



City of Sebastopol Planning Commission Staff Report

Meeting Date: July 18th 2023
Agenda Item: 6A
To: Planning Commission
From: John Jay, Associate Planner
Subject: Downtown Noise Permit
Recommendation: Approval with conditions

Applicant/Owner: Bill DeCarli/Martin Sanchez LLC
File Number: 2023-043
Address: 230 Petaluma Ave
CEQA Status: Exempt
General Plan: Central Core (CC)
Zoning: Downtown Core (CD)

Introduction:

The applicant is requesting approval for a Downtown Noise permit for the Hopmonk Restaurant located at 230 Petaluma Ave in Sebastopol. Currently, the location is approved under permit 2007-049 to allow live music but is conditioned as such; "No music may be played outside after 9:00 PM. No amplified music shall be played inside after 1:00 AM Friday and Saturday, or after 12:30 AM Sunday through Thursday." The Downtown Noise permit allows locations within the Downtown Core Zoning Districts to exceed the noise ordinance for two days per month and no more than three hours in a 24-hour period.

Project Description:

As noted above, the applicant is requesting a Downtown Noise permit to exceed the noise ordinance level two times a month. Per their application the owner would notify the Planning Department at least 30 days prior to each event which would allow the Planning Department to review the applications and provide notice to potentially affected neighbors. These events would take place on Saturdays and Sundays and a timeline of those events are as follows;

- Sound Checks: Approximately 1:00 PM (last up to an hour)
- Doors open: 3:30 PM
- Music starts: 4:30/5:00 PM
- Events end: 7:00 PM

The applicant also will provide security staff of one guard per 100 guests along with all performances being professionally sound engineered. Lastly, the applicant is also designing a sound baffling wall on the western edge of the beer garden to help attenuate sound.

Project Location and Surrounding Land Uses:

The project is located at 230 Petaluma Ave and is surrounded by other business uses within the Downtown Core. To the East is the Feedstore and Chase Bank. To the North is an office building and CVS. To the West is Funk and Flash and UPS store. To the South is Post office

Annex building and West County Museum building. The nearest residential area is on Fannen Ave/Eleanor Avenue. The City has received noise complaints regarding the Hopmonk in the past and recent past from this neighborhood (see details below).

General Plan Consistency:

The project is consistent with these General Plan policies:

- **Policy N 1-18:** *Ensure that an acceptable noise environment is maintained in residential areas and areas with sensitive uses by ensuring that uses, operations, and fixed equipment maintain compliance with City standards and by providing for the regulation of short-term increases in non transportation noise levels through the Municipal Code.*
- **Policy N 2-1:** *Through the use permit process, consider establishing a mechanism that provides flexibility for Downtown businesses to occasionally exceed the Table N-1 exterior noise standards on weekend nights (Friday and Saturday).*

Zoning Ordinance Consistency:

The City updated the Zoning Ordinance to adopt Municipal Code Section 17.330 “Outdoor Music and Noise in the Downtown” in regards to the above policies in 2018. This is the City’s first request for a Downtown Noise Permit per these provisions.

The project is located within the Downtown Core (CD) of Sebastopol where a variety of uses are allowed by permitted and use permit requirements. Per section 17.330.010 of the Sebastopol Municipal Code “A downtown noise permit shall be required for uses in the downtown that request periodic exceedances of the noise standards contained in SMC 8.25.060 and that are not subject to a temporary use permit as established by Chapter 17.430 SMC. Chapter 17.435 SMC establishes the procedure for consideration of downtown noise permits.” As the applicant is applying for a use permit for this allowance the project, if approved and met with conditions, would be compliant with this section of the Zoning Ordinance and consistent with the General Plan.

Required Findings:

Section 17.415.030 of the Sebastopol Municipal Code states the following findings must be made for all conditional use permits:

- A. *The proposed use is consistent with the General Plan and all applicable provisions of this title.*
- B. *The establishment, maintenance, and operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area of such use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.*

Analysis:

Over the years Hopmonk has had music events on weekends within their beer garden and has mostly been in compliance with the noise ordinance. When the Planning or Police department have received complaints about the noise coming from the events the owners have been receptive of turning down the music to not disrupt their neighbors. Generally, the noise complaints come from individuals in the Fannen/Eleanor Avenues. These individuals have been reasonable in their patience as city staff has been working with the Hopmonk management and ownership to try to resolve the issue, some of which appear to come from reflective acoustics rather than unreasonable decibel levels at the site (i.e. reflective sounds and topographic

causing sound to carry more than it normally would). Along with that the owners have been receptive to working with both departments in developing noise mitigations and plans to help with the noise complaints that have been increasing over the years. The Hopmonk has engaged an acoustical engineer who has provided recommendations to reduce these acoustic issues.

