



PLANNING COMMISSION AGENDA REPORT

VI.1

MEETING DATE: JUNE 23, 2008

ITEM NUMBER:

**SUBJECT: REVIEW OF ZONING APPLICATION ZA-02-55
SUTRA LOUNGE
1870 HARBOR BOULEVARD, SUITE A-200**

DATE: JUNE 12, 2008

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

PROJECT DESCRIPTION

The Planning Division initiated a review of a 2002 minor conditional use permit (Zoning Application ZA-02-55) allowing a full-service restaurant named Sutra Lounge to serve alcoholic beverages past 11:00 p.m. and have live entertainment and dancing.

Chris Pike is the Managing Member of Sutra Lounge. The property is owned by Greenlaw Partners, LLC.

RECOMMENDATION

Modify the minor conditional use permit by adoption of Planning Commission resolution, subject to conditions.

MEL LEE, AICP
Senior Planner

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

Sutra Lounge ("Sutra") is located on the upper level of Triangle Square shopping center, within the City's downtown redevelopment area. The property is bounded on all sides by major streets and commercial businesses. Sutra occupies an approximately 8,800 square-foot space, formerly occupied by Sfuzzi Restaurant.

Zoning Application ZA-02-55 was approved for Sutra, which was originally proposed to be named Fugu Restaurant. The approval was for a minor conditional use permit to allow the following:

- Sale of alcoholic beverages for on-site consumption after 11:00 p.m.;
- Live entertainment; and
- Dancing.

Sutra is located on the same level as two other restaurants - Yardhouse and Chronic Cantina. Chronic Cantina's minor conditional use permit, like Sutra, allows alcohol sales, live entertainment, and dancing past 11:00 p.m. The minor conditional use permit for Yardhouse allows alcohol sales past 11:00 p.m., but no live entertainment or dancing.

The major dates related to the approval, construction, opening and operation of Sutra is summarized in the table below. The attachments cited below and throughout this report are attached in sequence at the end of this report.

SUTRA LOUNGE TIMELINE	
August 29, 2002	Approval of ZA-02-55 granted by Zoning Administrator (Attachment 3).
December 2002	Permits for demolition and interior remodel work issued by Building Safety Division.
February 2003	Demolition and construction work commences.
October 2003	Construction work continues after a new contractor is hired to complete the project.
June 2004	Sutra opens to the public. A separate public entertainment permit for live entertainment is also issued by the City, subject to annual renewals. See Attachment 5 for a description of the public entertainment permits issued to Sutra and the permit renewal dates.
April 2005	In response to noise complaints and security issues documented by the Police Department, Planning staff performs a joint inspection of Sutra with area patrol officers. During the inspection, staff reviewed the conditions of approval for ZA-02-55 with Mr. Rob Stevens, the manager of Sutra (Attachment 6).
June 2005	In follow up to staff's April inspection, Mr. Stevens provides a copy of Sutra's security and noise reduction plan to Planning staff (Attachment 7). Staff also advises Sutra management in a letter dated June 28, 2005 that the public entertainment permit issued by the City did not allow "go-go" dancers and a "burlesque" type show in response to an incident documented by the Police Department (Attachment 8).

August 2005	In response to a request by staff, Sutra management submits documentation showing a ratio of 52% food sales and 48% alcohol sales covering January 2005 through August 2005 per condition of approval number seven of <u>ZA-02-55 (Attachment 9)</u> .
October 2005	In response to a follow-up letter from staff, Sutra management provides a letter stating that Sutra is being operated in compliance with the other remaining conditions of approval for <u>ZA-02-55 (Attachment 10)</u> .
January 2007	In response to a request by the City Attorney, staff requests Sutra management to submit food and alcohol sales information for 2006. Sutra management does not respond to this request (<u>Attachment 11</u>).
September 2007	To address the problems related to Sutra's operation, the public entertainment permit is renewed with additional conditions of approval noted in <u>Attachment 12</u> , including: <ul style="list-style-type: none"> • Restricting service of alcohol by the bottle; • Requiring servers to stop alcohol service to intoxicated patrons; • Requiring security guards provide State-issued identification; • Requiring security guards to wear clothing clearly identifying them as security; and • Provide a working video surveillance system.
April 2008	In response to a request by staff dated December 12, 2007, Sutra management submits documentation showing the ratio of food sales to alcohol sales for 2007 (<u>Attachment 13</u>). See discussion under the Conditions of Approval section of this report.

