

REPORT TO CITY COUNCIL

DATE: MAY 23, 2012

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: ADOPTION OF RESOLUTION 12-1669 REGARDING CITY COUNCIL'S APPEAL OF THE PLANNING COMMISSION'S DECISION ON THE SUNSET ROOM'S REQUEST FOR AMENDMENTS TO CONDITIONAL USE PERMIT (CASE NO. 05-CUP-001 AMENDMENT #3)

On May 9, 2012, the City Council conducted a public hearing on the Council's appeal of the Planning Commission's action on April 5, 2012, regarding an application for amendment to CUP conditions related to live entertainment at Sunset Room, located at 20920 Agoura Road. Specifically, the Planning Commission approved the applicant's request to amend Condition No. 13 to extend the last call and last service of alcohol to 1:30 a.m. and 1:45 a.m., respectively, every night, and to amend Condition No. 24 to allow limited outdoor entertainment in the patio. The Commission denied the applicant's request to amend Condition No. 25 in order to allow lingerie shows.

Upon deliberation at the May 9, 2012 public hearing, the City Council, on a 3-1-1 vote (Mayor Edelston opposing and Councilmember Buckley Weber abstaining), approved a motion upholding the Planning Commission's decision. Included in the City Council's motion was a new condition requiring that a monitoring report be presented to the Council in six months.

Attached for City Council adoption is Resolution No. 12-1669, reflecting the Council's action at the May 9, 2012 public hearing. The resolution includes revised conditions of approval (Exhibit A), specifically to Condition No. 13 (last call/last service) and Condition No. 24 (outdoor entertainment), and a new Condition No. 39 (6-month monitoring review).

RECOMMENDATION

Staff recommends the City Council approve Resolution No. 12-1669 and revised conditions of approval.

Attachment: Resolution No. 12-1669

RESOLUTION NO. 12-1669

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, UPHOLDING THE DECISION OF THE PLANNING COMMISSION AND APPROVING AMENDMENT TO CONDITION NO. 13 AND TO CONDITION NO. 24 OF CONDITIONAL USE PERMIT AMENDMENT #3 (CASE NO. 05-CUP-001 AMENDMENT #3) AND DENYING AMENDMENT TO CONDITION NO. 25

Section 1. An application was duly filed by James Ashford of The Sunset Room, with respect to the real property located at 29020 Agoura Road, Suite A-14, Assessor's Parcel Numbers 2061-031-023 and 024. The Applicant requested approval of an amendment to the conditions of approval for the current Conditional Use Permit Case No. 05-CUP-001. Specifically, the applicant requested: (1) to delay the time for "last call" of alcoholic beverages (Condition No. 13); (2) to allow for outdoor entertainment in the form of ambience music in the outdoor dining patio (Condition No. 24); and (3) to allow for lingerie shows (Condition No. 25). A public hearing was duly held by the Planning Commission on April 5, 2012 at 6:30 p.m. in the City Hall Council Chambers, City Hall 30001 Ladyface Court, Agoura Hills, California.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearing on April 5, 2012. The Planning Commission approved Conditional Use Permit Amendment #3 Case No. 05-CUP-001 Amendment #3 on a 4-1 vote (Commissioner Northrup opposed), per the findings in Resolution No. 12-1055. Specifically, the Planning Commission approved amendments to Condition No. 13 to change the last call to 1:30 a.m. and last service to 1:45 a.m. every night of the week and to Condition No. 24 to allow outdoor live entertainment in the outdoor dining patio, and denied amendment to Condition No. 25 to allow lingerie shows.

Section 3. An appeal of the Planning Commission's approval of Conditional Use Permit Amendment Case No. 05-CUP-001 Amendment #3 was filed by the City Council on April 12, 2012 with respect to the property described in the Section I hereof. A hearing on the appeal was duly held and public testimony was given on May 9, 2012 at 6:00 p.m. in the City Council Chambers of the City of Agoura Hills, at 30001 Ladyface Court, Agoura Hills, CA 91301.

Section 4. Evidence, both written and oral, including the staff report and supporting documentation, was presented to and considered by the City Council of the aforesaid public hearing on May 9, 2012.

