



CITY OF CARMEL-BY-THE-SEA AGENDA BILL

AB 1167
August 2, 2016
Public Hearing

TO: Honorable Mayor and Members of the City Council
Chip Rerig, City Administrator

FROM: Marc Wiener, Interim Community Planning and Building Director

SUBJECT: Consideration of Use Permit (UP 16-191) application for the establishment of a full-line restaurant in an existing commercial building. The project site is located at the southeast corner of Dolores Street and 7th Ave in the Service Commercial (SC) Zoning District.

AMOUNT OF EXPENDITURE	\$ N/A
AMOUNT BUDGETED	\$ N/A
APPROPRIATION REQUIRED	\$ N/A

RECOMMENDATION

Approve the Use Permit (UP 16-191) application subject to the attached findings and conditions. Use Permit (UP 16-191) supersedes all previous Use Permits issued to the project site.

SUMMARY

BACKGROUND/PROJECT DESCRIPTION

The project site is a 16,000-square foot property located at the southeast corner of Dolores Street and Seventh Avenue (aka 7th & Dolores). The site is developed with two commercial buildings that are a combined 4,671 square feet in size. The site also includes a parking lot that accommodates up to 30 vehicles when parked by valet service. On August 6, 2013, the City Council approved a Use Permit (UP 12-20) application allowing the building to operate as a venue for special events (Community Center) with an allowance for off-site parking at the Sunset Center and Carmel Plaza in order to meet the parking demand. In addition, a second Use Permit (UP 14-19) for live music was approved by the City Council on January 6, 2015, and a third Use Permit (UP 15-282) for general commercial and hotel parking at the site was approved by the City Council on September 1, 2015.

On May 3, 2016, the Council considered a request for a temporary 6-month permit that would allow the site to operate as a business with characteristics of both a restaurant and food store, which the applicant referred to as a "fresh market". The proposed fresh market primarily consisted of pre-packaged food items that would be served in disposable containers. Staff had identified that the proposed "fresh market" use is not permitted by the City's Zoning Code, but supported the request for the temporary permit because it would have allowed the Restaurant Subcommittee to study the proposed business concept. However, several members of the public and restaurant community expressed concern with the proposal, and hence, the Council tabled the item with a request that the applicant return with a more detailed

proposal that is more compliant with the City's Zoning Code and that the Restaurant Subcommittee review the revised proposal.

In response to the Council's direction, the applicant has returned with a proposal for a permanent full-line restaurant at the 7th & Dolores site. The applicant has provided a project overview (Attachment 3) which describes the proposed restaurant as being contemporary and a hub for inspired food culture. A sample menu is provided indicating that the restaurant would serve breakfast, lunch, and dinner. The proposed hours of operation would be from 7:00 a.m. to 10:00 p.m. daily. As depicted on the site plan (Attachment 4), the restaurant would include 75 interior seats, 37 exterior seats, a wine bar, a retail cheese bar, and a large display counter that acts as a point of sale. Staff notes that the original temporary permit included a proposal for a second level mezzanine. This has been eliminated from the revised full-line restaurant proposal. The Restaurant Subcommittee did not have the opportunity to review the revised proposal prior to the staff report being written, however, the subcommittee will review the proposal prior to the August 2nd meeting and staff will provide an update in the presentation.

STAFF ANALYSIS

Restaurant Use Permit: Full-line restaurants require the approval of a Conditional Use Permit by the City. According to CMC Section 17.68.030, full line restaurants provide *"a full line of prepared food and drinks using non-disposable plates, glasses and utensils for immediate consumption on the site. These restaurants provide table service to patrons of all ages who pay after eating. Takeout service may be provided."*

CMC Section 17.14.040.I (3) establishes the criteria for a full-line restaurant. The criteria for a full-line restaurant are listed below with a staff analysis on how the project complies with the requirements.