REVIEW ANALYSIS

Municipal Code Section 13-29(o) (Enforcement Authority) allows the Commission to modify or revoke a planning or zoning application if the following conditions are found to apply:

1. The use constitutes a public nuisance; or
2. The use does not comply with the conditions of approval.

Police Issues

Calls for police service related to an establishment within the City of Costa Mesa are logged and recorded by the Police Department. According to Police Department records, Sutra generated 89 calls for police service for incidents between June 1, 2007 and May 14, 2008. Of the 89 incidents, about half (45) involve activity after 11:00 p.m. Additional details about the calls for service are provided in Attachment 1.

The Police Department also compared the calls for service for Sutra with other establishments in the City, which is summarized in the following table:

NUMBER OF CALLS FOR POLICE SERVICE FROM 6/1/07 TO 5/14/08				
	Sutra Lounge 1870 Harbor Blvd., Suite A-200	Chronic Cantina 1870 Harbor Blvd., Suite A-210	Pierce Street Annex 330 E. 17 th St.	Club Vegas 1901 Newport Blvd., Suite 11 (1)
Total	89	69	28	51
Average Per Month	7.4	5.75	2.3	4.25

(1) Club Vegas Closed 5/15/08

The Police Department notes that the bulk of the incidents and calls for police service at Sutra include 27 calls for disturbances, fights, and drunk in public, as well as 15 calls for assault and battery, and 13 arrests for patrons driving under the influence (DUI). As noted in the table above, the Police Department also compared the calls for police service with Chronic Cantina, Pierce Street Annex, and Club Vegas (now closed) and found the overall number of calls for police service to Sutra exceeds the calls to the other establishments. In terms of calls for disturbances, fights, and drunk in public calls, the calls for Chronic Cantina were actually more (35), probably due to the proximity of the two establishments within Triangle Square.

It is staff's opinion that, based on the information provided by the Police Department, there is a correlation between the number and nature of the calls for service in the evening hours to the excessive alcohol service as discussed in the next section. This, coupled with the lack of adequate security measures by Sutra management, results in an ongoing demand to deploy multiple police units to deal with Sutra's incidents, reducing the ability of patrol officers to respond to other calls for service in the community.

Conditions of Approval

The conditions of approval for Sutra allow alcoholic beverages to be served past 11:00 p.m. and live entertainment and dancing to occur, but with the intent of the business being operated as a restaurant. The specific conditions of approval are as follows:

- 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 (Attachment 3, condition number 6).
- The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period (Attachment 3, condition number 7).

Staff requested an audit of the ratio of food sales to alcohol sales for calendar year 2007, which was provided by Mr. Chris Pike, representing Sutra's current management (Attachment 13). The audit, dated March 7, 2008, indicates a 52% food sales versus 48% alcohol sales prior to 10:00 p.m., however, when the food and alcohol sales after 10:00 p.m. are included the overall ratio is 26% food sales to 74% alcohol sales. The operation of Sutra is clearly not in compliance with condition of approval number 7.

Additionally, staff believes there are other indications that the operation of Sutra after 10:00 p.m. changes to a nightclub operation than a restaurant, specifically, the following:

- Patrons are queued in a line to enter the establishment;
- Patrons are required to show identification prior to entering;
- Security and bouncers are provided;
- Food service is limited or entirely eliminated;
- Ticketed events such as the ones shown in Attachment 14 are advertised on Sutra's website; and
- Articles in local newspapers and magazines frequently refer to Sutra as a nightclub (Attachment 15).

STAFF RECOMMENDATION

It is staff's opinion that the current operation of Sutra does not comply with the conditions of approval for the ratio of alcohol sales to food sales required for restaurant uses, and constitutes a public nuisance based on the calls for Police service generated by the establishment, thereby necessitating modification of the minor conditional use permit pursuant to Municipal Code Section 13-29(o) (Enforcement Authority).

Staff believes Triangle Square could be an appropriate location for a nightclub because it is not located near any residentially-zoned property, if the business was properly managed and operated. The business owner has cited numerous reasons to staff for his past inability to comply with conditions of approval of the current City permits, but he has indicated a willingness to comply with all the conditions, with the exception of condition number 7 of the minor conditional use permit. This condition requires the quarterly gross sales of alcoholic beverages to not exceed food and meals sales. Staff concurs with the business owner that this condition is not achievable because the establishment primarily functions as a nightclub and is not open during the day for lunch.

Staff is recommending the minor conditional use permit be modified to recognize nightclub activities with the following new conditions of approval:

1. Immediately suspend live entertainment and dancing at the establishment, until such time the business owner has demonstrated to the City Manager and Police Chief that the establishment shall operate in compliance with the conditions of approval of the existing public entertainment permit, as stated in the City Manager's letter dated September 25, 2007 (Attachment 12). The live entertainment and dancing activities shall not recommence until such time the City Manager provides written acknowledgement that the conditions of approval of the public entertainment permit have been met and authorizes the live entertainment and dancing activities. The Planning Commission shall review the minor conditional use permit six months after the live entertainment and dancing activities recommence.
2. Prior to the commencement of live entertainment and dancing activities, all management personnel and employees that serve alcoholic beverages shall receive Responsible Beverage Service (RBS) training. Documentation of the RBS training shall be provided to the Development Services Director. In addition,

all future management personnel and employees that serve alcoholic beverages shall receive RBS training prior to serving any alcoholic beverages.

3. The minor conditional use permit may be referred to the Planning Commission for modification or revocation 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 Development Services Director's opinion, any of the findings upon which the approval was based are no longer applicable.

Furthermore, staff is recommending deletion of the following two conditions of ZA-02-55:

Condition number 6:

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.

Condition number 7:

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.

GENERAL PLAN CONFORMITY

The use is permitted, with a minor conditional use permit, in the PDC zone. However, in order to ensure the use is not disruptive to the surrounding neighborhood (Objective LU-1F), the use is must be operated in compliance with the conditions of approval of all City permits.

ALTERNATIVES

In addition to staff's recommendation above, the Commission may consider the following alternatives:

1. Modify the minor conditional use permit to permanently eliminate live entertainment and dancing. The result will allow the business to operate as a restaurant serving alcoholic beverages after 11 p.m., similar to the Yardhouse. This would render the existing public entertainment permit invalid because live entertainment and dancing would not be permitted.
2. Revoke the minor conditional use permit, which would require the establishment to close at 11 p.m., similar to Mimi's Café, across the street from the center. This would also render the existing public entertainment permit invalid because live entertainment and dancing would not be permitted.
3. Take no action to modify or revoke the minor conditional use permit and direct the business owner to comply with the current conditions of approval for the minor conditional use permit for the ratio of food sales to alcohol sales. Commission could

direct staff to bring back the minor conditional use permit for another review in six months.

If alternatives one or two is selected by the Commission, staff recommends that the item be continued to the July 28, 2008, meeting to prepare the appropriate resolutions.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15321 for Enforcement Actions by Regulatory Agencies.

CONCLUSION

Based on the problems related to the operation of Sutra, staff is recommending modification to the minor conditional use permit to suspend live entertainment and dancing until it can be demonstrated the establishment can be operated in compliance with the conditions of approval.

