

**Appeal of  
Conditional Use Permit No. 09-009 &  
Joint Use Parking Agreement No. 10-001**

**Malibu Inn  
22969 Pacific Coast Highway**

An appeal of the Planning Commission's approval of a restaurant with live entertainment and liquor operating between the hours of 7 a.m. and 2 a.m. and having a maximum restaurant capacity of 94 patrons, a maximum entertainment event capacity of 340 patrons and 565 sq ft of retail space.

# Vicinity Map



# Conditional Use Permit

- Zoning designation — CV-1 zone requires a CUP for restaurants, bars and live entertainment uses.
- On Sept. 7, 2010, the Planning Commission approved:
  - A restaurant and bar with live entertainment and a retail store;
  - Hours of operation are from 7:00 a.m. to 2:00 a.m. daily;
  - Food and liquor service during hours of operation; and
  - Maximum of 8 small live entertainment events per month and two large entertainment events (more than 100 attendees) per month.
  - Restaurant seating capacity capped at 94 people
  - Entertainment event capacity capped at 340 people

# Conditions of Approval

In response to correspondence and testimony received, the Planning Commission adopted numerous conditions of approval to address noise, safety and operational concerns:

- Refer to pg. 12 of the CC Resolution for operational conditions;
- Permit will be reviewed 6 months from approval date for compliance with conditions;
- A security plan, to be approved by the Sheriff Dept., must be submitted;
- The number of live entertainment events allowed per month has been limited to 8 small events and 2 large events;
- Sheriff Dept. reviewed and approved project, applicant must obtain an Entertainment Permit for dancing; and
- Applicant must obtain approval from California ABC for the liquor license.

# Item on Appeal

- On September 16, 2010, an appeal of the Planning Commission's approval was filed by two individuals who own homes across from the Malibu Inn, south of PCH.
- The appeal contends that the proposed use does not comply with the Malibu Municipal Code and that the required number of parking spaces is not provided.

# Correspondence

- Letters received from:
  - Quarterhorse Equities (Nov. 22, 2010)
    - Safety concerns of nearby commercial property
  - Julia Holland (Nov. 22, 2010)
    - In favor of the proposed application
  - Beth Lucas (Nov. 22, 2010)
    - Public safety concerns on PCH
  - Cindy Vandor (Nov. 21, 2010)
    - Public safety concerns on PCH
  - Appellant (Nov. 19, 2010)
  - Applicant (Nov. 10, 2010)