With that, the Downtown Noise permit was offered as a part of that solution to allow events to occur but also allow neighbors to plan for these louder events. The Downtown Noise permit allows for private events/businesses to operate in two different ways the first being a one-time event that is no more than three days and the second is a reoccurring event that is held no more than twice per month. The applicant is requesting the second which would allow them to operate events on the weekend two times a month and would provide the Planning Department with a minimum of a 30 day notice. Within Section 17.330.030 of the SMC it offers three reasonable methods of sound attenuation, which staff is recommending as conditions of approval, and they are as follows;

- Orienting the activity or event, including speakers and other noise generating equipment, so that noise is directed away from residential areas.
- Use of noise barriers when noise will be generated outdoors or in a building that is open to the outdoors (windows, doors, etc., that are held open during the event or will be opened on a regular basis during the event) to ensure that off-site noise levels are minimized.
- Having a sound engineer on site during the event to review and adjust settings on the soundboard, amplifiers, and other noise-generating and noise-modulating equipment to ensure that the interior noise standard at affected areas is not exceeded.

Lastly, the Downtown Noise permit shall only allow for an exceedance of 10 dBA's from what is allowed by the SMC Noise Ordinance. For reference the daytime dBA's for commercial zones is 55 and nighttime is 45 with this approval it would allow for 65 dBA's during the day and 55 during the nighttime.

- "Daytime hours" means the hours between 8:00 a.m. and 10:00 p.m., Monday through Friday, the hours between 9:00 a.m. and 10:00 p.m. on Saturday and the hours between 9:00 a.m. through 7:00 p.m. on Sundays. On Sundays preceding recognized Federal, State or local holidays that fall on Mondays, the daytime hours for those Sundays shall be considered to be the hours between 9:00 a.m. and 10:00 p.m.
- "Nighttime hours" means the hours between 10:00 p.m. and 8:00 a.m., Monday evening through Friday morning, the hours between 10:00 p.m. and 9:00 a.m., Friday evening through Sunday morning and the hours between 7:00 p.m. and 8:00 a.m., Sunday evening through Monday morning. On Sundays preceding recognized Federal, State or local holidays that fall on Mondays, the nighttime hours for those Sundays shall be considered to be the hours between 10:00 p.m. Sunday evening and 8:00 a.m. Monday morning.

Environmental Review:

The project is categorically exempt from CEQA (the California Environmental Quality Act) Section 15301(a), which exemption "interior or exterior alterations involving such things as partitions, plumbing, and electrical conveyances for the acoustic improvements, and Section 15304, Class 4, in that the event will take place on a temporary basis and limited number of days/times per month.

City Departmental Comments:

The Planning Department routed this application to the various city departments and no comments or additional conditions were provided.

Public Comment:

As prescribed by Section 17.460 of the Zoning Ordinance, the Planning Department completed the following: (1) Provided written notice to all property owners within 600 feet of the external boundaries of the subject property; (2) provided a written notice that was published in the Press Democrat; and (3) posted three written notices publicly on and within vicinity of the subject property.

Public comments received as of this staff report are included in the Attachments to this staff report.

Recommendation:

Staff believes the proposed use is compatible with the site, and recommends approval, subject to the following key conditions:

Noise attenuation shall be incorporated into the site plan and event in order to minimize excessive noise exposure to nearby residences. Such methods may include, but not be limited to:

- a. The event, including speakers and other noise generating equipment, shall be oriented so that noise is directed away from residential areas.
- b. Use of noise barriers, such as installation of the proposed fencing to keep sound from being directed towards the City Parking Lot (as noted by the acoustic engineer is the likely source/path of the noise issues at Fannen/Eleanor Avenue) or other locations the acoustic engineer may determine to ensure that off-site noise levels are minimized.
- c. A sound engineer shall be on site during the events to review and adjust settings on the soundboard, amplifiers, and other noise-generating and noise-modulating equipment to ensure that the interior noise standard at affected areas is not exceeded.

If it is the consensus of the Planning Commission that the proposed use is compatible with the site and surrounding uses, staff recommends that the application be approved based on the facts, findings, and analysis set forth in this staff report and as found in Exhibit A - Recommended Findings of Approval, and subject to the Recommended Conditions of Approval found in Exhibit B, and any additional or modified conditions the Planning Commission determines is appropriate.

Attachments:

- Application Materials
- Email regarding potential acoustic baffling measures from the Hopmonk
- Exhibit A – Findings of Approval
- Exhibit B – Conditions of Approval
- Exhibit C – Standard Conditions of Approval tenant improvements
- Application materials
- Public Comment