

June 12, 2006

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
June 20, 2006**

SUBJECT: CONDITIONAL USE PERMIT REVIEW AND MODIFICATION- P.C. RESOLUTION NO. 91-75
GERMAN MOTORS AND ASENKA'S AUTO CENTER, AND ONE OFFICE, LES FRAME,
725 5th STREET (AKA 715 5th STREET APN #4188-030-001) HERMOSA BEACH, CA 90254.

Recommendation

Direct staff to return with a resolution for consideration at the next Planning Commission meeting.

Background

LOT SIZE 16,218 (150 x 108.12)
ZONING: SPA-7
GENERAL PLAN: General Commercial

P.C. Resolution 91-75 was approved by the Commission on December 4, 1991, and authorized the operation of automobile repair for three businesses on the lot, German Motors owned by Andy Fisher, Asenkas Auto Centre, owned by Asenka Nitzow, and Les Frame, owned by Clinton Lau. The CUP contains standard conditions of approval for auto repair businesses that were applied to such businesses at that time. The site also contains offices for the subject businesses.

Staff initiated the subject CUP amendment based upon review of site conditions and business operations in connection with complaints from an area resident. The complaints involved:

1. Parking places on the lot not properly striped and marked.
2. 5th Street being used for parking and vehicle storage.
3. No on-site parking for employees.
4. Open past 6:00 p.m.
5. Autos being serviced in lot for longer than 15 minutes.
6. Vehicles being stored past the 72-hour limit.
7. Display of unpermitted banners.

Staff conducted an investigation of the complaints and is in general agreement with the complainant. However, in staff's opinion, some of the existing conditions are unreasonable for successful operation of the business and one condition cannot lawfully be enforced.

Analysis

The Community Development Department has responded to complaints of CUP violations by monitoring activities at the site for over ten weeks. Photo documentation, interviews with the complainant and business owners and a survey of street parking was conducted to address the complainant concerns. Code Enforcement has been photographing street and lot parking twice a week from April 10, 2006 until June 8, 2006, a total of eighteen times. These records show that, at any given time, an average of eight vehicles are stored on the lot beyond the 72 hour restriction, verifying the account of the complainant.

Code Enforcement staff also attempted to verify the complaint of work beyond approved operating hours and visited the property six times after 6:00 p.m. since April 10, 2006 and found one violation of the hours of operation restriction. (See Attached Code Enforcement History.)

The business owners have generally been cooperative in correcting conditions after being informed of violations. In general, the site is neat and well tended for an auto repair business and the operations do not seem to currently impact the neighborhood. The business owners have expressed concerns that the 72-hour limit on vehicles remaining on the lot is unreasonable, as some of their repairs involve major work such as engine and transmission rebuilding. They have also expressed a desire to obtain permission to continue to wash and detail their clients' vehicles on the lot, since this work is outsourced and can more conveniently be done on the parking lot rather than in a building. Neither of these business operations seems to contribute to noise or nuisance in the area. Staff intends to continue to monitor the business to ensure CUP compliance and recommends several changes to make CUP enforcement reasonable while addressing residential area concerns.

Proposed CUP Amendments:

1. Eliminate provision against test-driving on local streets, as the City Attorney has determined that this condition is not legal.
2. Remove the 72-hour limit on vehicle storage on the lot, as it is an unreasonable restriction considering the normal time for major repairs.
3. Allow vehicle washing and detailing to be conducted on the lot, if the owners can demonstrate proper control of water run-off and compliance with the City's Water Quality Ordinance.
4. Commence with ticketing for CUP violations related to on-street parking by the businesses (based on intermittent surveys conducted by code enforcement staff¹)
5. Schedule six month Planning Commission review to confirm CUP compliance.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld, Director
Community Development

Attachments

1. P. C. Resolution 91-75
2. Photos, Enforcement Logs
3. Complainant letters & photos
4. Code Enforcement History

Notes:

1. Staff is planning to utilize an Administrative Penalties program to issue citation once that program is adopted by City Council.

