

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: 3/24/09
Prepared by: AC
Reviewed by: JB

Item/ **4b**
SUBJECT: **Planning Application 09-013. Conditional Use Permit.** Request for Conditional Use Permit approval to allow a self-contained coffee cart to be operated at a vacant site on Solano Avenue.

SITE: **1245 Solano**

**APPLICANT/
OWNER:** **Hanan Onn**

ZONING: **SC (Solano Commercial)**

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission approve the request for Design Review and Parking Exception, subject to the attached findings and conditions of approval.

BACKGROUND/PROJECT DESCRIPTION

The Public Hearing on this project was continued from the March 24, 2009 to allow a revision to the project description and to clarify the scope of the proposed project.

The subject property is a vacant lot between to developed commercial sites on Solano Avenue. It is seasonally used for pumpkin and tree sales. The applicant is requesting approval of a Conditional Use Permit to allow a self-contained (all utilities within unit, easily transported, and non-permanent) coffee cart to be operated at the site. The proposed hours of operation are 8:00am-4:00pm, with extended hours on Saturdays.

Since the project was on the March 24, 2009 agenda the applicant has clarified that collapsible chairs and tables will be located on the site during hours of operation. Also, a tarp will be put up during times of rain to help protect patrons. An additional condition of approval has been added, since the original report, which reads that, "No permanent structures shall be constructed at the site." See "attachment 1" for full staff report and discussion.

ENVIRONMENTAL ANALYSIS

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15311, "Accessory Structures" of the CEQA Guidelines, which exempts commercial mobile food units.

Attachments:

1. Staff report dated 3/24/09
2. Application, Plans, Photos and Supplemental Information from Applicant
3. Additional applicant information date 4/6/09
4. Draft findings
5. Draft conditions of approval

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PLANNING AND ZONING AGENDA
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Item/ 4c
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SITE: 1245 Solano

**APPLICANT/
OWNER:** Hanan Onn

ZONING: SC (Solano Commercial)

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission approve the request for a Conditional Use Permit, subject to the attached findings and conditions of approval.

BACKGROUND/PROJECT DESCRIPTION

The subject property is a vacant lot between to developed commercial sites on Solano Avenue. It is seasonally used for pumpkin and tree sales. The applicant is requesting approval of a Conditional Use Permit to allow a self-contained (all utilities within unit, easily transported, and non-permanent) coffee cart to be operated at the site. The proposed hours of operation are 8:00am-4:00pm, with extended hours on Saturdays.

ENVIRONMENTAL ANALYSIS

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15311, "Accessory Structures" of the CEQA Guidelines, which exempts commercial mobile food units.

DISCUSSION

The proposed business has all utilities as part of the mobile coffee cart. It is common for cities to have portable/mobile food service trailers; however, it is also common for such businesses to have varying locations and often do not have the required permits for operation. The proposed business is unique in that the applicant would like to have the self-contained coffee cart operate at one location and thus have the operation secured but not removed from the site in the evenings.

Currently the site is undeveloped and underutilized. The proposed business provides another appropriate and desirable service for patrons and thus may increase the foot traffic and vibrancy in the

Solano corridor. Staff believes that the proposed business is appropriate at the current time and recommends approval of the Conditional Use Permit with the following project-specific conditions of approval:

- 1) The applicant shall promptly complete the application process for a City business license
- 2) The approval for a Conditional Use Permit can be revoked if the operation/business becomes a public nuisance. For example if any of the following issues arise, but not limited to, excessive noise, odors, litter, obstruction of sidewalks, disposal of garbage or wastewater into the public right of way, other hazards to the public or to patrons, etc.
- 3) The conditional use permit runs with the land. If the proposed use moves to another site, the applicant must apply for a new conditional use permit to assure appropriate location and functionality of the business.
- 4) The applicant shall secure all approvals from all other required agencies before starting operations of any manner, including issuance of a business license, Alameda County Health Department approvals, and any other applicable agencies.

Attachments:

1. Application, Plans, Photos and Supplemental Information from Applicant
2. Draft findings
3. Draft conditions of approval



City of Albany

PLANNING APPLICATION FORM (GENERAL PROJECTS)

Date Received: 3/10/09
Planning Application No: 09-019
Fee Paid: \$620
F320 Receipt # 55793

For PLANNING & ZONING COMMISSION action: <input type="checkbox"/> Conditional Use Permit* <input type="checkbox"/> Design Review (residential, residential additions, commercial, office and multi-family*) <input type="checkbox"/> General Plan Amendment from _____ to _____ <input type="checkbox"/> Parcel Map/ Tentative Map/ Vesting Tentative Map, Lot Line Relocation <input type="checkbox"/> Parking Exceptions/Reductions <input type="checkbox"/> Precise Development Plan <input type="checkbox"/> Second Unit Use Permit * <input type="checkbox"/> Variance * <input type="checkbox"/> Zone Change from _____ to _____ <input type="checkbox"/> Other: _____	For ADMINISTRATIVE action: <input type="checkbox"/> Admin. Lot Line Relocation <input type="checkbox"/> Home Occupations <input type="checkbox"/> Sign Review <input type="checkbox"/> Other: _____
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* Please complete the appropriate Supplemental Questionnaire.

