



MEETING DATE: 11-17-08

AGENDA ITEM:

4

COUNCIL AGENDA REPORT

DATE: NOVEMBER 5, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: RESOLUTION GRANTING APPROVAL TO AMEND AN EXISTING CONDITIONAL USE PERMIT TO MODIFY THE HOURS OF OPERATION FOR AN EXISTING BOCCIE BALL FACILITY (CAMPO DI BOCCIE) ON PROPERTY ZONED LM. APN: 529-07-096; CONDITIONAL USE PERMIT APPLICATION: U-08-008; PROPERTY LOCATION: 565 UNIVERSITY AVENUE; PROPERTY OWNER: CAMPO DI BOCCIE OF LOS GATOS, LLC.; APPLICANT: CAMPO DI BOCCIE/TOM ALBANESE

RECOMMENDATION:

Adopt resolution granting approval to amend an existing conditional use permit to modify the hours of operation for an existing bocce ball facility (Camp Di Bocce) on property zoned LM.

DISCUSSION:

On November 3, 2008, Council considered and voted to approve an amendment to the existing conditional use permit modifying the hours of operation for an existing bocce ball facility (Campo Di Bocce) on property zoned LM. The attached resolution finalizes that decision.

Attachment: Proposed Resolution

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

Reviewed by: *OK* Town Manager *RSJ* Assistant Town Manager Clerk
 Finance *BNL* Community Development

Rev: 11/11/08 8:33 am

Reformatted: 7/19/9

RESOLUTION

RESOLUTION GRANTING APPROVAL TO AMEND AN EXISTING CONDITIONAL USE PERMIT TO MODIFY THE HOURS OF OPERATION FOR AN EXISTING BOCCE BALL FACILITY (CAMPO DI BOCCE) ON PROPERTY ZONED LM.

APN: 529-07-096

CONDITIONAL USE PERMIT APPLICATION: U-08-008

PROPERTY LOCATION: 565 UNIVERSITY AVENUE

PROPERTY OWNER: CAMPO DI BOCCE OF LOS GATOS, LLC

APPLICANT: CAMPO DI BOCCE/TOM ALBANESE

WHEREAS:

- A. This matter came before the Town Council for public hearing on November 3, 2008, and was regularly noticed in conformance with State and Town law.
- B. Council received testimony and documentary evidence from the applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated November 3, 2008, along with any and all subsequent reports and materials prepared concerning this application.
- C. The applicant seeks to modify the hours of operation for an existing bocce ball facility (Campo Di Bocce) on property zoned LM. Currently, the applicant's approved hours of operation are Sunday through Wednesday, 10:00 a.m.-10:00 p.m., and Thursday through Saturday, 10:00 a.m.-12:00 a.m. However, the applicant is requesting to modify the operating hours to Sunday through Thursday, 10:00 a.m.-11:00 p.m., and Friday through Saturday, 10:00 a.m.-12:00 a.m.
- D. On August 27, 2008, the Planning Commission considered the request to modify the hours of operation for an existing bocce ball facility (Campo Di Bocce) on property zoned LM. The Commission recommended approval of the request finding that the applicant is demonstrating a community benefit by providing a late night dining and activity opportunity.
- E. The Town's Alcohol Policy requires any change in the service of alcoholic

beverages to be approved by Council. Council reviews CUP requests for a change in alcohol service on a case-by-case basis to ensure that the request is appropriate for the specific restaurant and its location.

F. Council finds as follows:

1. Pursuant to Town Code section 29.20.190, the requested modification of an existing CUP is desirable to the public convenience; will not impair the integrity and character of the zone; would not be detrimental to public health, safety or general welfare; and is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code. Evidence in the record demonstrates that the proposed changes to the hours of operation for an existing bocce ball facility (Campo Di Bocce) on property zoned LM (1) will not adversely impact adjacent residential neighborhoods, (2) is not precluded by a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy, and (3) the applicant has demonstrated a clear benefit to the community as a unique social and dining environment with late night hours. This finding is based on the evidence presented in the Council Agenda Report dated November 3, 2008, and incorporates the findings made by the Planning Commission on August 27, 2008 regarding this application.

2. The project is categorically exempt from environmental review pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

3. The proposed use is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (section IV.B), as evidenced by the staff report prepared for the public hearing on August 27, 2008.

RESOLVED:

1. The application for modification of CUP application U-08-008 is granted.
2. The Conditions of Approval attached hereto as Exhibit A are hereby adopted as the

Conditions of Approval for modification of this permit.

3. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California on the _____ day of November 2008, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS, CALIFORNIA

RECOMMENDED CONDITIONS OF APPROVAL

Revised November 6, 2008

565 University Avenue

Conditional Use Permit Application U-08-008

Requesting approval to modify the hours of operation for an existing bocce ball facility (Campo di Bocce) on property zoned LM. APN 529-07-096.