- Attachments:
1. Police Department Memo
 2. Draft Planning Commission Resolution
 3. Zoning Administrator Decision Letter for ZA-02-55
 4. Project Description Submitted by Applicant for ZA-02-55
 5. Summary of Entertainment Permits Issued to Sutra
 6. Sutra Inspection Memo
 7. Sutra Security and Noise Plan
 8. Letter to Sutra Regarding "Go-Go" Dancers
 9. 2005 Sutra Audit of Food and Alcohol Sales
 10. Letter from Sutra Regarding Conditions of Approval
 11. Request for 2006 Sutra Audit of Food and Alcohol Sales
 12. Letter to Sutra Regarding Entertainment Permit Renewal
 13. 2007 Sutra Audit of Food and Alcohol Sales
 14. Sutra Web Site Pages
 15. Sutra Newspaper and Magazine Articles
 16. Zoning/Location Map and Approved Conceptual Plans for ZA-02-55

cc:

- City Manager
- Deputy City Manager - Dev. Svs. Director
- City Attorney
- Deputy City Attorney
- Greg Palmer, City Prosecutor
- Chief of Police
- Capt. Les Gogerty, Costa Mesa Police
- Lt. Paul Dondero, Costa Mesa Police
- City Engineer
- Fire Protection Analyst
- Staff (4)
- File (2)

Chris Pike
1599 Superior Avenue, Suite A-1
Costa Mesa, CA 92627

Sutra Lounge
1870 Harbor Boulevard, Suite A-200
Costa Mesa, CA 92628

Greenlaw Partners, LLC
4750 Von Karman Avenue
Newport Beach, CA 92660

File: 062308ZA0255Review	Date: 061208	Time: 10:15 a.m.
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ATTACHMENT 1

COSTA MESA POLICE DEPARTMENT

MEMORANDUM

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

TO: Captain Gogerty
FROM: Lieutenant Dondero
SUBJECT: Sutra Lounge Statistical Update
DATE: May 27, 2008

MAY 28 2008

The following statistics cover the dispatched calls for service as well as other generated incidents related to Sutra Lounge, 1870 Harbor Boulevard, Suite A200. These statistics were compiled utilizing Computer Aided Dispatch (CAD) data, searches of the InfoTrack Investigative Query (IIQ) using the context word "Sutra" and incident information entered in the notes section of the Sutra Lounge COPPS project database. The date range covered in this analysis is June 1, 2007 through May 14, 2008 (approximately one year).

There were a total of **89 incidents** related to Sutra Lounge during that timeframe, an **average of 7.4 per month**. Of the 89 incidents, about half (45) involved activity after 2200 hours.

Number of incidents by type:

- 27 Calls classified as a 415 (disturbance), fight, 919 (keep the peace), 925 (suspicious circs) or 647F (drunk in public). Includes (1) warrant arrest.
- 15 Calls classified as an assault/battery or assault with a deadly weapon. This includes (1) battery on a peace officer.
- 13 Arrests for driving under the influence (DUI) involving Sutra patrons.
- 9 Theft related incidents
- 5 Property related incidents (including vandalism)
- 6 Alarm related responses
- 1 Incident involving a controlled substance (cocaine)
- 2 Incidents involving counterfeit bills

- 4 Incidents involving a fall or person down
- 3 911 calls
- 4 Patrol checks (logged)

Number of incidents by month:

- 5 June 2007
- 9 July 2007 (Includes 2-battery, 1-disturbance and 2-fights)
- 6 August 2007 (Includes 1-battery, 2-disturbance, 1-keep the peace, 1-drunk)
- 12 September 2007 (Includes 1-fight, 2-suspicious circs, 1-keep the peace, 3-disturbances)
- 5 October 2007 (Includes 1-battery)
- 9 November 2007 (Includes 1-fight, 1-ADW, 1-fall victim and 1-keep the peace)
- 8 December 2007 (Includes 2-battery, 2-drunks, 2-fights, 1-disturbance)
- 6 January 2008 (Includes 1-battery on officer, 1-drunk, 1-disturbance)
- 7 February 2008 (Includes 2-fights, 1-person down)
- 4 March 2008 (Includes 1-battery, 1-person passed out)
- 8 April 2008 (Includes 3-battery, 1-vandalism, 1-drunk)
- 10 May 2008 (Includes 3-battery, 1-drunk, 1-unknown trouble, 1-911)

