



CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

June 15, 2011

File Number: 2011-7252

Permit Type: Special Development Permit

Location: 1183 W. El Camino Real (near S. Bernardo Ave.) (APN: 161-23-003)

Applicant/Owner: Sense Music Studio/ Henry Nigro Et Al

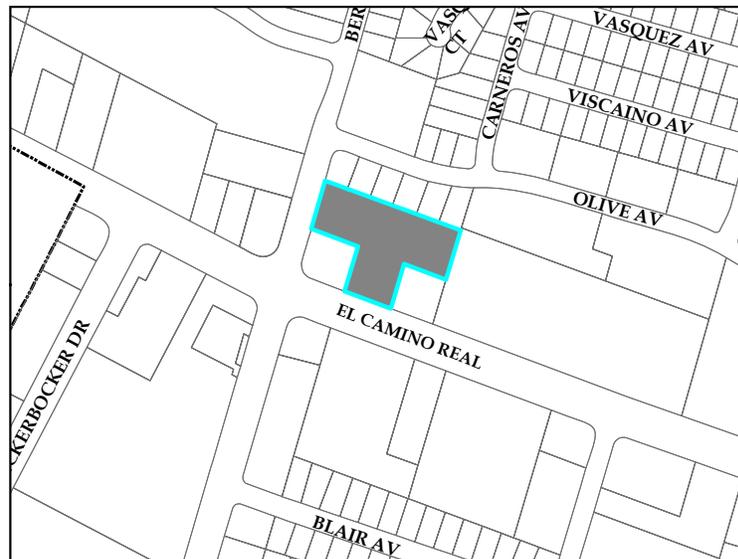
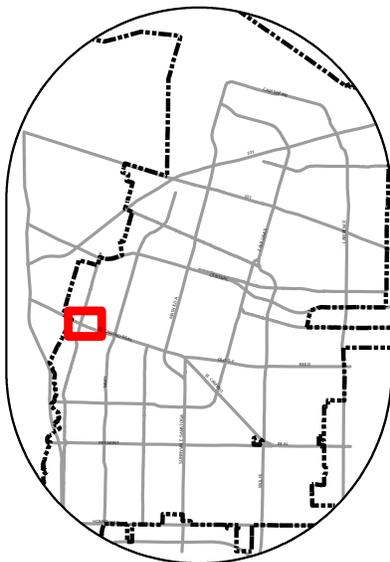
Staff Contact: Noren Caliva, Associate Planner, (408) 730-7637

Project Description: To allow a minor modification to the conditions of approval for a night club/karaoke bar to allow 2 a.m. closing time instead of 12 a.m.

Reason for Permit: A Special Development Permit is required to allow modifications to a previously-approved permit.

Issues: Public Safety and Noise

Recommendation: Approve with Conditions



500

Feet

PROJECT DESCRIPTION

	Existing	Proposed
General Plan:	Commercial General Business	Same
Zoning District:	C-2/ECR	Same
Total Sq. Ft. on Site:	19,450	Same
Tenant Sq. Ft.:	2,500	Same
Parking:	121	Same

Previous Planning Projects related to Subject Application:	Yes
Neighborhood Preservation Complaints:	No
Deviations from Standard Zoning Requirements:	No

Background: Special Development Permit (SDP) 2009-0345 was approved by the Zoning Administrator on January 27, 2010 to allow for continued use of the tenant space as a nightclub with live entertainment (karaoke) and full liquor service. Although the tenant space has been vacant for several years, the SDP approval is valid until January 27, 2013.

In an effort to upgrade the existing site to City standards and reduce potential public safety concerns, SDP 2009-0345 was approved with the following conditions (see Attachment D):

- Building and site upgrades (interior upgrades and bicycle parking);
- Permit compliance (staff-level compliance review within 6 months of business opening and initiation of permit revocation for non-compliance);
- Private security (private security, cameras, unobstructed doors and windows for karaoke rooms);
- Noise (self-closing mechanisms on exterior doors, installation of sound-proofing materials within walls);
- Operation (no outside event promoters permitted, trash clean-up);
- Closing hour limitation to midnight (COA #3B).

Hours of Operation: The applicant plans to use the tenant space as a nightclub with karaoke and full liquor service, as approved through the SDP. The project currently under consideration is to modify COA #3B to extend the closing hours to 2 a.m. daily. Per the applicant's project description letter, last call for drinks would occur at 1 a.m. and patrons would be asked to leave the site at 1:30 a.m. (see Attachment C).

No other modifications to the approved SDP are proposed at this time and the applicant is in agreement with the remaining conditions. If the proposed closing time is denied, the original SDP approval can still be exercised with the midnight closing limitation.

