



MEETING DATE: 06-18-2007
AGENDA ITEM: 8

COUNCIL AGENDA REPORT

DATE: JUNE 13, 2007
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*
SUBJECT: ADOPT RESOLUTION APPROVING AN APPLICATION TO MODIFY A
CONDITIONAL USE PERMIT (ANDALE) TO ALLOW THE SERVICE OF
FULL LIQUOR ON PROPERTY ZONED C-2 LHP. APN: 510-44-036.
CONDITIONAL USE PERMIT U-07-22. PROPERTY LOCATION: 21 N.
SANTA CRUZ AVENUE. PROPERTY OWNER: ANDALE PROPERTIES.
APPLICANT: ANDALE LOS GATOS

RECOMMENDATION:

Adopt resolution approving an application to modify a conditional use permit to allow full liquor service on property zoned C-2 LHP.

DISCUSSION:

On June 4, 2007, Council approved an application to modify a conditional use permit to allow full liquor service on property zoned C-2 LHP. The attached resolution finalizes that decision.

Attachment: Proposed Resolution

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY OPK:LMB/wp [N:\ATY\Reports\Report 21 N. Santa Cruz (Andale).wpd]

Reviewed by: *OK* Town Manager *PS* Assistant Town Manager _____ Clerk
Finance Community Development

Rev: 6/14/07 9:51 am

Reformatted: 7/19/99

File# 301-05

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING A REQUEST TO MODIFY A CONDITIONAL USE PERMIT (ANDALE) TO ALLOW THE SERVICE OF FULL LIQUOR ON PROPERTY ZONED C-2-LHP.

APN: 510-44-036

CONDITIONAL USE PERMIT: U-07-22

PROPERTY LOCATION: 21 NORTH SANTA CRUZ AVENUE

PROPERTY OWNER: ANDALE PROPERTIES

APPLICANT: ANDALE, LOS GATOS

WHEREAS:

- A. This matter came before Council for public hearing on June 4, 2007, 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 May 29, 2007, along with any and all subsequent reports and materials prepared concerning this application.
- C. The original Conditional Use Permit (CUP) for the existing Andale restaurant at 21 North Santa Cruz was issued in 1991. The CUP allowed a total of 46 seats and included approval to serve beer and wine and non-amplified live entertainment. The restaurant does not have a separate bar.
- D. Applicant seeks approval to modify its CUP to allow for the service of full liquor on property zoned C-2-LHP. Applicant also requests a modification of its operating hours to stay open until 10 PM. Applicant does not intend to have a stand alone or separate bar and will have live entertainment only on Cinco De Mayo, Friday's,

Saturday's, and five (5) additional evenings during the year. Applicant will require that patrons be served a meal along with service of alcoholic beverages, as required by the Town's Alcohol Policy, and that service of alcohol in approved existing outdoor seating areas be separated from public areas with a physical barrier.

E. Town Council finds as follows:

- i. The findings of the Planning Commission made on April 25, 2007 are adopted and incorporated herein.
- ii. Pursuant to Town Code section 29.20.190, the proposed use of the property is desirable to the public convenience; would 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 modification to the CUP would encourage (1) economic and social activity consistent with a small-scale, small town atmosphere and image, (2) the development and retention of locally-owned stores and shops, and (3) the preservation of downtown Los Gatos as the historic center of the Town with goods and services for local residents while maintaining the existing Town identity, environment and commercial viability. Evidence in the record also demonstrates that the applicant has served beer and wine without creating trouble for the Town and that the Chief of Police does not oppose the application.
- ii. The project is categorically exempt from environmental review pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.
- iii. 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 June 4, 2007.

RESOLVED:

1. Application U-07-22 is approved.
2. The Conditions of Approval attached hereto as Exhibit A are adopted as the Conditions of Approval of this permit.
3. The decision constitutes a final administrative decision pursuant to California 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 California Code of Civil Procedure section 1094.6, or such shorter time as required by state or federal law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California held on the ____ day of June 2007 by the following vote.

COUNCIL MEMBERS:

AYES: Steve Glickman, Mike Wasserman, Barbara Spector, Diane McNutt,
Mayor Joe Pirzynski

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

ATTEST

**CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

CONDITIONS OF APPROVAL FOR:

21 N. Santa Cruz Avenue
Conditional Use Permit U-07-22

Requesting approval to modify a Conditional Use Permit (Andale) to allow the service of full liquor on property zoned C-2-LHP. APN. 510-44-036

PROPERTY OWNER: Andale Properties

APPLICANT: Andale Los Gatos

TO THE SATISFACTION OF THE PLANNING DIRECTOR:
(Planning Section)

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit F in the report to the Planning Commission. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development, the Development Review Committee or the Planning Commission, depending on the scope of the changes.
2. **LAPSE FOR DISCONTINUANCE:** If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses..
4. **NUMBER OF SEATS:** There shall be no more than 46 seats for both indoor and outdoor seating.
5. **HOURS OF OPERATION:** Maximum hours of operation for the restaurant shall be 11:00 a.m. to 10 p.m. seven days a week.
6. **OUTDOOR LITTER:** The owner or employees of the business shall pick up any trash in outdoor areas adjacent to the restaurant.
7. **ALCOHOL SERVICE:** Full alcohol service is permitted as follows:
 - a. The service of full service alcohol for on-site consumption is permitted only with meals. 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. There shall be no separate bar for the restaurant.
 - b. Alcohol may be served to customers seated inside the restaurant. If the rear patio is enclosed to the satisfaction of the Chief of Police, alcohol may be served in this area.
 - c. Alcohol, other than beer and wine, must be delivered to customers at their table by a server.
8. **PLACSETTINGS:** No disposable dishes, utensils and cups shall be used for meals served on premises.
9. **LIVE ENTERTAINMENT:** Live entertainment, provided that the music is non-amplified, is allowed on Cinco de Mayo, Friday and Saturday's and five additional evenings during the year.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

10. **UNIFORMED SECURITY:** 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.
11. **CONSULTATION AND TRAINING:** 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.
12. **TRAINING MANUAL:** The restaurant operator shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
13. **DESIGNATED DRIVER PROGRAM:** The restaurant operator shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
14. **POSTING OF TAXICAB TELEPHONE NUMBERS:** Taxicab telephone numbers shall be posted in a visible location.