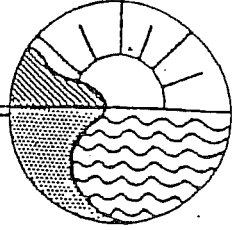


AGENDA



Planning Commission – City of Pacifica

DATE: August 3, 2009
LOCATION: Council Chambers, 2212 Beach Boulevard
TIME: 7:00 PM

ROLL CALL:

SALUTE TO FLAG:

ADMINISTRATIVE BUSINESS:

Approval of Order of Agenda

Approval of Minutes: July 20, 2009

Designation of Liaison to City Council Meeting of: August 10, 2009

CONSENT ITEMS:

PUBLIC HEARINGS:

1. UP-005-09 USE PERMIT, filed by Mike Hui, applicant, on behalf of the owner, David Szeto, to add square footage to an existing building and convert it to a restaurant called The Surf Spot at 4627 Coast Highway, near Sea Bowl (APN 022-150-170). Recommended CEQA status: Exempt. Proposed action: Approval as conditioned

OTHER AGENDA ITEMS:

2. PSD-699-01 EXTENSION of PERMITS for the construction of 43 residential units (19 single-family detached homes and 24 townhouses) at the 4000 block of Palmetto Avenue (APN's 009-402-250, & -260). Proposed Action: Approve extension request.
UP-882-01
CDP-203-01

COMMUNICATIONS:

Commission Communications:

Staff Communications:

Oral Communications:

This portion of the agenda is available to the public to address the Planning Commission on any issue within the subject matter jurisdiction of the Commission that is not on the agenda. The time allowed for any speaker will be three minutes.

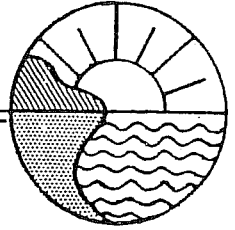
ADJOURNMENT

Anyone aggrieved by the action of the Planning Commission has 10 calendar days to appeal the decision in writing to the City Council. If any of the above actions are challenged in court, issues which may be raised are limited to those raised at the public hearing or in written correspondence delivered to the City at, or prior to, the public hearing. Judicial review of any City administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The City of Pacifica will provide special assistance for disabled citizens upon at least 24-hour advance notice to the City Manager's office (738-7301). If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.

NOTE: Off-street parking is allowed by permit for attendance at official public meetings. Vehicles parked without permits are subject to citation. You should obtain a permit from the rack in the lobby and place it on the dashboard of your vehicle in such a manner as is visible to law enforcement personnel.

STAFF REPORT



PLANNING COMMISSION-CITY OF PACIFICA

DATE: August 3, 2009

ITEM: 1

PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on July 22, 2009 and 10 surrounding property owners were notified by mail.

FILE: UP-005-08

APPLICANT: Mike Hui, 3318 Quintara Street, San Francisco, Ca 94116

OWNER: David Szeto, 4625 Coast Highway, Pacifica, CA 94044

LOCATION: 4627 Coast Highway, Near Sea Bowl

APN: 022-150-170

PROJECT DESCRIPTION: Operate a new restaurant called The Surf Spot at 4627 Coast Highway by constructing approximately 1,900 square feet kitchen addition to an existing commercial building of 1,800 square feet located near the Sea Bowl.

General Plan: Commercial
Zoning: C-1 (Neighborhood Commercial)

RECOMMENDED CEQA STATUS: Exempt Section 15303 (c)

ADDITIONAL REQUIRED APPROVALS: None

RECOMMENDED ACTION: Approval as conditioned

PREPARED BY: Kathryn Farbstein, Assistant Planner

ZONING STANDARDS CONFORMANCE:

<u>Standards (C-1)</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Lot Area	5,000 sf	17,000 sf approx.	No Change
Lot Width	50'	100'	No Change
Landscaping	10%	Unknown	75%
Maximum Height	35'	23'	No Change
Signage	122 sf maximum	None	122 sf
Parking	50	0	50 on adjacent lot*

*Approval of a Use Permit is necessary to provide parking spaces on a different property.