1. *Customers shall be provided with individual menus while seated at a table or counter.*

Analysis: The applicant has indicated that menus will be provided at all tables, counters and the concierge desk and that patrons can order from their table or directly from one of the three counters. The project description indicates that food will be paid for at the table or at one of the four pay stations prior to the patron leaving the restaurant. The applicant's description does not indicate whether payment is made before or after the food is consumed. Special Condition #7 requires that the food be paid for after consumption and that a menu will be provided, both of which are required by code. Furthermore, the Council may consider restricting the number of pay stations, which are more characteristic of a fast food restaurant and not a full-line restaurant.

2. *Drive-in, formula, and fast food establishments are prohibited.*

Analysis: CMC 17.70.020 defines drive-in, formula food, or fast food as: *"A business where food is consumed on or off the site and food is (1) pre-made and wrapped before customers place orders, and/or (2) served with disposable tableware for on-site food consumption."* The complete definition is included as Attachment 5. The proposed restaurant, as conditioned, would not exhibit characteristics of a drive-in, formula food, or fast food. Meals would be cooked at the site and would be served on tableware from Heath Ceramics. The applicant is proposing a takeout service, which is permitted.

3. *The applications, menus and plans indicate that the business will primarily be a restaurant – full line, and that no more than 20 percent of the total number of seats are at a bar or in a separate bar room.*

Analysis: The applicant is proposing a wine bar located at the northwest corner of the space that includes 7 seats. Municipal Code Section 17.14.040.1.3.d allows full-line restaurants to have a bar with a maximum of 20% of the total seating allowed at the bar. The proposed bar meets this requirement and the sale of alcoholic beverages would be subordinate to the full-service restaurant as addressed in Special Condition #2. Staff notes that while the applicant is proposing to serve wine from the bar, this would be considered a restaurant bar and not a wine tasting room. The applicant could potentially obtain an ABC license to serve beer and other types of spirits from the bar.

4. *Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways.*

Analysis: There is an existing 152-square foot trash storage area located near the rear southeast corner of the property that was constructed when the building was remodeled for the community center. The trash bins are enclosed by a tall wood fence and are shielded from public view. Conditions have been drafted requiring that the trash storage area will meet all the necessary storm-water requirements.

5. *At least one restroom shall be available for use by both sexes within, or conveniently adjacent to, the specific business premises and on the same property on which the use is located. This restroom shall comply with all provisions of the State Uniform Building and Plumbing Codes as to the required size, location and accessibility standards, and shall be available for use by both the employees and patrons of the business.*

Analysis: There is an existing ADA-compliant restroom for both sexes that was constructed when the building was remodeled for the community center.

6. *Substantially all foods from the standard menu shall be available for purchase during the hours that alcoholic beverages are being served except for the first hour and the last hour of each business day.*

Analysis: The applicant has indicated that restaurant would be open between the hours of 7:00 a.m. to 10:00 p.m., with a full menu available at all times.

7. *The maximum seating capacity shall not exceed the standards in the State Uniform Building and Fire Codes, the number of seats approved by the Planning Commission through public review, or the number of seats in the previous business, whichever is less. The seating capacity shall be posted on the premises.*

Analysis: The applicant is proposing a total of 75 interior seats and 37 exterior seats. The applicant will acquire water credits from the Malpaso Water Company to allow for the proposed restaurant. The floor/seating plan will be reviewed as part of the Building Permit Plan Check process for compliance with the State Uniform Building and Fire Code. Staff recommends that the City Council approve the number of seats proposed by the applicant. However, it should be noted that Special Condition #18 states that this limit is a maximum, and may be reduced by the Building Official to meet the State Uniform Building and Fire Codes.

