



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE: Fish Restaurant Resolution of Denial.

RECOMMENDED MOTION:

Adopt the attached resolution denying Conditional Use Permit 07-002 for an exception to the Marinship Specific Plan to allow total of 120 seats at Fish restaurant.

BACKGROUND AND DISCUSSION

On May 5, 2009, the City Council directed staff to prepare a resolution denying the request for an exception to the Marinship Specific Plan to allow 50 additional seats, for a total of 120 indoor/outdoor seats, at Fish restaurant, 350 Harbor Drive.

The attached resolution has been prepared for the City Council's consideration and approval.

FISCAL IMPACT

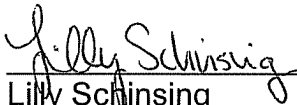
No fiscal impact.

RECOMMENDATION


Adopt the attached resolution denying Conditional Use Permit 07-002 for an exception to the Marinship Specific Plan to allow total of 120 seats at Fish restaurant.

ATTACHMENT: Draft Resolution

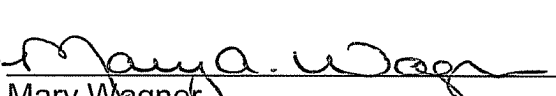
PREPARED BY:


Lilly Schinsing
Associate Planner


REVIEWED BY:


Jeremy Graves, AICP
Community Development Director

REVIEWED BY:


Mary Wagner
City Attorney

SUBMITTED BY:


Adam W. Politzer
City Manager

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Meeting Date: 5/26/09 6-9-09
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RESOLUTION NO. X-X

**RESOLUTION OF THE SAUSALITO CITY COUNCIL
DENYING AN EXCEPTION TO THE MARINSHIP SPECIFIC PLAN
FOR ADDITIONAL 50 ADDITIONAL SEATS FOR FISH RESTAURANT
AT 350 HARBOR DRIVE
(CUP 07-002)**

WHEREAS, Section 10.28.050.F of the Zoning Ordinance allows for City Council approval of Minor exceptions to the development standards or definitions of use established by the Marinship Specific Plan that do not alter the general development programs of the Plan; and

WHEREAS, an application has been filed by applicant, Fish restaurant on behalf of property owners Clipper Yacht Harbor, requesting City Council approval of an exception to the Marinship Specific Plan for eight (8) additional indoor and forty-two (42) additional outdoor seats at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on February 11, 2009 and March 4, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the project plans titled "Fish" and date-stamped received on January 26, 2009; and

WHEREAS, on March 4, 2009, the Planning Commission adopted Planning Commission Resolution 2009-17 which recommended City Council approval of an exception to the Marinship Specific Plan for eight (8) additional indoor and forty-two (42) additional outdoor seats at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the City Council conducted duly-noticed public hearing on May 5, 2009, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council received and considered oral and written testimony on the subject application; and

WHEREAS, the City Council reviewed and considered the information contained in the February 11, 2009 and March 4, 2009 Planning Commission Staff Reports regarding the proposed project and the May 5, 2009 City Council Staff Report regarding proposed project; and

WHEREAS, the City Council reviewed and considered the project's compliance with the Sausalito General Plan, Marinship Specific Plan and Zoning Ordinance.

NOW, THEREFORE, THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

The City Council denies an exception to the Marinship Specific Plan to allow eight (8) additional indoor and forty-two (42) additional outdoor seats, for a total of 56 indoor seats and 64 outdoor seats at Fish restaurant, 350 Harbor Drive, on the basis of the attached findings.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito City Council on the ___ day of _____, 20___, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

Mayor Jonathan Leone

ATTEST: _____
Debbie Pagliaro
Deputy City Clerk

EXHIBIT: Findings

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EXHIBIT - FINDINGS

1. CONSISTENCY WITH THE GENERAL PLAN

The proposed project is **not** in conformity with Land Use Policy 4.2 established in the General Plan.

LU-4.2 Marinship Waterfront Uses. "Promote those marine industrial oriented uses that require waterfront locations and ensure the preservation of the existing general industrial uses found in the Marinship waterfront area."

The requested exception for the intensification of restaurant use does not promote marine industrial oriented uses. Furthermore, the requested exception for an additional 50 seats, a total of 120 seats, does not ensure the preservation of the existing general industrial uses found in the Marinship waterfront area. The expanding restaurant use threatens the Maritime businesses in the area. Therefore, the project is not in conformity with General Plan Land Use Policy 4.2.

