] (PLANNING)

- GC-4. NON-COMPLIANCE WITH THE CONDITIONS OF APPROVAL:  
 Non-compliance with the conditions of approval for this planning application may trigger either reconsideration (discretionary review of new application) of the UP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development.

**O: THE FOLLOWING CONDITIONS OF APPROVAL FOR RESTAURANT/BAR OPERATIONS SHALL APPLY TO THE APPROVED PROJECT.**

OPERATIONS:

- O-1. GENERAL: All conditions of approval for operational issues contained here are required to be in place and operational starting the first date the business is open. [COA] [PLANNING]
- O-2. EXTERIOR DOORS: All exterior doors shall have self-closing mechanisms and shall be kept closed when not in use. Doors may be propped open during earlier hours of the day to allow in fresh air but must be kept closed when the business is open to the public. [COA] [PLANNING]
- O-3. TRASH: The applicant shall be responsible for trash clean-up resulting from the business. [COA] [PLANNING]
- O-4. EMPLOYEE MANUAL: An employee manual shall be created that informs employees the proper procedure in dealing with drunk and disorderly patrons. The manual shall address items such as outside transportation contact information for patrons leaving the club to their homes, maximum drink limits for inebriated patrons, policies on over-service of drinks, etc. [COA] [PLANNING]
- O-5. EMPLOYEE TRAINING: Employees shall be given training and education from the employee manual on a quarterly basis. [COA] [PLANNING]
- O-6. OUTSIDE EVENTS: No outside event promoters are allowed to operate at this location. All entertainment/entertainers must be hired directly by the business managers or owners. [COA] [PLANNING]
- O-7. NOISE: The business (owners or employees) shall be responsible for monitoring the noise generated by the business through the use of sound meters. [COA] [PLANNING]
- O-8. COMPLAINTS: The business (owners or employees) shall be responsible for addressing and correcting any complaints received. [COA] [PLANNING]

- O-9. ABC REGULATIONS: Comply with all ABC regulations and license requirements. Failure to comply with all ABC regulations is grounds for reconsideration (discretionary review of new application) of the SDP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development. [COA] [PLANNING]

**AT: THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.**

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation at all times:

a) The hours of operation are limited to Monday – Friday from 9:00am to 9:00pm and Saturdays from 9:00am to 3:00pm. Sundays closed. Periodically there may be special events (private parties only) on Saturday – Sunday evenings. [COA] [PLANNING]