PROJECT SUMMARY

A. STAFF NOTES:

1. **Project Description:** Proposed is the addition of approximately 1,900 square feet of commercial space and the conversion of an existing commercial space of approximately 1,800 square feet into a new restaurant. The 3,700 square foot restaurant would be called “The Surf Spot” and would be located near the existing Sea Bowl business. The subject site is on a separate lot than the Sea Bowl operation but the proposed 50 parking spaces for the new restaurant use would be located on the adjacent Sea Bowl property. According to the attached email from the applicant’s representative dated June 21, 2009 (see Attachment B), the hours of operation will be Monday through Friday from 11 am until 10 pm at night and on the weekends, open from 9 am until 10 pm. There will be from 3 to 12 employees throughout each day with up to 10 employees working the dinner shift from 4 pm until 10 pm. Additional information about the restaurant operation is provided in the written descriptions attached to the plans and submitted by the applicant (see Attachment D).

The project will entail adding commercial space for the kitchen, bathrooms and office space. The existing commercial area that was most recently utilized for construction office with storage area in the yard space will be remodeled into dining area for the customers. The outdoor space will be landscaped and improved with fire pits, outdoor seating, a barbeque grill and a stage.

2. **General Plan, Zoning, and Surrounding Land Use:** General Plan designation for the subject property is Commercial and the zoning designation is C-1, Neighborhood Commercial (see Attachment A). The properties to the north, east and west of the property have the same General Plan classification while the properties to the north and east have the same zoning designation as the subject site. The General Plan designation for the property to the south is Prominent Ridgeline. The zoning designation to the west of the site is C-R (Commercial Recreation/C-2 Community Residential) and the zoning designation of the parcel to the south is P-D/HPD. The surrounding uses include a vacant lot to the north and south, Highway 1 to the west and Sea Bowl to the east. The closest residential area is more than 600 feet away from the subject site on Roberts Road. No residentially developed properties exist within 300 feet of the subject site as shown on Attachment C; however, the applicant provided mailing notices for the condominiums

on Roberts Road as staff suggested to ensure that the closest residential uses would be notified of the project.

3. Municipal Code and Regulatory Standards: Section 9-4.1001 (b) (12) of the Zoning Code requires a conditional use permit for a restaurant. If uses are conducted outdoors such as the proposed fire pits, seating areas, barbeque and stand, Section 9-4.1002 (h) requires approval of a Use Permit. In addition, approval of a Use Permit is also necessary to allow the parking to be located on the adjacent Sea Bowl property as described in Section 9-4.2812 (b).

4. Use Permit: The Planning Commission shall grant approval of a Use Permit only when all of the following findings are made.

- a. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City;
- b. That the use of building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the Local Coastal Plan; and where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.

5. CEQA Recommendation: The following excerpt is from the California Environmental Quality Act under Article 19. Categorical Exemptions:

15303. New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

The total square footage for the proposed restaurant including the addition is 3,700 square feet which is less than the 10,000 square feet limit for urbanized areas; therefore, the project is exempt from CEQA.

6. Analysis:

Use Permit – Staff believes that the addition of commercial space and conversion of existing space into a new restaurant would not be detrimental to the health, safety, or welfare of person's working or residing in the area or to the general welfare of the City. Although visible from Highway 1, the restaurant is in an isolated location with access limited to Coast Lane and it is surrounded by hills. The only nearby development is Sea Bowl which is a commercial establishment containing bowling lanes, a restaurant, a game room, party facilities, office space and other related uses. The closest residential properties to the north in Rockaway Beach neighborhood and the condominiums to the south along Roberts Road are located on the other side of the hills, more than 300 feet away from the subject site (see Attachment C). The owner of Sea Bowl is also the owner of the subject site and part owner of the proposed restaurant business. Additional issues relating to the proposed restaurant use, parking, outdoor uses, design and signage will be discussed below.

Restaurant Use – Any style restaurant with more than 25 seats in the proposed building would require approval of a Use Permit. The type of restaurant proposed is a sit down style of restaurant with table service serving items for lunch and dinner. Section 9-4.265.1 defines a restaurant as “an eating establishment that sells food primarily for consumption on-site and has more than 1 seat per one hundred fifty (150’) square feet of gross leasable floor area.” Approximately 103 seats are proposed within the restaurant and approximately 36 fixed seats are proposed around the outdoor fire pits. The maximum number of employees proposed during one shift is 10 employees. In summary, the restaurant as proposed is an appropriate use for the site because it is located in a commercial area with adequate parking and will not negatively impact the adjacent commercial use or the residential neighborhoods. Parking as required for the restaurant is provided on the adjacent lot and will be discussed further below.