2. CONSISTENCY WITH THE MARINSHIP SPECIFIC PLAN

The proposed project is **not** in conformity with the Marinship Specific Plan Goals established by the Marinship Specific Plan, Section 2: Development Objectives.

Goal 2. "Preserve and enhance the industrial character and use of the Marinship."

*The Waterfront ("W") Zone of the Marinship Specific Plan specifies that "Small-Scale Eating Establishments" with limited dining on the premises shall not exceed 20 seats. The requested exception for intensification of a commercial restaurant use to allow 120 seats is out of character with the Marinship and **will negatively impact** the existing industrial character of the area.*

3. CONSISTENCY WITH THE ZONING ORDINANCE

The proposed project is **not** in conformity with the Purpose and Intent of the Marinship Overlay District established in the Zoning Ordinance Section 10.28.050.A.3,4 and 5.

A.3. "To preserve and enhance the industrial character and use of the Marinship area."

*As discussed above, the Waterfront ("W") Zone of the Marinship Specific Plan specifies that "Small-Scale Eating Establishments" with limited dining on the premises shall not exceed 20 seats. The requested exception for intensification of a commercial restaurant use to allow 120 seats is out of character with the Marinship and **will negatively impact** the existing industrial character of the area.*

A.4 "To preserve the Marinship area's primary orientation of the use and service of Sausalito residents, rather than tourists."

Over the years Fish restaurant has become a destination restaurant. The Marinship Specific Plan states that Small-Scale Eating Establishments in the Waterfront Zone are

to cater to employees and patrons of the businesses in the Marinship. The requested exception for 50 additional seats (for a total of 120 seats) increases the intensity of the restaurant use and encourages use by persons outside the Marinship. Therefore, the exception does not preserve the Marinship area's primary orientation of the use and service of Sausalito residents. Rather, the exception is primarily oriented for the tourist population.

A.5 "To discourage the development of non-industrial commercial businesses that would displace industrial and marine business, or that would disproportionately contribute to traffic generation"

A traffic impact analysis has not been completed to analyze the traffic impact of the additional seats. Therefore, it is unknown if the exception will result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway and therefore the finding cannot be made that the exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

4. EXCEPTION TO THE MARINSHIP SPECIFIC PLAN FINDINGS

The proposed project is **not** in conformity with the required Exception to the Marinship Specific Plan Findings established in the Zoning Ordinance Section 10.28.050.F.2.a-e as discussed below.

a. "The exception requested addresses an implementation measure of the Marinship Specific Plan and not a policy essential to achieving the goals of the Plan."

*The goals of the Marinship Specific Plan are to encourage the marine-industrial character of the Marinship and the requested exception for an additional 50 seats, a total of 120 seats, impinges upon these goals. A large, upscale restaurant **does not** maintain or encourage the industrial character of the Marinship.*

b. The exception is needed to accommodate changed economic or operational circumstances affecting preferred uses described in the Plan which were not or could not have been foreseen when the Plan was adopted.

*The applicant maintains that the inclement weather at the site is an operational circumstance that has changed since receiving approval for an exception in 2004. The weather patterns on the Sausalito Waterfront have not changed since 2004 and therefore operational circumstances at the site **have not** changed.*

c. The exception furthers the intent of one or more goals of the Marinship Specific Plan and the project is in substantial compliance with both specific and general regulations of the Marinship Specific Plan and the underlying zoning designation.

The project is not in substantial compliance with the specific regulations of the Marinship Specific Plan as Fish restaurant has been operating illegally with 120 seats for three years.

d. The exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

A traffic impact analysis has not been completed to analyze the traffic impact of the additional seats. Therefore, it is unknown if the exception will result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway and therefore the finding cannot be made that the exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

e. The exception will serve the needs of residents of Sausalito and employees in the Marinship.

Over the years Fish restaurant has become a destination restaurant. The Marinship Specific Plan states that Small-Scale Eating Establishments in the Waterfront Zone are to cater to employees and patrons of the businesses in the Marinship. The requested exception for 50 additional seats (for a total of 120 seats) increases the intensity of the restaurant use and encourages use by persons outside the Marinship.