



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**September 8, 2008**

**SUBJECT:**           **2008-0164: Karoon Persian Cuisine** [Applicant] **Ahron Bogomilsky Trustee & Et Al** [Owner]: Application located at **897 E. El Camino Real** (near Wolfe Road) in a C-2/PD (Highway Business/Planned Development) Zoning District.

Motion               Applicant appeal of conditions of approval by the Administrative Hearing Officer for a Special Development Permit to allow a deli with indoor seating at an existing shopping center.

**REPORT IN BRIEF**

**Existing Site Conditions**           Shopping Center

**Surrounding Land Uses**

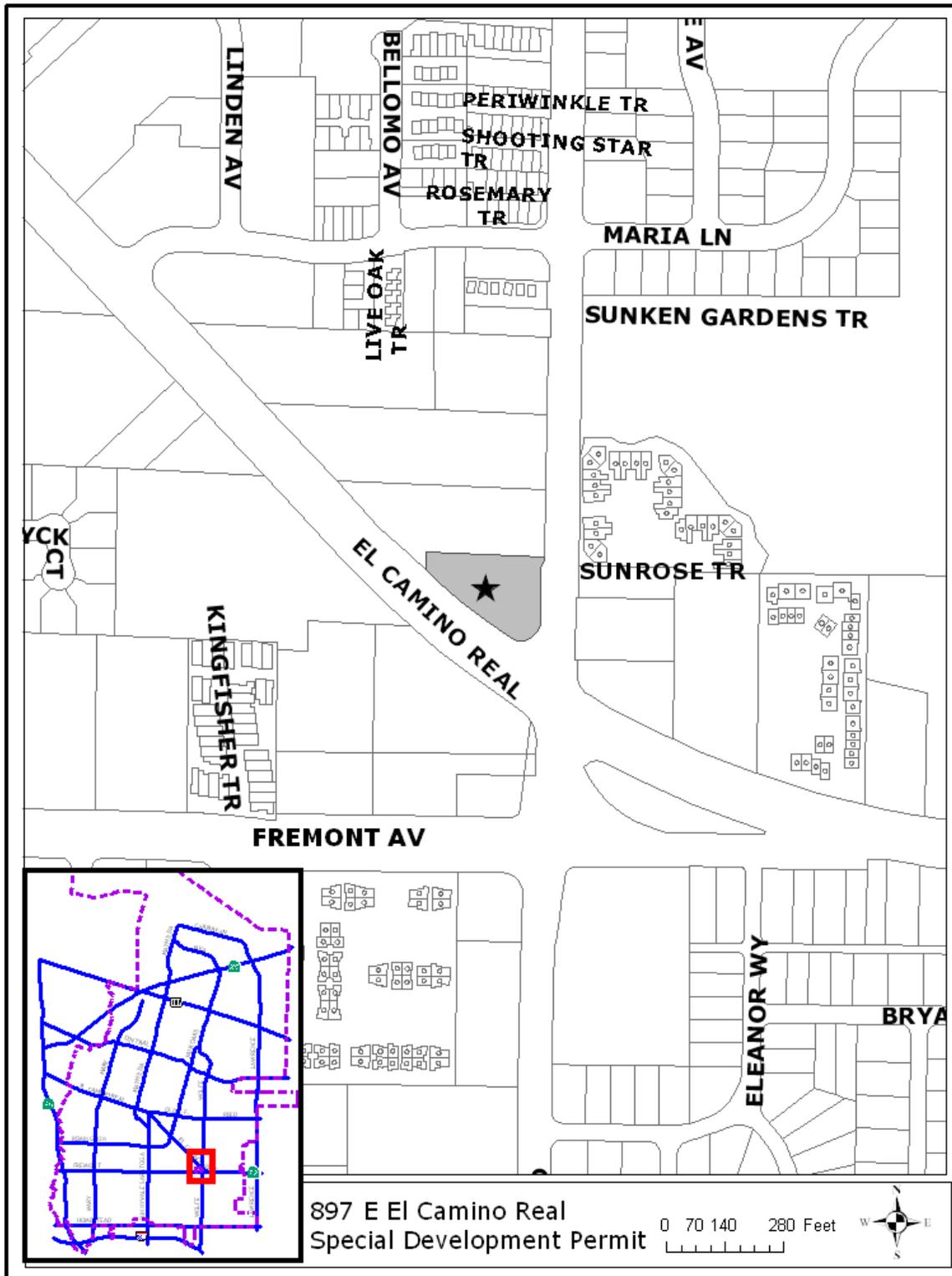
North	Highway Business (Golfland)
South	Residential (Butcher's Corner)
East	Highway Business (Shopping Center)
West	Highway Business (Shopping Center)

**Issues**                               Parking

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

**Administrative Hearing Officer Decision**       Approved the Special Development Permit, with a maximum of 10 fixed seats (two seats not at tables)

**Staff Recommendation**           Deny the appeal, and uphold the decision of the Administrative Hearing Officer to approve the Special Development Permit, with a maximum of 10 fixed seats (two seats not at tables)



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Commercial General Business	Same	Commercial General Business
<b>Zoning District</b>	C-2/ECR	Same	C-2/ECR
<b>Lot Size (s.f.)</b>	35,700	Same	No min.
<b>Gross Floor Area (s.f.)</b>	9,814	Same	12,495 max.
<b>Gross Floor Area Tenant</b>	2,851 total (1,231 restaurant)	Same	No max.
<b>Lot Coverage (%)</b>	27.4%	Same	35% max.
<b>No. of Tenants</b>	9	Same	No max.
<b>No. of Buildings On- Site</b>	1	Same	No max.
<b>Setbacks (Facing Property)</b>			
<b>Front (El Camino Real)</b>	62'	Same	Per SDP
<b>Left Side</b>	61'	Same	Per SDP
<b>Reducible Front (Wolfe Rd.)</b>	20'	Same	Per SDP
<b>Rear</b>	0	Same	Per SDP
<b>Landscaping (sq. ft.)</b>			
<b>Total Landscaping</b>	1,226 (3.4%)	Same	Per SDP
<b>Frontage Width (ft.)</b>	15' El Camino Real, 4' Wolfe Rd.	Same	Per SDP
<b>Parking</b>			
<b>Total Spaces</b>	51	Same	71 min.
<b>Standard Spaces</b>	41	Same	Per SDP
<b>Compact Spaces/ % of Total</b>	7 (13.7%)	Same	Per SDP
<b>Accessible Spaces</b>	3	Same	3 min.



Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## **ANALYSIS**

---

### **Description of Proposed Project**

This application is to legalize an existing 1,231 square foot deli (retail) that was converted into a restaurant (Karoon Persian Cuisine) within an existing shopping center. The proposed restaurant is associated with an existing 1,620 square foot grocery store (Karoon Market), in which access between the two tenant spaces are provided by a door that is open during the hours of operation.

The deli did not initially include seating for customers; therefore, the deli was considered to be a retail use, which is permitted by right. Since that time, approximately 18 seats and 5 tables have been added to the tenant space, and the deli is now considered to be a restaurant use. Restaurant uses within the C-2/ECR Zoning District require a Special Development Permit.

The Administrative Hearing Officer approved the Special Development Permit subject to the staff recommended condition of no more than 10 fixed seats, with the additional requirement that two of the fixed seats not be located at tables but to make them available for take-out patrons. The number of tables and seats allowed is based on the number of patrons the business would generate whether the use was a store or a restaurant. The purpose of the condition for fixed seats is because that has a lower parking rate than non-fixed seats, and is more comparable to a retail use rate. The Administrative Hearing Officer added the requirement that two fixed seats not be located at tables because people that sit at tables tend to stay at the business longer than retail customers or take-out food customers. This was required because the site is deficient 20 parking spaces, and reducing the time spent at a place of business would help the parking deficiency.

The applicant is appealing these requirements and proposes 10 non-fixed seats located at tables, rather than 10 fixed seats, two of which would not be at tables but would be available for take-out patrons.

### **Background**

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

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
1988-0176	SDP to allow a pet grooming facility in unit #893 (currently Canine Showcase)	Planning Commission/ Approved	6/15/1988

File Number	Brief Description	Hearing/Decision	Date
1987-0226	SDP to allow a restaurant in unit #897 (currently Karoon Persian Cuisine)	Planning Commission/ Approved	9/23/1987
1987-0364	SDP to allow a fast food restaurant in unit #889 (currently Taj India Cuisine)	Planning Commission/ Approved	8/05/1987
1985-0310	SDP to construct a new shopping center	City Council/Approved	4/30/1985

**Subject Tenant Space (#897):** The subject tenant space was previously occupied by a restaurant, in which an SDP (1987-0226) was approved by the Planning Commission in 1987. The restaurant use and SDP became discontinued, as retail uses and a beauty salon subsequently occupied the tenant space until 2004.

A building permit was issued in 2006 to convert the space into a deli, with associated cooking equipment. No seats were shown on the building permit plans. Subsequently, the Neighborhood Preservation Division received an anonymous complaint in December 2007 that the space was being used as a restaurant with indoor seats.

**Existing Restaurants On-Site (#889 and 893):** There are two additional restaurants on-site. Tenant space #889 was approved by the Planning Commission as a restaurant use in 1987 through a Special Development Permit (1987-0364). This space is currently occupied by Taj India, who received a business license in 1989

Tenant Space #893 is also currently occupied by a restaurant, Chaat House. Staff was unable to find a Special Development Permit approval for this restaurant use. However, a review of building permits for this space shows that the previous restaurant (pizza restaurant) may have been the first restaurant use in the shopping center, which was allowed as it occupied less than 10% of the shopping center. A business license for Chaat House was originally approved in 1999.

### **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 to existing facilities.

### **Special Development Permit**

**Detailed Description of Use:** The shopping center has a total of nine tenant spaces that are currently occupied by two existing restaurants (24.4% of building area), personal services (including Canine Showcase), and retail uses. The subject tenant space was approved as a deli and is 1,231 square feet in area. The deli was considered to be a retail use, as no seating for customers was provided. The Sunnyvale Municipal Code (SMC) allows retail uses to be permitted by right in the C-2/ECR Zoning District.

The applicant converted the use to a restaurant, with no alcohol service. The restaurant primarily functions as a take-out restaurant, though there are a total of 5 indoor tables and 18 indoor chairs for customers. No furnishings are proposed outdoors. If the project is approved, this will be the third restaurant on-site, occupying a total of 3,627 square feet or 40% of the total building area. All restaurant uses require an approval of an SDP in this Zoning District.

The applicant proposes to continue the current hours of operation, which is 10:30 a.m. to 9:30 p.m. Monday to Friday and 10:00 a.m. to 9:00 p.m. on Saturdays and Sundays. These hours of operation coincide with Karoon Market. The remaining tenants have similar hours of operation. A list of tenants and their hours of operation are contained in Attachment E.

**Site Layout:** The shopping center was approved by the City Council 1985, and is developed with a 9,814 square foot building. The shopping center is located on the northwest corner of E. El Camino Real and S. Wolfe Road. No modifications are proposed to the site layout or building façade.

Staff consulted with the Building Division regarding interior building upgrades that would potentially be required with the proposed change of use. The City's Building Plan Checker stated that the recently approved building permit generally addressed these upgrades. The change of use was considered to be an expansion of the existing Karoon Market, in which the bathrooms in Karoon Market adequately meet the needs of the proposed use. If the project is approved, the Building Division will review the project and determine if additional interior upgrades will be required.

**Parking/Circulation:** The existing site contains 51 parking spaces, including 41 standard, 7 compact, and 3 accessible spaces. Currently, the maximum number of compact spaces permitted is 10%, where 13.7% exists. The number and layout of the compact spaces were approved as part of the original SDP.

**Existing Parking Requirement:** The parking requirements contained in SMC 19.46 state that shopping centers with less than 20,000 square feet of retail uses require one parking space for each 180 square feet of building area, which

results in a minimum of 55 parking spaces required for this site. The original SDP was approved with 51 parking spaces (deficiency of 4 spaces), due to site constraints and the required street dedication.