Section 5. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, and based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the City Council finds the request to revise Condition No. 13 and Condition No. 24 in substantial conformance with the original approval per the findings in Resolution No. 11-1041.

Section 6. Based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the City Council denies the Applicant's request to amend Condition No. 25 based on the following:

- A. In approving Conditional Use Permit Case No. 05-CUP-001 Amendment #2, the Planning Commission imposed certain conditions on the requested use in order to be able to make the findings required by Section 9673.2.E of the Agoura Hills Zoning Ordinance for the approval of a conditional use permit.
- B. The conditions approved by the Planning Commission per Resolution No. 11-1041 specifically included a prohibition against lingerie shows. The Applicant accepted these conditions and began operating The Sunset Room in October 2011.
- C. The record demonstrates that the Planning Commission imposed this condition in order to ensure that the proposed use of the property is not detrimental to the public health, safety, or welfare. The Applicant has not demonstrated any changed conditions suggesting that this condition is no longer required to make sure that the operation will not be detrimental to the public health, safety or welfare.
- D. The use is located in the Agoura Village Specific Plan (AVSP) area. The Agoura Village Specific Plan prohibits adult entertainment in the AVSP area and allowing lingerie shows in a business that caters to adults would be inconsistent with the AVSP.

Section 7. The City Council hereby finds that the action taken by this resolution is categorically exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq., "CEQA"), pursuant to Section 15061(b)(3) of the state CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.) because the project does not have any potential for causing a significant effect on the environment. The revised condition of approval amends only two conditions of approval to change the hours of last call and last service of alcohol and to allow ambience music on the outdoor dining patio. Thus, there is no possibility that the project will have a significant effect on the environment. In addition, the Project involves the operation of an existing structure involving negligible or no expansion of use beyond the already existing use. Thus, the Project is exempt from CEQA review pursuant to Section 15301 (Class 1).

Section 8. Based on the aforementioned findings, the City Council hereby upholds the Planning Commission's decision and approves amendment to Condition No. 13 and to Condition No. 24 of Conditional Use Permit Case No. 05-CUP-001 Amendment #2 and adds a new Condition No. 39 requiring that a monitoring report return to the City Council in 6 months, per the attached Exhibit A (Conditions of Approval) and incorporated herein by reference. This approval supersedes the prior conditions of approval of Conditional Use Permit Case No. 05-CUP-001 Amendment #2 and #3.

Resolution No. 12-1669

PASSED, APPROVED and ADOPTED this 23rd day of May, 2012, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

John M. Edelston, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

Exhibit A

CONDITIONS OF APPROVAL For Case No. 05-CUP-001 Amendment #3 As Approved by City Council on May 23, 2012

STANDARD CONDITIONS

1. This action shall not be effective for any purpose until the applicants have agreed in writing that the applicants are aware of, and accept all, Conditions of Approval of this permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including the filing of legal action, relating to the permit or the conditions shall be treated as a failure to meet this Condition and shall nullify and void this permit.
2. Except as modified herein, the approval of this action is limited to and requires complete conformance to the labeled exhibits approved by the Planning Commission.
3. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
4. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicants have been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
5. All requirements of the Zoning Ordinance and of the specific zoning designation of the subject property must be complied with unless set forth in the Conditional Use Permit and Conditional Use Permit Amendments.
6. Unless this permit is used within two (2) years from the date of City approval, Case No. 05-CUP-001 Amendment will expire. A written request for a one (1) year extension may be considered prior to the expiration date.

SPECIAL CONDITIONS

7. The applicants shall comply with all requirements of the State Department of Alcohol Beverage Control.
8. In accordance with Zoning Ordinance Section 9710, a new Conditional Use Permit by the City shall be required when any of the following conditions of the business apply:
 - A. The establishment changes its type of retail liquor license with the Department of Alcoholic Beverage Control;
 - B. There is substantial modification to the mode or character of operation, including, but not limited to, any increase of 20% or more in the floor area.

