

December 18, 2002

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

**Regular Meeting of
February 25, 2003**

CONTINUED FROM JANUARY 14, 2003 MEETING

SUBJECT: APPEAL - CONDITIONAL USE PERMIT AMENDMENT 02-8

LOCATION: 1100 THE STRAND

APPELLANT: PETER MANGURIAN

REQUEST: TO ALLOW ON-SALE GENERAL ALCOHOL; NON AMPLIFIED LIVE ENTERTAINMENT, A TAKE-OUT FOOD SERVICE WINDOW, AND EXTENDED OPERATION HOURS TO 2:00 A.M. IN CONJUNCTION WITH AN EXISTING RESTAURANT; AND, TO MODIFY THE FLOOR PLAN TO INCLUDE BAR SEATING AND A DANCE FLOOR

Recommendation

To sustain the decision of the Planning Commission to deny the requests for on-sale alcohol, live entertainment, bar seating and a dance floor and to approve an extension of operation hours from 10:00 P.M. to 12:00 midnight

Background

At their meeting of December 4, 2002, the Planning Commission voted 4:0 deny the requested amendments and to approve a limited extension of hours to the existing C.U.P. for on-sale beer and wine from 10:00 P.M. to 12:00 midnight.

At their meeting of October 10, 2002, the Staff Environmental Review Committed recommended a mitigated negative declaration based on the findings in the Initial Study. The mitigation measure pertains to potentially significant noise impacts, and requires live entertainment to be limited to acoustic music only pursuant to the applicant's request.

The subject request is similar to the CUP amendment request made in February, 2002. The Commission denied the request at the April 16, 2002 meeting by a vote of 5:0 based on concerns regarding noise, and the increased intensity of use due to full alcohol and live entertainment which may increase the potential for noise and operational complaints. The Commission also denied the proposed take out window which was determined to create an unsafe condition adjacent to the Strand. The applicant appealed the Commission's denial with a slightly modified request (including limiting live entertainment to non amplified and extending operation hours to 1:00 A.M. rather than 24-hours). The City Council sustained the decision of the Commission to deny the project, as modified, at their meeting of August 13, 2002.

PROJECT INFORMATION:

ZONING:	C-2, Restricted Commercial
GENERAL PLAN:	General Commercial
FLOOR AREA:	5,500 Square Feet (Approximately)

PARKING:

23 Spaces (4 In Tandem)

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

History

In 1985, the City Council granted, on appeal, a Conditional Use Permit (CUP) for beer and wine in conjunction with a restaurant at the subject location. In 1988, the Planning Commission granted an amendment to the CUP to expand the floor area of the restaurant by adding 2,000 square feet of open-air seating. In 1989, the Planning Commission approved an amendment to enclose the outside dining area. In 1993, the City Council, on appeal, approved an amendment to allow On-sale General Alcohol, live entertainment, and 24-hour operation of the facility. This approved amendment was never executed and has now expired. In 1999 the Planning Commission considered an amendment similar to the current request and a walk-up takeout window and denied the request. The applicant filed an appeal and then subsequently withdrew it.

Analysis

The applicant is proposing to amend an existing CUP that is limited to beer and wine sales, to add full general on-sale alcohol. The requested amendment includes the addition of live entertainment and modifying the approved floor plan to add bar seating and a dance floor and a walk-up take-out window. The application also requests to modify the hours of operation to allow operation between 6:00 and 2:00 A.M. Currently the operating hours are limited to between 7:00 A.M. and 10:00 P.M. based on the 1989 CUP. These requests involve change of operation and minor alterations to the interior floor plans, and no expansion to the building. Section 17.04 of the Zoning Ordinance defines restaurant as an establishment primarily selling prepared foods and containing kitchen facilities used for food preparation and sets out percentages for gross sales computed monthly for prepared foods and alcohol sales.¹

The applicant is proposing to alter the interior of the existing restaurant with respect to the seating arrangement (no increase in occupancy) and to add a bar area and a piano for live entertainment. The subject building is located within the downtown district and suitable for the proposed use. It is similar to other restaurants in the area which have live entertainment. However, the use is located approximately ½ block to the south of the westerly end of Pier Plaza, and there is the potential that the added noise from live entertainment may present a problem for surrounding residents. At the previous hearings on this matter before Planning Commission, several residents complained that noise and disturbances from restaurants at closing time have created a nuisance in the area, though the complaints were not necessarily connected to the operation of Scotty's restaurant. They also expressed concern about the number of alcohol/entertainment type establishments in the downtown area. If the application is approved, the problem of noise generated by proposed live entertainment should be addressed with appropriate mitigation measures to address these concerns.

A "piano bar" is shown on the plans and the applicant has indicated that the request is for "non amplified live entertainment". Any excessive noise from the entertainment cannot be easily mitigated given its proposed location within a glass patio enclosure which contains sliding glass windows and since there is no air conditioning, the sliding windows will likely be left open during the summer months. Therefore, the applicant has modified his request to limit the entertainment to non-amplified music. Typical Conditions of Approval for other similar establishments require double-glazed windows, air conditioning and that doors and windows remain shut when live entertainment occurs may not be necessary with this limitation.

