



City of Sunnyvale

Meeting Minutes

Zoning Administrator Hearing

Wednesday, September 27, 2023

3:00 PM

Teleconference: City Web Stream

Public Participation

Accessibility/Americans with Disabilities Act (ADA) Notice

CALL TO ORDER

George Schroeder, Zoning Administrator, called the meeting to order at 3:00 p.m.

Mr. Schroeder called for a recess until 3:05 p.m to allow all participants to join.

Mr. Schroeder called the meeting to order at 3:05 p.m.

PUBLIC HEARINGS

Proposed Project:

SPECIAL DEVELOPMENT PERMIT to legalize an existing recreational and athletic facility with the sale of beer and wine at an existing cyber café for Euphnet Cyber Café.

Location: 612 S Mary Avenue (APNs: 201-19-024)

File #: PLNG-2023-0441

Zoning: ECR-C (El Camino Real - Commercial)

Applicant / Owner: Euphnet Cyber Café (applicant) / West El Camino Properties, LP (owner)

Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Drew Taplin, 408-730-7407,
dtaplin@sunnyvale.ca.gov <<mailto:dtaplin@sunnyvale.ca.gov>>

Mr. Schroeder inquired with Drew Taplin, Project Planner, if there were any additions to the staff report.

Mr. Taplin gave a brief description of the project.

Mr. Schroeder confirmed with Mr. Taplin that the business has been in operation for several years. Mr. Taplin stated that staff determined this facility would require a Special Development Permit because the uses occurring in the facility fell into different categories than initially projected.

Mr. Schroeder inquired with the applicant if there were any additions or comments.

Linda Hong, applicant, gave a brief presentation on the project. Ms. Hong explained that facility consists of rooms with computers lined up for patrons to play computer games. The facility currently sells food, snacks, and non-alcoholic beverages. She stated that if approved, there would be a separate fridge in an area behind the front desk used to store alcohol that would not be accessible to non-employees. Ms. Hong noted that the desire to sell alcoholic beverages was due to customer demand.

Ms. Hong explained a plan of action for safety which included checking ID, giving out wristbands with employee initial and the date daily, and serving a maximum 1 alcoholic beverage per hour with a 5 beverage per day limit. Alcohol would also stop being served 1 hour before closing to ensure patrons would not be leaving and driving home intoxicated. There would also be organized communication between staff to note who has been served alcohol and how many times via online text channels.

Ms. Hong stated that each a complementary water bottle would be provided with each alcoholic drink and should anyone be intoxicated before reaching the beverage limit, no alcoholic beverages would be served to that patron. She also ensured that she would judge if a patron would need medical attention from being intoxicated and that she would provide food and drinks to any patron that needed help sobering up.

Mr. Schroeder inquired if the hours have changed in recent years or if the closing time of 1 a.m. and 2 a.m. have been the standard. Ms. Hong stated that pre-pandemic, the closing hours used to be 2 a.m. on Sundays and 4 a.m. on other days.

Mr. Schroeder inquired if there was any pre-existing security plan in place to alleviate any loitering or issues involving intoxicated behavior. Ms. Hong stated they do not have a plan in place, but that staff would call the non-emergency line or 9-1-1 if any issues occurred.

Mr. Schroeder confirmed with Ms. Hong that all activity is occurring indoors and that there are "No Loitering" signs on the property. Ms. Hong confirmed all activity is indoors and that there is a "No Loitering" on the front door.

Mr. Schroeder opened the hearing to public comments.

Jeanne Yeager stated that there were already conflicts occurring in the alleyway near the property before the consumption of alcohol and expressed concern that the situation would become worse with alcohol consumption added for a business that closed at such late hours. Ms. Yeager expressed disapproval of the permit.

Edward Eisen identified himself as a neighbor adjacent to the Euphnet property. Mr. Eisen noted that there have been numerous noise code violations from the property. The patrons come outside to smoke which disturbs any neighbors with their windows open. Trash has been thrown over the fence and into Mr. Eisen's yard. With so many people parked in the lot and loitering at such a late hour, Mr. Eisen stated that it causes a huge disturbance and lack of consideration for the neighborhood.

Mr. Eisen agreed that adding alcohol consumption would increase problems. He does not have confidence that the business owners will be able to handle intoxicated clients. Mr. Eisen stated that staff won't check ID and that there was a 12-year old running the front desk when he came to complain. Mr. Eisen expressed disapproval of the permit.

Jeff, identified himself as a neighbor, stated that he has already had these same problems echoed by Mr. Eisen and Ms. Yeager with other businesses in the area. Mr. Jeff expressed he would like to limit businesses like this from operating late hours. He expressed disapproval of the permit.

Deborah Eisen, stated all the trash left by patrons and all the vehicle traffic is and would continue to be an issue because there would be more food deliveries. Ms. Eisen also explained that the patrons play very loud music in the parking lot. She reiterated concerns about the trash, alleyway and the late hour disturbances. Ms. Eisen agreed that alcohol would enhance the problems and expressed a lack of confidence that the alcohol refrigerator would be properly secured. Ms. Eisen expressed her objection of the permit.

Ms. Hong explained that patrons from her business are quiet after 12 a.m. She noted that she does not know who is making the noise in the alleyway and that they also frighten her. Ms. Hong stated that her business does not actually produce much trash and much of the recycling is given to a man who turns in cans to recycling centers. Ms. Hong explained that the business only averages one 33-gallon trash bag per night. Ms. Hong noted that the alcohol refrigerator will be locked with only employees having access to the key.