The activity attributed to Sutra Lounge remains high and has a negative impact on the complex requiring frequent police involvement, particularly on the weekends. For regular patrol checks and general incident responses related to Sutra Lounge, two police units are sent. Oftentimes, multiple police units are necessary to respond based upon the nature of the call received. Frequently, follow up calls are received requiring officers to respond back or remain longer to prevent reoccurrences. The bulk of the activity appears to correlate directly to excessive alcohol service/consumption and a lack of adequate security measures by Sutra management. As a result, Police Department personnel are not as readily able to address other problems in the surrounding community.

For comparison, statistics reflecting calls for service and other generated incidents at three other popular Costa Mesa nightclubs, Chronic Cantina, Pierce Street Annex and Club Vegas were gathered. Chronic Cantina is also located in the Triangle Square complex, directly next to Sutra Lounge. Pierce Street Annex, located at 330 East 17th Street and Club Vegas, though recently closed, was located at 1901 Newport Boulevard. These statistics cover the same June 1, 2007 through May 14, 2008 date range.

Chronic Cantina:

Total number of incidents: **69** Average per month: **5.75**

Of these, **35** were classified as a disturbance, fight, keep the peace, suspicious circumstances or drunk. An additional **12** were classified as an assault/battery and **4** involved patrons from Chronic Cantina arrested for DUI.

Pierce Street Annex:

Total number of incidents: **28** Average per month: **2.3**

Of these, **16** were classified as a disturbance, fight, keep the peace, suspicious circumstances or drunk. Only one (**1**) was classified as an assault.

Club Vegas:

Total number of incidents: **51** Average per month: **4.25**

Of these, **17** were classified as a disturbance, fight, keep the peace, suspicious circumstances or drunk. Two (**2**) were classified as an assault/battery. There were **6** theft related calls and one (**1**) suicide involving a patron of Club Vegas who had jumped from the parking structure. This business recently closed.

With regard to both Sutra Lounge and Chronic Cantina, the following should be noted when evaluating total calls for service. With the exception of certain special events, Sutra Lounge is open only five days a week. The business operates as a nightclub until 2:00 a.m. only on Thursday, Friday and Saturday nights. Sutra is open only for dinner from 6:00 p.m. until 10:00 p.m., Wednesday through Sunday. Chronic Cantina is open daily from 11:00 a.m. until 2:00 a.m., closing earlier only on evenings when business is slow.



PAUL DONDERO

Lieutenant

ATTACHMENT 2

RESOLUTION NO. PC-08-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA MODIFYING ZONING APPLICATION
ZA-02-55**

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

WHEREAS, on August 29, 2002, the Zoning Administrator approved Zoning Application ZA-02-55, a minor conditional use permit allowing a full-service restaurant currently named Sutra Lounge to serve alcoholic beverages past 11:00 p.m. and have live entertainment and dancing, located at 1870 Harbor Boulevard, Suite A-200, in a Planned Development Commercial (PDC) zone; and

WHEREAS, a review was conducted at a duly noticed public hearing held by the Planning Commission on June 23, 2008; and

WHEREAS, the purpose of the review is to modify the minor conditional use permit as it pertains to live entertainment and dancing, because the current operation of Sutra Lounge has expanded beyond its original approval as a full-service restaurant and operates primarily as a nightclub in the later evening hours.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **APPROVES AS MODIFIED** Zoning Application ZA-02-55 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 Zoning Application ZA-02-55 and upon applicant's compliance with each and all of the conditions as modified 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 23rd day of June, 2008.