- C. The alcoholic beverage license has either been revoked or suspended for any period by ABC.
9. All employees involved in direct sales to customers shall enroll annually in ABC-approved alcoholic service training.
 10. A full dinner menu shall be available until 1:00 a.m.
 11. There shall be no minimum number of drinks required to be consumed during the operation of the eating establishment.
 12. There shall be no service of alcoholic beverages on the dance floor.
 13. "Last call" for alcoholic beverages will occur at ~~4:00~~ 1:30 a.m. and there shall be no service of alcohol after ~~1:15~~ 1:45 a.m. ~~On Fridays and Saturdays, "last call" for alcohol beverages will occur at 1:15 a.m. and there shall be no service of alcohol after 1:30 a.m.~~ All patrons must exit the premises by 2:00 a.m.
 14. "Bottle service" shall only be allowed at times when a full dinner menu is available.
 15. The applicant shall comply with all the provisions in the Security Plan, marked Exhibit E and is made a condition of the Conditional Use Permit Amendment #2.
 16. Security/monitoring staff will be designated to patrol the parking lot and adjacent areas during the evening hours until the close of business and until all of the patrons have left the premises.
 17. The telephone number of a responsible party shall be available upon request from the Lost Hills Sheriff Station staff.
 18. Minors must be accompanied by an adult whenever there is dancing or live entertainment.
 19. On-site security cameras shall be maintained. The recording shall be archived a minimum of 14 calendar days.
 20. There shall be no pool tables or electronic gaming machines.
 21. There shall be no leasing of the facility or subletting the facility for outside events.
 22. There shall be no "after hours" use of the facility. Closing time shall be no later than 2:00 a.m.
 23. The dance floor shall not exceed 1,080 square feet.

24. ~~There shall be no outdoor entertainment or dancing.~~
The outdoor entertainment shall be limited to a musician or recorded music for the purpose of playing ambience music to the dining patrons to be located along the east wall. No dancing is allowed in the outdoor dining area.
25. Live entertainment is limited to only what is approved by the Planning Commission under this Conditional Use Permit. There shall be no wet tee-shirt contests, pole-dancing, lingerie shows, bikini dancing or taxi dancing, or the like.
26. Any changes to the Floor Plan shall be subject to review and approval by the Director of Planning and Community Development and/or the Planning Commission.
27. The facility shall be responsible for removing all trash and debris from the site and adjacent sites every day after closing.
28. There shall be no noise audible over 50 dB beyond the property line per the Zoning Ordinance.
29. All live entertainment shall cease no later than 1:30 a.m.
30. All graffiti on the site shall be removed or painted over within 24 hours of each occurrence.
31. Prior to issuance of occupancy, the applicant shall meet with the City Traffic Engineer and shall submit a valet parking circulation plan to the satisfaction of the City Traffic Engineer.
32. Any changes to the valet parking shall be subject to review and approval by the Director of Planning and Community Development and/or the Planning Commission prior to implementation.
33. Prior to issuance of occupancy, the applicant shall enter into parking agreements with Adobe Cantina and with Canyon Tile and Stone, acceptable to the City, for use as off-site valet parking lots of The Sunset Room patrons' vehicles, as per the Parking Study.
34. Prior to occupancy, the Adobe Cantina parking lot's unpaved areas to be used for parking per the Parking Study, shall be provide with a finished surfaced and improved to the satisfaction of the City Engineer and the Director of Planning and Community Development.
35. A copy of these conditions will be maintained on the premises and all managers shall be made aware of these conditions.
36. The applicant shall allow inspection of premises by City Staff during normal business hours. A monitoring report on the applicant's compliance with the conditions of approval shall be prepared by the City Staff to the Planning

- Commission no later than 6 months after initial operation and at anytime thereafter as deemed necessary by the City. If at any time there are excessive calls for service by the Sheriff's Department, the applicant shall take action to address those issues immediately, including increasing security personnel and paying the City of Agoura Hills to offset the costs for the increases in calls for services attributed to the Sunset Room.
37. In the event that the applicant seeks to install a cover over the outdoor dining area, the design of the cover is subject to the review and approval of the Director of Planning and Community Development Department and the Building Official.
 38. The Sunset Room Restaurant and Lounge will not open for business until the Conditional Use process for live entertainment is completed and all required permits are issued.
 39. A monitoring report on the applicant's compliance with the conditions of approval shall be prepared by the City staff to the City Council in 6 months (no later than November 9, 2012). The applicant shall allow inspection of the premises by City staff during normal business hours.

END