

STAFF REPORT

TO: Mayor Charlie Sellers and the Blowing Rock Town Council

FROM: Kevin Rothrock, Planning Director

SUBJECT: CUP Minor Revision - SouthMarke

APPLICANT: MontSol, Inc.

DATE: March 5, 2018

REQUEST

Ms. Karyn Herterich has requested a minor revision to the CUP for the Shoppes at SouthMarke to allow all six (6) of the pavilions on the property to be allowed to sell food and drink. In 1991, the CUP was approved to restrict the sale of food and drink from pavilions 1 through 5. This revision to the CUP would allow food and drink to be served at all of the pavilions on the property, provided any necessary approvals from the health department are obtained.

This request would not require any additional parking. This request would be consistent with the permissible uses that are allowed by right at other properties in the downtown in the Central Business and Town Center zoning districts.

The process for consideration of this revision is consistent with Section 16-4.17.1 of the Land Use Code, which requires no formal application, fee, or public hearing. Since the restriction was specifically listed in the approved CUP from 1991, staff deemed it appropriate for Council to consider the modification to the permit.

In the past 17 years, clarification has been made by staff on several occasions as to which pavilion can sell food and drink and the specific types of food and drink that can be sold. No other locations in downtown have such a restriction. If asked, staff would support a revision to the CUP that would allow food and drink to be served at all pavilions at SouthMarke.

ATTACHMENTS

1. Email request from Ms. Herterich
2. Original and amended CUP
3. Aerial Map

Kevin Rothrock

From: Karyn Herterich <karynherterich@live.com>
Sent: Monday, February 12, 2018 12:22 PM
To: Kevin Rothrock
Cc: Karyn Herterich
Subject: Consideration of revision of MontSol's CUP

Morning Kevin,

Thank you for your input regarding both of us trying to clarify and ultimately revise a provision in the original 1991 MontSol's CUP as it relates to tenants being able to sell food and beverages in more than one Pavilion on SouthMarke premises.

As we discussed, it was initially at my request during our application process that only our rear Pavilion be dedicated for Foodservice. I chose that location as it was in the rear courtyard of our property and out of walking patterns. It also afforded shade for those who wanted to sit at small tables under umbrellas. At the time of our opening in 1991, we had a full service bakery in one of our main units (#103) halfway up our walkway and I didn't need we needed any more foodservice. The Town also had a walk up snack shop run by Jack from Sunset Hats and Tees a couple of blocks from us. Neither of these businesses are now in existence and foodservice offerings currently in BR are very diverse. Life and times have changed as far as what both the public looks for when they visit Blowing Rock and what offerings we have as far as food and beverage service.

Over the years several of our other Pavilions have offered packaged foods and beverages, wine tastings and even a company that had large freezers and offered entrees and food to take home and cook.

I would respectfully request that our existing CUP be revised to be able to simply offer what other merchants and tenants in Central Downtown Business currently are able to do as long as it is in compliance with current Department of Health, Agriculture and other regulatory entities. 'm not asking for an exception, but simply to be allowed to do what others currently have the legal right to do.

I currently have a prospective Pavilion tenant that would like to offer high end yogurt in one of our front Pavilions. The nearest merchant that has anything similar is on Martin House property. Currently, we have a coffee and donut shop that last summer/fall sold an average of 200 cups of coffee between 8:00 AM and 1:00 PM a day which would indicate public demand for some kind of food and/or refreshments on our end of the street.

Currently, our only Foodservice designated Pavilion is the rear one- P-6 that is leased to our Cigar Club under a private club permit and is not open to the public.

Kevein, thank you as always, for your willingness to work with us. We really appreciate it.

