

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF HERMOSA BEACH GRANTING A CONDITIONAL USE PERMIT ON PROPERTY LOCATED AT 20 PIER AVENUE, HERMOSA BEACH, CALIFORNIA.

WHEREAS, the Board of Zoning Adjustments of the City of Hermosa Beach, at a public hearing held on January 17, 1983 in the Council Chambers of the City Hall, considered the request of Mr. Frank Nam for permission to allow service of beer and wine in conjunction with the operation of a restaurant, on property legally described as Lot 5, Block 12, Hermosa Beach Tract; and

WHEREAS, at said public hearing, the Board considered the proposed operation and the neighboring uses; and

WHEREAS, the Board, after this review felt the request was consistent with both the zoning and the general plan;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Zoning Adjustments does hereby approve a conditional use permit to allow the service of beer and wine in conjunction with the operation of a restaurant at 20 Pier Avenue, known as Hermosa Fish Market Cafe, subject to the following conditions:

1. Posting of sign inside advising patrons of illegality of open containers on sidewalks, streets, the Strand and the Beach.
2. Service of alcohol in permanent glass containers only, and only when food is available.
3. If, in the judgment of the Police Department, it is deemed necessary, two policemen will be assigned as doormen at the business' expense during hours of operation.
4. No beer or wine to go.
5. Operator of business must police the sidewalks which are directly adjacent to the business for litter and loitering problems and maintain in a clean and orderly manner on a daily basis.
6. Any changes to the interior design of the establishment shall require that it be returned to the Board of Zoning Adjustments, and it shall revoke the conditional use permit if new interiors are not in the spirit of the original approval and intent.
7. This conditional use permit is to be for this current use as defined in the present conditions; any change in use or non-observance of of any condition of operation will be cause for revocation of the permit.
9. This conditional use permit is issued exclusively and for so long as the premises remain a restaurant, which is defined as having gross sales as follows: not less than 65% food sales - 35% beer and/or wine sales computed monthly. The City shall have the right during business hours upon 15 days notice to inspect the books and records of the applicant to determine the gross sales of food and/or the gross sales of alcoholic beverages. Food shall

include the sale of beverages other than alcoholic beverages. Upon request at the time the City inspects the books and records of the applicant, the applicant shall also submit to the City copies of all records submitted to the State Board of Equalization for purposes of computing the sales tax. Applicant gives the right to the City to review the records of the State Board of Equalization for the purposes of verifying the applicant's books and record, with the understanding that these reviews are confidential.

10. Four month review and thereafter one or two year reviews.
11. In the event that any one condition is found to be illegal or unenforceable by a court of competent jurisdiction, then the parties agree that all other conditions shall remain in full force and effect. The parties understand that the applicant is represented by counsel at all steps of these proceedings and it is the opinion of the City Attorney that the conditions meet Constitutional requirements with the possible exception of a preemption problem with the personal application of the conditional use permit to the applicant, and in the event that either attorney is in error both parties agree that no action for damages shall be brought against the other party and that the exclusive remedy on behalf of the applicant is for a Mandate of Declaratory Relief to make the determination that any one or more conditions is illegal and unenforceable, and parties waive all rights to damages under the Civil Rights Act as promulgated by recent Supreme Court decision.

CERTIFICATION

I hereby certify that the foregoing Resolution BZA 154-493 was adopted by the Board of Zoning Adjustments of the City of Hermosa Beach at a regular meeting held on the 17th day of January 1983.

DATE _____

CARL MOORE, CHAIRMAN

NEAL CUTLER, SECRETARY