



DATE: December 16, 2009
TO: Chairman and Members of the Community Development Commission
FROM: Economic and Community Development Department
SUBJECT: **CONSIDERATION OF CONDITIONAL USE PERMIT (C-200-09) AND REGULAR COASTAL PERMIT (RC-200-09) TO ALLOW FOR FULL ALCOHOLIC BEVERAGE SERVICE, LIVE ENTERTAINMENT AND DANCING FOR BEACHSIDE GRILL 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, live entertainment and dancing for The Beachside Grill, located at 215 North Coast Highway. Staff is recommending that the Commission adopt either a resolution of approval or a resolution of denial 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.

On November 4, 2009, the Community Development Commission reviewed the Conditional Use Permit and Regular Coastal Permit and recommended that the item be brought back to the Commission at its December 16, 2009, meeting with direction to staff to draft appropriate conditions (see attached staff report).

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.

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Project Description: The applicant is requesting full alcoholic beverage service, live entertainment and dancing as ancillary uses to the 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 10:00 a.m. to 1:00 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.

The attached resolution of approval addresses two concerns raised by the Commission at the November 4 meeting. One concern was the effective date of the Use Permit and the second is in regard to any new ABC violations at the premise. The Resolution for Approval includes a condition (No. 14) that any further violations that results in an ABC license suspension will result in an automotive revocation of the Use Permit. There is an addition condition (No. 26) that provided there is no further ABC and/or criminal violations, the Use Permit won't be effective until March 15, 2010.

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 is seeking direction from the Commission regarding the Conditional Use Permit and Regular Coastal Permit for full alcoholic beverage service, live entertainment and dancing for the Beachside Grill, therefore, attached are conditions of approval and conditions of denial.

COMMISSION OR COMMITTEE REPORTS

On October 28, 2009, the RAC voted 3-1 not to support staff recommendation, therefore, supporting the applicant request, citing that they did not want to see this business close down and have another empty storefront in Redevelopment, the ABC violations were minor in nature and that enough time had lapsed since the ABC violations.

FISCAL IMPACT

Not applicable.

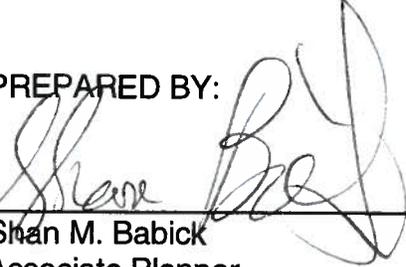
CITY ATTORNEY'S ANALYSIS

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 resolutions have been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

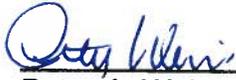
Staff recommends that the Commission adopt a resolution of approval or a resolution of denial for the full alcoholic beverage service, live entertainment and dancing for The Beachside Grill, located at 215 North Coast Highway.

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. Resolutions
2. Staff report dated November 4, 2009

1 RESOLUTION NO. 09-

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

9 WHEREAS, on November 4, 2009, the Community Development Commission held
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, live entertainment and dancing located at 215 North Coast Highway and the
13 Commission recommended the item be continued until their meeting of December 16, 2009;

14 WHEREAS, on December 16, 2009, the Community Development Commission held a
15 duly noticed public hearing for an application for a Conditional Use Permit (C-200-09) and
16 Regular Coastal Permit (RC-200-09) for an existing restaurant to begin providing full alcoholic
17 beverage service, live entertainment and dancing located at 215 North Coast Highway;

18 WHEREAS, the Redevelopment Advisory Committee (RAC) of the City of Oceanside
19 did, on October 28, 2009, review and recommended approval of Conditional Use Permit (C-
20 200-09) and Regular Coastal Permit (RC-200-09);

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

25 WHEREAS, pursuant to Government Code §66020(d)(1), NOTICE IS FURTHER
26 GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or
27 other exaction described in this resolution begins on December 16, 2009, and any such protest
28 must be in a manner that complies with Section 66020; and

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

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

1 **FINDINGS:**

2 **For the Conditional Use Permit:**

3 The existing restaurant operation allowing for full alcoholic beverage service, live entertainment
4 and dancing is consistent with the land use objectives of the commercial uses in that eating and
5 drinking establishments are an allowed use within Subdistrict 1 land use district of the
6 Redevelopment Project Area. The applicant request, full alcoholic beverage service and live
7 entertainment, is considered ancillary uses to the main business (restaurant). The purpose of the
8 request is to provide better service for the restaurant's clientele.