Over the years, restaurant uses have been approved on-site, further increasing the on-site parking deficiency. Per SMC 19.46.020, individual parking rates apply to uses that occupy more than 10% of the total floor area. When the individual parking rates are applied to the existing uses, (calculating Karoon Persian Cuisine as a retail deli with no customer seating) a minimum of 66 parking spaces are required. This results in a current parking deficiency of 15 parking spaces.

**Proposed Parking Requirement:** Converting the subject tenant space from retail to restaurant use further increases the number of parking spaces required, increasing the deficiency of parking spaces. Although there are currently 18 non-fixed indoor seats, the applicant proposes 10 non-fixed seats (8 non-fixed seats will be removed). Restaurants with non-fixed seats require 1 parking space per 110 square feet of building area, irrespective of the number of seats. Therefore, the proposed project would result in a minimum requirement of 71 parking spaces, which is a deficiency of 20 parking spaces. If the project is approved, the project would increase the current parking deficiency by 5 spaces. The following table outlines each of the uses and the resulting parking requirement, with the different types of restaurant uses specified:

<i>Use</i>	<i>Tenant Space (sf)</i>	<i>% Total</i>	<i>Parking Ratio</i>	<i>Required Parking</i>
Retail	4,395	45%	1/180	24
Personal Service	1,792	18%	1/180	10
Restaurant	3,627	37%	---	37
<i>Fast Food</i>	800	---	1/75.0	11
<i>Non-Fixed Seats</i>	2,827	---	1/110	26
<b>Total</b>	<b>9,814</b>	<b>100%</b>	---	<b>71 required</b>
				<b>51 proposed</b>

**Project Alternative:** While the parking requirement for restaurants with non-fixed seats is solely based on the square footage of the tenant space, the parking requirement for restaurants with fixed seats (affixed to the ground and non-movable seats) considers the number of seats. Requiring seats to be affixed to the ground will help limit the number of customers that dine-in and reduce the number of parking spaces required.

If the tenant space was used as retail, which is permitted by right, 7 parking spaces would be required. As proposed by the applicant, the restaurant with non-fixed seats requires 12 parking spaces. If the tenant space were to be

required to provide 7 parking spaces, a maximum of 10 fixed seats would be permitted. Therefore, the Administrative Hearing Officer approved the project, with a maximum of 10 fixed seats, which is equivalent to the number of parking spaces that would be required if the tenant space were a retail use (Attachment B, Recommended Conditions of Approval #1.I). This condition of approval would allow the tenant to remain in its current location, while not exacerbating the deficiency in the number of on-site parking spaces required. The following table shows this calculation:

<i>Use</i>	<i>Tenant Space (sf)</i>	<i>Parking Ratio</i>	<i>Required Parking</i>
Retail	1,231	1/180	7
Restaurant	---	---	---
<i>Non-Fixed Seats<sup>1</sup></i>	<i>1,231</i>	<i>1/110</i>	<i>12</i>
<i>100% Fixed Seats<sup>2</sup></i>	<i>10 seats + 909s.f.</i>	<i>1/2 seats + 1/400s.f.</i>	<i>7</i>

<sup>1</sup> Applicant's proposed seating arrangement.

<sup>2</sup> Administrative Hearing Officer's approved seating arrangement.

Additionally, the Administrative Hearing Officer required two of the 10 fixed seats not to be located at a table (Attachment B, Recommended Conditions of Approval #1.I). The purpose of this condition is to ensure that the seats are available for customers not dining at the restaurant, which allows for fast turnover for parking spaces that are used for customers with take-out orders. To further ensure fast turnover for customers, the Administrative Hearing Officer also required no service to be provided at the tables and that there be only counter service for restaurant customers (Attachment B, Recommended Conditions of Approval #1.J.)

**Site Observations:** Staff conducted an informal review of parking availability during the peak lunch times of 12:30 p.m. and 1:00 p.m. on Wednesday, May 21, 2008. During the 12:30 p.m. peak time, staff observed 12 vacant parking spaces. Subsequently, during the 1:00 p.m. peak time, there were 5 vacant parking spaces. Additionally, staff observed that patrons from the restaurants in the shopping center across the street at 1228 S. Wolfe Road were also parking on the subject property during these times.

Although the proposed use is already operating at this site, the current parking availability may not reflect the parking demand of the proposed project. The restaurant is fairly new (opened to the public in late 2007), and the actual demand for parking may increase as business increases.

**Architecture:** A sign permit (2008-0416) was issued by the Building Division in February 2008 to allow the existing wall sign. There are no changes proposed to the exterior elevations.

**Landscaping:** SMC 19.38.070 requires that the site provide a minimum of 7,140 square feet of landscaping area, which is 20% of the lot. The original SDP for the shopping center was approved with only 1,226 square feet of landscaping area, which is 3.4% of the lot or a deficiency of 5,914 square feet. At that time, staff found that the deficiency was appropriate, as a significant portion of the property was dedicated to the City in order to expand S. Wolfe Road. All areas not used as parking or walkways are adequately landscaped, and is consistent with the approved SDP. No trees are proposed for removal and no modifications are proposed to the existing landscaping as part of this project.

**Compliance with Development Standards/Guidelines:** The original SDP for the existing shopping center was approved with deficiencies from the landscaping and parking requirements (total number of spaces and compact spaces). The site is currently deficient by 15 parking spaces. Staff has explored options to provide additional on-site parking spaces; however, the site cannot accommodate more spaces without decreasing the landscaping or removing a part of the building. Staff believes that these options are unreasonable.

However, staff finds that the Administrative Hearing Officer's decision to allow a maximum of 10 fixed seats (two seats not at tables) is reasonable. This alternative allows the parking requirement for a restaurant with fixed seats to be equivalent to the parking requirement if the tenant space were used as retail, which is permitted by right. As conditioned, the proposed restaurant use would not exacerbate the current deficiency in the number of on-site parking spaces.

**Expected Impact on the Surroundings:** The site is currently deficient by 15 parking spaces, mainly due to the high percentage of restaurant uses in the shopping center. As conditioned, the proposed restaurant (with a limit of 10 fixed seats) would not increase the current deficiency in the number of parking spaces required. Therefore, staff finds that the impact to adjacent properties is minimal.

