

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
May 11, 2004**

SUBJECT: TEXT AMENDMENT 03-3 – TO CLARIFY THE DIFFERENCES BETWEEN SNACK SHOPS AND RESTAURANTS

Planning Commission Recommendation:

That the City Council amend the snack shop definition, as previously recommended, by introducing the attached ordinance.

Background:

The Planning Commission previously recommended adoption of a text amendment to clarify the definition of snack shop in order to differentiate it from restaurants. Clarifying the difference between a snack shop and a restaurant is important as it affects the required parking for the business. A restaurant is required to provide 10 spaces per 1000 square feet of floor area and a retail shop is required to provide 4 spaces per 1000 square feet of floor area (or 3 per 1000 in the downtown). In many instances a business cannot provide all parking on site, and the parking can only be satisfied through approval of a Parking Plan by the Planning Commission to accept in-lieu parking. Since payment of in-lieu parking fees is a major cost for a business, the Planning Commission directed staff to revise the definition to eliminate ambiguity.

On February 10, 2004 the City Council considered the recommendation of the Planning Commission to clarify the definition of snack shop to differentiate it from restaurants, and text changes to clarify when to apply the reduced parking requirement for snack shops. The Council had concerns with the recommendation, specifically noting the provision to preclude table service. The Council referred the matter back to the Planning Commission for further review and recommendation.

On March 16, and April 20, 2004, the Planning Commission, based on the suggestions of the City Council, reconsidered their previous recommendations. The Commission discussed the issue of table waiter/waitress service, and considered other options to more clearly distinguish the attributes of a snack shop from a restaurant. The Commission concluded that their initial recommendation, which included precluding table service from the definition, was the preferable option.

Analysis:

The Commission believes that walk-up counters and the lack of waiter/waitress table service is one of the primary and defining characteristics that distinguish snack shops from restaurants. The Commission also noted, based on research of other city codes, that the lack of table service is one of the constants found in most definitions that distinguish this type of use from restaurants. Further even if an establishment is serving coffee and cookies to a table with waiter/waitress staff, it creates a longer timeframe, which has impacts on parking. The Commission noted that by precluding table service it is their intent to preclude the formal use of waiter/waitress staff as part of the normal business operation. If someone comes in and orders a coffee or soda at a walk up counter, and an employee who may not be busy at the time, walks around the counter to deliver that soda or snack to the patron at a table, that would not be not considered waiter/waitress table service.

The Commissioners concluded they had done their due diligence in studying this matter, and were comfortable with original text and their original recommendation, as follows:

“Snack shop or snack bar means a retail establishment that is distinguished from a restaurant as it does not include waiter/waitress table service and does not serve full meals or have a kitchen capable of serving meals but instead serves snacks or non-alcoholic beverages for consumption on the premises or for take-out usually for consumption between meals; specifically, items such as donuts and other baked goods, ice cream, yogurt, cookies, coffee, tea, and juices are considered snacks. and the Planning Commission may consider additional items as snacks.”

The proposed amendment to parking requirements, Section 17.44.030(O), is:

“The parking requirements for a snack bar and/or snack shop shall be the same as that for restaurant, unless it can be shown to the Planning Commission that the characteristics of the building; its location, size and other mitigating factors such as limited service area relative to gross floor area and limited seating capacity result in less parking than necessary for the business demand than for a restaurant use. In these cases the Planning Commission may consider the retail commercial requirement for parking, pursuant to Section 17.44.210 Parking Plans.”

The Commission also believes if the recommendation to preclude table service is not added to clarify the definition of snack shop, it will remain ambiguous, making it difficult to review requests from prospective businesses and for staff to give clear advice. So without this added clarification, the Council may want to consider eliminating the definition and separate parking requirement for snack shops, and simply call any food or beverage service business a restaurant. The affect will likely be to preclude new snack shops from locating in the City.

Ken Robertson
Senior Planner

CONCUR:

Sol Blumenfeld, Director
Community Development Department

Stephen R. Burrell
City Manager

Attachments:

1. Proposed Ordinance
2. Planning Commission Minutes

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ORDINANCE 04-

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, TO AMEND THE ZONING ORDINANCE,
CHAPTER 17.04 DEFINITIONS, AND CHAPTER 17.44
OFF-STREET PARKING PERTAINING TO THE
DEFINITION AND PARKING REQUIREMENTS FOR
SNACK SHOPS.**

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. The Planning Commission held a duly noticed public hearing on February 18, 2003, to consider amending the Zoning Ordinance definition and parking requirements for snack shops to more clearly distinguish snack shops from restaurants.

Section 2. The City Council held a duly noticed public hearing on January 27, 2004, to consider the recommendation of the Planning Commission to amend Sections 17.04.050 and 17.44.030(O) of the Zoning Ordinance pertaining to definition and parking requirements for snack shops and referred the matter back to the Planning Commission for further consideration. The Commission, after further deliberation, did not modify their original recommendation. The City Council again considered the original recommendation of the Planning Commission at the meeting of May 11, 2004.

Section 3. The subject text amendment is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to the general rule set forth in Section 15061(3) of the CEQA Guidelines, as there is no possibility that these modifications to the Zoning Ordinance may have a significant effect on the environment.

Section 4. Based on the evidence considered at the public hearing and the final recommendation of the Planning Commission after reconsideration the City Council hereby ordains that the Hermosa Beach Municipal Code, Title 17-Zoning, be amended as follows:

1. Amend Section 17.04.050 Commercial Land Use Definition as follows (underlined text to be added):

*“**Snack shop or snack bar** means a retail establishment that is distinguished from a restaurant as it does not include waiter/waitress table service and does not serve full meals or have a kitchen capable of serving meals but instead serves snacks or non-alcoholic beverages for consumption on the premises or for take-out usually for consumption between meals; specifically, items such as donuts and other baked goods, ice cream, yogurt, cookies, coffee, tea, and juices are considered snacks. ~~and the Planning Commission may consider additional items as snacks.”~~*

2. Amend Section 17.44.030(O) to read as follows (underlined text to be added):

1 “The parking requirements for a snack bar and or snack shop shall be the same as that for a
2 restaurant, unless it can be shown to the Planning Commission that the characteristics of the
3 building; its location, size and other mitigating factors such as limited service area relative to
4 gross floor area and limited seating capacity result in less parking ~~than necessary for the~~
5 ~~business demand~~ than for a restaurant use. In these cases the Planning Commission may
6 consider the retail commercial requirement for parking, pursuant to Section 17.44.210 Parking
7 Plans.”

8 **PASSED, APPROVED and ADOPTED** this day of , 2004, by the following vote:

9 AYES:

10 NOES:

11 ABSTAIN:

12 ABSENT:

13 _____
14 PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

15 ATTEST: _____ APPROVED AS TO FORM: _____
16 City Clerk City Attorney