

December 1, 2003

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

**Regular Meeting of
December 9, 2003**

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 03-9

RECONSIDERATION OF THE PLANNING COMMISSION APPROVAL OF THE
CONVERSION OF 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

LOCATION: 73 PIER AVENUE - MEDITERRANEO

Recommendation

To sustain the decision of the Planning Commission by adopting the attached resolution.

Background

At their meeting of October 21, 2003 the Planning Commission approved the requested Conditional Use Permit amendment by a vote of 4:1.

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 live entertainment. The CUP for on-sale general alcohol was never implemented. The applicant has commenced work on the alterations for tenant improvements since the alterations do not change or intensify the use of the building as allowed under the 1994 C.U.P and entail less than 1500 square feet of improvement (the threshold for a Precise Development Plan).

Analysis

The applicant is altering the interior and exterior to accommodate a new restaurant with a new theme. The improvements will generally change the character of the business from a brewpub/restaurant to a more traditional sit-down restaurant with a broader and more complete menu. 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 for more table seating, and further allows for an increase in outdoor tables. Changes to the exterior facade are also included in the project plans. The building facade will be finished with new stone, tile, lighting, column and cornice details and new wood

columns will be added to the building interior as part of the change from a brewpub to sit-down restaurant. 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 have been requested by the applicant.

Brewski’s operated at this location for nearly ten years as a restaurant with few nuisance and noise complaints. It was one of the earliest businesses to open in conjunction with the downtown revitalization that commenced in 1994. The original owner will also operate Mediterraneo, and plans to maintain the business as a dining establishment. A seating plan has been approved to accommodate fewer occupants than allowed with the seating configuration for Brewski’s (a reduction from 144 to 132 including the outdoor seating).

The Planning Commission based their decision to approve the project both on the testimony received at the hearing from the applicant and City policy and precedent for other businesses on Pier Plaza. The applicant described the proposed business as having a different emphasis than “Brewski’s,” and stated their intent to be a restaurant with a broader and more substantial and complete dinner and drink menu, catering to a different, more “up-scale” clientele. With its limited scope of alterations, the proposal does not significantly alter the existing and approved primary use as a restaurant; continues the live entertainment as non-amplified to provide background acoustic music; and does not substantially alter the seating layout, bar area, and other features of the business. Also, the changes are consistent with City policy and precedent for restaurants located along Pier Plaza, which is primarily a restaurant and entertainment district, and has historically been found appropriate for restaurants with full service on-sale alcohol. The proposed Conditions of Approval, therefore, are consistent with the provisions for surrounding restaurants that also offer on-sale alcohol and live entertainment.

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 unless the applicant prepares an acoustic study pursuant to current noise ordinance requirements if they desire to change the live entertainment from non-amplified to amplified music. Standard conditions for noise attenuation have also been included in the resolution. The Commission also included a 6-month review of the business for compliance with the C.U.P., which is an effective method for evaluating operations relative to noise or nuisance complaints after the business opens.

CONCUR:

Ken Robertson,
Senior Planner

Sol Blumenfeld, Director
Community Development Department

Stephen R. Burrell
City Manager

Attachments

1. Proposed Resolution
2. Planning Commission Minutes / Resolution
3. Location Map

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, UPON RECONSIDERATION, AND 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. Based on the evidence considered at the hearing, the Planning Commission approved the request subject to conditions as set forth in P.C. Resolution 03-57.

Section 3. On October 28, 2003, the City Council, pursuant to Section 2.52.040, initiated review and reconsideration of the decision of the Planning Commission.

Section 4. The City Council conducted a duly notice public hearing to review and reconsider the decision of the Planning Commission on December 9, 2003, at which the record of the decision of the Planning Commission and 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 decision of the Planning Commission, the City Council 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 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 6. Based on the foregoing factual findings, 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 the continued operation of the restaurant with the proposed modifications is suitable for the proposed location.

1 2. The imposition of conditions as required by this resolution to address noise concerns relative to the
2 current requirements of the noise ordinance and to address nuisance concerns will mitigate any negative impacts
3 on, and will improve its compatibility with, nearby residential or commercial properties within the downtown
4 district.

5 3. This project is Categorically Exempt pursuant to 15301, Class 1 of the California Environmental
6 Quality Act Guidelines, minor alterations to existing private structures.

7 Section 7. Based on the foregoing, the City Council sustains the decision of the Planning Commission and
8 hereby approves the requested amendment to the Conditional Use Permit, subject to the following **Conditions of**
9 **Approval**, which supersede the conditions contained in P.C. Resolutions 03-57, 94-27 and 97-43:

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

- 1 9. The business shall provide adequate staffing and management and supervisory techniques to prevent
2 loitering, unruliness, and boisterous activities of the patrons both inside and outside the business
and in nearby public areas.
- 3 10. The Police Chief shall determine if a continuing police problem exists, and may authorize the
4 presence of a police approved doorman and/or security personnel to eliminate the problem, and/or
5 shall submit a report to the Planning Commission, which will automatically initiate a review of this
conditional use permit by the Commission.
- 6 11. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free
7 of graffiti at all times.
- 8 12. Any changes to the interior layout which would alter the primary function of the business as a
9 restaurant shall be subject to review and approval by the Planning Commission.
- 10 13. The project and operation of the business shall comply with all applicable requirements of the
Municipal Code.
- 11 14. Noise emanating from the property shall be within the limitations prescribed by the city's noise
12 ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or
13 commercial establishments. Noise emanating from the property shall be monitored to verify
14 compliance with the noise ordinance in response to any complaints.
- 15 15. The Planning Commission shall review the operation of the restaurant for compliance with
16 conditions of approval and compliance with the Noise Ordinance 6 months from the opening of the
new restaurant, and in response to any complaints thereafter.
- 17 16. The Conditional Use Permit shall become null and void if not executed within two years of the date
18 of the approval of this Resolution.
- 19 17. The owner shall comply with requirements of the encroachment permit for use of the public right-of-
20 way.

21 Section 8. This grant shall not be effective for any purposes until the permittee and the owners of the
22 property involved have filed a the office of the Planning Division of the Community Development Department their
affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

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

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

27 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees from any
28 claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this
29 permit approval, which action is brought within the applicable time period of Government Code. The City shall