P:GermanMotorCUP

Summary of Code Enforcement CUP Investigation

Investigation Methods:

1. On March 7, 2006, Director Blumenfeld and Code Officer Rollins met with Mr. Fisher on-site and discussed allegations.
2. Photos of cars parked on the street and on the lot were taken on March 8, 9, 15, and 20th. Registration information was obtained from the HBPD, and a list was sent to Mr. Fisher to identify customer/employee ownership.
3. Street and lot activities were observed on eight different occasions by driving past the lot and by stationary evening and morning observations.
4. Parking and pedestrian activities were observed in the morning, once from 7:30 – 8 a.m., once from 8 – 8:30 a.m.
5. Evening activities were observed from 6 – 7:00 p.m. on one occasion.

Investigation findings:

1. Review of ownership of cars parked on 5th Street revealed one local resident and three people not associated with the businesses under investigation. Vehicle ownership was verified, with no un-registered or inoperative vehicles found. One car that consistently parks there belongs to a local resident, while others were found to be owned by employees of other local businesses
2. There are several spaces open in the lot on a regular basis for employee parking. Ownership of vehicles was identified by the business owners as either customers or employees.
3. The CUP prohibits auto repair after 6:00 p.m., but does not require the shops to close at 6:00. Auto repair activity was observed on one occasion after 6:00, and the owner was informed of the violation. Subsequent observations showed compliance with the CUP.
4. No repairs were observed outside the bays either in the street or on the lot.
5. The CUP prohibits storage of vehicles more than 72 hours except those waiting for service or pickup. There are typically 6 – 8 vehicles stored beyond that time limit.
6. Activities were observed after 6:00 p.m. on only one occasion, on March 9, 2006.
7. Morning observations of parking showed no pedestrian traffic from cars parked on 5th Street to the subject property.

Corrections:

1. Parking spaces on the lot were striped, but none were marked “reserved” or “office”. On March 20, 2006, the 8 spaces required by the CUP were properly marked.
2. Three vehicles were noted to either be inoperable or not registered, the two not registered have been removed, and the other is being repaired.
3. Owner obtained a banner permit and removed the second banner.
4. Repair activities were observed after 6 p.m. on March 9. After discussion with the owner, there was no repeat of this violation observed on subsequent visits.

CODE ENFORCEMENT CASE AT 725 5TH STREET
June 12, 2006, Bob Rollins

August 2, 2005 – Mr. Rutherford comes to the counter with photos of cars on 5th Street. Mr. Rollins discusses his concerns with him and tells him that he will investigate possible violations of CUP 91-75.

August 9, 2005 – Rollins photographs six vehicles in the lot of 725 5th Street that appear to be unregistered or dismantled, in violation of the CUP.

August 10, 2005 – Mr. Rutherford delivers a letter and color photos alleging 8 new violations.

August 17, 2005 – Rollins conducts a site inspection and photographs the 6 cars in violation of the CUP.

August 25, 2005 – Rollins sends letter to each of the five businesses at 725 5th Street, listing potential and observed violations. A cover letter and a copy of the letter were sent to Mr. Rutherford.

August 27, 2005 – Mr. Rutherford sends letter thanking Rollins for his efforts and pointing out various alleged continuing violations.

Routine reviews of the lot showed the removal of the 6 cars and consistently open parking spaces in the lot. The business is determined to be in compliance with the CUP.

January 30, 2006 – Mr. Rutherford comes to the counter to complain of outstanding violations. Rollins informs him of progress, as there are consistently open parking spaces in the lot, and that he will continue to investigate his complaint of working past the allowed hours of operation.

February 14, 2006 – Mr. Rutherford comes to the counter and demands action against German Motors. Rollins tells him that he is continuing investigation and that some progress, as indicated by the open spaces on the lot, had been made. He disagreed, stating that they were getting away with everything, and who should he talk to. I suggested he could speak to any of the City Council members, the City Manager, or the Director of the Community Development.

February 15, 2006 – Mr. Rutherford sends letters to Rollins, Sol Blumenfeld, all the city council and the city manager, re-stating his complaints.

March 6, 2006 – Mr. Rutherford meets with Sol Blumenfeld and Rollins. They show him a list of steps planned to address his concerns, and give him a copy. Mr. Rutherford responds to the meeting with a letter of commemoration.