Public Safety & Noise: The site is surrounded by commercial properties to the east, south and west. Duplexes are directly adjacent to the north (rear) of the subject property. The subject building is set back approximately 30 feet from the residential property line and is separated by an 8- foot tall concrete wall.

Although there are public safety and noise concerns with extending the hours to 2 a.m., staff finds that the approved SDP conditions will reduce potential noise, trash and public safety impacts. To better ensure compliance with conditions and code requirements, staff has consulted with the Department of Public Safety (DPS) and recommends the following additional conditions (see Attachment A):

- A Security and Safety Plan shall be prepared to include general policies, procedures, crowd management measures, training program, implementation and record keeping;
- A second staff-level compliance review shall occur within 6 months from the date of action of the initial compliance review.

The proposed hours of operation and conditions of approval to address public safety and noise are consistent with the recently-approved operation of La Ronda Restaurant at 927 E. Duane Avenue, which is a restaurant with live entertainment and full liquor service adjacent to single-family homes.

Public Contact: 96 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No letters were received.

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

FINDINGS

In order to approve the Special Development 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 uses along El Camino Real, as well as provide additional entertainment options for the community. In addition, the project meets all development standards and may also provide an additional draw to commercial uses available within the shopping center.

Staff was able to make the findings as the design meets the guidelines 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.

As conditioned, security measures and subsequent compliance review will ensure that any possible public safety and noise impacts to the surrounding area are reduced. In addition, adequate checks are in place to ensure that the City has the ability to review the site and take appropriate action if noncompliance becomes an issue.

The project is expected to have minimal impacts on surrounding properties.

ALTERNATIVES:

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

RECOMMENDATION

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

Reviewed by:

Shaunn Mendrin

Senior Planner

Prepared By: Noren Caliva, Associate Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Letter from the Applicant
- D. SDP 2009-0345 Final Conditions of Approval

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
JUNE 15, 2011**

Planning Application 2011-7252

1183 W. El Camino Real

Special Development Permit to allow a minor modification to the conditions of approval for a night club/karaoke bar to allow 2 a.m. closing time instead of 12 a.m. (Also see original Special Development Permit 2009-0345).

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, 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:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. CONFORMANCE WITH PREVIOUS PLANNING PERMIT:

The subject site shall comply with all conditions of approval and requirements of Special Development Permit 2009-01345, unless otherwise permitted by this Special Development Permit. [PLANNING] [COA]

PF: THE FOLLOWING SHALL BE MET PRIOR TO COMMENCEMENT OF THE APPROVED USE.

PF-1. SECURITY AND SAFETY PLAN (DEPARTMENT OF PUBLIC SAFETY REVIEW): Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development 30 days prior to commencement of the approved use. The plan shall include general policies and procedures, crowd management measures, training program, implementation and record keeping. [COA] [PUBLIC SAFETY]

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 9:00 a.m. to 2:00 a.m. daily (unless reduced hours are required by ABC).
- b) Alcohol service shall end at 1:00 a.m. daily.
- c) Hours of operation extending beyond 2:00 a.m. shall require a separate Special Development Permit, subject to review and

approval by the Zoning Administrator. [COA]
[PLANNING/PUBLIC SAFETY]

AT-2. COMPLIANCE WITH SECURITY AND SAFETY PLAN:

The business operator shall comply with the approved security and safety plan and noncompliance with the security plan resulting in extraordinary public safety service will result in the City billing the business or land owner for public safety services pursuant to SMC 9.47. Any revisions to the approved security plan shall be submitted to Crime Prevention Division of Public Safety Department for review. [COA] [PUBLIC SAFETY]

AT-3. SUBSEQUENT COMPLIANCE REVIEW:

A second compliance review shall be completed approximately six months from the date of action of the initial compliance review required through Special Development Permit 2009-0345. The property owner or business owner shall apply for the compliance review (Planning Application type "Other" and the MPP fee) with the Director of Community Development to determine if the business has successfully complied with all conditions of Special Development Permits 2009-0345 and 2011-7252 and applicable Municipal Codes. The property owner or business owner shall provide a narrative and supporting documentation indicating how the establishment has complied with all conditions of approval and the Director of Community Development may inspect the site and other documentation to verify the submitted narrative. If the Director of Community Development determines that the use or extended hours of operation is not in compliance with the approved conditions, the compliance review will be referred to the Planning Commission for discretionary review. The Planning Commission may modify the conditions of approval, impose new conditions of approval, recommend revoke the Permit(s), require additional compliance review, or take no further action. [COA] [PLANNING]