



DATE: November 4, 2009

TO: Chairman and Members of the Community Development Commission

FROM: Economic and Community Development Department

SUBJECT: **CONSIDERATION OF A RESOLUTION DENYING A CONDITIONAL USE PERMIT (C-200-09) AND REGULAR COASTAL PERMIT (RC-200-09) TO ALLOW FOR FULL ALCOHOLIC BEVERAGE SERVICE AND LIVE ENTERTAINMENT FOR THE BEACHSIDE GRILL RESTAURANT LOCATED AT 215 NORTH COAST HIGHWAY - BEACHSIDE GRILL - APPLICANT: SCOTT MONSON**

SYNOPSIS

The item under consideration is a Conditional Use Permit and Regular Coastal Permit to allow for full alcoholic beverage service and live entertainment for the Beachside Grill restaurant located at 215 North Coast Highway. Staff is recommending that the Commission deny the project and adopt the resolution as attached.

BACKGROUND

The subject site formerly housed several restaurants and bars over the past few years, the last of which was the Sports Arena bar and grill which operated at the subject site as a full-service restaurant and bar during 2007. The restaurant is approximately 3,000 square feet in size.

Land Use and Zoning: The subject site is located within Subdistrict 1 of the "D" Downtown District. Subdistrict 1 is primarily intended to provide a commercial/retail and office complex offering a wide variety of goods and services to both the community at large and to tourists and visitors. Residential uses are encouraged when and where appropriate.

Regular Coastal Permit: This project is situated within the Coastal Zone and requires a Regular Coastal Permit. Under the provisions of the Local Coastal Plan the project site is designated as General Commercial. The General Commercial category allows for a variety of retail, service and office uses.

Project Description: The applicant is requesting full alcoholic beverage service and live entertainment including dancing as ancillary uses to the restaurant. Currently, the applicant possesses a valid beer and wine license, however, there is no use permit approved for the subject restaurant. The purpose of the request is to provide better

service for the restaurant's clientele. The applicant does not propose any exterior changes to the building.

Article 12 of the Downtown "D" District Zoning Ordinance requires a Conditional Use Permit for Eating and Drinking Establishments with full alcoholic beverage service. The proposed hours of operation are from 11:00 a.m. to 12:30 a.m. Sunday through Saturday.

The State Department of Alcoholic Beverage Control (ABC) has informed staff that the business is located within Census Tract No. 184, which allows for a maximum of 4 on-sale alcohol licenses. Currently, there are 23 on-sale alcohol licenses within this Census Tract. There are several areas throughout the City (and throughout the County) that have an overconcentration of alcohol outlets. Alcoholic Beverage Control (ABC) applies a ratio to a census tract based on the average number of outlets per general population. The ratio for on-sale licenses (restaurant) is one outlet for every 2,000 population and for off-sale licenses (retail) not to exceed one outlet per 2,500 populations. Areas adjacent to shopping centers typically exceed the number of alcohol outlets due to the abundance of restaurants that serve alcoholic beverages and retail stores that sell packaged liquor. Typically, the regulatory authorities, i.e., ABC, local police and the Planning Department (if applicable), place additional restrictions on applications for new liquor licenses that are located within an area that has an overconcentration of alcohol outlets.

The attached memorandum from the Police Department has identified numerous violations at the subject site from the ABC between February 19, 2009 and March 13, 2009. As a result of these violations, the ABC license was suspended for a period of 15 days during July 2009.

Regular Coastal Permit: A Regular Coastal Permit is required because the project is situated within the Coastal Zone.

Environmental Determination: A Certificate of Exemption has been prepared for the project. Under the provisions of the California Environmental Quality Act, the Community Development Commission will consider the exemption during its hearing on the project.

ANALYSIS

Staff's analysis focused on the operation of the restaurant and the compatibility of the full alcoholic beverage service and live entertainment with the surrounding businesses within the Redevelopment Project Area.

