

Town of Tiburon

STAFF REPORT



AGENDA ITEM _____

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TO: **PLANNING COMMISSION**

FROM: **DANIEL M. WATROUS, PLANNING MANAGER**

SUBJECT: **CONDITIONAL USE PERMIT #10403: REQUEST TO INCREASE THE DURATION OF SEASONAL USE FOR A RESTAURANT AWNING STRUCTURE; 5 MAIN STREET (GUAYMAS RESTAURANT); ABRAMS & ZELINSKY, ET AL, OWNERS; SPECTRUM RESTAURANT GROUP, APPLICANT; ASSESSOR'S PARCEL NO. 59-151-41**

MEETING DATE: **OCTOBER 13, 2004** REVIEWED BY: SA

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SUMMARY

Guaymas Restaurant is requesting an increase in the seasonal duration of use of a rooftop awning structure. The Town of Tiburon has previously required that the awning be erected only from November 1 to December 31 of each year (61 days), with five weeks (35 days) of additional time allowed for inclement weather. The applicant is requesting permission to keep the awning up from October to June (240 days) each year.

This application was first reviewed at the March 10, 2004 Planning Commission meeting. At that time, the Commission raised concerns about the temporary nature of the rooftop awning structure, and requested that the applicant consider more permanent design solutions to meet the rooftop deck needs of the restaurant. The application was continued to the May 26, 2004 meeting to allow the applicant to address these concerns. The applicant subsequently requested a further continuance to the July 28 and October 13 meetings. The applicant has now submitted a letter responding to these issues.

ANALYSIS

As previously noted, Guaymas in the late 1980's began erecting a temporary tent-like structure above the rooftop deck area in order to provide sheltered seating during the winter months. The current awning structure was approved by the Design Review Board in 1999 for installation on a temporary basis. The awning was allowed to be installed annually between November 1st and December 31st, with certain additional time allowed for shorter inclement weather installations.

The current application first requested to keep the awning in place from October until June of each year to allow the restaurant with the ability to "aggressively market the space for banquet, receptions, and private parties during inclement weather." In response to the concerns raised by the Planning Commission, the request has been modified to the time period between November 15 and April 15 each year.



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The applicant has also indicated that a more permanent structure had been investigated several years ago, but had been rejected as too expensive to construct. The applicant indicated that structural support for an upper floor structure would require driving pilings into the bay which would be located outside the subject property and would have been complicated by review by the Bay Conservation and Development Commission (BCDC). The expense and difficulty of constructing a permanent structure for this area caused the applicant to abandon the idea.

At the March 10 Planning Commission meeting, a representative of the Point Tiburon Bayside Homeowners Association complained about the noise emanating from the covered rooftop area at the restaurant. During questioning, the representative indicated that the noise levels from this area are not reduced by the awning.

The Town has received few, if any, comments or complaints about the visual aspects of the current awning since the approval of its current design in 1999. As previously noted, the extended duration of use requested for the awning would not affect the amount of parking required for this restaurant.

ENVIRONMENTAL REVIEW

Staff has made a preliminary determination that the subject application is categorically exempt from the requirements of CEQA per Section 15301 (e) of the CEQA Guidelines.

CONCLUSION

The revised request would increase the duration of use requested for the awning to a time period that would better account for seasonal weather conditions in Tiburon, and allow the restaurant to more frequently utilize its approved number of seats year-round. The Planning Commission should evaluate the information presented by the applicant regarding a more permanent structure for this portion of the building, and determine whether the continued use of the awning structure would be the most appropriate method of providing weather protection for this part of the restaurant.

The appropriate procedure to modify the seasonal duration of use of a rooftop awning structure would be to amend Planning Commission Resolution No. 91-14 to include the revised time limits for the awning. If the Planning Commission wishes to modify the existing noise restrictions contained within the resolution to deal with noise-generating activities on the rooftop deck area, such language may also be added as conditions of approval to the draft resolution (Exhibit 2).

RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, deliberate upon the project merits, and adopt the draft resolution conditionally approving the project.

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EXHIBITS

1. Letter from the applicant, dated September 7, 2004
2. Draft resolution
3. Planning Commission Staff report dated March 10, 2004
4. Minutes of the March 10, 2004 Planning Commission meeting
5. Planning Commission Resolution No. 91-14
6. Design Review Board Resolution No. 99-2