



PLANNING COMMISSION AGENDA REPORT

VI.3

MEETING DATE: FEBRUARY 11, 2008

ITEM NUMBER:

**SUBJECT: PLANNING APPLICATION PA-07-54
1749 NEWPORT BOULEVARD**

DATE: JANUARY 31, 2008

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611**

PROJECT DESCRIPTION

The applicant is requesting approval of a variance to encroach into the required front setback, a conditional use permit to allow sales of alcoholic beverages past 11:00 p.m., as well as live entertainment, within 200 feet of a residential zone; and minor conditional use permits to allow an expanded outdoor seating area and to deviate from shared parking requirements for a proposed restaurant (Aloha Grill).

APPLICANT

The applicant is Gaston Villaba, authorized agent for Mesa Bros. LLC, the owner of the property.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.

Handwritten signature of Mel Lee in black ink.

MEL LEE, AICP
Senior Planner

Handwritten signature of Kimberly Brandt in black ink.

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

The Planning Commission received a staff report for a proposed Hawaiian-themed sit-down restaurant (Aloha Grill) for the January 28, 2008 Planning Commission meeting. On January 24, 2008, the applicant submitted a revised floor plan layout in response to staff issues noted in the report, particularly regarding the placement of a permanent outdoor sit-down bar and the proposed expanded outdoor seating area. Planning Commission continued this item to the February 11, 2008 meeting to allow the revised floor plans to be reviewed by staff.

ANALYSIS

Copies of the original and revised floor plans are attached to this report. A comparison of the floor plans is summarized in the table below:

Original Floor Plan	Revised Floor Plan
A permanent sit-down bar with sinks, coolers, and similar fixtures within the outdoor seating area and underneath a covered roof structure, which also extended across the front of the building.	Permanent sit-down bar area moved to inside the restaurant and covered roof structure over the bar area eliminated; portion of roof structure extending across the front of the building remains (see discussion below).
On-site sale of alcoholic beverages past 11:00 p.m. and live entertainment within 200 feet of a residential zone, limited to inside the restaurant only.	No Change
An expanded outdoor seating area extending over to the adjacent retail store to the north (Black Flies).	Outdoor seating area reduced from 1,678 sq. ft. to 1,258 sq. ft.; interior restaurant space increased from 1,260 sq. ft. to 1,818 sq. ft. As a result, outdoor seating area will not extend beyond the restaurant tenant space.
A minor conditional use permit to deviate from shared parking requirements	No Change

Setback Variance

As noted in the table above, the revised floor plan eliminated the bar from the outdoor seating area and relocated it inside the building; as a result, a variance to allow the bar to encroach into the front building setback is no longer necessary. In addition, the roof structure over the bar was eliminated, although a smaller roof structure proposed across the front of the tenant space remains. This roof structure is set back 5 feet from the front property line at the narrowest point; a 15-foot setback is allowed under Code, so a variance for this portion of the roof is still necessary.

Staff has reviewed the revised plan and notes that strict application of the 20-foot setback requirement would deprive the property owner of privileges enjoyed by other properties in the vicinity, specifically, Golden Truffle and Roman Cucina, which have similar roof structure encroachments within the setback. Because the revised roof structure is consistent with these other roofs, staff believes there is a basis to support the variance for the roof structure encroachment.

Outdoor Seating Area

The revised plan reduces the outdoor seating area from 1,678 sq. ft. to 1,258 sq. ft.; however, the interior restaurant space increases from 1,260 sq. ft. to 1,818 sq. ft. resulting from floor area added to the restaurant from the abutting retail tenant space. As a result, the floor area of the overall restaurant, including indoor and outdoor areas, increases from the 2,930 square feet shown on the original plan to 3,076 square feet on the revised plan, an increase of 146 square feet. However, the outdoor seating area as modified will not extend beyond the expanded restaurant tenant space.

Although the bar has been relocated inside the restaurant space as noted earlier, an outside seating area at the bar is proposed. However, it is staff's opinion that the original recommended condition of approval restricting the bar to a "service bar" only is no longer necessary because the outdoor portion of the bar has been substantially reduced, with the majority of the bar being inside the building. Additionally, only 5 outdoor seats are proposed. Originally the entire bar, with 11 seats, were proposed outdoors.

Deviation from Shared Parking

As indicated earlier, the revised plan increases the floor area from 2,930 square feet to 3,076 square feet. As a result, the required number of on-site spaces increases from 29 spaces to 31 spaces; 16 on-site parking spaces are provided.

