

Beach Club - DRAGON

P.C. RESOLUTION 03-24

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW INTERIOR AND EXTERIOR ALTERATIONS, AND TO ALLOW ON-SALE GENERAL ALCOHOL AND LIVE ENTERTAINMENT IN CONJUNCTION WITH AN EXISTING RESTAURANT AT 22 PIER AVENUE LEGALLY DESCRIBED AS LOT 6 BLOCK 12 HERMOSA BEACH TRACT

Section 1. An application was filed by Mark Cosgrove seeking an amendment to a Conditional Use Permit to allow alterations to an existing restaurant, to be named "Dragon," with on-sale general alcohol and live entertainment.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on May 20, 2003, 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 current Conditional Use Permit (CUP) granted in 1987 was approved as an amendment to allow live entertainment and dancing in conjunction with a restaurant with on-sale general alcohol. The proposed amendment, with its limited scope of alterations, does not significantly alter the existing and approved primary use as a restaurant with on-sale general alcohol and live entertainment, and does not substantially alter the seating layout, bar area, stage location and other features of the business.

2. The site is located in the downtown district, which has several similar restaurants with on-sale general alcohol and live entertainment.

3. The site is zoned C-2 allowing the existing on-sale alcohol use with a Conditional Use Permit.

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

1. The site is zoned C-2, and the continued operation of the restaurant with the proposed modifications is suitable for the proposed location.

2. The imposition of conditions as required by this resolution to address noise concerns relative to the current requirements of the noise ordinance and to address nuisance concerns will mitigate any negative impacts on, and will improve its compatibility with, nearby residential or commercial properties within the downtown district.

3. This project is Categorically Exempt pursuant to 15301, Class 1 of the California Environmental Quality Act Guidelines, minor alterations to existing private structures.

Section 5. Based on the foregoing, the Planning Commission hereby approves the requested amendments to the Conditional Use Permit, subject to the following **Conditions of Approval**, which supersede the conditions contained in P.C. Resolution 87-4:

- 1 1. Interior and exterior building alterations and the continued use and operation of the
2 restaurant shall be substantially consistent with the plans submitted and reviewed by the
3 Planning Commission on May 20, 2003.
- 4 2. The hours of operation shall be limited to between 7:00 A.M. and 2:00 A.M. daily.
- 5 3. The hours for live entertainment shall be limited to the hours between 7:00 PM to 1:15 AM
6 Thursdays through Sundays and on Federal, and State holidays, Cinco De Mayo and St.
7 Patrick's day.
- 8 4. Double pane windows or solid doors shall be provided on all openings to the outside.
- 9 5. An acoustical study shall be prepared by an acoustical engineer, including proposed sound
10 dampening features to baffle and direct sound away from the entrance/exit and window
11 areas to ensure compliance with the noise ordinance. Said study and sound dampening
12 features shall be reviewed and approved by the Community Development Director prior to
13 the issuance of building permits and shall be implemented in the building prior to
14 occupancy.
 - 15 A. The acoustical study shall be based on the worst-case scenario, or on a sound
16 level that will not be exceeded at any given time.
 - 17 B. Management shall be responsible for the music/entertainment volume levels.
 - 18 C. During the performance of any live entertainment, the exterior doors and
19 windows shall remain closed.
 - 20 D. The air conditioning system shall be of an adequate capacity to air condition the
21 entire restaurant.
 - 22 E. All exterior doors shall have self-closing hardware.
- 23 6. No live entertainment or amplified music, audio, television or speakers of any kind shall
24 be permitted in the outside seating areas.
- 25 7. The establishment shall not adversely affect the welfare of the residents, and/or commercial
26 establishments nearby.
- 27 8. The business shall provide adequate staffing and management and supervisory techniques
28 to prevent loitering, unruliness, and boisterous activities of the patrons both inside and
29 outside the business and in nearby public areas.
9. The Police Chief shall determine if a continuing police problem exists, and may authorize
the presence of a police approved doorman and/or security personnel to eliminate the
problem, and/or shall submit a report to the Planning Commission, which will
automatically initiate a review of this conditional use permit by the Commission.
10. The exterior of all the premises shall be maintained in a neat and clean manner, and
maintained free of graffiti at all times.
11. Any changes to the interior layout which would alter the primary function of the business
as a restaurant shall be subject to review and approval by the Planning Commission.
12. The project and operation of the business shall comply with all applicable requirements of
the Municipal Code.

- 1 13. Noise emanating from the property shall be within the limitations prescribed by the city's
2 noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,
3 and/or commercial establishments. Noise emanating from the property shall be
4 monitored to verify compliance with the noise ordinance in response to any complaints.
5
- 6 14. The Planning Commission shall review the operation of the restaurant for compliance with
7 conditions of approval and compliance with the Noise Ordinance 6 months from the
8 opening of the new restaurant, and in response to any complaints thereafter.
- 9 15. The Conditional Use Permit shall become null and void if not executed within two years of
10 the date of the approval of this Resolution.
- 11 16. The owner shall comply with requirements of the encroachment permit for use of the
12 public right-of-way.

13 Section 6. This grant shall not be effective for any purposes until the permittee and the
14 owners of the property involved have filed a the office of the Planning Division of the Community
15 Development Department their affidavits stating that they are aware of, and agree to accept, all of the
16 conditions of this grant. The grant for live entertainment shall not be in effect until the acoustical
17 study is complete and approved by the Community Development Director, and all sound proofing
18 measures are implemented in the building pursuant to Condition Nos. 4, 5, and 6.

19 The Conditional Use Permit Amendment shall be recorded, and proof of recordation shall be
20 submitted to the Community Development Department prior to the issuance of a building permit.

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

23 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and
24 employees from any claim, action, or proceeding against the City or its agents, officers, or employee
25 to attack, set aside, void or annul this permit approval, which action is brought within the applicable
26 time period of Government Code Section 65907. The City shall promptly notify the permittee of any
27 claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to
28 promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully
29 in the defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless
the City.

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

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

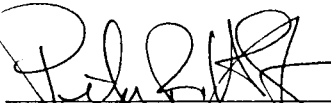
1 The Planning Commission may review this Conditional Use Permit and may amend the
2 subject conditions or impose any new conditions if deemed necessary to mitigate detrimental effects
3 on the neighborhood resulting from the subject use.

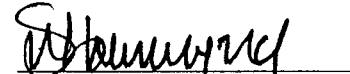
4 Section 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the
5 decision of the Planning Commission, after a formal appeal to the City Council, must be made within
6 90 days after the final decision by the City Council.

7 VOTE: AYES: Hoffman, Perrotti, Pizer, Tucker
8 NOES: None
9 ABSENT None
10 ABSTAIN Kersenboom

11 CERTIFICATION

12 I hereby certify the foregoing Resolution P.C. 03-24 is a true and complete record of the action taken
13 by the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of
14 May 20, 2003.

15 
16 Peter Hoffman, Chairman

17 
18 Sol Blumenfeld, Secretary

19 Date May 20, 2003

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21 *The minutes reflect*
22 *that Kersenboom*
23 *was absent from*
24 *the meeting*