The City of Albany Municipal Code has certain requirements for Planning Applications. Your answering the following questions will help staff assess how to process your application. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissioners will likely make at least one field visit to your house and neighborhood.

Job Site Address: _____		Zone: _____
Property Owner(s) Name: Donald Chelemedos	Phone: 707 605 9607 Fax: 707 605 807	Email: _____
Mailing Address: 1930 Iris Ave 1245 Star Ave	City: Oakdale Albany	State/Zip: CA CA 95361-2833
Applicant(s) Name (contact person): Hanan Onn	Phone: 925 63 6440 Fax: 707 747-041	Email: monster.coffee@gmail.com
Mailing Address: 4860 East 2nd	City: benicia	State/Zip: ca, 4510

PROJECT DESCRIPTION (Please use back of sheet or attach extra sheets, if necessary): serving coffee off parked fully self contained trailer. Locked at night. Or towed to a storage.

GENERAL INFORMATION (Please fill out this section if you are asking for approval of a project that will require construction):

Item	Existing	Proposed
Lot size (square feet)		
Size of structure(s) or commercial space (square feet)	10x4'	
Height and No. of stories	8'	
Lot coverage ¹	5%	
Floor Area Ratio (FAR) ²		
Impervious Area ³		
Slope Density ⁴		
No. of dwelling units		
Parking ⁵ Number of off-street spaces		
Number of spaces in garage		
Size of space		

¹ Lot Coverage applies to all zoning districts. It is defined as the land area covered by all the structures on a site, including all projections, except portions of unshored decks, porches or landings, balconies, or stairways that are less than six feet above grade and are not enclosed by walls on more than two sides; eaves, trellises and similar structures that do not have solid roofs.

² Floor Area Ratio (FAR) is defined as the proportion of building floor area per area of the parcel of land upon which the building rests. See the informational handout "How to Calculate Floor Area Ratio" for details on what is included and excluded.

³ Impervious Area includes the total square footage of building footprint(s), driveway(s), patios, parking lots, walkways, and any other impervious surfaces.

⁴ Slope Density requirements apply in the HD Zoning District pursuant to Measure K. See handout on how to measure slope density in this area.

⁵ Minimum parking requirements were enacted under Measure D. This Measure requires that all residential development must have a minimum of two off-street parking spaces. Some exceptions may apply to your project, see residential development handout.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property and, if so, what are they? In some instances, you may be required to provide a title report.

Signature of Property Owner

Signature of Applicant 

Date

Date 3/4/09

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m. on Mondays, 8:30 a.m. through 5:00 p.m. on Tuesdays through Thursdays, and 8:30 a.m. to 12:30 p.m. on Fridays at 979 San Pablo Avenue, 2nd Floor, Albany, CA 94706; TEL: (510) 528-5760.



City of Albany

SUPPLEMENTAL QUESTIONNAIRE

CONDITIONAL USE PERMIT

(e.g., commercial, institutional, assembly uses
& non-administrative home occupations)

