

August 5, 2002

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

**Regular Meeting of  
August 13, 2002**

CONTINUED FROM THE MEETING OF MAY 28, AND JULY 23, 2002  
(PURSUANT TO THE APPLICANT'S REQUEST)

SUBJECT:                   CONDITIONAL USE PERMIT AMENDMENT 02-1 - APPEAL

LOCATION:                   1100 THE STRAND

APPELLANT:               PETER MANGURIAN, "SCOTTY'S" RESTAURANT

REQUEST:                 APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A  
CONDITIONAL USE PERMIT AMENDMENT FOR AN EXISTING  
RESTAURANT AT 1100 THE STRAND, "SCOTTY'S", AND  
CONSIDERATION OF AN ENVIRONMENTAL NEGATIVE  
DECLARATION. (THE REQUESTED AMENDMENTS THAT WERE  
DENIED WERE FOR ON-SALE GENERAL ALCOHOL; TO ADD BAR  
SEATING IN THE PATIO AREA; TO ADD AMPLIFIED LIVE  
ENTERTAINMENT; A TAKE-OUT FOOD SERVICE WINDOW; AND 24-  
HOUR OPERATION.) THE APPEAL INCLUDES PROPOSED  
MODIFICATIONS TO THE INITIAL REQUEST TO LIMIT HOURS OF  
OPERATION TO BETWEEN 6:00 A.M. AND 1:00 A.M, TO LIMIT LIVE  
ENTERTAINMENT TO NON-AMPLIFIED, AND TO REDUCE THE BAR  
SEATING AREA.

**Planning Commission Recommendation:**

To deny the requested Conditional Use Permit Amendment. The Commission has not reviewed the modifications to the amendment as proposed by the applicant in the appeal.

**Background:**

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

At their meeting of April 16, 2002 the Planning Commission voted 5:0 to deny the requested CUP amendment based on concerns regarding noise, and increased intensity of use which could increase crowds

and parking demand. The appeal filed by the applicant on April 25, 2002 proposes modifications to the project denied by the Commission as follows:

- ❑ To limit the hours of operation to between 6:00 A.M. and 1:00 A.M
- ❑ To provide non amplified entertainment only
- ❑ To reduce the bar area (“for dining customers only”)
- ❑ To provide a railing at the property line along the Strand for queuing of customers within the property.

At their meeting of March 14, 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 would require sound-proofing the glass-enclosed patio area or limiting live entertainment to acoustic music only.

### **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 without the request for 24-hour operation and a walk-up takeout window and denied the request. The applicant filed an appeal and then subsequently withdrew the appeal.

### **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 non-amplified 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 modification to the hours of operation (currently limited to between 7:00 A.M. and 10:00 P.M. based on the 1989 CUP) to extend alcohol sales between 6:00 A.M. and 1:00 A.M. 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. To partially address the Planning Commission’s concerns the applicant’s appeal includes modifications as noted and a statement that the bar seating area would be reduced, but no plans have been submitted to show the extent of that reduction.

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 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.

The 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, typical Conditions of Approval for other similar establishments, that require double-glazed windows, air conditioning and that doors and windows remain shut when live entertainment occurs would not appear to be adequate. Therefore, if approved, staff would recommend that entertainment be specifically limited to acoustic music as now proposed by the applicant.

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. To address this issue the applicant indicates in the appeal request that a railing would be provided parallel with the Strand for queuing to occur within the 6-foot building setback. No plans have been submitted to show the location of the take-out window or the proposed railing.

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Ken Robertson  
Associate Planner

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Sol Blumenfeld, Director  
Community Development Department

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Stephen R. Burrell,  
City Manager

Attachments

1. Proposed Resolution to sustain the Commission's denial
2. 4/25 appeal letter / application
3. Planning Commission Resolution & Minutes
4. Location and Noticing Map

5. Correspondence

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**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 FOR CONDITIONAL USE PERMIT AMENDMENT FOR AN EXISTING RESTAURANT AT 1100 THE STRAND, "SCOTTY'S", FOR ON-SALE GENERAL ALCOHOL; TO ADD BAR SEATING IN THE PATIO AREA; TO ADD AMPLIFIED LIVE ENTERTAINMENT; A TAKE-OUT FOOD SERVICE WINDOW; AND 24-HOUR OPERATION 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; 24-hour 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 April 16, 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 based on the finding as set forth in P.C. Resolution 02-18.

Section 3. The applicant filed an appeal of the Commission's decision including modifications to the initial request. The modifications are to limit hours of operation to between 6:00 A.M. and 1:00 A.M., to limit live entertainment to non-amplified, to reduce the bar seating area, and to provide a property line railing at the take-out window for queuing of customers within the boundaries of the property.

Section 4. The City Council conducted a duly noticed public hearing to consider the appeal and modifications on May 28, July 23, and August 13, 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 findings as contained in P.C. Resolution 02-18 which are incorporated herein by reference.

Section 6. Based on the foregoing, the City Council sustains the decision of the Planning Commission and hereby denies the Conditional Use Permit.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

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CITY CLERK

CITY ATTORNEY