Mr. Schroeder inquired with Ms. Hong if she had any additional comments.

She urged any neighbors to come to the business to see the facility and alleviate their concerns. Ms. Hong stated that she can ask any patrons to move over to the side if they are going to smoke and that they have not received a noise complaint in a long time.

Athena, identified as a neighbor, expressed a lack of confidence that the business owners would have no control over intoxicated guests because they already have no control over smoking patrons.

Mr. Schroeder closed the hearing the public comments.

Ms. Hong expressed disappointment that the community had so many concerns. She stated that the smokers are smoking 25-ft. away from the front door as per regulations. Ms. Hong stated she does not have much control over the activities in the alleyway and is unsure if her patrons are causing the issues that occur there.

Mr. Schroeder expressed disappointment that there have been issues with the business, but also expressed that a ruling needs to be made in order for businesses to thrive within regulations consistent with Sunnyvale's General Plan. Mr. Schroeder moved to add additional conditions and modifications to the permit. He moved to add a Safety and Security Plan Safety and Security Plan for general safety, security, and crime prevention to be approved by the Department of Public Safety. The plan must be submitted for approval within 30 days of the Special Development Permit's issuance. The plan shall include general policies and procedures around management measures, training programs, implementation and record keeping Failure to comply will result in fines to the business pursuant to Sunnyvale Municipal Code 9.47.

The other condition added would be Additional Operational Restrictions. All business activity would be restricted to inside of the building. The doors must remain closed from 10 p.m. to closing. "No Loitering" signs to be maintained on the building. Smokers must be directed to the El Camino Real frontage and not in the parking lot.

ACTION: Approve the Special Development Permit subject to the recommended findings in Attachment 2 and with the following modifications:

- Safety and Security Plan
 - o Obtain approval from the Department of Public Safety for crime prevention

measures appropriate for the business. The plan shall be submitted within 30 days of the SDP approval date. The plan shall include general policies and procedures around management measures, training program, implementation and record keeping.

The business operator shall comply with the approved security and safety plan and non compliance with the security plan resulting in extraordinary public safety service will result in the City billing the business or property owner pursuant to SMC 9.47.

- Additional Operational Restrictions
 - o No outdoor activity is allowed, including consumption of alcohol and seating.
 - o Keep doors closed at all times during the hours of 10pm to close.
 - o Provide no loitering signs in front of the business.
 - o The business owner shall direct smokers to smoke in the parking lot along the El Camino Real frontage. Smoking is prohibited in the areas along Mary Avenue.

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: to allow a recreation and athletic facility (role-playing games) within an existing 5,253 square foot tenant space.

File #: 2022-7038

Zoning: M-S/POA/PD (Industrial and Service with Places of Assembly and Planned Development Combining Districts)

Applicant / Owner: Hidden Mode (applicant) / Eternal Education Development LLC (owner)

Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Cindy Hom, 408-730-7411,
chom@sunnyvale.ca.gov

Mr. Schroeder inquired with Cindy Hom, Project Planner, if there were any additions to the staff report.

Ms. Hom, gave a brief presentation detailing the overview of the project. Ms. Hom noted that a public comment requested the business close at 10 p.m. instead of 10:30 p.m. The business owner was in agreement to the 10:00 p.m. close time. She noted that the application includes a Security and Parking Management Plan. Mr. Schroeder inquired with the applicant if there were any additions or comments.

Minghan Jia, applicant, gave a brief presentation explaining that roleplaying games would occur at the facility. This would include patrons dressing up and acting out a murder mystery game. Ms. Jia stated that an employee would be with each participating group to guide them through the games. Ms. Jia obliged with the 10:00 p.m. close time to alleviate any safety concerns to the surrounding neighborhoods.

She stated that she did not believe there would be any noise problems because all activities would occur within meeting rooms within the facility.

Mr. Schroeder confirmed that the 10 p.m. close time is agreeable with Ms. Jia. Ms. Jia confirmed she was in agreement and they would book their last appointment 30 minutes earlier to accommodate the change.

Mr. Schroeder opened the hearing to public comments.

No members of the public wished to speak on the item.

Mr. Schroeder closed the hearing the public comments.

Mr. Schroeder noted the modification to change the closing date to 10 p.m. Mr. Schroeder moved to modify the proposed Safety and Security Plan to a new Safety and Security Plan for general safety, security, and crime prevention to be approved by the Department of Public Safety. The plan must be submitted for approval within 30 days of the Special Development Permit's issuance. The plan shall include general policies and procedures around management measures, training programs, implementation and record keeping Failure to comply will result in fines to the business pursuant to Sunnyvale Municipal Code 9.47.

ACTION: Approve the Special Development Permit subject to the recommended findings in Attachment 2, with the following modifications:

- Modify the text of Condition AT-1 to change the closing hours every day from 10:30 pm to 10pm

Add the following condition:

- Safety and Security Plan
 - o Obtain approval from the Department of Public Safety for crime prevention measures appropriate for the business. The plan shall be submitted within 30 days of the SDP approval date. The plan shall include general policies and procedures around management measures, training program, implementation and record keeping.

The business operator shall comply with the approved security and safety plan and non compliance with the security plan resulting in extraordinary public safety service will result in the City billing the business or property owner pursuant to SMC 9.47.

ADJOURNMENT

Mr. Schroeder adjourned the hearing at 3:50 p.m.