To minimize parking impacts on surrounding properties, staff recommended a condition of approval limiting the total square footage of the restaurant and seating area to 2,500 square feet per the approved footprint for Café Ruba. As an alternative, staff is recommending that the applicant provide on-site valet parking for the use in the evening hours. However, because valet parking requires approval of a conditional use permit, which was not included as part of the public notice for this project, staff is recommending a condition of approval requiring the applicant to apply for a separate conditional use permit within 30 days, which will be processed and scheduled as a separate public hearing.

Modification to Conditions Based on Revised Plan

Based on the above issues, staff has modified the conditions of approval in Exhibit "B" as noted in underline and strikethrough below:

6. *The restaurant shall be limited to the type of operation described in this staff report, i.e., a sit-down restaurant with an outdoor seating area ~~with a portable bar that can be moved inside the building, limiting the alcohol sales via the portable outside bar to no sit-down customers,~~ the majority of the bar being inside the building with only 5 bar seats outside of the building, limiting live entertainment to inside of the restaurant only, and restricted outdoor seating area that does not extend beyond the boundary of the restaurant tenant space. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages or provision of entertainment, will*

require approval of an amendment to the conditional use permit, subject to Planning Commission approval.

- ~~23. The permanent outside sit-down bar as shown on the plans shall be eliminated, and a portable outside bar that could be moved inside the building shall be provided. The portable outside bar shall be limited to a "service bar" only (i.e., no serving of alcohol to patrons seated at the bar, only to diners at the tables). Deleted.~~
- ~~24. The combined square footage of the restaurant and the outdoor patio shall not exceed 2,500 square feet. The footprint of the outdoor patio shall not extend beyond the boundary of the restaurant tenant space.~~
26. The applicant shall apply for a separate conditional use permit to provide on-site valet parking no later than 30 days from the date of approval.

Other Issues

The revised plan was reviewed by the Police Department. As indicated in the attached memo, Police have no specific concerns with the proposed use, provided the recommended conditions of approval are complied with.

GENERAL PLAN CONFORMITY

The existing building does not exceed the maximum allowable .30 floor area ratio (FAR) for the site. The use is permitted in the C2 zone, with a conditional use permit, and is therefore, consistent with the General Plan.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the use per the revised plan as proposed by the applicant;
2. Approve the use per the revised plan with modifications; or
3. Deny the use as proposed. If the use is denied, the applicant could not submit substantially the same type of application for six months.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

It is staff's opinion that, based on the revised plans and conditions of approval, the use will not create any adverse impacts on surrounding properties. Therefore, staff supports the use as revised.

Attachments: Draft Planning Commission Resolution
Exhibit "A" - Draft Findings
Exhibit "B" - Draft Conditions of Approval
Police Department Memo
Staff Report for the January 28, 2008 Meeting and Related Exhibits
Original and Revised Floor Plans
Copies of Public Correspondence

cc: Deputy City Manager - Dev. Svs. Director
Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Gaston Villalba
221 Main Street, Suite F
Huntington Beach, CA 92648

Dan Flecky
2206 Windward
Newport Beach, CA 92660

Mesa Bros. LLC
420 McKinley Street
Corona, CA 92879

File: 021108PA0754RevisedPlans	Date: 013108	Time: 9:30 a.m.
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RESOLUTION NO. PC-08-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING PLANNING
APPLICATION PA-07-54**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Gaston Villalba, authorized agent for Mesa Bros. LLC, owner of real property located at 1749 Newport Boulevard, requesting approval of a variance to encroach into the required front setback for an outdoor bar and covered roof structure, a conditional use permit to allow sales of alcoholic beverages and past 11:00 p.m., as well as live entertainment, within 200 feet of a residential zone, a minor conditional use permit to allow an expanded outdoor seating area and to deviate from shared parking requirements for a proposed restaurant; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 11, 2008;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-07-54 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Planning Application PA-07-54 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 11th day of February, 2008.

Donn Hall, Chair
Costa Mesa Planning Commission

EXHIBIT "A"**FINDINGS**

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed use, as conditioned, is compatible and harmonious with uses on surrounding properties.
 2. Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 3. The project, as conditioned, is consistent with the General Plan.
 4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exists to justify the requested variance from front setback requirements. Specifically, strict application of the 20-foot setback requirement would deprive the property owner of privileges enjoyed by other properties in the vicinity which have similar roof structure encroachments within the front setback. Because the roof structure is consistent with other roofs in the area, there is a basis to support the variance for the roof structure encroachment as proposed.
- C. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the use is required to comply with the State Alcoholic Beverage Control (ABC) requirements and the City's recommended conditions of approval for the sale of alcoholic beverages. Amplified live entertainment will be permitted within the restaurant only; no live entertainment, amplified or non-amplified, is proposed in the outdoor patio area. The restrictions for live entertainment for the establishment is similar to restrictions on other establishments with live entertainment in the area. Granting the conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.
- D. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the change in the peak hours of the use as a result of the prior use being a coffee shop versus the proposed restaurant should be minimal based on the availability of parking spaces within the area and on the subject site. Additionally, the applicant is required to apply separately for a conditional use permit to provide on-site valet parking.