Karyn Herterich

BK 0257 PG 37

FILED
WANDA C. SCOTT
REGISTER OF DEEDS

9/31/01

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BY: John W. Wessend
DEPUTY
WATAUGA COUNTY, NC

NORTH CAROLINA

WATAUGA COUNTY

TOWN OF BLOWING ROCK CONDITIONAL USE PERMIT

On the date listed below the Board of Commissioners of the Town of Blowing Rock met and held a public hearing to consider the following application:

APPLICANT: MontSol, Inc. - Dieter and Karyn Herterich

PROPERTY LOCATION: Main Street (formerly known as the Reeve's property)

TAX PARCEL NO.: 2807-97-1271-000

PROPOSED USED OF PROPERTY: Construction of retail shops.

MEETING DATES: April 9, 1991 and May 14, 1991.

Having heard all of the evidence and arguments presented at the hearing, the Board finds that the application complies with all applicable requirements of the Code of Ordinances of the Town of Blowing Rock, and that therefore the application to make use of the above-described property for the purpose indicated is hereby approved, subject to all applicable provisions of the Land Use Code and the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Blowing Rock Town Hall. Any deviations from or changes in these plans must be pointed out specifically to the administrator in writing and specific written approval obtained as provided in the Blowing Rock Land Use Code.

2. The Landscaping Plan for the proposed development shall be approved by the Blowing Rock Appearance Advisory Commission ("BRACC") prior to issuance of a Certificate of Occupancy. Landscaping installed must be maintained perpetually to BRACC's satisfaction.

3. The applicant shall install lights of low voltage "mushroom" type in the parking areas on the subject property. Any other additional lighting to be installed shall be compatible with the coach lights on Main Street and shall be

approved in writing by the administrator prior to installation.

4. The applicant shall design and implement a storm water management plan which shall not in anyway increase the velocity of storm water flow on the subject property and on surrounding properties as presently exists.

5. No food or drink shall be sold in the pavilions numbered 1 through 5 as shown on the plans submitted to and approved by this Board.

6. All signage and exterior colors on the proposed development must be preapproved by the Blowing Rock Architectural Review Commission.

7. If any of the conditions affixed hereto are violated, then this permit shall be void and of no effect. Further, if any of the conditions hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

IN WITNESS WHEREOF, the Town of Blowing Rock has caused this permit to be issued in its name and the undersigned being the property owner and/or agents of the property owner above-described do hereby accept this Conditional Use Permit, together with all its conditions, as binding upon them and their successors in interest.

TOWN OF BLOWING ROCK

By: *Hayden C. Pitts*
Mayor

CORPORATE ATTEST:

Heath M. Burns
Town Clerk

(CORPORATE SEAL)

MONT SOL, INC.

By: *Kay K. Hester*
President

ATTEST:

[Signature]
Secretary

(CORPORATE SEAL)

Corp.
seal

*** Please see attached letter.

NORTH CAROLINA

WATAUGA COUNTY

AMENDMENT TO TOWN OF BLOWING ROCK
CONDITIONAL USE PERMIT

This Amendment to Town of Blowing Rock Conditional Use Permit made this 28 day of July, 1991, by and between the Town of Blowing Rock and MontSol, Inc. ("the Applicant").

W I T N E S S E T H :

WHEREAS, the Town of Blowing Rock previously issued a Conditional Use Permit to the Applicant in May of 1991 for the construction of retail shops on the property formerly known as the Reeve's Property located on Main Street; and