### **Fiscal Impact**

---

---

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

### **Public Contact**

---

---

This project was the result of a complaint received by the Neighborhood Preservation Division. Staff has not received any letters from the neighbors.

**Administrative Hearing – June 25, 2008:** This project was considered by the Administrative Hearing Officer on June 25<sup>th</sup>, 2008. During the hearing, the applicant submitted an informal parking survey, which shows the number of vacant parking spaces in the shopping center for a span of three weeks, from June 2 to June 24. The parking survey was administered by the applicant during half-hour intervals, from 12:00 noon to 2:00 p.m. The parking survey shows that there were 15 to 37 parking spaces vacant during the surveyed times (Attachment I, Applicant's Informal Parking Survey). The Administrative Hearing Officer took the project under advisement to review this new information presented by the applicant at the hearing.

On July 7<sup>th</sup>, the Administrative Hearing Officer approved the Special Development Permit subject to the following condition regarding the seating arrangement (Attachment B, Recommended Conditions of Approval #1.I):

- The maximum number of indoor seats shall not exceed 10, all of which shall be permanently fixed, and two of which shall not be located at a table to ensure their availability for customers not dining in the location. The applicant shall work with the Planning Division to determine the appropriate design of the indoor seating.

**Applicant's Appeal:** An appeal was submitted by the applicant, which proposes 10 non-fixed seats that may be located at tables, in lieu of the 10 fixed seats (two seats not at tables) approved by the Administrative Hearing Officer (Attachment G, Applicant's Appeal Letter). The applicant finds that fixed seats will be more expensive than non-fixed seats, and that installing fixed seats could potentially damage the newly-remodeled tile floors. Additionally, the applicant requests to have the ability of allowing all 10 seats to be located at tables, in order to give customers the option to dine-in.

If the Planning Commission is able to support the applicant's request, Condition of Approval 1.I. could be modified as follows:

- The maximum of indoor seats shall not exceed 10, ~~all of which shall be permanently fixed~~ (may be non-fixed), ~~and two of which shall not be located at a table to ensure their availability for customers not dining in the location.~~ The applicant shall work with the Planning Division to determine the appropriate design of the indoor seating.

**Staff's Comments on Appeal:** Staff is in agreement with the Administrative Hearing Officer's decision to require fixed seats, as fixed seats will help limit the number of customers that dine-in and reduce the number of parking spaces required. Requiring fixed seats will also help reduce the temptation of increasing the number of seats and will ensure more effective compliance and enforcement of the conditions. Staff also finds that requiring two seats to not

be located at tables is reasonable, as it will help further reduce the number of customers that dine-in and would likely result in a faster turnover of customers. Staff finds that the Administrative Hearing Officer’s decision will help reduce the parking impacts and will not exacerbate the parking deficiency in the shopping center.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 220 notices mailed to property owners and residents adjacent to the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> </ul>

**Conclusion**

---

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings are located in Attachment A.

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

**Alternatives**

---

1. Deny the appeal, and uphold the decision of the Administrative Hearing Officer to approve the Special Development Permit, with a maximum of 10 fixed seats (two seats not at tables), with the attached conditions.
2. Deny the appeal, and uphold the decision of the Administrative Hearing Officer to approve the Special Development Permit, with a maximum of 10 fixed seats (two seats not at tables), with modified conditions.
3. Approve the appeal and approve the Special Development Permit, with conditions as deemed appropriate by the Planning Commission.

**Recommendation**

---

Alternative 1.

Prepared by:

Noren Caliva  
Project Planner

Reviewed by:

Andrew Miner  
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Special Development Permit Justification Form
- E. List of Tenants
- F. Site Photos
- G. Applicant's Appeal Letter
- H. Minutes for Administrative Hearing of July 7, 2008
- I. Applicant's Informal Parking Survey

## **Recommended Findings - Special Development Permit**

---

Goals and Policies that relate to this project are:

### **Land Use and Transportation Element**

**Policy N1.3** *Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.*

**Policy N1.11** *Recognize El Camino Real as a primary retail corridor with a mix of uses.*

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

The proposed restaurant use would provide a desired service to the nearby residents. The restaurant would be located within a site that is convenient for both nearby residents walking to the restaurant and for patrons driving to the restaurant, as the site is located near the corner of El Camino Real and Wolfe Road.

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*).

As conditioned, the proposed restaurant use would not exacerbate the current deficiency in the number of on-site parking spaces. These conditions include modifying the restaurant to include fixed seats (fixed to the ground or non-movable), and limiting the number of fixed seats to a maximum of 10 seats. This alternative allows the parking requirement for a restaurant with fixed seats to be equivalent to the parking requirement if the tenant space were used as retail, which is permitted by right. Therefore, the use would not adversely impact adjacent properties.

**Recommended Conditions of Approval if the Special Development Permit is Granted:**

---

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. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- D. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project, if one is required.
- E. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- F. The Special Development 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.
- G. Comply with all requirements of previously approved Special Development Permit File Number 1985-0310.
- H. Alcohol service is not approved for this site. An additional Special Development Permit is required if alcohol service is requested in the future.
- I. The maximum number of indoor seats shall not exceed 10, all of which shall be permanently fixed, and two of which shall not be located at a table to ensure their availability for customers not dining

in the location. The applicant shall work with the Planning Division to determine the appropriate design of the indoor seating area.

- J. There shall be no service provided at the tables; there shall only be counter service for restaurant customers.
- K. No outdoor seating is allowed at any time.