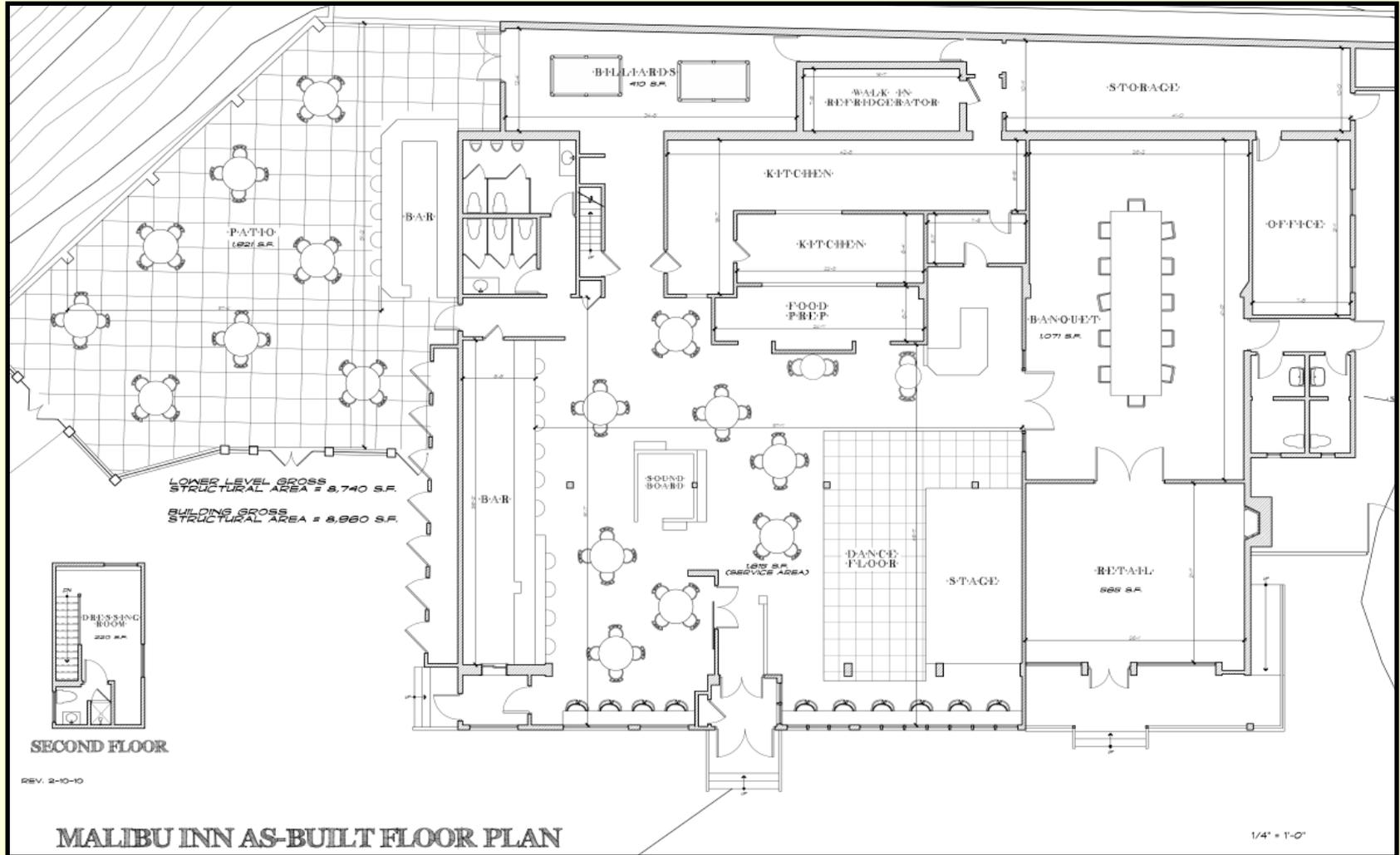
# Staff Recommendation

- After careful examination of the appeal statement and all of the evidence in the record, staff believes that all of the required findings for approval of the project are supported by substantial evidence in the record.
- Accordingly, staff recommends that the City Council adopt Resolution No. 10-59, denying Appeal No. 10-002 and approving Conditional Use Permit No. 09-009 and Joint Use Parking Agreement No. 10-001 to allow the Malibu Inn restaurant with live entertainment which will serve liquor, operate between the hours of 7:00 a.m. and 2:00 a.m., and have a maximum restaurant seating capacity of 94 patrons, a maximum capacity of 340 patrons for entertainment events and 565 square feet of retail space at 22969 Pacific Coast Highway.

