



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Planning and Building



**Date:** April 20, 2016  
**Board Meeting Date:** April 26, 2016  
**Special Notice / Hearing:** 10-Day Notice/300 Feet  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** EXECUTIVE SUMMARY: Consideration of an appeal of the decision of the Planning Commission to deny a Use Permit Amendment and Design Review Permit, pursuant to Sections 6267 and 6565.3 of the San Mateo County Zoning Regulations, respectively, to legalize unpermitted construction and authorize the use of two patios at a 189-seat restaurant located at 8150 Cabrillo Highway in the unincorporated Montara area of San Mateo County. The Coastal Development Permit for this project will be reviewed separately under the jurisdiction of the California Coastal Commission.

**PROPOSAL:**

The La Costanera Restaurant is the current tenant of an 11,332 sq. ft. restaurant with 189 seats at 8150 Cabrillo Highway, owned by A&G, LLC. The restaurant is located adjacent to Montara State Beach on the west side of Cabrillo Highway. The applicant requests to amend the current Use Permit (UP 20-77) to allow seating both inside the restaurant and on two outdoor patios without any change to number of total seats (189) allowed by the existing use permit. Two patios were constructed in 2008 and have been used by the restaurant for table service since that date to the present, without the required amendment to the current use permit. The applicant has made the subject application in response to violation notices from the County and the California Coastal Commission regarding illegal use of the patios for restaurant use since 2008.

State Permit Required: The applicant has applied to the California Coastal Commission (CCC) to amend its Coastal Development Permit (CDP), Permit Number P-77-579, originally issued by the CCC in 1977. The CDP amendment for the project will be processed by the CCC separately from the use permit amendment requested from the County. The applicant cannot act in reliance upon the County's use permit amendment until the CDP amendment is granted by the California Coastal Commission.

### **RECOMMENDATION:**

That the Board of Supervisors uphold the appeal and approve a Use Permit Amendment and a Design Review Permit, to legalize the unpermitted construction and use of two patios at 8150 Cabrillo Highway, County File Number PLN 2015-00297, by making the required findings and adopting the conditions of approval in Attachment A of the staff report.

### **SUMMARY:**

On January 13, 2016, the Planning Commission denied the subject proposal, finding that, given the status of unresolved violations at the property and the history of past violations, there is no assurance that the property owner/applicant would comply with current or new conditions of approval. The Planning Commission found that, without such assurances, the requested expansion in restaurant area will result in significant adverse impact to coastal resources and neighboring residents, by: (1) limiting parking in the area, which impedes the ability of the public to access the beach and creates problems for residents; (2) increasing nighttime noise and lights; and (3) adding to the volume of trash and pollutants that end up on the beach and in the ocean. In its review of the project on November 4, 2015, the Planning Commission discussed the following concerns among others: (1) that the owner should demonstrate compliance with all existing permit conditions, and (2) that granting forgiveness where the owner has a history of unpermitted work creates a negative impression that the County does not enforce its regulations.

### **Appeal of the Planning Commission's Decision to Deny the Project**

In a letter dated January 22, 2016 (Attachment F of the staff report) which accompanied the appeal application, the property owner, Rahim Amidi, states that the Planning Commission, in its denial of the project, (1) did not consider the restaurant's efforts over the past year to correct all past violations, (2) the finding made by the Planning Commission was not supported by evidence, and (3) that the decision contradicted the recommendation and findings of the staff report.

### **Status of Current Violations**

The property owner has not consistently complied with the conditions of the original Use Permit. The County issued two notices of violation, dated December 23, 2014 and July 10, 2015 (Attachment H of the staff report). Violations related to lighting and unpermitted signage have been resolved. Unresolved violations (VIO 2014-00253) include violation of hours of operation for private events, alterations to the design of the structures without a Design Review Permit, and stormwater discharges. The County issued an initial Administrative Citation on October 16, 2015, related to unpermitted daytime events on August 23, 2014; September 7, 2015; September 12, 2015; October 3, 2015; and October 10, 2015. The County issued a second Administrative Citation on March 17, 2016 for violation of the hours of operation for an event on March 13, 2016, stormwater discharge (specifically, surface washing from trash storage), and painting of the trim and fixtures a white color, when beige was approved through a Design Review Permit Exemption. As of the writing of this report, these violations have not been resolved.

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### Staff's Recommendation

Planning staff recommends approval of the project, among other reasons, because the recommended conditions of approval added to the amended Use Permit will allow the County to better regulate the restaurant use, as compared to a denial of the project which would eliminate the current opportunity to clarify and supplement the terms of the existing use permit. For example, approval of the use permit will impose a 5-year permit term and annual administrative reviews, and will add conditions of approval relating to stormwater pollution prevention, lighting, and protection of beach user parking on the adjoining State-owned parcel. The current use permit does not have an expiration date and does not require renewal or regular administrative reviews.

### **FISCAL IMPACT:**

There is no fiscal impact.