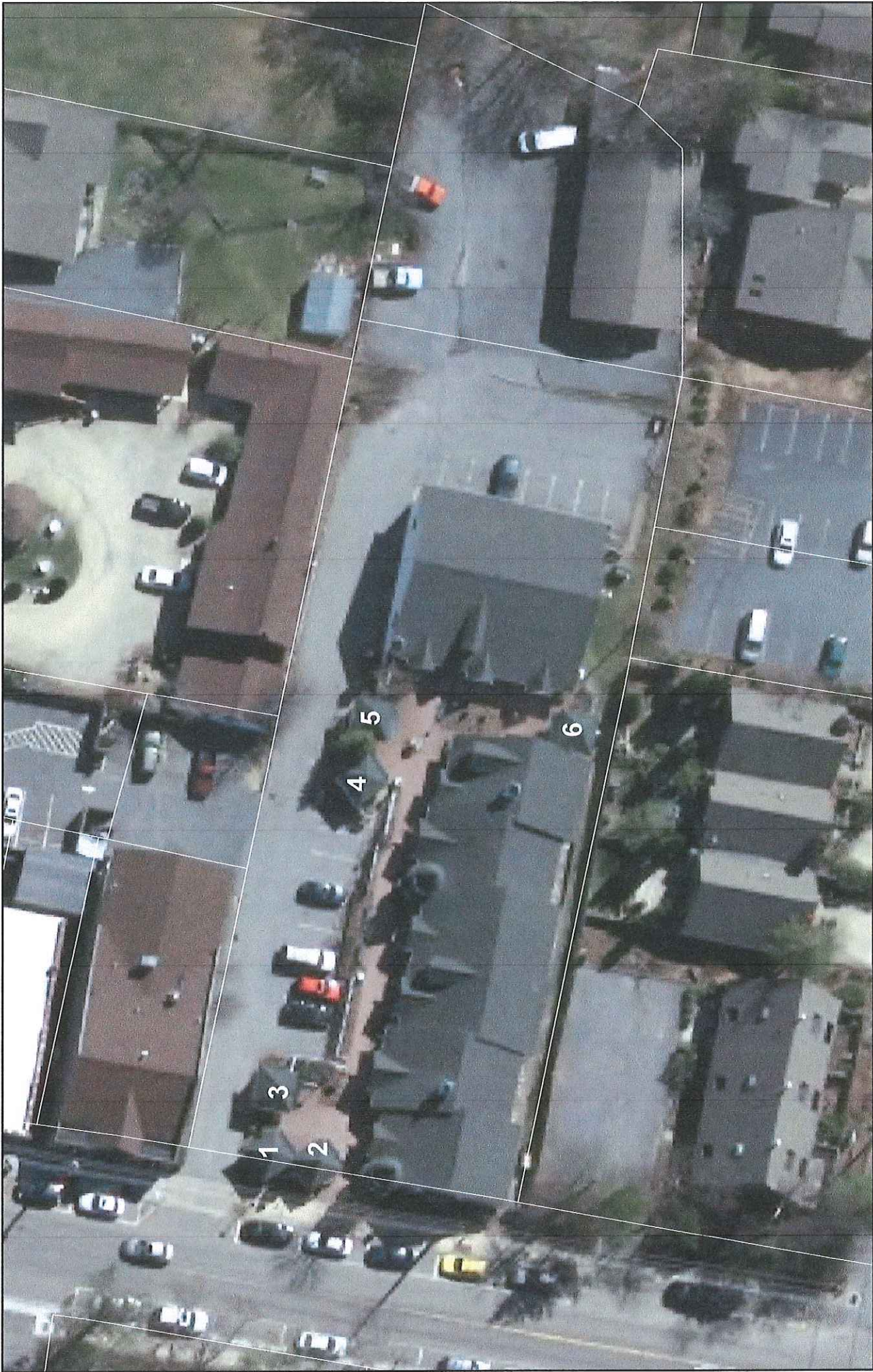
WHEREAS, the Applicant has requested a modification to said Conditional Use Permit, and the Board, having considered said request, approved said modification at its public meeting held on July 9, 1991.

NOW, THEREFORE, the Town of Blowing Rock Conditional Use Permit previously issued to the Applicant is hereby modified as follows:

1. Paragraph 5 of the Permit is hereby amended to provide that packaged food items may be sold in the pavilions numbered 1 through 5 as shown on the plan submitted to and approved by the Board, provided that said food items shall not be designed for on-site consumption.

2. Except as expressly provided for herein, all other terms and provisions of the Conditional Use Permit shall remain in full force and effect.

This the 28 day of July, 1991.



SouthMarke Pavilions