AT-2. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

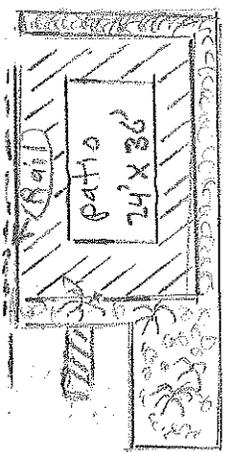
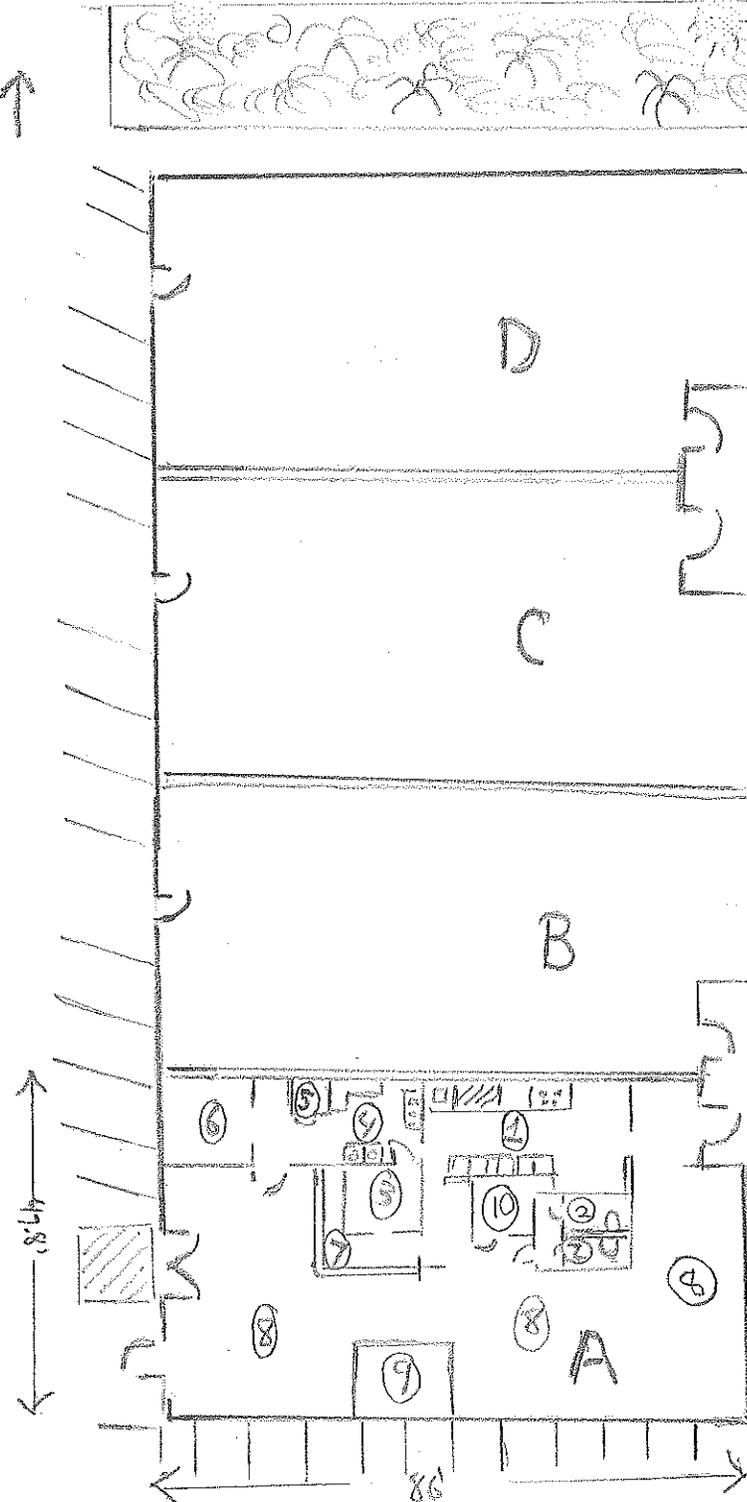
AT-3. LOUDSPEAKERS PROHIBITED:

Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]

AT-4. EXTERIOR EQUIPMENT:

All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored items shall not exceed the height of the enclosure. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]

PARKING



Stewart Dr.

- ① Kitchen
- ② Bathrooms
- ③ Walk-in Cooler
- ④ Prep room
- ⑤ Electrical room
- ⑥ Storage
- ⑦ Bar Area
- ⑧ Dining room
- ⑨ stage
- ⑩ office

PARKING

← W → S

**RECEIVED**

NOV 5 2010

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PLANNING DIVISION

GARBASE



**Prospect**

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**From:** Sabah Francis [syfrancis@sbcglobal.net]  
**Sent:** Tuesday, November 09, 2010 2:21 PM  
**To:** usa2903@fedex.com



Sent from my iPhone

**Prospect**

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**From:** Sabah Francis [syfrancis@sbcglobal.net]  
**Sent:** Tuesday, November 09, 2010 2:18 PM  
**To:** usa2903@fedex.com



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**Prospect**

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**From:** Sabah Francis [syfrancis@sbcglobal.net]  
**Sent:** Tuesday, November 09, 2010 2:19 PM  
**To:** usa2903@fedex.com



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Prospect

From: Sabah Francis [syfrancis@sbcglobal.net]  
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