Granting the minor conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.

- E. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- F. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng.
1. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
 2. The conditional use permit herein approved shall be valid until revoked. However, the conditional use permit shall expire at the end of one (1) year unless a business license is obtained and/or the business legally commences or the applicant applies for and is granted an extension of time. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is operated in violation of applicable laws or ordinances or, if in the opinion of the Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable. Nothing in this condition shall exempt the applicant from complying with any time limits applied to any construction authorized by this application.
 3. Construction activities shall not occur outside the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. on Saturdays. No construction shall occur on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
 4. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 5. The conditions of approval and ordinance or code provisions of Planning Application PA-07-54 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 6. The restaurant shall be limited to the type of operation described in this staff report, i.e., a sit-down restaurant with an outdoor seating area, the majority of the bar being inside the building with only 5 bar seats outside of the building, limiting live entertainment to inside of the restaurant only, and restricted outdoor seating area that does not extend beyond the boundary of the restaurant tenant space. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages or provision of entertainment, will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
 7. The licensee shall not employ or use the services of any full- or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.
 8. Hours of operation shall be limited to 9:00 a.m. to 2:00 a.m. Fridays

and Saturdays, and 9:00 a.m. to 12:00 midnight Sunday through Thursday.

9. Live entertainment shall only be permitted subject to City issuance of a "public entertainment permit." Contact Code Enforcement at (754-5623) for application information.
10. Live entertainment shall be limited to within the restaurant only; no live entertainment shall be provided in the outdoor patio area.
11. There shall be no live entertainment after 12:00 midnight any day of the week.
12. The rear door shall remain closed during any live entertainment.
13. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
14. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.
15. The opaque portion of the outdoor patio screen wall shall not exceed 48 inches in height. Glass or acrylic panels may be installed on top of the screen wall, not to exceed an overall maximum height of 6 feet. Wall materials shall be subject to approval by the Planning Division.
16. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
17. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
18. There shall be no sales of alcoholic beverages for off-site consumption.
19. At all times the premises is open for business, the sale and service of alcoholic beverages shall be made only in conjunction with the sale and service of food.
20. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The applicant shall at all times maintain records which reflect separately the gross sales of food and gross sales of alcoholic beverages of the business. The records shall be kept no less frequently than on a quarterly basis and shall be made available to the development services director or his/her designee on demand.
21. The restaurant shall remain a "bona fide eating place" as defined by Section 23038 of the California Business and Professions Code.
22. The parking lot shall be posted with signs directing customers and employees to use consideration when entering their cars and leaving the parking lot.
23. Deleted.
24. The footprint of the outdoor patio shall not extend beyond the boundary of the restaurant tenant space.
25. If parking shortages or other parking-related problems arise, the

business operator shall institute whatever operational measures necessary to minimize or eliminate the problem, including, but not limited to, applying for a separate conditional use permit to provide on-site valet parking.

26. The applicant shall apply for a separate conditional use permit to provide on-site valet parking no later than 30 days from the date of approval.

VI.3
PA-07-54

RECEIVED
CITY OF COSTA MESA

FEB - 5 2008

Aloha Grill
221 Main Street Suite F
Huntington Beach CA 92648
714-374-4427 tel
714-536-8849 fax

2/4/08

To: Melvin Lee

Planning Commission

Condition of Approval Number 26 Valet Parking

Should a problem with parking arise, I will be the first to institute whatever measures are necessary, including valet parking; no parking will result in no customers. I feel it is unfair to make me get another c.u.p. I have gone through great measures to resolve any concerns of the planning commission. I have spent considerable amounts of money on redesigning, engineering, and drawing plans. I have been paying rent on this location since July 2007. I was told by planning in August of 2007, that I did not need a c.u.p. If I had known that this was going to drain me financially, I would have walked away. None of the other businesses on the block have valet parking. Now you are asking for more time and money, when this is the only building on the block that has any parking at all. I have been going to the location three to four times a week, and have never had a problem finding parking on the street. This restaurant is fairly small, if you take into consideration the handicapped bathrooms, employee changing room, and kitchen. It is actually smaller than the coffee shop that existed there for 15 years, without valet parking or parking concerns.

Thank you again for your review and consideration.

Sincerely,



Gaston Villalba
Aloha Grill, owner



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**