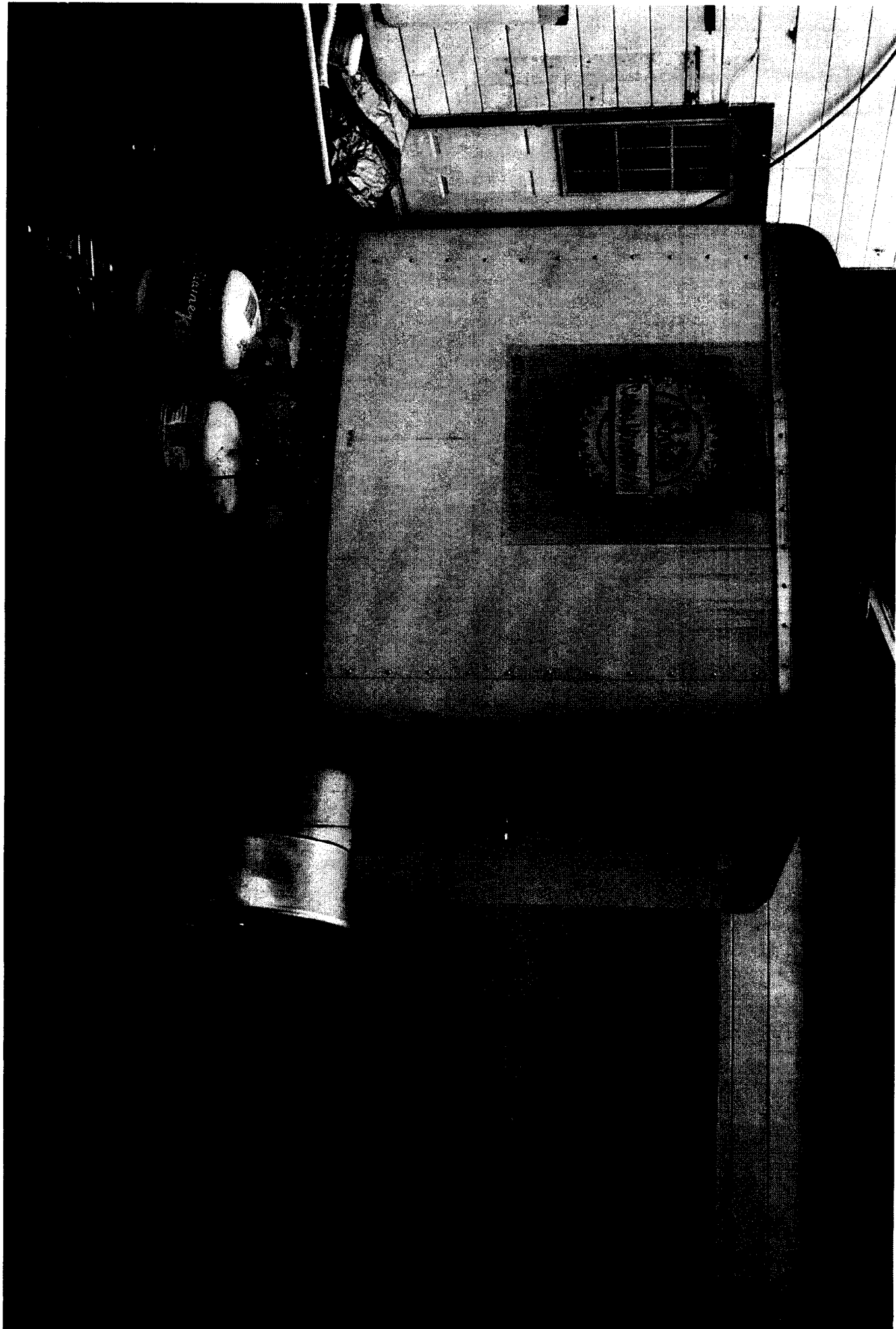
The City of Albany Municipal Code has certain requirements for approving Conditional Use Permits. Your answers to these questions will help staff assess how to process your application. Please understand that this supplemental questionnaire will help staff to further work with you. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissions (if applicable) will likely make at least one field visit to the Site and neighborhood.

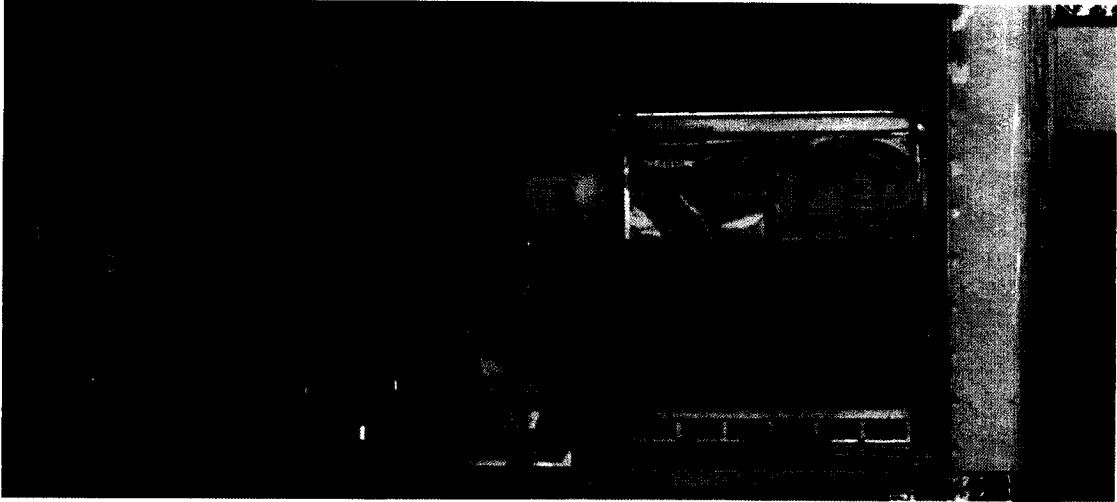
1. What is (was) the use in this building/tenant space prior to your proposal?
empty lot adjacent to Sofia Cafe 1245 Slano Ave. Prior use: pumpkin/ christmas trees Sale
From Sept 13 to Dec 31 every year.
2. What are you proposing? use part of the lot for sale of coffee/espresso off a self contained
Trailer.
3. Proposed hours/days of operation? every day but Sat 8-4
4. Maximum number of employees expected on site at any one time? 2
(include owners/partners)
5. For instructional uses/assemblies of people/classes, etc. what is the maximum number of participants expected on site at any one time? 3-6
6. For restaurants and cafes, will beer/wine/liquor be served? no

