

BARNACLES
AS OF 3.6.08

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P.C. RESOLUTION 98-24

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW ON-SALE GENERAL ALCOHOL, AND ENCROACHMENT INTO THE PUBLIC RIGHT-OF-WAY FOR OUTDOOR DINING, IN CONJUNCTION WITH A RESTAURANT AND ADOPTION OF A MITIGATED ENVIRONMENTAL NEGATIVE DECLARATION AT 837 HERMOSA AVENUE, AND LEGALLY DESCRIBED AS LOT 17, BLOCK 9, HERMOSA BEACH TRACT

The Planning Commission hereby resolves and orders as follows:

Section 1. An application was filed by John Bowler, seeking approval of an amendment to an existing Conditional Use Permit to extend the allowable hours for use of the public right-of-way encroachment area for outdoor dining.

Section 2. The Planning Commission conducted a duly noticed de novo public hearing to consider the application for a Conditional Use Permit May 19, 1998, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The business is currently operating under the terms of a Conditional Use Permit approved in 1995, for on-sale alcohol in conjunction with a restaurant and outdoor seating in the encroachment area (P.C. Resolution 95-15).

2. The conditions of said Conditional Use Permit, in effect since 1989, limit the operating hours of the business to between 7:00 A.M. and 2:00 A.M. and limit the use of the outdoor dining area to no later than 9:00 P.M.

3. The applicant proposes to extend the allowable hours for the outdoor patio to 10:00 P.M., Sunday through Thursday, and to 11:00 P.M. on Fridays and Saturdays.

4. The restaurant is located on the south side of ninth street, a walk street, with the outdoor seating area located within a City encroachment area in the 9th Street right-of-way. The property is zoned C-2, with commercial uses located on commercially zoned property to the north and east, and residential uses on residentially zoned property located to the west.

5. Encroachment into the public right-of-way for commercial outdoor dining is permitted pursuant to Section 12.16.090.

1 Section 4. Based on the foregoing factual findings, the Planning Commission makes the
2 following findings pertaining to the application for the Conditional Use Permit Amendment:

3 1. The private portion of the site is zoned C-2 and has been a restaurant for over 23
4 years, and the adjacent outdoor patio, located in a City encroachment area, has been used in
5 conjunction therewith for over 16 years, and the restaurant and adjacent encroachment area are
6 suitable for continued use including the proposed outdoor dining use with extended nighttime
7 hours;

8 2. The proposed outdoor use with extended hours is compatible with surrounding
9 commercial and residential uses, and similar to other outdoor uses in the City, and the
10 imposition of conditions as required by this Resolution will mitigate any noise impacts on nearby
11 residential or commercial properties;

12 3. The Planning Commission concurs with the Staff Environmental Review
13 Committee's recommendation, based on their environmental assessment/initial study, that the
14 extension of outdoor dining hours, with the mitigating conditions included in the conditions
15 of the Conditional Use Permit, will result in a less than significant impact on the
16 environment, and therefore qualifies for a Negative Declaration.

17 Section 5. Based on the foregoing, the Planning Commission hereby approves the
18 Conditional Use Permit, as amended, for on-sale alcohol and outdoor dining, located in a City
19 encroachment area, in conjunction with a restaurant subject to the following **Conditions of**
20 **Approval** which supersede the conditions contained in P.C. Resolution 95-15:

21 **Specific Conditions of Approval**

- 22 1. **The development and continued use of the property shall be in conformance with**
23 **submitted plans. Modifications to the plan shall be reviewed and may be approved**
24 **by the Community Development Director.**
- 25 2. **The hours of operation shall be limited to between 7:00 A.M. and 2:00 A.M. daily .**
- 26 3. **The use the outdoor patio shall be limited to between 7:00 A.M. and 10:00 P.M.**
27 **Sunday through Thursday, and between 7:00 A.M. and 11:00 P.M. Friday and**
28 **Saturday**
- 29 4. **A minimum 5-foot high solid barrier (as measured from finished floor level) shall**
 be installed and maintained around the north and west sides of the outdoor dining
 area to mitigate noise impacts from the outdoor dining, subject to approval of the
 Public Works Director and Community Development Director.
5. **No recorded music or amplified music is allowed on the patio.**

1 6. Existing bicycle parking shall be maintained to the satisfaction of the Community
2 Development Director.

3 **General Operating and Standard Conditions:**

4 7. The establishment shall not adversely effect the welfare of the residents, and/or
5 commercial establishments nearby.

6 8. The business shall prevent loitering, unruliness, and boisterous activities of the
7 patrons outside the business, or in the immediate area.

8 9. The Police Chief may determine that a continuing police problem exists and may,
9 subject to the review of the Planning Commission, direct the presence of a police
10 approved doorman and/or security personnel to eliminate the problem. If the
11 problem persists the Police Chief then shall submit a report to the Planning
12 Commission, which will automatically initiate a review of this Conditional Use
13 Permit by the Commission.

14 10. The exterior of the premises shall be maintained in a neat and clean manner, and
15 maintained free of graffiti at all times.

16 11. Any changes to the interior or exterior layout which alter the primary function of
17 the restaurant shall be subject to review and approval by the Planning
18 Commission.

19 12. The operation of the business and the use and operation of the outdoor dining area
20 shall comply with all applicable requirements of the Municipal Code including
21 Chapter 12.16 regarding encroachment into the public right-of-way.

22 Section 6 This grant shall not be effective for any purposes until the permittee and the
23 owners of the property involved have filed at the office of the Planning Division of the
24 Community Development Department their affidavits stating that they are aware of, and agree to
25 accept, all of the conditions of this grant.

26 The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the
27 Community Development Department.

28 Each of the above conditions is separately enforced, and if one of the conditions of approval is
29 found to be invalid by a court of law, all the other conditions shall remain valid an enforceable.

Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees
from any claim, action, or proceeding against the City or its agents, officers, or employee to

1 attack, set aside, void or annul this permit approval, which action is brought within the applicable
2 time period of the State Government Code. The City shall promptly notify the permittee of any
3 claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to
4 promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate
5 fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold
6 harmless the City.

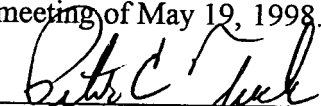
7 The permittee shall reimburse the City for any court and attorney's fees which the City may be
8 required to pay as a result of any claim or action brought against the City because of this grant.
9 Although the permittee is the real party in interest in an action, the City may, at its sole
10 discretion, participate at its own expense in the defense of the action, but such participation shall
11 not relieve the permittee of any obligation under this condition.

12 The subject property shall be developed, maintained and operated in full compliance with the
13 conditions of this grant and any law, statute, ordinance or other regulation applicable to any
14 development or activity on the subject property. Failure of the permittee to cease any
15 development or activity not in full compliance shall be a violation of these conditions

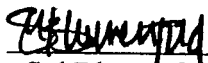
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17 VOTE: AYES: Comms. Perrotti, Merl, Pizer, Chmn. Tucker
18 NOES: None
19 ABSENT: Comm. Schwartz
20 ABSTAIN: None

21
22 CERTIFICATION

23 I hereby certify the foregoing Resolution P.C. 98-24 is a true and complete record of the action
24 taken by the Planning Commission of the City of Hermosa Beach, California, at their regular
25 meeting of May 19, 1998.

26
27 
28 Peter Tucker, Chairman

29 Date 6-16-98


Sol Blumenfeld, Secretary

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