# Aerial View of Property



# Existing Floor Plan



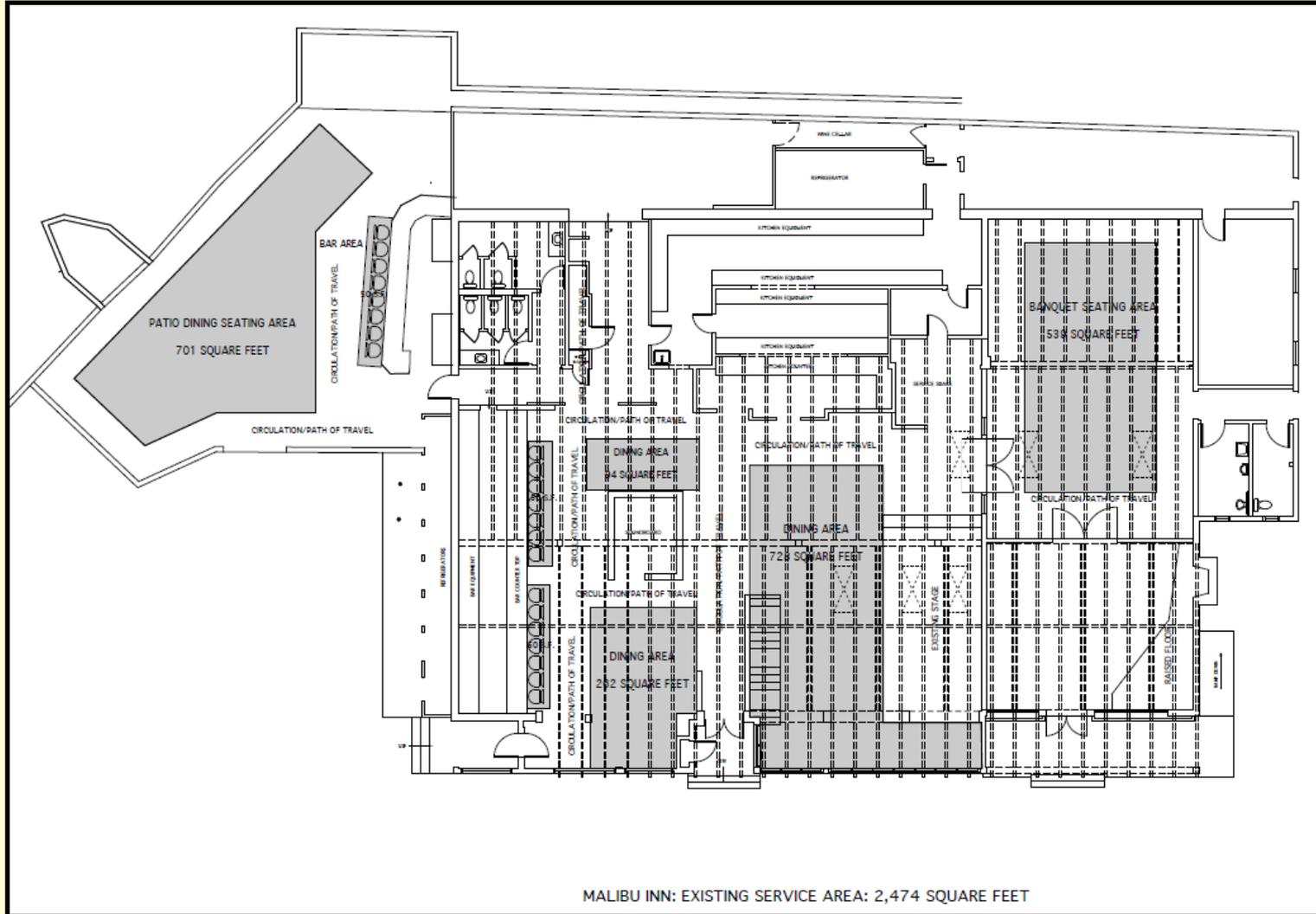
# Restaurant Hours in the City

- Existing restaurants:
  - Bui Sushi (11:00 pm)
  - Charlie's (11:30 pm)
  - Beaurivage (2:00 am)
  - Spruzzo's (12:00 am)
  - Moonshadows (1:00 am)
  - Barrel Wine Bar (2:00 am)
- Recent City approvals:
  - Café Habana and the second unoccupied restaurant at the Lumber Yard (1:00 am)
  - Pierview and Windsail restaurants (2:00 am)
  - Two approved restaurants at Trancas Country Mart (11:00 pm)

# Environmental Health Review – Onsite Wastewater Treatment System

- Ensitu completed a comprehensive review, including in-the-field testing of the property's existing OWTS in relation to the level of use depicted in in the Malibu Plumbing Code and determined the following:
  - The existing grease interceptor capacity is sized to accommodate a full day's flow, rather than the code required minimum;
  - The site's two septic meet the required septic tank capacity;
  - The existing leachfield size exceeds the minimum required effective absorption area; and
  - The existing OWTS is acceptable for the use proposed.
- The City Environmental Health Administrator reviewed the April 2010 Ensitu Report and approved the project as proposed.

# Service Area Calculation



# Parking Analysis

- M.M.C. Section 17.48.030(G) states the parking requirements for “restaurants, nightclubs, bars and similar establishments for the sale and consumption of food and beverages on the premises” are one space for each 50 square feet of service area.
- The Malibu Inn has 2,474 square feet of interior and exterior service area and will need to provide 50 parking spaces (one parking space for each 50 square feet of service area).
- Additionally, the 565 square foot retail space requires an additional three parking spaces.
- The total required parking for the Malibu Inn is 53 spaces.

# Parking Analysis (continued)

- Currently, the existing parking lot configuration is composed of 20 standard size parking spaces plus two ADA accessible parking spaces, for a total of 22 spaces.
- The 31 remaining required spaces will be provided on the adjacent property via a joint use parking agreement as set forth in M.M.C. Section 17.48.040.
- The required parking for the proposed use is provided.