

October 14, 2003

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

**Regular Meeting of
October 21, 2003**

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 03-9

LOCATION: 73 PIER AVENUE

APPLICANT: MEDITERRANEO RESTAURANT
 LOUIS SKELTON, ARCHITECT

REQUEST: CONDITIONAL USE PERMIT AMENDMENT TO CONVERT A BREW-PUB
 AND RESTAURANT (ON-SALE BEER AND WINE WITH LIVE
 ENTERTAINMENT) TO A FULL SERVICE RESTAURANT WITH ON-SALE
 GENERAL ALCOHOL AND LIVE ENTERTAINMENT

Recommendation

To approve the request subject to the conditions by adopting the attached resolution.

Background

PROJECT INFORMATION:

ZONING:	C-2 Restricted Commercial
GENERAL PLAN:	General Commercial
LOT AREA:	2,802 square feet
AREA OF ESTABLISHMENT: (NO CHANGE IN TOTAL)	Approx 3,300 square feet (Interior) 740 square feet (Outdoors))
PARKING:	No on site parking
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

The proposed new restaurant is located on the north side of Pier Plaza, in the former location of "Brewski's". The Planning Commission granted a Conditional Use Permit in 1994 for on-sale beer and wine. In 1997 the Commission approved a CUP amendment for on-sale general alcohol and non-amplified live entertainment. The CUP for on-sale general alcohol was never implemented. The applicant has already commenced work on the alterations under a permit issued for a tenant improvement since alterations are minor, and do not change or intensify the primary use of the building.

Analysis

The applicant is altering the interior and exterior to accommodate a new restaurant with a new theme. The changes are generally to change the character from a brewpub to a sit-down restaurant. The changes include a new seating plan, replacement of bar height tables with lower restaurant tables, and some alterations to the kitchen. The removal of the brewing tanks will allow more seating, and further allows for an increase in outside seating. Changes to the exterior façade are also included in the project plans. No changes are proposed to the bar except to add a "wine service" bar, and the location previously identified for a stage for live entertainment has been eliminated.

The intent is to continue to have non-amplified entertainment as incidental to primary restaurant use, to provide background music. No specific changes in the conditions of approval are requested.

Since the restaurant, as modified, continues to involve live entertainment, the attached resolution includes a condition for live entertainment in the same manner of the 1997 CUP to limit the entertainment to non-amplified music. The conditions also include a requirement that the applicant prepare an acoustic study pursuant to current noise ordinance requirements, only if they change the live entertainment from non-amplified to amplified music.

Ken Robertson,
Senior Planner

CONCUR:

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Proposed Resolution
2. Location Map

P.C. RESOLUTION NO. 03-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW ON-SALE GENERAL ALCOHOL, AND LIVE ENTERTAINMENT IN CONJUNCTION WITH A RESTAURANT, AT 73 PIER AVENUE, AND LEGALLY DESCRIBED AS LOT 27, BLOCK 13 HERMOSA BEACH TRACT

Section 1. An application was filed by “Mediterraneo” restaurant, represented by Louis Skelton, seeking an amendment to a Conditional Use Permit to allow on-sale general alcohol, and alterations to an existing restaurant with live entertainment.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on October 21, 2003, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The current Conditional Use Permit (CUP) granted in 1994 was approved for on-sale beer and wine in conjunction with a brewpub and restaurant, and was amended in 1997 for non-amplified live entertainment. The proposed amendment is to allow general alcohol sales, and to convert the space to a full-service sit down restaurant including the removal of the brewing tanks and the manufacturing of beer on the premises. With its limited scope of alterations, the proposal does not significantly alter the existing and approved primary use as a restaurant and proposes to continue the live entertainment as non-amplified to provide background acoustic music, and does not substantially alter the seating layout, bar area, stage location and other features of the business.
2. The site is located in the downtown district, which has several similar restaurants with on-sale general alcohol and live entertainment.
3. The site is zoned C-2 allowing the existing on-sale alcohol use with a Conditional Use Permit.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. The site is zoned C-2, and the continued operation of the restaurant with the proposed modifications is suitable for the proposed location.
2. The imposition of conditions as required by this resolution to address noise concerns relative to the current requirements of the noise ordinance and to address nuisance concerns will mitigate any negative impacts on, and will improve its compatibility with, nearby residential or commercial properties within the downtown district.
3. This project is Categorically Exempt pursuant to 15301, Class 1 of the California Environmental Quality Act Guidelines, minor alterations to existing private structures.