Therefore, if approved, staff is recommending that entertainment be specifically limited to acoustic music. Hours for live entertainment are also specified consistent with other similar downtown establishments, as are requirements for conformance with the existing approved Parking Plan.

The plans do not clearly show the location for the proposed take-out window, but the applicant indicates that it would be at the northwest corner of the dining area, with access directly out toward the Strand. Any lines forming at the take out window would encroach in to the Strand right-of-way. Since customers can order take-out inside from the hostess station next to the waiting area, it does not seem appropriate to create this potential conflict with bicycle and pedestrian traffic on the Strand.

The proposed permit amendment is essentially a re-submittal of the application denied on appeal in August, 2002, and contains no material changes (with the exception of non-amplified live entertainment) to alleviate previously expressed Commission or City Council concerns regarding general on-sale alcohol sales and likely noise and nuisance issues because of the proximity of residential uses. .

Ken Robertson
Associate Planner

Sol Blumenfeld, Director
Community Development Department

Stephen R. Burrell,
City Manager

Notes:

-
1. "Where beer and wine are sold, a minimum of sixty-five (65) percent of the total gross sales, computed monthly, shall result from the sale of prepared food; where other alcoholic beverages, not exclusively beer and wine, are sold, a minimum of fifty (50) percent of the total gross sales, computed monthly, shall result from the sale of prepared food."

Attachments

2. Proposed Resolution
3. December 4, 2002 Planning Commission Minutes
4. August 13, 2002 City Council Minutes and Resolution
5. Photo
6. Location Map
7. Correspondence

Cc/Cup1100thestrاند12-02

RESOLUTION 02-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, SUSTAINING THE PLANNING COMMISSION'S DECISION, ON APPEAL, TO DENY A CONDITIONAL USE PERMIT AND PARKING PLAN AMENDMENT FOR AN EXISTING RESTAURANT AT 1100 THE STRAND, "SCOTTY'S", FOR ON-SALE GENERAL ALCOHOL, TO ADD BAR SEATING AND A DANCE FLOOR IN THE PATIO AREA, TO ADD AMPLIFIED LIVE ENTERTAINMENT; A TAKE-OUT FOOD SERVICE WINDOW; AND APPROVING LIMITED EXTENDED HOURS TO 12:00 MIDNIGHT AT 1100 THE STRAND

Section 1. An application was filed by Pete Mangurian, owner of Scotty's Restaurant, seeking amendment to an existing conditional use permit to allow on-sale alcohol; live entertainment; a take-out food service window; extended hours of operation and alterations to the floor plan in conjunction with an existing restaurant.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit on December 4, 2002, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission. Based on the evidence the Commission denied the requested Conditional Use Permit and Parking Plan amendments and approved a limited extension to the hours of operation to 12:00 midnight based on the finding as set forth in P.C. Resolution 02- .

Section 3. The applicant filed an appeal of the Commission's decision.

Section 4. The City Council conducted a duly noticed public hearing to consider the appeal on January 14, 2002, at which testimony and evidence, both written and oral, was presented to and considered by the City Council.

Section 5. Based on evidence received at the public hearing, and the record of the decision of the Planning Commission the City Council agrees with and makes the following factual findings:

1. The business is currently operating under the terms of a Conditional Use Permit, as amended, approved in 1989, for on-sale beer and wine in conjunction with a restaurant.
2. The property is zoned C-2, with commercially zoned property to the north and immediately to the south, and public parking lot located to the east. The predominant uses to the south are residential.
3. In 1993, the City Council approved, on appeal, a Conditional Use Permit for live entertainment, On-sale General Alcohol, and a dance floor. This permit was not executed and has now expired.

Section 6. Based on the foregoing factual findings, and the record of the decision of the Planning Commission the City Council makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. The site is zoned C-2, and its location south of the downtown core area within close proximity to residential uses to the south (one-half block) and is thus not suitable for the proposed use with the proposed amendment for live entertainment, on-sale general alcohol and a dance floor, and

extended hours to 2:00 A.M. These changes will increase noise levels which cannot be satisfactorily mitigated given that entertainment and increased activity would be located within a glass patio enclosure.

2. The proposed change to full service general alcohol would change the character and atmosphere of the restaurant and café, and make it operate more like a bar resulting in increase of activity that would result in noise and nuisance complaints from nearby residents.

3. Live entertainment and dancing would increase the overall noise and general activity of the business adversely contributing to noise concerns noted above.

4. Extending the hours of the business to 2:00 A.M. presents a greater concern to surrounding residents as noise carries more late at night, during hours when residents are also more sensitive to the impact of noise.

5. The proposed take-out window is not suitable because of the potential conflict with pedestrian and bicycle traffic along the Strand, and is not necessary as take-out orders can easily be accommodated inside the restaurant.

Section 7. Based on the foregoing, the City Council sustains the decision of the Planning Commission and hereby denies the requests to amend the Conditional Use Permit and Parking Plan to allow on-sale alcohol, live entertainment, alterations to the floor plan, and a take-out window; and, approves a limited extension of hours of operation under the terms of the current C.U.P. for on-sale beer and wine only to 12:00 midnight.

PASSED, APPROVED and ADOPTED this _____ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY