



Minutes
SUNNYVALE ADMINISTRATIVE HEARING
Wednesday, July 29, 2009

A public hearing will be held by the Administrative Hearing Officer at City Hall, 456 West Olive Avenue, Sunnyvale, CA for the purpose of considering the following applications:

2:00 PM – West Conference Room

CALL TO ORDER

In attendance: , Applicant; Gerri Caruso, Administrative Hearing Officer; Steve Lynch, Project Planner; Joey Mariano, Staff Office Assistant.

location	927 East Duane Avenue (APN: 205-12-003)
file number/ proposed project	2009-0066: Application for a Special Development Permit to allow the expansion of an existing restaurant with live entertainment (La Ronda) into the adjacent tenant space for an additional 534 square feet.
applicant/owner	Maple Leaf Investments / Joseph Kovalik Trustee & et al
project planner	Steve Lynch, 408-730-2723, slynch@ci.sunnyvale.ca.us.

Ms. Gerri Caruso, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

Mr. Lynch, Project Planner, presented the staff report. He summarized the proposal and clarified Conditions of Approval 2A to state the hours of operation are from 9:00 a.m. to 12a.m. on Sunday and Mondays and until from 9:00 a.m. to 2 a.m. on Tuesdays through Saturdays. He suggested adding a condition to state that food service is to be available when alcohol is served. He also noted that he had received three additional correspondences through email today regarding noise. The emails expressed concern and were opposed to the permit application.

Ms. Caruso opened the public hearing.

Vincent Traverro, applicant’s consultant, stated he has been working with City staff and the community. He noted that the applicant wishes to be proactive and operate in good faith with their community.

Ms. Caruso asked what changes have they made since their last application..

Mr. Traverro responded that they are trying to better establish their business operation by adding food service for their patrons, enhance security for the public's safety, and lowering the noise levels by working with sound engineers by adding sound mitigation material. He further noted that they are regulating the amplifier to keep noise in the proper levels.

Ms. Caruso asked how long it will take to make all the changes and improvements.

Joseph Padilla noted that their objective is to make La Ronda a family friendly environment. He noted that they are changing the restrooms to meet ADA (Americans with Disabilities Act) requirements and adding sound traps. He noted that there will be no increase in patron capacity as they are adding tables for dining. He noted that sound meters and a sound log being used by a security guard. He also noted that the doors will remain closed. He noted that the applicant is involved in a program provided by the Alcohol and Beverage Control (ABC) that educates the owners to be in compliance in conjunction with public safety. He noted that they are attempting to work with public safety to keep a good relationship. They offer a free ride home by staff or a taxi service for customers that cannot drive. They further stated that they have installed speed bumps to control speeding in the parking lot. He provided the Hearing Officer with written outlines of the proposal.

Ms. Caruso asked for clarification regarding minors. Mr. Traverro noted that no minors will be allowed at any time on premises.

Officer Davis, Department of Public Safety, submitted statistics regarding crime analysis. He noted that his department has received 452 calls regarding music and disturbances. He noted other acts of violence, drunks, drug sales, and other issues of that manner were reported as well. He noted 5 arrests in 2009 and seven arrests in 2008. He noted that the Department's position regarding La Ronda is to continue their efforts to become good neighbors by enhancing their facility. He noted that, until they see reduced community issues, public safety recommends to not expand the business hours of operation and floor space. He further noted that public safety would do exactly the same analysis for any operation in the City who is looking to expand their floor space and hours of operation. He then noted that the philosophy of public safety is positioned by the City Council and City Manager, and that public safety would not want to impact the business community from being successful but they have to be mindful of the issues in hand.

Ms. Caruso opened the public hearing.

Ms. Caruso noted that one handout given to her states that children are allowed during dinner time and minors will be carded around 10:30. Mr. Padilla clarified

that they are not allowing any minors on the premises at any time and that “family” refers to adult couples.

Tera Martin, Chair of San Miguel Neighborhood Association, submitted two letters in opposition of the permit. She is opposed to the proposal, but thanks the applicants for their efforts. She was assuming that the business would be family friendly for the neighborhood and turns out that no children are allowed. She noted that the association would like to see the operation of business to cease at 10 p.m. to eliminate some issues with safety and noise. She noted that music, alcohol, and music create a high beta state in the brain, which calls to an action state. This is why people play drums during acts of war. She noted that closing at 10p.m. may decrease the issues they have.

Ms. Caruso asked Ms. Martin to clarify where she received the information about the business. She responded that the information is from Mr. Padilla from their last San Miguel neighborhood association meeting.

Ms. Martin explained that these are the reasons why they are asking for denial. She noted that the enhancements stated in the handout has been completed, however, the sound is still too loud and more of a night club than a dining environment.

Betty Moran, is concerned about her property value of her home located nearby, and is opposed to the project. She would like to see the business leave and move to Santana Row in San Jose.

Mr. Padilla responded that the night club only environment was started two years ago and that they are now changing the atmosphere to cater to middle class to higher class people.

Mr. Traverro noted the issues with public safety, noise, and image of the business. He noted that they are trying to be more of a lounge and family friendly. He is asking to grant them a probationary time period to help them address the issues and to continue operation.

Mr. Padilla noted that he is working with the community with the shopping center to better serve the community as well as the business operators.

Ms. Caruso stated that it is unclear what they are trying to achieve. She noted that the proposal still sounds like a nightclub. She asked how they would feel if the they were granted a permit, but the hours would be limited to 12 midnight for a probationary time period.

Mr. Traverro conferred with the business owner and stated that the reduced hours would be a hardship.

Ms. Caruso closed the public hearing.

Ms. Caruso approved the application subject to the findings and conditions of approval located in the staff report with additional conditions; 1) Food service must be offered at all times when alcohol is served, 2) The Special Development Permit is valid for two years only and the applicant must reapply for a Special Development Permit in two years, 3) Hours of operation are limited to 12:00 a.m. midnight seven nights a week.

Ms. Caruso 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 3:00 p.m.

Minutes approved by:

Gerri Caruso, Principal Planner