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m., Mondays, 8:30 a.m. through 5:00 p.m. Tuesday through Thursday, and 8:30 a.m. to 12:30 p.m. on Fridays at 979 San Pablo Avenue, Albany, CA 94706 (510) 528-5760.

J:\forms\planning\CUPSupplementalQuestionnaireCommercial

11/19/08





CITY OF ALBANY
MAR 02 2009
COMMUNITY DEVELOPMENT
DEPARTMENT

ATTACHMENT 2 - FINDINGS

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

Required Finding	Explanation
<p>1. <i>Necessity, Desirability, Compatibility.</i> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for commercial development. Additionally, the project meets City zoning standards for location, intensity and type of development. The site is currently undeveloped and underutilized. The proposed business provides another appropriate and desirable service to patrons and thus may increase the foot traffic and vibrancy in the Solano corridor. Conditions of approval have been added requiring review of the business if the site is developed in the future or if any chronic problems occur at the site.</p>
<p>2. <i>Adverse Impacts.</i> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i> b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i> c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i> d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i> 	<p>The proposal is in scale and harmony with existing development in the vicinity of the site. The site will continue to be undeveloped with a nonpermanent structure that is self-contained and that can be secured in the evenings. Conditions of approval have been added requiring review of the business if the site is developed in the future or if any chronic problems occur at the site.</p>
<p>3. <i>Consistency with Zoning Ordinance, General Plan and Specific Plan.</i> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area. All of the permitted uses have little to no impact on other tenants in the building or surrounding areas and the applicant is required to secure approvals from all other applicable agencies.</p>

ATTACHMENT 3- CONDITIONS OF APPROVAL

1. This Conditional Use Permit approval to allow construction the operation of a mobile coffee cart, except as may be modified by conditions herein. Plans include a site application/ plans/photos, dated received by the Community Development Department on March 10, 2009, and presented to the Planning and Zoning Commission at its meeting of March 24, 2009.
2. The applicants shall pay any and all City and other related fees applicable to the property. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check and Inspection Fees
3. Prior to the issuance of a certificate of occupancy the applicant shall submit written documentation that all requirements of the Albany Fire Department have been met, to the satisfaction of the AFD.
4. Pursuant to Government Code Section 66474.9, the applicants (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicants of any such claim action or proceeding and cooperate fully in the defense.
5. Fees. The applicant shall pay any and all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and applicant.
6. The approval for a Conditional Use Permit can be revoked if the operation/business becomes a public nuisance. For example if any of the following issues arise, but not limited to, excessive noise, odors, litter, obstruction of sidewalks, disposal of garbage or wastewater into the public right of way, other hazards to the public or to patrons, etc.
7. The conditional use permit runs with the land. If the proposed use moves to another site, the applicant must apply for a new conditional use permit to assure appropriate location and functionality of the business.
8. The applicant shall secure all approvals from all other required agencies before issuance of a business license, for example, The Alameda County Health Department, and any other applicable agencies.

Appeals: The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.

Donald C. Chelemedos
1430 Iris Avenue
Oakdale, CA 95361
April 3, 2009

CITY OF ALBANY

APR 06 2009

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Amber Curl, Associate Planner
City of Albany 979 San Pablo Avenue
Albany, CA 94706

Dear Amber:

Thank you again for removing the application for the use permit for 1245 Solano Avenue from the Albany Planning Commission agenda of March 24, 2009.