Other Use Permits: The intent is that the site would operate primarily as a restaurant, however, the applicant would like to retain all original Use Permits including:

- Event Center (UP 12-20)
- Live Music (UP 14-19)
- Commercial/Hotel Parking (UP 15-282)

Use Permit (UP 12-20) allows the building to operate as a venue for special events (Community Center) with an allowance for off-site parking in order to meet the parking demand. Off-site parking for larger events occurs at the Sunset Center parking lot and at the Carmel Plaza parking garage through a valet service (currently National Parking and Valet). Staff supports the applicant's request to maintain Use Permit (UP 12-20), but has drafted a condition that would allow a maximum of 12 special events per year (average one event per month). The purpose of this condition is to maintain the use of the site primarily as a full-line restaurant, but still provide an allowance for a limited number of special events. Staff notes that the project description for the new restaurant Use Permit indicates that there will be occasional community education classes, demonstrations and guest speakers. The project authorization included in the special conditions allows this type of activity if the event pertains to food or cooking.

Use Permit (14-19) allows live music at the site between the hours of 12:00 p.m. to 9:45 p.m. daily. Staff supports the applicant's request to maintain this Use Permit, which would allow live music during the hours that the restaurant is open and for special events.

Use Permit (UP 15-282) was granted allowing paid valet parking to the general public and for hotel guests only when special events are not scheduled. This permit was granted by the Council in part, because the site was being underutilized as a community center. A full-line restaurant is a use that will be operated daily and in staff's opinion the parking lot should be utilized by restaurant patrons only and should not be used for general commercial parking or hotel parking. The parking lot currently does not contain any striping as all parking is provided by a valet service. A condition has been drafted requiring that the applicant re-stripe the parking lot and that there be no valet service associated with the restaurant use. A daily valet service will increase traffic activity around the site as vehicles are being shuttled in and out and parked in neighboring locations. The parking lot is large enough to contain approximately 15 to 17 striped parking spaces. CMC 17.38.020 (Table A) states that one parking space is required per 600 square feet of commercial floor area. The two commercial buildings on site are a combined 4,671 square feet in size, and hence, only 8 spaces would be required per the City's code. Staff notes that the vast majority of restaurants in the City do not have any off-street parking and the project site should be able to operate sufficiently without a valet service. A condition has been drafted allowing a valet service for special events only, but not for the daily full-line restaurant use.

The primary use of the site is being converted from a community center to a full-line restaurant, and hence, Use Permit (UP 16-191) supersede all previous Use Permits issued to the site. New Conditions of Approval have been drafted that address the full-line restaurant use, the community center use, and the live music permit allowed under this permit. Staff notes that the original Use Permit conditions for the community center (UP 12-20) and the live music permit (UP 14-19) have been carried over and in certain instances slightly modified to reflect the change in use and eliminate duplicate conditions.

ALTERNATIVES

Staff has prepared draft findings and conditions of approval for Council consideration based on the information submitted by the applicant. As an alternative, the Council could take the following actions:

1. Continue the application with a request for changes.
2. Approve the request with revisions (i.e. reduced pay stations, reduced seating, alternative floor layout, etc.). If the required revisions are substantial, the Council may wish to continue this item to allow the applicant to respond to Council direction.
3. Deny the application request, or a component of the application, and direct staff to prepare findings for denial based on deliberation at the August 2, 2016 public hearing.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from CEQA requirements, pursuant to Section 15332 (Class 32) – In-Fill Developments. The project proposes a new full-line restaurant within an existing 4,671-square foot building. The proposed changes do not present any unusual circumstances that would result in a potentially significant environmental impact. Furthermore, the project meets the following criteria for exemption pursuant to Section 15332 of the CEQA Guidelines.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

PRIOR CITY COUNCIL ACTION

August 6, 2013 – Approval of Use Permit (UP 12-20) – Community Center/Parking Permit
January 6, 2015 – Approval of Use Permit (UP 14-19) – Live Music Permit
September 1, 2015 – Approval of Use Permit (UP 15-282) – Commercial Parking Permit
May 3, 2016 – Tabled Use Permit (UP 16-100) – Temporary Permit for Fresh Market

ATTACHMENTS

1. Findings for Approval
2. Conditions of Approval
3. Project Description
4. Project Plans
5. Formula Food Definition

APPROVED:



Chip Rerig, City Administrator

Date:

7/29/16