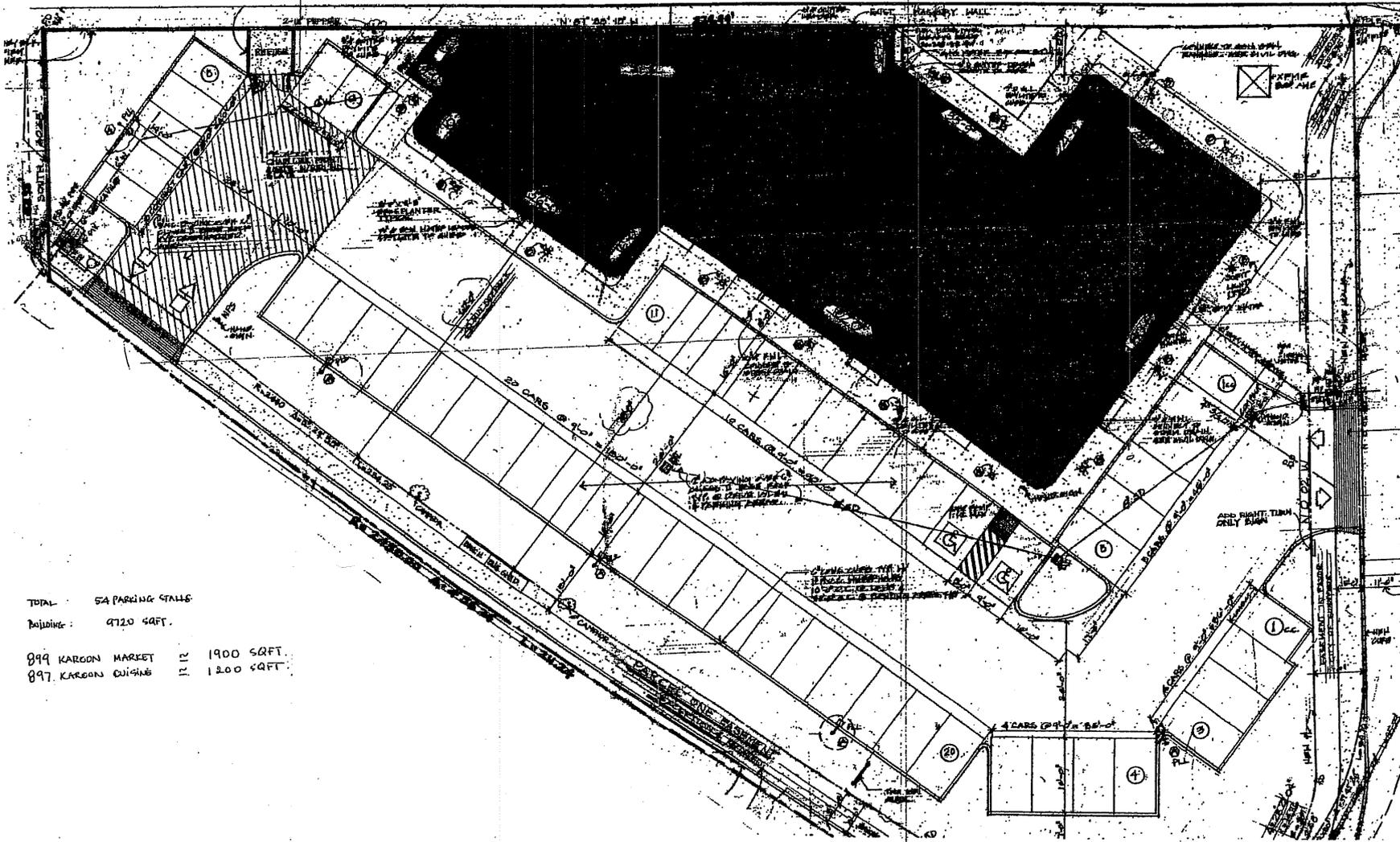
**2. COMPLY WITH OR OBTAIN OTHER PERMITS**

- A. Obtain a building permit if deemed necessary from the Building Division, which may require potential upgrades to the site.
- B. Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit.

**3. PARKING/LANSCAPING AREA**

- A. All landscaping shall be maintained in a neat, clean and healthful condition.
- B. The applicant shall work with the Solid Waste Division of the Public Works Department to ensure that the centralized trash enclosure is adequate.

PROPOSE FOR THE USE PERMIT OF  
**KAROON PERSIAN CUISINE**  
 897 E. ELCAMINO REAL . SUNNYVALE CALIFORNIA



TOTAL: 54 PARKING SPACES  
 Building: 4720 SQFT.

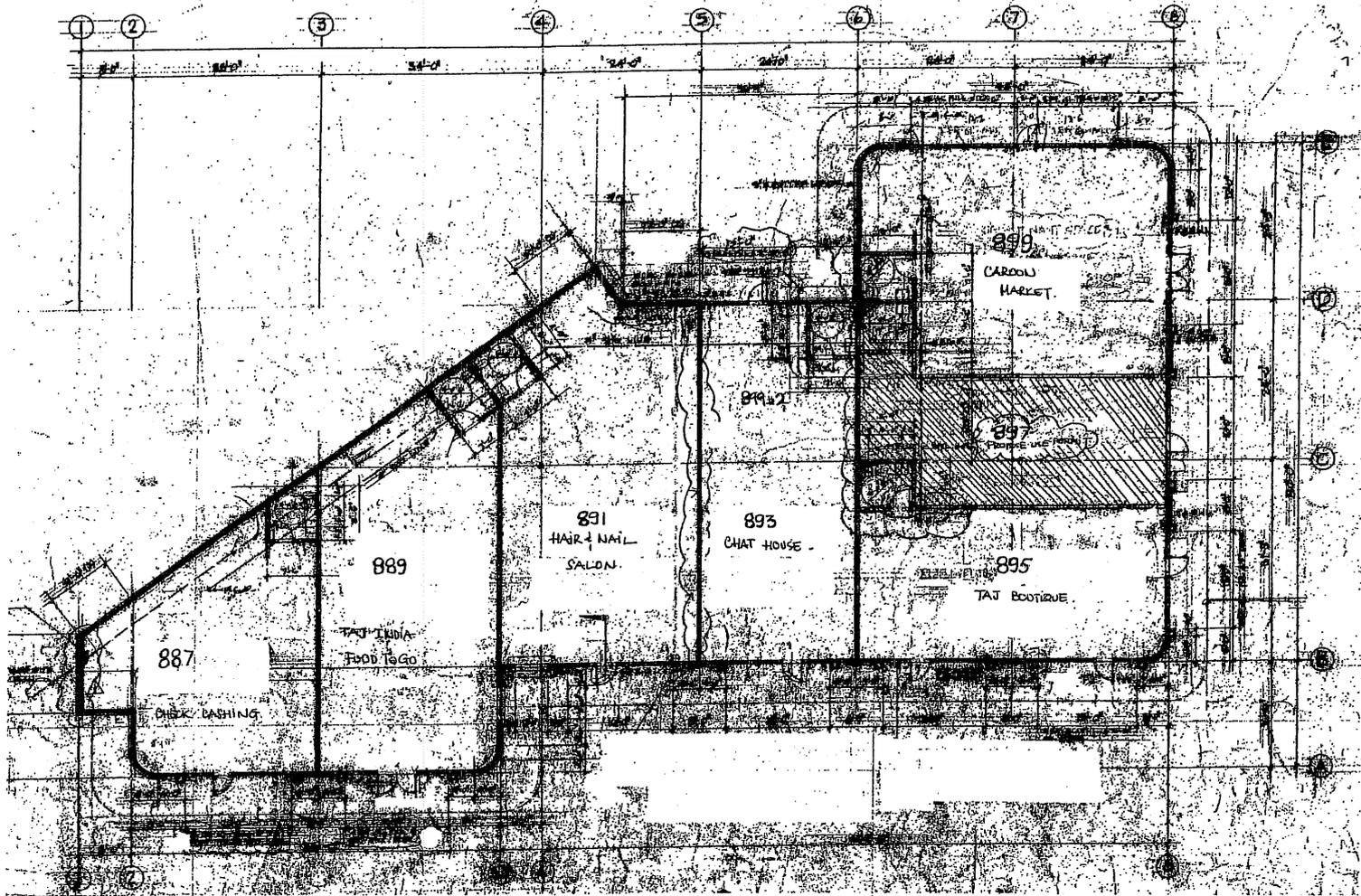
899 KAROON MARKET 12 1900 SQFT.  
 897 KAROON CUISINE 12 1200 SQFT.