The Wastewater Division of Public Works expressed concerns during preliminary meetings with the applicant that the existing Sea Bowl restaurant sewer lateral, in which the Surf Spot sewer lateral would join, has had numerous sanitary sewer overflows in the past due to fats, oils, and grease (F.O.G.). Staff believes that an additional source of F.O.G. should not be allowed unless the issue with the existing restaurant at Sea Bowl is addressed by the owner as well as providing an adequate wastewater system for the proposed restaurant. It should be noted here that the owner of Sea Bowl also is owner of the subject site for the proposed restaurant and a partner in The Surf Spot. Thus, staff is suggesting a condition of approval to ensure that the existing problems related to the wastewater system for the Sea Bowl restaurant are not increased by the addition of a new restaurant that will use the same sewer lateral (see condition #11).

Parking – The applicant is proposing to create 50 parking spaces in the adjacent lot that is utilized by Sea Bowl. The 50 spaces are required based on the indoor commercial space but no additional parking has been provided for the outdoor space. The applicant provided a portion of the lease agreement addressing the parking issue on the adjacent property. However, the information provided indicates that 45 parking spaces can be used instead of the required 50 spaces. To address the parking requirement, the language in the proposed lease would have to be modified. The owner of the subject site is the same owner as the Sea Bowl property and he has

expressed willingness to ensure adequate parking on the Sea Bowl site for the proposed restaurant. Thus, staff is recommending a condition of approval requiring that the applicant obtain the use of 50 new parking spaces to be constructed on the Sea Bowl property (see condition #2).

Outdoor Uses – The applicant is proposing to use the 14,800 square foot outdoor area for people to sit by the fire pits, and to enjoy special events. The applicant states that the stage will be used for acoustic performances and weddings. The Building Official calculated that based on the design of the outdoor area, up to 987 customers would be allowed to occupy the outdoor space in addition to the customers dining inside. To address concerns expressed by Engineering regarding the use of the outdoor area and potential increased vehicular traffic through the closest intersection at Highway 1 and Rockaway Beach Avenue, condition #3 is recommended to limit the capacity of the entire project. The 2,092 square feet of customer area within the restaurant is limited to 139 people based on the Building Code requirements. In addition, the closest intersection is impacted by the morning commute from approximately 7 am until 9 am but the proposed restaurant will not be opening until 11 am. Therefore, staff recommends that the capacity for the indoor and outdoor customer area be limited to 278 people, double the number of customers allowed within the restaurant ($139 \times 2 = 278$).

Special events have traditionally been conducted on the site. A month ago, a carnival with several rides operated near the proposed restaurant use for several days. Staff checked with the Police Department after the carnival to ascertain whether there were any complaints and no complaints were filed at the Police Department. Given that the carnival use apparently has not created undue noise or other impacts on the adjacent neighbors, staff believes the outdoor uses of the proposed restaurant will not result in negative impacts to the neighboring residential properties.

One neighbor living on the hill closest to the proposed outdoor uses for the restaurant expressed concern that any chemical accelerants used to start fires in the fire pits or the barbeque might cause contaminated smoke to flow along the hillside and up to the condominiums along Roberts Road. The neighbor requested that the outdoor fires be started with gas. Staff checked with the North County Fire Authority which confirmed that natural gas burns cleaner and would be appropriate to use for outdoor fires. Staff also checked with the applicant and the applicant is willing to use gas to start fires in the fire pits and the barbeque grill. Condition #5 is recommended by staff to address this issue.

Design – Design options are limited because the existing building will be retained and the new addition will be for food preparation area, office space and customer bathrooms. The applicant is proposing to keep the “beach hut” look of the original building which is 18 feet tall and to construct the 15 feet tall addition along the Highway 1 frontage next to the hillside. The addition will have textured stucco and colored bands to add visual interest as encouraged in the Design Guidelines. In addition, the front entrance is emphasized with the use of a porch, overhang and railings that provide relief and variety in design as recommended by the Design Guidelines. Although staff has concerns about the design of the addition and the integration of the addition to the existing building, the project will be minimally visible from the Highway 1 because of the slope of the property.

Signage – Proposed is one wall sign along the Highway 1 frontage on the western wall of the new addition. Although the plans show a freestanding sign on the north elevation adjacent to the entrance to the restaurant, the applicant is not proposing any free standing signs at this time but may return in the future with a proposal for a free standing sign. Staff is recommending a condition of approval to revise the plans accordingly (see condition #4). Any future proposal to erect a freestanding sign will require Planning Commission approval of a sign permit. The proposed wall sign is consistent with the Zoning Code requirements.