9 1. The restrictions for the conditional use permit are consistent with the Zoning
10 Ordinance, General Plan, Local Coastal Plan and Redevelopment Plan, and will not affect
11 neighborhood compatibility. The operation of the proposed business and the conditions under
12 which it will be allowed to operate will not be detrimental to the public health, safety or welfare
13 of persons residing or working in or adjacent to the subject site. The project has numerous
14 conditions that restrict the operation of the business including noise, security, hours of
15 operation, egress and ingress into the premise and advertising. These conditions, when
16 implemented, will mitigate any nuisances to the surrounding businesses.

17 2. The conditional use is subject to and must comply with specific local conditions
18 and additional regulations as deemed necessary by other regulatory or permit authorities
19 including but not limited to the Alcohol Beverage Control.

20 **For the Regular Coastal Permit:**

21 1. The granting of the Regular Coastal Permit is consistent with the purposes of the
22 California Coastal Act of 1976.

23 2. The proposed uses are consistent with the policies of the Local Coastal Program
24 as implemented through the City Zoning Ordinance. In addition, the project will not impact the
25 existing coastal views through the public rights-of-way view corridors because the subject site is
26 located in the middle of a commercial block approximately 1,500 feet east of the beach and the
27 project does not propose any building modifications and/or additions.

28 3. The proposed project will not obstruct any existing or planned public beach
access; therefore, the project is in conformance with the policies of Chapter 3 of the Coastal
Act. The subject site is located in the middle of a commercial block approximately 1,500 feet

1 east of the beach and the project does not propose any building modifications and/or additions.
2 That Conditional Use Permit (C-200-09) and Regular Coastal Permit (RC-200-09) are hereby
3 approved subject to the following conditions:

4 **Building:**

5 1. Applicable Building Codes and Ordinances shall be based on the date of
6 submittal for Building Department plan check.

7 2. The granting of approval under this action shall in no way relieve the
8 applicant/project from compliance with all State and local building codes.

9 **Economic and Community Development:**

10 3. This Conditional Use Permit (C-200-09) and Regular Coastal Permit (RC-200-
11 09) shall expire on December 16, 2011, unless implemented as required by the Zoning
12 Ordinance.

13 4. This Conditional Use Permit and Regular Coastal Permit approves only full
14 alcoholic beverage services, live entertainment and dancing for an existing restaurant as shown
15 on the plans and exhibits presented to the Community Development Commission for review and
16 approval. No deviation from these approved plans and exhibits shall occur without Economic
17 and Community Development Department approval.

18 5. The applicant, permittee or any successor-in-interest shall defend, indemnify and
19 hold harmless the City of Oceanside, its agents, officers or employees from any claim, action or
20 proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul
21 an approval of the City, concerning Conditional Use Permit (C-200-09) and Regular Coastal
22 Permit (RC-200-09). The City will promptly notify the applicant of any such claim, action or
23 proceeding against the City and will cooperate fully in the defense. If the City fails to promptly
24 notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the
25 defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold harmless
26 the City.

27 6. A covenant or other recordable document approved by the City Attorney shall be
28 prepared by the applicant developer and recorded prior to the issuance of building permits. The
covenant shall provide that the property is subject to this resolution, and shall generally list the
conditions of approval.

1 7. Prior to the issuance of building permits, compliance with the applicable
2 provisions of the City's anti-graffiti Ordinance (Ordinance No. 93-19/Section 20.25 of the City
3 Code) shall be reviewed and approved by the Economic and Community Development
4 Department. These requirements, including the obligation to remove or cover with matching
5 paint all graffiti within 24 hours, shall be recorded in the form of a covenant affecting the
6 subject property.