SITE PLAN

REVISIONS	BY

NGUYEN DESIGN GROUP  
 807 S CENTERWOOD WAY  
 SAN JOSE CA 95140  
 TEL: 408-661-0868

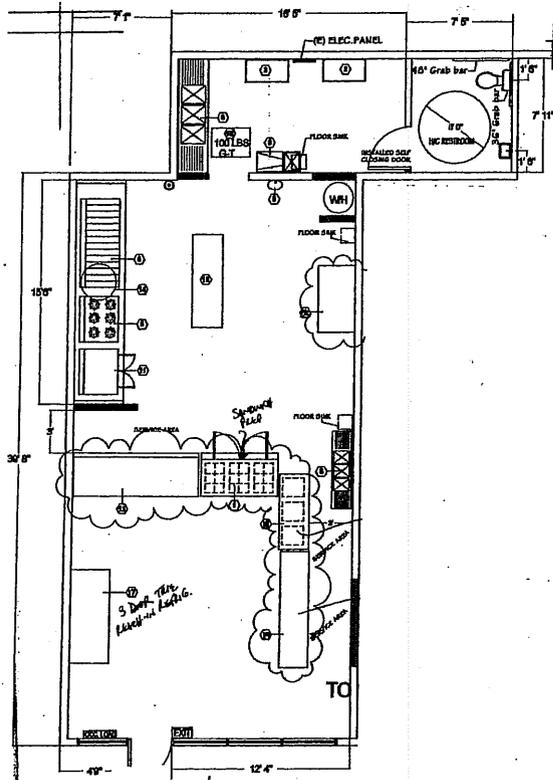
PERSIAN CUISINE  
 897 E. ELCAMINO REAL  
 SUNNYVALE CALIF 94086  
 (408)



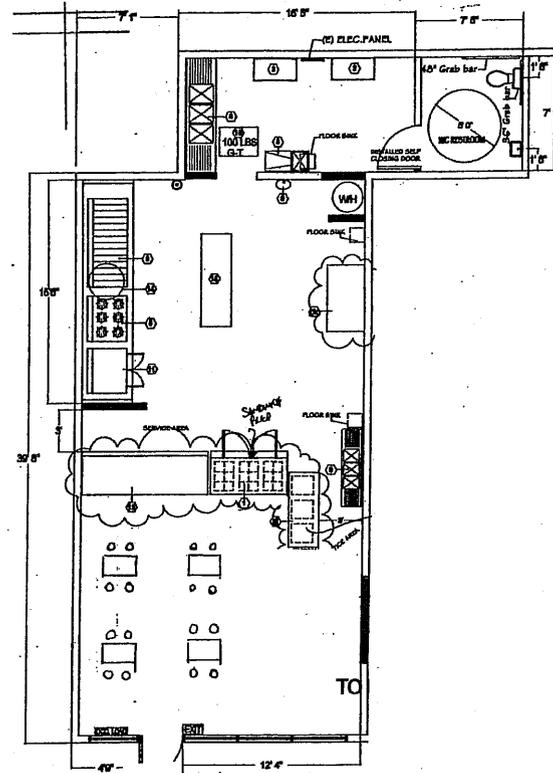
REVISIONS	BY

NGUYEN DESIGN GROUP  
 807 S CENTERWOOD WAY  
 SAN JOSE CA 95146  
 TEL: 408-661-0868

PERSIAN CUISINE  
 897 E. EL CAMINO REAL  
 MOUNTAIN VIEW, CALIF 94036  
 (408)



EXISTING FLOOR PLAN



PROPOSE FLOOR PLAN

REVISIONS

NGUYEN DESIGN GROU  
 8076 CENTERWOOD  
 SAN JOSE CA 951  
 TEL: 408-661-0868

F N CUISINE  
 E. AMINO REAL  
 ULE CALIF 94086

ATTACHMENT 2  
 Page 2 of 3



# USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

ATTACHMENT D  
Page 1 of 1

One of the two following findings must be made in order to approve a Development Permit application.

The Sunnyvale Municipal code states that at least one of the following two justifications must be met before granting the Use Permit or Special Development Permit. Please provide us information on how your project meets at least one of the following criteria.