7. Summary: In light of the foregoing, staff recommends that the Planning Commission approve the Use Permit, UP-005-09, to allow a new restaurant at 4627 Coast Highway. In staff's opinion, there are sufficient findings to approve the Use Permit for this proposal because adequate parking will be constructed in the adjacent parking lot for use by The Surf Spot and the customer capacity is limited to ensure that additional traffic will not impact the nearby intersection.

RECOMMENDATION AND FINDINGS

B. RECOMMENDATION:

Staff recommends that the Planning Commission **APPROVE** UP-005-09 for an addition and conversion of existing commercial space to operate The Surf Spot restaurant.

Planning Department:

1. Development shall be substantially in accord with the plans entitled "The Surf Spot New Restaurant" consisting of eleven (11) half sheets and sixteen (16) full size sheets, dated July 15, 2009, except as modified by the following conditions.
2. The applicant shall submit proof of a recorded deed restriction, easement or other recorded document demonstrating that the applicant has obtained the right on a permanent basis to use the 50 newly created parking spaces on the Sea Bowl property to the City Attorney's satisfaction.
3. The maximum capacity of the outdoor area shall be limited to 139 people, which is equal to the capacity of the customer area within the restaurant (2,092 square feet of customer area = 139 person capacity). The total capacity for the restaurant, including the indoor customer area and the outdoor area, is 278 people.
4. The applicant shall revise the plans to eliminate the proposed freestanding sign as shown on the plans.
5. The applicant shall use natural gas to power all the outdoor fire pits and the barbeque grill.

6. All trash and recycling materials, if stored outdoors, shall be fully contained and screened from public view within the proposed enclosure. The enclosure design shall be consistent with the adjacent and/or surrounding building materials, and shall be sufficient in size to contain all trash and recycling materials, as may be recommended by the City's solid waste franchise. Trash enclosure and dumpster areas shall be covered and protected from roof and surface drainage. If water cannot be diverted from these areas, self-contained drainage systems that drain to sand filters shall be installed. The property owner shall inspect and clean the filters as needed. Applicant shall provide construction details for the enclosure for review and approval by the Planning Director, prior to building permit issuance.
7. Applicant shall submit a roof plan with spot elevations showing the location of all roof equipment including vents, stacks and skylights, prior to building permit issuance. All roof equipment shall be screened to the Planning Director's satisfaction.
8. All vents, gutters, downspouts, flashing, and conduits shall be painted to match the colors of adjacent building surfaces and shall be specified on the plans. In addition, any mechanical or other equipment such as HVAC attached to or protruding from the building shall be appropriately housed and/or screened to the Planning Director's satisfaction prior to building permit issuance.
9. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
10. The applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City relating to applicant's project including, but not limited to, any Proceeding for personal injury, property damage, or death, or brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and /or any mitigation monitoring program, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and /or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

Wastewater Division of Public Works:

11. Applicant shall calculate, using the Uniform Plumbing Code, the correct sizing of the grease interceptor/trap for the existing restaurant at the Sea Bowl in conjunction with the calculation for the new restaurant, the Surf Spot. If the grease interceptor/trap of the restaurant at the Sea Bowl is undersized per the current Uniform Plumbing Code (UPC) then a properly sized one must be designed and installed per UPC and the approval of the Wastewater Collection Manager prior to building permit issuance for the new restaurant. Applicant shall also install a grease interceptor for the proposed restaurant per the Wastewater Collection Manager's approval and it shall be designed per the UPC standards to the Director of Wastewater's satisfaction.

C. FINDINGS:

1. **Findings for Approval of the Use Permit:** The Planning Commission finds that the proposed conversion and addition of commercial space into a restaurant would not be detrimental to the health, safety and welfare of the persons residing or working in the neighborhood or to the general welfare of the City. Specifically, adequate parking for the restaurant use is provided, the customer capacity is limited to 278 both indoors and outdoors to reduce traffic impacts and the location surrounded by hills will prevent noise impacts to residential neighbors. In addition, the project is consistent with the Zoning Code, General Plan and the Design Guidelines in that it is a commercial project with enhanced entrance provided by retaining the existing porch and the use of textured stucco with colored bands to add visual interest to the proposed lower profile addition.

COMMISSION ACTION

D. MOTION FOR APPROVAL:

Move that the Planning Commission **APPROVE** UP-005-09, subject to conditions 1 through 11, based on findings contained within the August 3, 2009 staff report and incorporate all maps, documents, and testimony into the record by reference.

