



CITY OF SUNNYVALE ZONING ADMINISTRATOR HEARING

MINUTES

Wednesday, February 11, 2015

14-8084 1323 Sunnyvale-Saratoga Avenue

In attendance: Jonathan Miller, Applicant; Allen Bertrand, Applicant; Haiou Zhu, Neighbor; Tony Chan, Neighbor; Jim Davis, Council Member; Shetal Divatia, Project Planner; Luis Uribe, Staff Office Assistant.

Mr. Andrew Miner, Zoning Administrator, 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.

Shetal Divatia, Project Planner, presented the item and noted there are several permits and uses on the site. Staff is concerned about the lack of conformance currently at the site and conditions of approval have been added to address this issue. Ms. Divatia noted that 43 parking spaces, not 41 as stated in the report, are being proposed where 41 are required. Mr. Miner asked if canvas will be installed in front of the building and about a brick wall and if these two items may affect the vision triangle.

Mr. Miner opened the public hearing.

Allen Bertrand, Applicant, received and reviewed a copy of the staff report. Mr. Bertrand stated that the parking lot does not have room for tree wells and that they would be willing to line the parking lot out for neighborhood preservation. He stated that this establishment will be a high end type of restaurant and not just a bar. Mr. Bertrand stated that the Dairy Bell has been closed for 3 to 4 months now and that no loitering to occur now that it is closed, especially from people attending Fremont High School.

Jonathan Miller, Applicant, stated that youth is not their target customers and the students will not be interested in buying anything from this establishment due to its high end appeal.

Mr. Miner asked what type of restaurant this was going to be. Mr. Miller stated that they will be serving breakfast and that the hours of operation would be from 6 a.m. to midnight. Mr. Bertrand stated that they do not want to be limited as far as when they can serve beer and wine and stated they will be conducting sales on a probationary period. Mr. Miner stated that he counted 33 parking spaces and the wood piles take up a significant amount of space where the plans indicate landscaping. Mr. Miner wanted to know where the wood pile would be located in the future. Mr. Miner stated that currently there are three parking spaces that are unavailable for use which creates parking issues. Mr. Miller stated they could provide a valet parking service free for customers. This service could be provided during rush hour times like lunch and possibly during the evening. Mr. Miner stated we would need to get the hours of operation for the valet service and where the vehicles will be parked. Mr. Miller stated there is no problem with parking even when using some spaces to store two personal vehicles and the wood pile. Mr. Miner stated that there is a condition that these spaces be available to the public. He also noted that the applicant is proposing 16 outside seating spaces and wants to know if these would be permanently located and

will need an accurate count of seating. Mr. Miner also mentioned that the site is under the amount of landscaping that is required especially in the parking area, which does not meet the 50% shading requirement. Public Safety noted concern regarding the hours of operation. Mr. Miner stated that this location has residential neighbors on two sides of the property and thinks that midnight may be a late closing time.

Haiou Zhu, Neighbor, stated that his only concern is with the sale of beer and wine. He feels this would jeopardize the safety of the neighborhood. He also stated issues regarding noise may become a problem if the business is open until midnight.

Tony Chan, Neighbor, stated he agrees with the concerns of the Zoning Administrator but his main concern is the proximity of the business to the high school.

Mr. Miller stated there is beer and wine sales allowed at other nearby shopping centers and the applicant is willing to go on a probationary period to see what will be affected by this use.

Mr. Bertrand stated that the owner is concerned with safety but is also a resident of the neighborhood and wants to make sure noise and safety is addressed.

Tania Wong, Neighbor, is opposed to this project due to the proximity of the high school.

Mr. Miner closed the public hearing.

The Zoning Administrator took the application under advisement (on February 11, 2015)
The meeting was adjourned at 2:45 p.m.

A site visit with the applicant, Councilmember Jim Davis, interested neighbors and staff was conducted on February 17, 2015, to review site conditions and proposed project. The application was modified by the applicant by withdrawing the request for a beer and wine permit and submission of a modified site plan.

The Special Development Permit was approved for the modified application, subject to additional and modified conditions of approval, by the Hearing Officer on February 18, 2015.

The modified conditions of approval are as follows:

1. Modify the Site Plan to:
 - a. Correct the miscount of parking spaces (Number 8 occurs twice) by renumbering the spaces for a total of 42 spaces.
 - b. Remove parking space number 35 to allow a minimum of 20-foot wide, two-way driveway.
 - c. Spaces marked 4-7 be reduced to 18 feet deep.
 - d. Add landscaping along this area that was formerly included in longer parking stalls (parking spaces 4-7).
 - e. Add at least 3 tree wells in the parking lot as initially proposed.
 - f. Along the front of the wood retail area add a removable fence along parking spaces 17 and 18.

- g. Remove landscaping strip on the north side of the wood retail business to provide access from the parking lot to the wood retail business.
- 2. Since proposal does not include request for beer and wine permit, remove Conditions of Approval (Attachment 4) related to alcohol use (Condition of Approval GC-6,7, 9 and AT-1) as they no longer apply.

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.

Minutes approved by:

Andrew Miner, Principal Planner