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

The existing store is considered as take-out food store.  
Now I proposed to put 4 tables in the space that I leased.  
I leased the two space for almost 3,100 sqft. #

Enclord is the plans and site plane of the entire building with 55 parking stalls. I leased out almost one third of the building but I cannot put table and chairs in the store.

OR

- 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 as ...

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

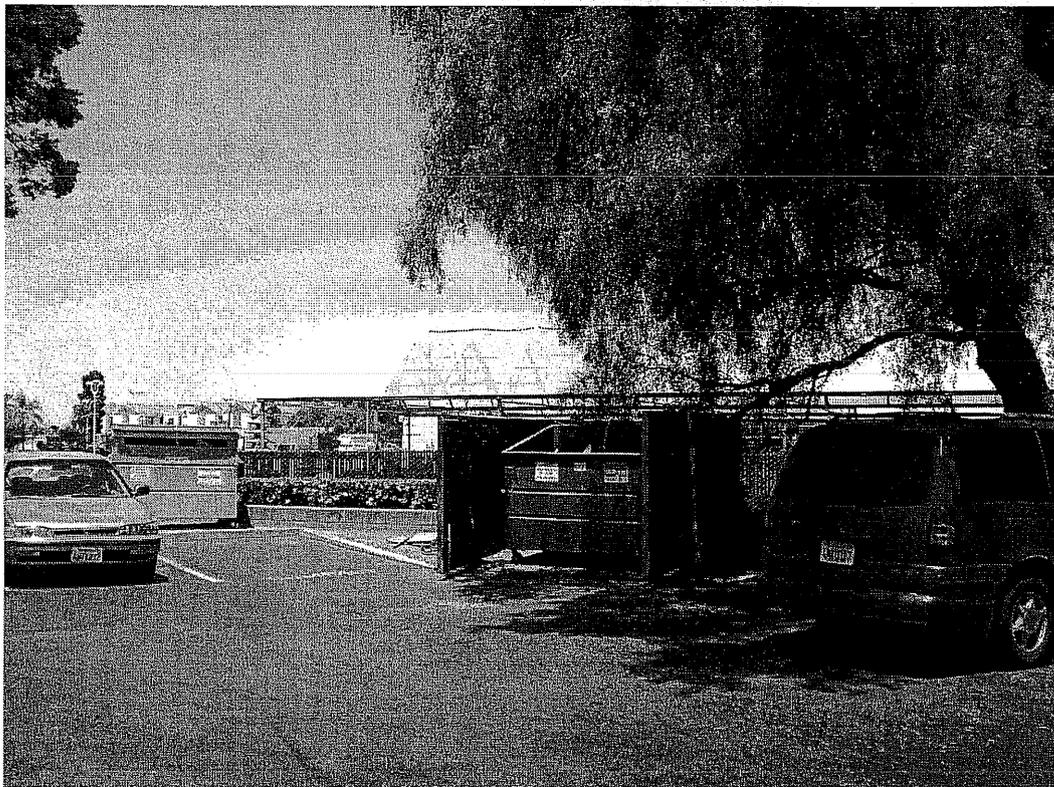
02/00P

TEN NT LIST:

#	NAME	SQ FOOT	HOUR'S
<u>887</u>	CHECK 2 CASH	<u>1183</u>	SAT+ SUN 11-4 M+ F 9-8
<u>889</u>	TAJINDIA CASH	<u>1596</u>	M-F 11:30 To 2:30 5:30 To 10:00
<u>891</u> Ⓐ	LA BEATE SALON	<u>820</u>	SUN-MON CLOSED TUS-F 11:00-7:00 by APPOINTMENT
<u>891</u> Ⓑ	ANN'S SALON	<u>972</u>	MON-SUN - 10:00-7:00
<u>893</u>	CHAAT HOUSE	800	MON-SUN 11:30-9:00
<u>895</u>	TAL BOUTIQUE	1024	MON-TUS-THU CLOSED WED-FRI-SAT-SUN 12:00-7:00
<u>897</u>	KAROON DALI	1231	MON-SUN 10:00 TO 9:00
<u>899</u> Ⓐ	KAROON MARKET	1620	MON-FRI 10:00 To 9:00 <del>MON-FRI 10:00 To 9:00</del> SUF+ SUN 10:00 TO 9:00
<u>899</u> Ⓑ	CANINE SHOWCASE	568	SUN-MON CLOSED TUS-FRI 8:00 To 3:00



**View from E. El Camino Real**



**Existing trash enclosure**



**Indoor seating at Karoon Persian Cuisine**



**View from adjacent Karoon Market**

To: City of Sunnyvale  
Planning department

ATTACHMENT 9  
Page 1 of 1

From: Robert Mapar

899 E. El Camino Real

Re: Special development Permit Approval

File #-2008-0164

RECEIVED

AUG 04

PLANNING DIVISION

Dear Planning Staff,

I am in agreement with all conditions of the above referenced Special Development Permit with the exception that I would like to appeal to planning for the minor modification to General Condition 1.I. Rather than having eight fixed seats and two none fixed seats as granted, I would like to Have all ten seats non-fixed. I have recently refurbished the tile floor for around \$5,000.00. I have received estimate for installing the fixed chairs for around \$3,000.00. The fixed chair will cost around \$3,000.00 to purchase. Furthermore the installation will damage the newly installed tile floor and cost around \$3,000.00 to repair. So we are looking at a total expense of around \$14,000.00 to our family run business. I feel this will serve the same purpose in terms of parking spaces as what I am granted but will be much more useful to me in terms of my business and will ensure that all of my sitting is uniform. It will provide a more professional look for the interior of my business space as well as being more efficient for my business. Thank you for your consideration of my appeal to you on this condition.