Mr. Hanan Onn and I have agreed on the following terms for his temporary use of this property:

1. Occupancy will begin when all required permits and licenses have been approved and issued.
2. Space occupied will be the southeast corner of the lot, approximately 20 foot front on Solano Avenue by 30 feet deep into the lot from the sidewalk.
3. Only the mobile coffee cart and a few tables, chairs, and umbrellas are permitted.
4. Occupancy will terminate August 31, 2009.

Thank you.

Sincerely,



Don Chelemedos, property owner

ATTACHMENT #3

Tofu Life / Cofee monsters inc.

4860 east 2nd street

Benicia, Ca 94510

707 747 0410-

925-639-6440.

To Whom It May Concern:

Description Of intended Operation of a Coffee cart at 1245 Solano Ave. Albany, Ca .

A self contained espresso service mobile cart will be placed in a designated area of 20x15 feet adjacent to Sofias café west outer wall, On the empty lot there. The Cart was recently approved by Alameda county Health department and is posted. An up to date City of Berkeley Health Dept. certificate is also present.

Up to 6 market umbrellas will be placed within the designated area.

Plants and flower vases will be placed surrounding the area.

Collapsible chairs and tables up to 8 will be placed in the designated area.

Power to the cart will be supplied either by generator or from an outlet of 20 amp that will be extended from Sofia's café sub Panel and installed at the outer western wall of the storage area back of Sofia café. As a temporary arrangement power will be supplied from an existing GFI plug located at the roof of the cafe.

There is an alternative butane gas heating system that provides for heat in case of power outage.

In case of windy conditions a tarp or quilted used coffee bags will be extended between the cart to the umbrellas for customers comfort and smooth espresso pulls.

There are storage batteries with power inverter that provides power to various low consumption grinders refrigeration and water pump.

The cart could be towed away if needed.

Gray water are dumped at our approved state of California Organic food processing plant.

95% of our Coffee is Organic.

Serving cups are made of recyclable paper.

Cookies made by Sofia's café kitchen may be sold off an nsf compliance container.

Customers will enter the designated area from the sidewalk, through an opening, crossing the existing fence and obtain the goods offered.

Hours of operations: Mon Through Friday 8am-4pm Sun 10am to 4pm. Closed Sat.

Sincerely,

Hanan Onn. Owner: tofu Life, Coffee Monsters inc.

ATTACHMENT 4 - FINDINGS

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

Required Finding	Explanation
<p>1. <i>Necessity, Desirability, Compatibility.</i> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for commercial development. Additionally, the project meets City zoning standards for location, intensity and type of development. The site is currently undeveloped and underutilized. The proposed business provides another appropriate and desirable service to patrons and thus may increase the foot traffic and vibrancy in the Solano corridor. Conditions of approval have been added requiring review of the business if the site is developed in the future or if any chronic problems occur at the site.</p>
<p>2. <i>Adverse Impacts.</i> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i> b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i> c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i> d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i> 	<p>The proposal is in scale and harmony with existing development in the vicinity of the site. The site will continue to be undeveloped with a nonpermanent structure that is self-contained and that can be secured in the evenings. Conditions of approval have been added requiring review of the business if the site is developed in the future or if any chronic problems occur at the site.</p>
<p>3. <i>Consistency with Zoning Ordinance, General Plan and Specific Plan.</i> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area. All of the permitted uses have little to no impact on other tenants in the building or surrounding areas and the applicant is required to secure approvals from all other applicable agencies.</p>

ATTACHMENT 5- CONDITIONS OF APPROVAL

1. This Conditional Use Permit approval to allow construction the operation of a mobile coffee cart, except as may be modified by conditions herein. Plans include a site application/plans/photos, dated received by the Community Development Department on March 10, 2009, and presented to the Planning and Zoning Commission at its meeting of March 24, 2009.
2. The applicants shall pay any and all City and other related fees applicable to the property. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check and Inspection Fees
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4. Pursuant to Government Code Section 66474.9, the applicants (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicants of any such claim action or proceeding and cooperate fully in the defense.
5. Fees. The applicant shall pay any and all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and applicant.
6. The approval for a Conditional Use Permit can be revoked if the operation/business becomes a public nuisance. For example if any of the following issues arise, but not limited to, excessive noise, odors, litter, obstruction of sidewalks, disposal of garbage or wastewater into the public right of way, other hazards to the public or to patrons, etc.
7. The conditional use permit runs with the land. If the proposed use moves to another site, the applicant must apply for a new conditional use permit to assure appropriate location and functionality of the business.
8. The applicant shall secure all approvals from all other required agencies before issuance of a business license, for example, The Alameda County Health Department, and any other applicable agencies.
9. No permanent structures shall be constructed at the site."

Appeals: The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.