



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

February 15, 2012

**File Number:** 2011-7719

**Permit Type:** Special Development Permit

**Location:** 153 E. Fremont Ave. (near Sunnyvale-Saratoga Rd.)  
(APN: 211-34-001)

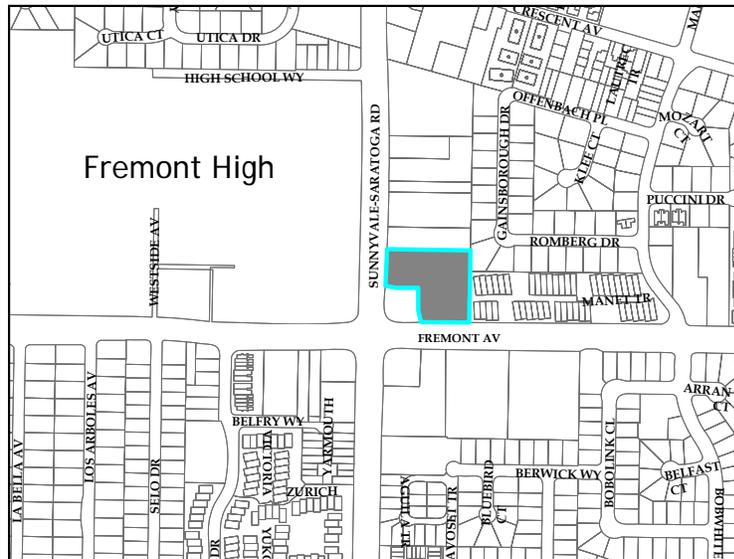
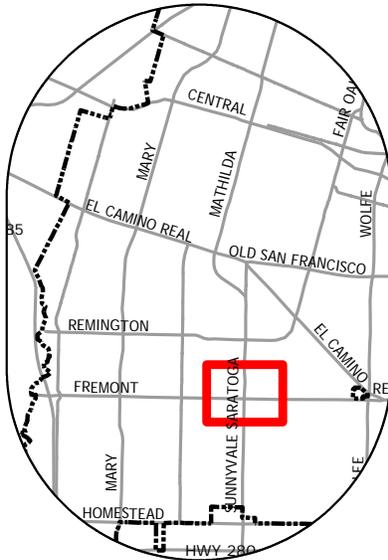
**Applicant/Owner:** Da Kine Café / Soo Lee, et al

**Staff Contact:** Steve Lynch, Senior Planner, (408) 730-2723

**Project Description:** To allow live entertainment (amplified acoustic music) and full liquor service at Da Kine Café.

**Issues:** Neighborhood Compatibility

**Recommendation:** Approve with Conditions



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Commercial Neighborhood Shops	Same
Zoning District:	Neighborhood Business	Same
Total Sq. Ft. on Site:	94,525	Same
Tenant Sq. Ft.:	1,340	Same
Parking:	142	Same

Previous Planning Projects related to Subject Application A Miscellaneous Plan Permit (2010-7555) was approved on August 12, 2010 to allow beer and wine service.	<b>Yes</b>
Neighborhood Preservation Complaints	<b>No</b>
Deviations from Standard Zoning Requirements	<b>No</b>

**Use Description:** Da Kine Cafe is an existing restaurant with beer and wine service. The applicant has requested a permit for live entertainment on Thursdays, Fridays, and Saturdays. The live entertainment would be acoustical music, or amplified acoustical music, but will not be DJ music or amplified music for dancing. The live entertainment may also include guest speakers, comedians, or other non-music entertainers.

The applicant initially requested liquor service (ABC Type 25) in conjunction with meals. They do not currently have a Type 25 license but may apply if one is available in the next year. The applicant has withdrawn their request for full liquor at this time and is only seeking approval of the live entertainment permit.

**Hours of Operation:** The restaurant is open Monday – Friday from 6:30am to 8:00pm and Saturdays – Sunday from 8:00am to 8:00pm. If the live entertainment is approved, the applicant will keep the restaurant open until 1:00am Thursday – Saturday.

**Neighborhood Compatibility:** The Department of Public Safety (DPS) has expressed concern about the potential impacts this use might have on the adjacent high school. Based on this potential neighborhood conflict, staff requested the applicant move their start time for entertainment from 1:00pm to 6:00pm. This will allow high school students to generally be out of the area before the live entertainment starts. Both the applicant and DPS have agreed to this change.

**Exterior Changes:** None.

**Parking:** The site has 142 parking spaces and requires only 105 for the uses currently on site. No changes are proposed at this time.

**Public Contact:** 172 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 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 services in the City's commercial corridors. There is not a high concentration of entertainment in the subject shopping center and the change of use will not affect the surrounding uses.

**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. In addition, liquor service is not anticipated at this time. 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 Special Development Permit with recommended Conditions in Attachment A.
2. Approve the Special Development Permit with modifications.
3. Deny the Special Development Permit.