7 8. Prior to the transfer of ownership and/or operation of the site, the owner shall
8 provide a written copy of the applications, staff report and resolutions for the project to the new
9 owner and/or operator. This notification's provision shall run with the life of the project and
10 shall be recorded as a covenant on the property.

11 9. Failure to meet any conditions of approval for this development shall constitute a
12 violation of the Conditional Use Permit (C-200-09) and Regular Coastal Permit (RC-200-09).

13 10. This Conditional Use Permit shall be called for review by the Community
14 Development Commission if complaints are filed and verified as valid by the Code Enforcement
15 Office concerning the violation of any of the approved conditions.

16 11. The hours of operation are limited to 10:00 a.m. to 1:00 a.m. Sunday through
17 Saturday. The hours of operation may be limited by the Community Development Commission
18 when valid issues or complaints pertaining to the hours of operation arise.

19 12. The approval does not relieve the applicant from an obligation to obtain an
20 alcohol license from the State Department of Alcoholic Beverage Control (ABC). Any license
21 and permit conditions imposed by the ABC and the City Police Chief shall be in addition to the
22 conditions of this approval and the most restrictive conditions shall apply.

23 13. Sales, service and consumption of alcoholic beverages shall be permitted only
24 between the hours of 10:00 a.m. and 12:30 a.m. Monday through Sunday.

25 14. The applicant agrees that any ABC license suspension constitutes a substantial
26 change in mode or character of operation and will also result in a failure to continuously
27 operate. As a result, any ABC license suspension will result in an automatic revocation of the
28 Conditional Use Permit. Applicant voluntarily accepts this condition and waives any right to a
public hearing for such a revocation. Applicant releases the City and its employees and agents
from and claim or liability related to the implementation of this condition. The Use Permit shall

1 also be subject to the Entertainment Ordinance as such time the City adopts said Entertainment
2 Ordinance. The applicant shall be required to apply for and fully comply with the
3 Entertainment License, 30-days after adoption of the Ordinance.

4 15. There shall be no more than one coin operated games or video machines
5 maintained upon the premises at any time.

6 16. There shall be only one pool or billiard tables maintained upon the premises.

7 17. The sale of alcoholic beverages for consumption off the premises is strictly
8 prohibited.

9 18. Security shall be required as stipulated in Condition No. 28.

10 19. There shall be no audible music or noise emitting from the premises, which
11 would disturb the quiet and peaceful enjoyment of the property of the tenants and residences of
12 the area.

13 20. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales
14 of food during the same period; however, the City reserves the right to revise this request. The
15 permittee shall at all times maintain sales records, which separately account for gross food
16 sales apart from gross alcohol sales.

17 21. No wine shall be sold with an alcoholic content of greater than 15% by volume,
18 except wines which have been aged a minimum of two years or more and maintained in corked
19 bottles.

20 22. There shall be no exterior advertising or sign of any kind or type, including
21 advertising directed to the exterior from within, promoting or indicating the availability of
22 alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible
23 to the exterior shall constitute a violation of this condition.

24 23. The rear and side doors of the premises shall be kept closed at all times during
25 the operation of the premises except in the case of emergency and to permit deliveries. Said
26 doors are not to consist solely of a screen or ventilated security door.

27 24. All patrons shall be required to enter the premises via the primary front entrance
28 facing North Coast Highway.

25 25. No pay phones which are capable of receiving incoming calls will be maintained
26 on the interior or exterior of the premises.

1 26. Provided that there are no additional ABC and/or criminal violations, this
2 Conditional Use Permit and Regular Coastal Permit shall not become effective until March 15,
3 2010.

4 27. No minors will be allowed on the premise after 9:00 p.m. unless accompanied by
5 a parent or guardian.