In staff's opinion, due to the numerous alcohol-related violations at the subject site, staff cannot support the applicant's request. Staff would further recommend that if the applicant has no new violations for a period of one year ending on March 15, 2010, they can re-apply for a "new" use permit. Staff can then determine that during the past year whether the applicant has complied with the ABC restrictions on the current beer and wine license and make a recommendation to the Commission.

COMMISSION OR COMMITTEE REPORTS

The Redevelopment Advisory Committee (RAC) reviewed the project on October 28, 2009, and its recommendation will be presented orally.

FISCAL IMPACT

Not applicable.

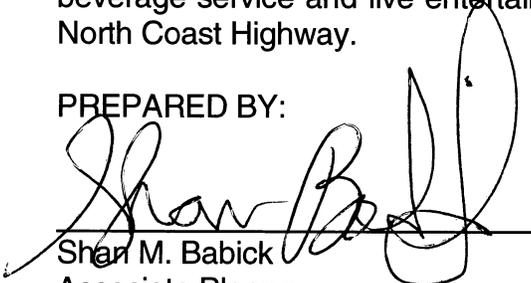
CITY ATTORNEY'S ANALYSIS

Pursuant to Oceanside Zoning Ordinance Article 41, Section 4102, and Public Resources Code 30200 et seq., and the City of Oceanside Local Coastal Program Land Use Plan, the Community Development Commission is authorized to hold a public hearing on this project's applications. Consideration of the project should be based on the evidence presented at the public hearing. After conducting the public hearing, the Commission shall approve, conditionally approve, or disapprove the project. The resolution has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff recommends that the Commission adopt the resolution denying the full alcoholic beverage service and live entertainment for the Beachside Grill restaurant located at 215 North Coast Highway.

PREPARED BY:


Shan M. Babick
Associate Planner

SUBMITTED BY:


Peter A. Weiss
Executive Director

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
Jane McVey, Economic and Community Development Director
Kathy Baker, Redevelopment Manager



EXHIBITS/ATTACHMENTS

- 1. Resolution
- 2. Notice of Exemption
- 3. Floor Plans
- 4. Police memorandum dated September 15, 2009

1 RESOLUTION NO. 09-

2 A RESOLUTION OF THE COMMUNITY DEVELOPMENT
3 COMMISSION OF THE CITY OF OCEANSIDE DENYING A
4 CONDITIONAL USE PERMIT AND REGULAR COASTAL
5 PERMIT FOR PROVIDING FULL ALCOHOLIC BEVERAGE
6 SERVICE AND LIVE ENTERTAINMENT FOR A
7 RESTAURANT LOCATED AT 215 NORTH COAST
8 HIGHWAY – APPLICANT: SCOTT MONSON

9 WHEREAS, on November 4, 2009, the Community Development Commission held its
10 duly noticed public hearing for an application for a Conditional Use Permit (C-200-09) and
11 Regular Coastal Permit (RC-200-09) for an existing restaurant to begin providing full alcoholic
12 beverage service and live entertainment located at 215 North Coast Highway;

13 WHEREAS, the Redevelopment Advisory Committee (RAC) of the City of Oceanside
14 did, on October 14, 2009, review and recommend denial of Conditional Use Permit (C-200-09)
15 and Regular Coastal Permit (RC-200-09);

16 WHEREAS, a Categorical Exemption was prepared by the Resource Officer of the City
17 of Oceanside for this application pursuant to the California Environmental Quality Act of 1970
18 and the State Guidelines implementing the Act. The project is considered an infill development
19 and will not have a detrimental effect on the environment;

20 WHEREAS, pursuant to Government Code §66020(d)(1), NOTICE IS FURTHER
21 GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or
22 other exaction described in this resolution begins on the effective date of this resolution and any
23 such protest must be in a manner that complies with Section 66020; and

24 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
25 effective upon its adoption.