YOURS VERY TRULY,

ROBERT MAPAR





**CITY OF SUNNYVALE  
ADMINISTRATIVE HEARING**

**ATTACHMENT** H  
Page 1 of 3

**MINUTES  
Wednesday, June 25, 2008**

**2008-0164: Karoon Persian Cuisine** [Applicant] **Ahron Bogomilsky Trustee & Et Al** [Owner]: Application for a Special Development Permit to allow a deli with indoor seating at an existing shopping center. The property is located at **897 E. El Camino Real** (near Wolfe Road) in a C-2/PD (Highway Business/Planned Development) Zoning District. [APN: 211-16-029] NC

In attendance: Robert Mapar, applicant; Paul and Ahron Bogomilsky, Owners; Andrew Miner, Administrative Hearing Officer; Noren Caliva, Project Planner; Luis Uribe, Staff Office Assistant.

**Mr. Andrew Miner**, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Mr. Miner announced the subject application.

**Noren Caliva**, Project Planner, stated that this application is to legalize an existing 1,231 square foot deli (retail) that was converted into a restaurant (Karoon Persian Cuisine) within an existing shopping center. The proposed restaurant is associated with an existing 1,620 square foot grocery store (Karoon Market), in which access between the two tenant spaces is provided by a door that is open during the hours of operation.

The deli did not initially include seating for customers and was thus considered to be a retail use, which is permitted by right. Since that time, approximately 18 seats and five tables have been added to the tenant space, and it is now considered to be a restaurant use. Restaurant uses within the C-2/PD zoning district require a Special Development Permit.

Mr. Miner wanted to know if the site was constructed without permits and Ms. Caliva stated that it was permitted without seating. Mr. Miner wanted to know the parking deficiency and if the structure was classified a restaurant. The Project Planner stated that there would be a 20 space deficiency and that the average time for this type of use would be occupied by a customer would be around an hour or less.

**Mr. Miner opened the public hearing.**

**Robert Mapar**, Applicant, received and reviewed a copy of the staff report. The applicant stated that he started constructing the deli in 2006 and it took him a year to get the permitting. He also mentioned that he was unaware that he needed a permit for seating and that most of his customers walk to his restaurant and most of them are elderly. He did his own parking survey and stated that between 12:30 p.m. and 1:00 p.m. is the time frame that the parking lot is heavily used. Mr. Mapar stated that on average his dine-in customers stay about 30 minutes but the majority of customers order food to go. The applicant also mentioned that if he is not permitted to have seating he would have to

close his business, and that since the seating has been installed he has not seen a parking problem.

Mr. Miner asked the applicant why he installed 18 seats instead of the 15 that the health department recommended. Mr. Mapar stated that the health department representative stated that anything under 20 seats should be acceptable. Mr. Miner wanted to know if the deli provided service to patrons at the table or if the patrons have to go to a counter to place an order. The applicant stated that he does not provide waiting service. The Hearing Officer wanted to know how dependent the market and deli are to each other. Mr. Mapar stated that a lot of his patrons will shop while waiting for their food. The Hearing Officer asked the applicant why he wants to include seating when he initially did not. The applicant stated that once seating had been installed he saw an increase in business.

**Paul Bogomilsky**, Owner, stated that one of the prior applicants had a permit for off and on-site consumption and even though that use is no longer there, he just wanted it noted that the applicant is going to use the building for something similar. He also stated that he does not believe that there will be a detrimental impact to parking due to the installation of seating. Mr. Miner asked if staff used the site plans or went to the site to come up with parking availability. Ms. Caliva stated that she went off both the site and the site plan. Ms. Caliva verified with the building division that one of the requirements would be to provide adequate restroom facilities but since the restaurant is connected to the deli that it is sufficient. Mr. Miner stated that on the opposite end of the shopping center there are a lot of crates just lying around the property, he recommended that it be cleaned up.

**Ahron Bogomilsky**, Owner, wanted to know what staff meant by fixed seats and why that is a requirement. Ms. Caliva stated that fixed seating will help prevent the addition of extra seats later. The applicant stated that at most, they have 15 people at a time in the deli. He also stated that a lot of customers carpool to the deli.

Mr. Miner requested a copy of the applicant parking study and wanted to know if the applicant would be okay with a reduced number of seating. Mr. Mapar stated that he will reduce the number of seats but would prefer to have what is already in place. Mr. Miner wanted to know if they ever allow out door seating and the applicant stated that he does not.

**Mr. Miner closed the public hearing.**

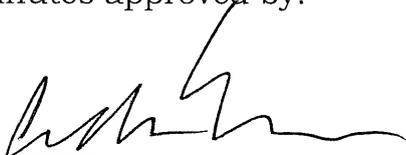
Mr. Miner took the application under advisement until Friday, June 27, 2008. On that day the Administrative Hearing Officer approved the application subject to the findings and conditions of approval located in the staff report with modification to condition **1.I.** that the maximum number of indoor seats shall not exceed 10, all of which shall be permanently fixed, and two of which shall not be located at a table to ensure their availability for customers not dining in the location. The applicant shall work with the Planning Division to determine the appropriate design of the indoor seating area. Mr.

Miner also added the following conditions **1.J.** that there shall be no service provided at the tables; there shall only be counter service for restaurant customers. **1.K.** that no outdoor seating is allowed at any time.

**Mr. Miner stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.**

The meeting was adjourned at 2:43 p.m.

Minutes approved by:



Andrew Miner, Principal Planner

TIME 12:00 12:30 1:00 1:30 2:00

DATE Empty Parking Space

MON 6-2	23	20	18	17	35
TUS 6-3	21	20	18	16	36
WED 6-4	20		16	16	
THU 6-5	21		15	16	
FRI 6-6	19		12	10	
SAT 6-7	35	35	28	29	
SUN 6-8	37	36	26	30	
MON 6-9	22	20	17	16	
TUS 6-10	20	18	16	15	
WED 6-11	22	18	16	16	
THU 6-12		17	15	15	
FRI 6-13		17	15	15	
SAT 6-14		28	27	27	
SUN 6-15		30	31	32	
MON 6-16	21		17	16	
TUS 6-17			18	17	
WED 6-18			17	17	
THU 6-19			16	16	
FRI 6-20			16	16	
SAT 6-21			30	35	
SUN 6-22		29	28	26	
MON 6-23	22		20	18	
TUS 6-24			20	18	

AVE Section 20-25

AVERAGE 30-35

Parking Counts  
Submitted by applicant  
at hearing 6/25/08.