PROPERTY OWNER: Campo di Bocce Los Gatos LLC

APPLICANT: Campo di Bocce Los Gatos LLC/Tom Albanese

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below. Any changes or modifications shall be approved by the Director of Community Development, the Development Review Committee, the Planning Commission, or the Town Council, depending on the scope of the change(s).
2. **HOURS:** Maximum hours of operation shall be 10:00 am to 11:00 pm Sunday through Thursday, and from 10:00 am to midnight Friday through Saturday.
3. **HOURS OF ALCOHOLIC BEVERAGE:** The service of alcoholic beverages shall not be permitted after 10:00 pm Sunday through Thursday and shall not be permitted after 11:00 pm on Fridays, Saturdays, holidays, and evenings before holidays. Holidays are those days defined by Section 1.10.075 of the Town Code.
4. **SEATS:** The maximum number of indoor and/or outdoor seats permitted Monday through Friday from 10 AM to 5 PM is 70. The maximum number of indoor and/or outdoor seats Monday through Friday from 5 PM to closing and during the Saturday and Sunday business hours is one hundred twenty (120) provided both leases for the alternate use of parking at 573 University Avenue and 536 N. Santa Cruz Avenue are in effect. If either of the leases for alternate site parking is terminated, cancelled, or not extended, the maximum number of seats permitted is seventy (70) if both leases are canceled, or ninety-five (95) if only one lease is canceled. These seats shall be available for patrons of the food service or waiting to play bocce.
5. **SERVICE OF ALCOHOLIC BEVERAGES:** Alcoholic beverages may only be served with meals and is permitted for inside and outside seating. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.
6. **LITTER:** The tenant shall monitor the outside seating area and dispose any litter which is in the vicinity.
7. **SIGNS:** Large illuminated signs, meeting all Town Code requirements, shall be installed in strategic locations to ensure that motorists are aware of the alternate parking sites. Signs, meeting Town Code, shall also be placed at the entrance to

both off-site parking lots to assure patrons that it is acceptable to park in these lots during certain hours.

8. **MARKING ALTERNATIVE PARKING SPACES:** Fifteen (15) parking spaces in each lot shall be prominently marked as “reserved for patrons of Campo di Bocce during the hours of 5:00pm to 11:00 pm Monday through Thursday, 5:00 pm through midnight Friday, 10:00 am to midnight Saturday, and 10:00 am to 11:00 pm Sunday.”
9. **DIRECTIONS TO MOTORISTS:** During peak times on Friday and Saturday evenings from 7:00 pm to 10:30 pm, the applicant shall make a parking attendant available who shall direct customers to one of two adjoining approved off-site parking lots. Also, parking diagrams shall be handed out by the parking attendants giving patrons clear directions to the adjoining approved off-site parking lots.
10. **LIGHTING:** The applicant shall provide additional lighting in the parking lots of the alternate parking site within 90 days of approval of this permit. This lighting shall meet all Town requirements and the required permits from the Building Department must be obtained.
11. **LEASE AGREEMENTS:** That in order to operate a bocce ball/restaurant facility with one hundred twenty (120) seats during the hours of 5:00 pm to 11:00 pm Monday through Thursday, from 5:00 pm to midnight Friday, and 10:00 am to closing Saturday and Sunday, the applicant must at all times be a party to valid and fully enforceable lease agreements, each allowing exclusive use of fifteen (15) parking spaces during the hours of 5:00 pm to 11:00 pm Monday through Thursday, 5:00 pm to midnight Friday, 10:00 am to midnight Saturday, and 10:00 am to 11:00 pm Sunday at 573 University Avenue and 536 N. Santa Cruz Avenue.
12. **COPIES OF LEASES:** Applicant shall lodge copies of each lease agreement with the Town Community Development Department within three (3) weeks of Town Council decision, and shall lodge copies of subsequently revised, amended, extended or otherwise modified lease agreements, including copies of any correspondence exercising options, terminating or canceling the leases, within five (5) working days after the agreements are signed by the parties or the correspondence is mailed.
13. **APPROVED USE:** That the restaurant shall only be operated in conjunction with a bocce ball operation providing at all times a minimum of five (5) bocce ball courts, and may not be operated independent of a bocce ball operation without obtaining a new variance allowing off-site parking for a restaurant use only, and a modification of the existing use conditional use permit allowing the operation of a full service restaurant independent of a bocce ball operation.
14. **NEIGHBORHOOD MEETINGS:** The business owner(s) shall meet with surrounding neighbors at least twice a year for the first year, and as necessary thereafter, to address any concerns. A record of attendants (name and property address) and issues discussed shall be kept on record by Campo di Bocce (or subsequent business) and be made available for review at the request of the Community Development Department. The terms ‘neighbors’ and ‘neighborhood’ consist of the owners and occupants listed in the hearing

- notification list which can be found in the property file.
15. HOTLINE: A hotline for complaints shall be available and provided to all neighbors. A record of callers (name and property address) and issues shall be kept on record by Campo di Bocce (or subsequent business) and be made available for review at the request of the Community Development Department. The term 'neighbors' consists of the owners and occupants listed in the hearing notification list which can be found in the property file.
 16. ONE YEAR REVIEW: Town staff shall review the Conditional Use Permit within one year from approval to determine if there are any problems associated with the permit and report their findings to the Planning Commission. The Planning Commission may direct that a public hearing be held to review the permit as specified in Section 29.20.310 of the Town Code.
 17. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval.

TO THE SATISFACTION OF THE POLICE CHIEF

16. GENERAL. The restaurant is subject to the following:
 - a. Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
 - b. At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.
 - c. All establishments shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
 - d. All licensed operators shall have and shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
 - e. Taxicab telephone numbers shall be posted in a visible location.
 - f. Alcoholic beverage service in the outdoor seating area shall have adequate separation from public areas.
 - g. A physical delineation in the form of landscaping or planters is required to separate public and private property. The height of the separation shall be a minimum of three feet. The separation shall be designed to prevent passing or carrying alcoholic beverages outside the restaurant seating area. The separation shall clearly suggest that alcohol is not permitted outside the restaurant seating area.
 - h. A restaurant employee shall seat patrons in the outside dining area.

TO THE SATISFACTION OF CENTRAL FIRE PROTECTION DISTRICT

17. The kitchen shall be provided with an automatic fire extinguishing system for the cooking appliances as may be required. Approved portable fire extinguishers shall also be provided.
18. An approved manual and automatic fire alarm with an approved voice notification system may be required depending on the seating count.