26 NOW, THEREFORE, the Community Development Commission of the City of
27 Oceanside does resolve as follows:

28 FINDINGS:

Articles 12 and 41 require a Use Permit for full alcoholic beverage service for eating and
drinking establishments located within Subdistrict 1 of the Redevelopment Project Area.
Before a Use Permit can be issued the Community Development Commission shall make the
following findings:

- 1 1. That the proposed use is in accord with the objectives of the zoning ordinance and the
- 2 purposes of the D1 district.
- 3 2. That the proposed location and conditions under which the use will operate are
- 4 consistent with the General Plan, not detrimental to the public health, safety or welfare
- 5 and persons residing or working in or adjacent to the neighborhood of such in the
- 6 vicinity or to the general welfare of the city.
- 7 3. That the proposed use will comply with the provisions of the zoning ordinance.

8 In this case, the Community Development Commission cannot make the required findings
9 because the operation of the current business has numerous violations filed against the business
10 and therefore, the granting of the use permit to allow for full alcoholic beverage service coupled
11 with live entertainment will be detrimental to the public health, safety or welfare of persons
12 residing or working in or adjacent to the subject site.

12 **For the Denial of the Regular Coastal Permit:**

13 1. The granting of the Regular Coastal Permit is inconsistent with the purposes of
14 the California Coastal Act of 1976.

15 2. The proposed use(s) are inconsistent with the policies of the Local Coastal
16 Program as implemented through the City Zoning Ordinance. The proposed use(s) is
17 inconsistent with the Local Coastal Program in that numerous violations have been recorded
18 against the subject site by Alcohol Beverage Control.

19 3. The proposed project will not obstruct any existing or planned public beach
20 access; therefore, the project is in conformance with the policies of Chapter 3 of the Coastal
21 Act. The subject site is located in the middle of a commercial block approximately 1,000 feet
22 east of the beach and the project does not propose any building modifications and/or additions.

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SECTION 1. That Conditional Use Permit (C-200-09) and Regular Coastal Permit (RC-200-09) is hereby denied.

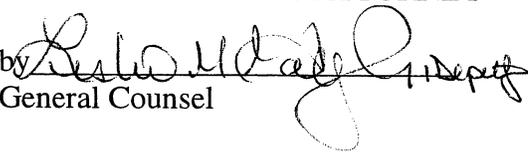
PASSED AND ADOPTED by the Oceanside Community Development Commission of the City of Oceanside this _____ day of _____ by the following vote:

- AYES:
- NAYS:
- ABSENT:
- ABSTAIN:

Chairman

ATTEST:

Secretary

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
by 
General Counsel

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AYES:

NAYS:

ABSENT:

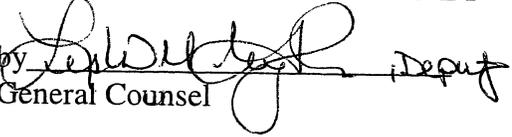
ABSTAIN:

Chairman

ATTEST:

Secretary

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

by  Deputy
General Counsel



MEMORANDUM

INVESTIGATIONS DIVISION

TO: Shan Babick, Economic and Community Development
FROM: Lieutenant Joseph Young, Investigations/SES
SUBJECT: Conditional Use Permit Application; 215 North Coast Highway
DATE: September 15, 2009

The Beachside Grill's Conditional Use Permit Application for full alcohol beverage service has been reviewed by staff. Based on the below violations that were identified and investigated by the Alcoholic Beverage Control (ABC) earlier this year, the Oceanside Police Department recommends denial of the said application.

Summary:

1. On or about February 19, 2009, ABC investigators identified four separate violations of the conditions outlined in the ABC license for the premises.
2. On or about February 21, 2009, ABC investigators identified two separate violations of the conditions outlined in the ABC license for the premises.
3. On or about February 26, 2009, ABC investigators identified three separate violations of the conditions outlined in the ABC license for the premises.
4. On or about March 6, 2009, ABC investigators identified one violation of the conditions outlined in the ABC license for the premises.
5. On or about March 13, 2009, ABC investigators identified three separate violations of the conditions outlined in the ABC license for the premises.

As a result of these violations, the ABC license was suspended for a period of 15 days during July 2009.