



CITY OF SUNNYVALE ADMINISTRATIVE HEARING

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