March 7, 2006 – Mr. Blumenfeld and Mr. Rollins meet with Mr. Fisher at his business and discuss the list of complaints, and gave him a copy of the list of tasks we intended to undertake. Mr. Fisher was cooperative and assured us of his intention to comply.

March 7 & 8, 2006 – Rollins took photos of license plates of cars on the lot and on the street, and had HBPD supply the names of the registered owners. Two cars were unregistered, and one was covered by a

tarp. The two have been removed, the one under the tarp has had an engine installed and is waiting for the transmission.

March 9, 2006 – Rollins took photos of auto repair being done until 6:20 pm.

March 13, 2006 – Rollins delivers letter to Mr. Fisher detailing four corrections required: remove or get a permit for the banner; remove the unregistered vehicles; close shop by 6:00 p.m.; and designate eight parking spaces as per the CUP. They discuss the issues and Mr. Fisher agrees to rectify the problems.

March 14, 2006 – Rollins photographs activities after 6 p.m. observes no violations.

March 16, 2006 – Rollins photographs activities after 6 p.m. observes no violations.

March 21, 2006 – Rollins sends letter to Mr. Fisher, with a cc to Mr. Rutherford, detailing improvements made, and areas needing improvement.

March 27, 2006 – Mr. Rutherford writes to ask for a meeting with Mr. Blumenfeld the week of April 3, 2006.

April 6, 2006 – Mr. Rutherford meets with Mr. Blumenfeld and Rollins at City Hall. They review a two-page report prepared by Mr. Rollins. Mr. Rutherford disputes the report and insists that no progress has been made. He produces 12 pages of color photos showing cars parked on the lot for more than 72 hours, but says that on-street parking is his greatest complaint about the business. It is agreed that Rollins will continue his observations and that the issue might have to be resolved by the Planning Commission.

April 10, 2006 – Rollins photographs street and lot parking. Finds auto detailing operation in the lot. He discusses the complaints with Mr. Fisher who says that he doubts that the CUP was intended to mean that any repair of any vehicle could take more than 72 hours, and that the prohibition against working on vehicles on the lot applied to auto repairs, not detailing. He assured Rollins that none of his customers or employees were parking on the street.

April 13, 2006 – Rollins photographs street and lot parking, finds six vehicles on the lot that were there on the 10th. A red pick-up was on the street that had been there on the 10th. Investigation with HBPD showed red pick-up was not associated with German Motors.

April 17, 2006 - Rollins photographs street and lot parking, finds six vehicles on the lot that were there on the 13th. He also gets photo of a blue Mercedes which regularly parks on 5th Street. HBPD finds the car is registered to a resident on 5th Street.

April 20, 2006 - Rollins photographs street and lot parking, finds seven vehicles on the lot that were there on the 17th. No repeated street parking was observed.

April 24, 2006 - Rollins photographs street and lot parking, finds seven vehicles on the lot that were there on the 20th. No repeated street parking was observed.

April 27, 2006 - Rollins photographs street and lot parking, finds nine vehicles on the lot that were there on the 24th. No repeated street parking was observed.

May 1, 2006 - Rollins photographs street and lot parking, finds eight vehicles on the lot that were there on the 27th. No repeated street parking was observed.

May 3, 2006 - Rollins photographs street and lot parking, finds eight vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 8, 2006 - Rollins photographs street and lot parking, finds seven vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 11, 2006 - Rollins photographs street and lot parking, finds eight vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 16, 2006 - Rollins photographs street and lot parking, finds seven vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 17, 2006 - Rollins photographs activities after 6:00 p.m., observes no activity.

May 18, 2006 - Rollins photographs street and lot parking, finds eight vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 22, 2006 - Rollins photographs street and lot parking, finds six vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 25, 2006 - Rollins photographs street and lot parking, finds eight vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 30, 2006 - Rollins photographs street and lot parking, finds eight vehicles on the lot that were there on the 1st. No repeated street parking was observed.

May 31, 2006 - Rollins photographs activities after 6:00 p.m., observes no activity

June 8, 2006 - Rollins photographs street and lot parking, finds fourteen vehicles on the lot that were there on the 1st. No repeated street parking was observed.