1 Section 5. Based on the foregoing, the Planning Commission hereby approves the requested amendments
2 to the Conditional Use Permit, subject to the following **Conditions of Approval**, which supersede the conditions
3 contained in P.C. Resolutions 94-27 and 97-43:

- 4 1. **Interior and exterior building alterations and the continued use and operation of the restaurant shall**
5 **be substantially consistent with the plans submitted and reviewed by the Planning Commission on**
6 **October 21, 2003.**
- 7 2. **The hours of operation shall be limited to between 7:00 A.M. and 2:00 A.M. daily.**
- 8 3. **The hours for live entertainment shall be limited to the hours between 7:00 PM to 1:15 AM.**
- 9 4. **Double pane windows or solid doors shall be provided on all openings to the outside.**
- 10 5. **Live entertainment shall be limited to background non-amplified acoustic music such as a piano,**
11 **guitar, violin, etc.**
- 12 6. **If entertainment is to include amplified musical instruments an acoustical study shall be prepared by**
13 **an acoustical engineer, including proposed sound dampening features to baffle and direct sound away**
14 **from the entrance/exit and window areas to ensure compliance with the noise ordinance. Said study**
15 **and sound dampening features shall be reviewed and approved by the Community Development**
16 **Director prior to the issuance of building permits and shall be implemented in the building prior to**
17 **occupancy.**
 - 18 A. **The acoustical study shall be based on the worst-case scenario, or on a sound level that**
19 **will not be exceeded at any given time.**
 - 20 B. **Management shall be responsible for the music/entertainment volume levels.**
 - 21 C. **During the performance of any live entertainment, the exterior doors and windows shall**
22 **remain closed.**
 - 23 D. **The air conditioning system shall be of an adequate capacity to air condition the**
24 **restaurant.**
 - 25 E. **All exterior doors shall have self-closing hardware.**
- 26 1. **No live entertainment or amplified music, audio, television or speakers of any kind shall be**
27 **permitted in the outside seating areas.**
- 28 2. **The establishment shall not adversely affect the welfare of the residents, and/or commercial**
29 **establishments nearby.**
- 30 3. **The business shall provide adequate staffing and management and supervisory techniques to prevent**
31 **loitering, unruliness, and boisterous activities of the patrons both inside and outside the business**
32 **and in nearby public areas.**
- 33 4. **The Police Chief shall determine if a continuing police problem exists, and may authorize the**
34 **presence of a police approved doorman and/or security personnel to eliminate the problem, and/or**
35 **shall submit a report to the Planning Commission, which will automatically initiate a review of this**
36 **conditional use permit by the Commission.**

- 1 **5. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free**
2 **of graffiti at all times.**
- 3 **6. Any changes to the interior layout which would alter the primary function of the business as a**
4 **restaurant shall be subject to review and approval by the Planning Commission.**
- 5 **7. The project and operation of the business shall comply with all applicable requirements of the**
6 **Municipal Code.**
- 7 **8. Noise emanating from the property shall be within the limitations prescribed by the city's noise**
8 **ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or**
9 **commercial establishments. Noise emanating from the property shall be monitored to verify**
10 **compliance with the noise ordinance in response to any complaints.**
- 11 **9. The Planning Commission shall review the operation of the restaurant for compliance with conditions**
12 **of approval and compliance with the Noise Ordinance 6 months from the opening of the new**
13 **restaurant, and in response to any complaints thereafter.**
- 14 **10. The Conditional Use Permit shall become null and void if not executed within two years of the date**
15 **of the approval of this Resolution.**
- 16 **11. The owner shall comply with requirements of the encroachment permit for use of the public right-of-**
17 **way.**

18 Section 6. This grant shall not be effective for any purposes until the permittee and the owners of the
19 property involved have filed a the office of the Planning Division of the Community Development Department their
20 affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

21 The Conditional Use Permit Amendment shall be recorded, and proof of recordation shall be submitted to
22 the Community Development Department prior to the issuance of a building permit.

23 Each of the above conditions is separately enforced, and if one of the conditions of approval is found to be
24 invalid by a court of law, all the other conditions shall remain valid and enforceable.

25 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees from any
26 claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this
27 permit approval, which action is brought within the applicable time period of Government Code. The City shall
28 promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If
29 the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully
in the defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless the City.

The permittee shall reimburse the City for any court and attorney's fees which the City may be required to
pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the
real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of
the action, but such participation shall not relieve the permittee of any obligation under this condition.

1 The subject property shall be developed, maintained and operated in full compliance with the conditions of
2 this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject
3 property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of
4 these conditions.

5 The Planning Commission may review this Conditional Use Permit and may amend the subject conditions or
6 impose any new conditions if deemed necessary to mitigate detrimental effects on the neighborhood resulting from
7 the subject use.

8 Section 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the
9 Planning Commission, after a formal appeal to the City Council, must be made within 90 days after the final decision
10 by the City Council.

11 VOTE: AYES:
12 NOES:
13 ABSTAIN:
14 ABSENT:

15 CERTIFICATION

16 I hereby certify that the foregoing Resolution P.C. 03- is a true and complete record of the action taken by the
17 Planning Commission of the City of Hermosa Beach, California at their regular meeting of October 21, 2003.

18 _____
19 Peter Hoffman, Chairman

20 _____
21 Sol Blumenfeld, Secretary

22 _____
23 Date

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