6 28. Prior to the effective date of this Conditional Use Permit, the applicant shall
7 prepare a Management Plan. The Management Plan is subject to the review and approval of the
8 Economic and Community Development Director and the Police Chief prior to the occupancy
9 of the project, and shall be recorded as CC&R's against the property. The Management Plan
10 shall cover the following:

- 11 a) Security - The Management Plan, at a minimum, shall address on-site management,
12 hours-of-operation and measures for providing appropriate security for the project site.
- 13 b) Maintenance - The Management Plan shall cover, but not be limited to anti-graffiti
14 and site and exterior building, landscaping, parking lots, sidewalks, walkways and
15 overall site maintenance measures and shall ensure that a high standard of
16 maintenance at this site exists at all times. The maintenance portion of the
17 management plan shall include a commitment for the sweeping and cleaning of
18 parking lots, sidewalks and other concrete surfaces at sufficient intervals to maintain
19 a "like new" appearance. Wastewater, sediment, trash or other pollutants shall be
20 collected on site and properly disposed of and shall not be discharged off the
21 property or into the City's storm drain system.

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c) Any graffiti within the center shall be removed by management or its designate representative within 24 hours of occurrence. Any new paint used to cover graffiti shall match the existing color scheme.

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 John P. Mele
General Counsel

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, LIVE ENTERTAINMENT AND DANCING 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, live entertainment and dancing, located at 215 North Coast Highway was
13 continued to the Commission meeting of December 16, 2009;

14 WHEREAS, on December 16, 2009, the Community Development Commission
15 held it's duly noticed public hearing for an application for a Conditional Use Permit (C-200-09)
16 and Regular Coastal Permit (RC-200-09) for an existing restaurant to begin providing full
17 alcoholic beverage service, live entertainment and dancing located at 215 North Coast Highway

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

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

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

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

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

1 **FINDINGS:**

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

- 6
- 7 1. That the proposed use is in accord with the objectives of the zoning ordinance and the
8 purposes of the D1 district.
 - 9 2. That the proposed location and conditions under which the use will operate are
10 consistent with the General Plan, not detrimental to the public health, safety or welfare
11 and persons residing or working in or adjacent to the neighborhood of such in the
12 vicinity or to the general welfare of the city.
 - 13 3. That the proposed use will comply with the provisions of the zoning ordinance.
14 In this case, the Community Development Commission cannot make the required
15 findings because the operation of the current business has numerous violations filed
16 against the business and therefore, the granting of the use permit to allow for full
17 alcoholic beverage service coupled with live entertainment will be detrimental to the
18 public health, safety or welfare of persons residing or working in or adjacent to the
19 subject site.

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

- 21 1. The granting of the Regular Coastal Permit is inconsistent with the purposes of
22 the California Coastal Act of 1976.
- 23 2. The proposed use(s) are inconsistent with the policies of the Local Coastal
24 Program as implemented through the City Zoning Ordinance. The proposed use(s) is
25 inconsistent with the Local Coastal Program in that numerous violations have been recorded
26 against the subject site by Alcohol Beverage Control.
- 27 3. The proposed project will not obstruct any existing or planned public beach
28 access; therefore, the project is in conformance with the policies of Chapter 3 of the Coastal
Act. The subject site is located in the middle of a commercial block approximately 1,000 feet
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.

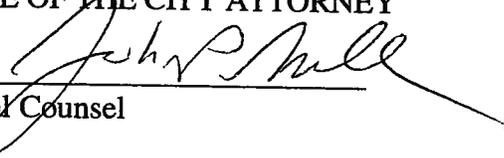
PASSED AND ADOPTED by the Oceanside Community Development Commission of the City of Oceanside this _____ day of _____ by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Chairman

ATTEST:

Secretary

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



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.

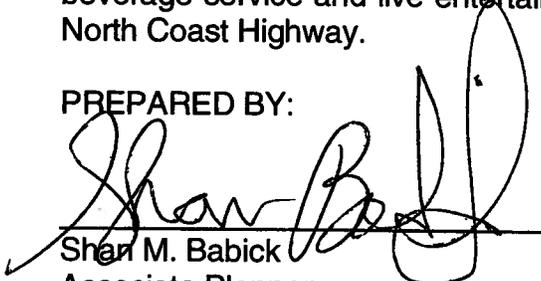
CITY ATTORNEY'S ANALYSIS

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.

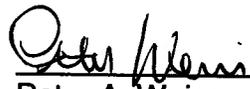
RECOMMENDATION

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