**RECOMMENDATION**

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

Reviewed by:

**Gerri Caruso**

Principal Planner

Prepared By: Steve Lynch, Intern

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site Plan
- C. Floor Plan

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
February 15, 2012**

Special Development Permit: 2011-7719  
153 E. Fremont Avenue

To allow live entertainment (amplified acoustic music) service at Da Kine Café.

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 Special Development 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. 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 there is live entertainment. [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. PARKING MANAGEMENT PLAN: The applicant shall submit a parking management plan that is applicable during live entertainment events.

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

AT-1. HOURS OF OPERATION:

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

a) The hours of operation are limited to Sunday-Wednesday from 6:30am to 8:00pm and Thursday-Saturdays from 8:00am to 1:00am.

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]

Da Kine Cafe  
153 E. Fremont Ave.  
Sunnyvale CA 94087

ATTACHMENT B  
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Google earth

feet  
meters

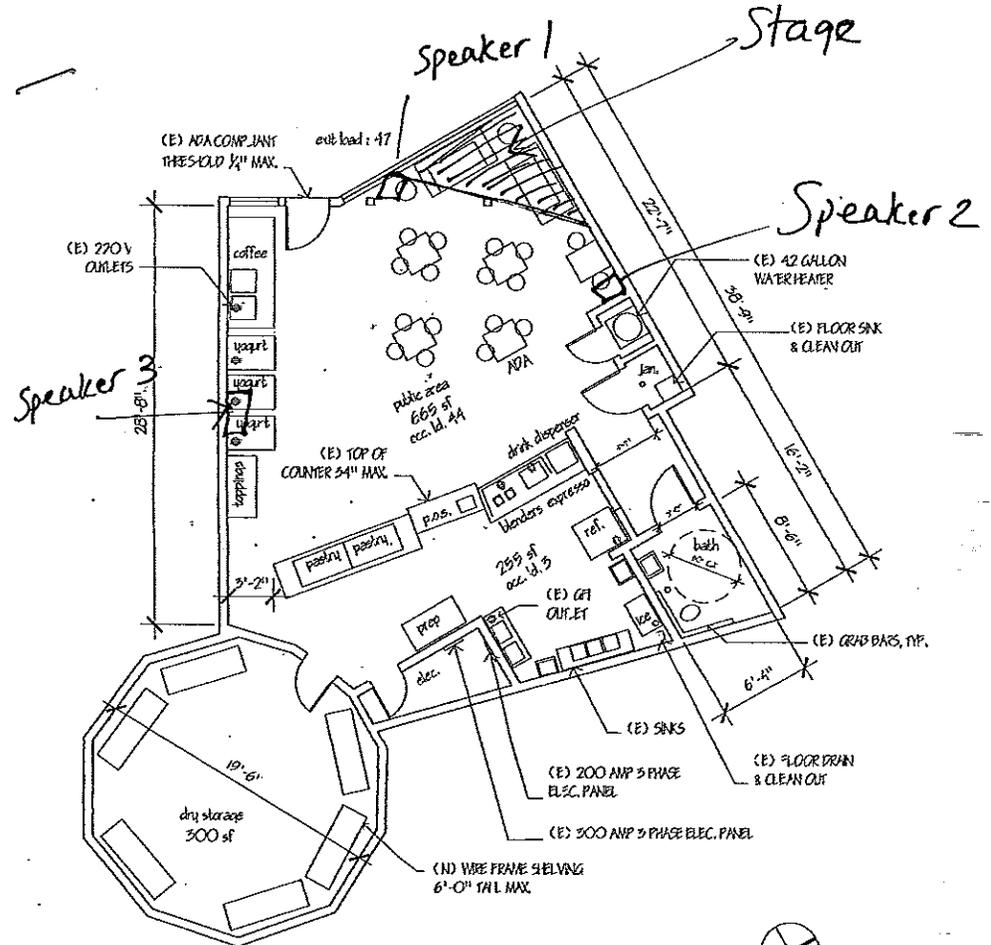


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Google earth



DA KINE CAFE  
 153 E. FREMONT AVE.  
 SUNNYVALE CA 94087  
 C/O PETE BE  
 408.568.9700



SCOPE OF WORK:  
 NEW FURNITURE AND EQUIPMENT IN EXISTING CAFE  
 ALL EXISTING CONSTRUCTION TO REMAIN.  
 NO DEMOLITION TO OCCUR.  
 NO NEW PLUMBING.  
 NO NEW ELECTRICAL.  
 NO NEW WALL CONSTRUCTION  
 ALL EXISTING CONSTRUCTION, RESTROOM AND ENTRY ACCESSIBLE AND ADA COMPLIANT  
 NO CHANGE IN (E) PARKING OR REQUIREMENTS FROM PREVIOUSLY PERMITTED USE

PUBLIC AREA:	665 SF
KITCHEN AREA:	255 SF
STORAGE:	300 SF
ELEC. RM, BATHROOM, JAN. WFL	120 SF
TOTAL	1340 SF

Floor Plan  
 scale: 1/8" = 1'-0"  
  
 153 E. Fremont Ave.  
 Sunnyvale, CA  
 March 29, 2010

Entertainment Hours: 6pm to 2am  
 Thursday to Saturday

Employee Manuals: YES