Attachments: (Planning Commission only)


- A. Land Use and Zoning Exhibit
- B. Email Dated June 21, 2009 from Derek Burns, Manager of the Restaurant
- C. Aerial Map with 300 Foot Radius Shown
- D. Written Descriptions, Plans and Elevations Provided by Applicant (3 pages of narrative on letter paper, 11 pages of photos and plans on half sheets of 11" by 17" in size and 5 pages of full size plans)

CITY OF PACIFICA

AGENDA MEMO

DATE: August 3, 2009

TO: Planning Commission

FROM: Lee Diaz, Associate Planner 

SUBJECT: Agenda Item No. 2: Extension of Use Permit, Site Development Permit, and Coastal Development Permit to August 12, 2013 for the development of 43 residential units (19 single-family detached homes and 24 townhouses) at the 4000 block of Palmetto Avenue (APN: 009-402-250, & -260)

On July 15, 2002 the Planning Commission approved (4-3) the subject permits, including a Vesting Tentative (Condominium) Map, subject to conditions of approval. On July 25, 2002, an appeal of the July 15, 2002 Planning Commission decision to approve the planning permits for the subject project was submitted. The City Council heard the appeal on August 12, 2002 and upheld the Planning Commission decision to approve the permits subject to certain conditions of approval.

On July 7, 2003, the Planning Commission approved (5-1, 1 absent) one (1) year extensions of the above referenced permits (Vesting Tentative (Condominium) Map, Site Development Permit, Use Permit and Coastal Development Permit). The Vesting Tentative (Condominium) Map was originally set to expire on August 12, 2004, and the other three (3) permits were set to expire on August 12, 2003. With this act, the Site Development Permit, Use Permit and Coastal Development Permit were extended to August 12, 2004, and the Vesting Tentative (Condominium) Map was extended to August 12, 2005.

On September 3, 2003 the Planning Commission considered a "litigation stay" request for the Vesting Tentative (Condominium) Map and approved it for up to a five (5) year period. As the result of a combination of the litigation stay and operation of state law, the map was due to expire on August 12, 2010.

As mentioned above, the Use Permit, Site Development Permit, and Coastal Development Permit were extended for one (1) year and were scheduled to expire on August 12, 2004. The Vesting Tentative (Condominium) Map was granted an extension of up to five (5) years because of the litigation stay pursuant to the Government Code sections 66452.6(c) and 66463.5(e). On December 18, 2003, staff received five extension requests for the Use Permit, Site Development Permit and Coastal Development Permit, one after another in order for the next 5 years from the applicant. The Planning Commission approved the request on January 4, 2004. This was the applicant's second extension request.

The applicant is requesting extensions of the Use Permit, Site Development Permit, and Coastal Development Permit which are set to expire on August 12, 2009, to coincide with the expiration date of the Vesting Tentative (Condominium) Map (see attachments 1-2). This is the applicant's third extension request.

The Vesting Tentative (Condominium) Map was extended to 2011 by operation of law due to the enactment of Government Code Section 66452.21 by the California Legislature in 2008. The Governor recently signed AB 333, which extended the life of the existing Vesting Tentative (Condominium) Map by an additional 24 months pursuant to new Government Code Section 66452.22. Thus, the applicant's Vesting Tentative (Condominium) Map will now expire on August 12, 2013. However, the new legislation did not affect the life of the ancillary permits.

The request is being made because the project approval included the Vesting Tentative (Condominium) Map and the accompanying Use Permit, Site Development Permit and Coastal Development Permit. It makes sense that all of the approvals should have the same expiration date. Staff does recommend further extension of the subject permits provided they expire concurrently with the Vesting Tentative (Condominium) Map.

Extension requests are not unusual and are generally granted unless there have been significant changes in conditions or circumstances affecting the project or area. There have not been any changes that would indicate that the extension should not be granted. The applicant is correct that the Vesting Tentative (Condominium) Map is dependent upon the other approved permits. At this time, staff recommends, the Use Permit, Site Development Permit, and Coastal Development Permit be extended until August 12, 2013 or until the Vesting Tentative (Condominium) Map expires, whichever occurs first.

COMMISSION ACTION REQUESTED

Move that the Planning Commission **EXTEND** Use Permit, UP-882-01, Site Development Permit, PSD-699-01, and Coastal Development Permit, CDP-203-01, for the development of 43 residential units at the 4000 block of Palmetto Avenue (APN 009-402-250, & -260) to August 12, 2013.

Attachments:

1. Letter from Applicant, 07/10/09
2. Letter from Applicant, 07/15/09