Donn Hall Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Kimberly Brandt, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on June 23, 2008, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS (MODIFICATION TO CONDITIONS):

A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use is substantially compatible with developments in the same general area, provided the modified conditions of approval are complied with. Granting the minor conditional use permit with the modified conditions of approval will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, Code Section 13-29(o) (Enforcement Authority) allows the Commission to modify a zoning application if the use constitutes a public nuisance, or the use does not comply with the conditions of approval. The modification to this zoning application is necessary because the current operation has expanded beyond its original approval as a full-service restaurant and operates primarily as a nightclub in the later evening hours, resulting in 89 calls for police service between June 1, 2007 and May 14, 2008. Of the 89 incidents, about half (45) involve activity after 11:00 p.m. The bulk of the incidents and calls for police service at Sutra include 27 calls for disturbances, fights, and drunk in public, as well as 15 calls for assault and battery, and 13 arrests for patrons driving under the influence (DUI). The Police Department also compared the calls for police service for this establishment with similar establishments in the area, and found the overall number of calls for police service to Sutra exceeds the calls to other establishments. The original approval for Sutra Lounge to serve alcoholic beverages past 11:00 p.m. and have live entertainment and dancing included conditions of approval requiring: (1) that 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, and (2) the quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The ratio of food to alcohol sales for calendar year 2007 indicates an overall 26% food sales to 74% alcohol sales. Additionally, there are other indications that the operation of Sutra Lounge after 10:00 changes to more of a nightclub than a restaurant, specifically, the following:

- Patrons are queued in a line to enter;
- Patrons are required to show identification prior to entering;
- Security and bouncers are provided;
- Food service is limited or entirely eliminated;
- Articles in local newspapers and magazines frequently refer the Sutra Lounge as a nightclub;
- Ticketed events are advertised on Sutra's website.

Granting the minor conditional use permit with the modified conditions of approval will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property. Specifically, the property could be an appropriate location for a nightclub use because it is not located near any residentially-zoned property, if the business was properly managed and operated, and the modified conditions of approval are complied with.

- B. The use, with the modified conditions of approval, complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The use is compatible and harmonious with uses both on-site as well as those on surrounding properties, provided the modified conditions of approval are complied with.

- b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The use is consistent with the General Plan, provided the modified conditions of approval are complied with.
 - d. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. 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 15321 for Enforcement Actions by Regulatory Agencies
- D. 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 (AS A NIGHTCLUB)

Plng. The following conditions of approval for ZA-02-55 shall continue to be complied with as modified herein:

1. Hours for customer service shall not extend beyond 2:00 a.m. Any change to the operational characteristics including, but not limited to, hours of operation, sales of alcoholic beverages or provision of live entertainment, shall require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.
2. 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. For purposes of calculation of occupant load, any open patio areas shall be considered to be part of the enclosed building area.
3. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
4. 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.
5. There shall be no sales of alcoholic beverages for off-site consumption.
6. ~~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. Deleted~~
7. ~~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. Deleted~~
8. The restaurant shall remain a "bona fide eating place" as defined by section 23038 of the California Business and Professions Code.
9. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
10. Valet parking shall comply with the requirements of Planning Application PA-93-14.
11. A copy of the conditions of approval shall be kept on the premises and presented to any authorized City Official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

The following new conditions of approval shall be complied with:

12. Live entertainment and dancing shall be immediately suspended at the establishment, until such time the business owner has demonstrated to the City Manager and Police Chief that the establishment shall operate in compliance with the conditions of approval of the existing public entertainment permit, as stated in the City Manager's letter dated September 25, 2007. The live entertainment and dancing activities shall not recommence until such time the City Manager provides written acknowledgement that the conditions of approval of the public entertainment permit have been met and authorizes the live entertainment and dancing activities. The Planning Commission shall review the minor conditional use permit six months after the live entertainment and dancing activities recommence.
13. Prior to the recommencement of live entertainment and dancing activities, all management personnel and employees that serve alcoholic beverages shall receive Responsible Beverage Service (RBS) training. Documentation of the RBS training shall be provided to the Development Services Director. In addition, all future management personnel and employees that serve alcoholic beverages shall receive RBS training prior to serving any alcoholic beverages.
14. The minor conditional use permit may be referred to the Planning Commission for modification or revocation 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 Development Services Director's opinion, any of the findings upon which the approval was based are no longer applicable.

VI.1
ZA-02-55



RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

JUN 19 2008

June 19, 2008

Costa Mesa Planning Commission
77 Fair Drive
Costa Mesa, CA 92627

Attn: Planning Commission and Staff

My name is Chris Pike and I am the Managing Member of Fugu Entertainment, LLC which is doing business as Sutra Lounge. I took over operational control of Sutra Lounge in June of 2007. I have been in the restaurant business, as well as the nightclub business, for over twenty years. Despite my years of experience it was difficult to quickly acclimate myself to the operation of Sutra Lounge and begin to effectuate changes. The previous operations manager, Rob Stevens, was diagnosed with lung cancer and was only lucid for about two hours out of the day. This made it hard to get questions answered and responsibilities transferred. Unfortunately, Rob Stevens passed away in August of 2007.

I am an operator that understands the importance of complying with the conditions of a use permit. I own another restaurant in Hermosa Beach called Sangria, and I am co-chairman of the Hermosa Beach Restaurant Association. The primary function of that organization is to stress C.U.P. compliance among its members and to address problems within our community.

I have received the Planning Commission Agenda Report for the meeting dated June 23, 2008. Per the Staff's Recommendation as stated in the report, Fugu Entertainment, LLC dba Sutra Lounge will be in compliance with the existing public entertainment permit as stated in the City Manager's letter dated September 25, 2007. Further, the management personnel and employees that serve alcoholic beverages have received Responsible Beverage Service (RBS) Training. Kathy Kendrick (MPH, CHES) with the County of Orange Health Care Agency, Alcohol and Drug Education and Prevention Team (ADEPT), conducted the training curriculum at Sutra Lounge on Monday June 16, 2008.

Sutra Lounge will continue to comply with the conditions as set forth, and I am in agreement with Condition number 6 and Condition number 7 listed under Staff Recommendation. I am, however, concerned by the report listed in Attachment 1. An attempt was made on Tuesday June 17 to procure detailed police reports regarding each incident, but we were denied access to any information more than one month old. I take these incidents very seriously and take full responsibility for the incidents that have occurred since I have taken over operational control of this company. I have taken many measures to mitigate these problems in an attempt to reduce the number of police calls made to Sutra Lounge. However, I do not want to be held accountable for incidents that were not the responsibility of Sutra Lounge.

I have some concerns regarding the accounting methodology of some of these reports listed in Attachment 1 and I question the accuracy of the total number of police calls that are actually the direct responsibility of Sutra Lounge. Some of the calls for police service listed therein were simply due to disgruntled individuals that were either unable to gain access, or were removed from the establishment because of intoxication. These individuals then decided to call the police in an attempt to harass Sutra Lounge and the staff responsible for their removal. Other incidents that involved assaults or injuries were often due to the customers own violence, poor judgment or negligence. If the Planning Commission decides that they are inclined to adopt the alternatives listed in the Planning Commission Agenda Report, I believe it would be due to the incomplete nature of the content listed in Attachment 1. Should the Planning Commission be so inclined, then I would request that we be provided the actual police reports relating to the incidents listed in Attachment 1, and that Sutra Lounge be given a continuance to prepare further.

I hope that the Planning Commission will also keep in mind that almost none of these police calls were generated from the surrounding community. These calls were generated from within the establishment for incidents that often involved two or more patrons who made the choice themselves to become a problem.

It is my sincere desire to maintain Sutra Lounge as a member of the community in good standing. I believe that the staff's recommendations will be an adequate remedy for the problems that have occurred in the past and I hope the Planning Commission will resolve to adopt them.

I thank you for your time and consideration.

Sincerely,



Chris John Pike
Managing Member,
Fugu Entertainment, LLC dba Sutra Lounge



CITY OF COSTA MESA

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DEVELOPMENT SERVICES DEPARTMENT

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