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P.C. RESOLUTION 98-52

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW LIVE ENTERTAINMENT AND ON-SALE GENERAL ALCOHOL, IN CONJUNCTION WITH A RESTAURANT, AT 50A PIER AVENUE, AND LEGALLY DESCRIBED AS LOTS 8, 9, AND 10, BLOCK 12 HERMOSA BEACH TRACT

Section 1. An application was filed by Ro-Al Inc., seeking approval for live entertainment in conjunction with an existing restaurant "Patrick Malloy's" with on-sale general alcohol.

Section 2. The Planning Commission conducted a duly noticed de novo public hearing to consider the application to amend the Conditional Use Permit on August 18, 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 existing restaurant at this location has in operation for over 2 years with on-sale alcohol, without any complaints or incidents, and the proposed amendment does not alter the primary use as a restaurant;

2. The site is located in the downtown district, which already has several restaurants with live entertainment;

3. The site is zoned C-2 allowing the proposed live entertainment 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 is suitable for the proposed use with the proposed amendment for live entertainment;

2. The proposed use is compatible with surrounding commercial uses within the downtown district;

3. The imposition of conditions as required by this resolution will mitigate any negative impacts on nearby residential or commercial properties;

4. This project is Categorically Exempt pursuant to Section 15303c of the California Environmental Quality Act.



- 1 13. If entertainment is to include amplified live entertainment, an acoustical study  
2 shall be reviewed and approved by the Community Development Director and all  
3 identified sound-proofing measures including alterations to common walls shall  
4 be implemented in the building.
- 5 14. Management shall be responsible for maintaining music/entertainment volumes at  
6 reasonable levels.
- 7 15. During any live entertainment and/or dancing, the exterior doors and windows  
8 shall remain closed. The building shall be equipped with air conditioning to  
9 ensure comfort of patrons during live entertainment, and compliance with this  
10 condition.
- 11 16. No live entertainment shall be permitted in the outside seating area, and the  
12 volume level of any amplified music in the outside seating area shall be controlled  
13 by management to ensure compliance with the noise ordinance.
- 14 17. All exterior glass windows or doors shall be equipped with double-pane glass or a  
15 comparable substitute with equivalent sound dampening properties to the  
16 satisfaction of the Community Development Director
- 17 18. Noise emanating from the property shall be within the limitations prescribed by  
18 the city's noise ordinance and shall not create a nuisance to surrounding  
19 residential neighborhoods, and/or commercial establishments. Noise emanating  
20 from the property shall be monitored to verify compliance with the noise  
21 ordinance in response to any complaints.

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 a the office of the Planning Division of the Community  
24 Development Department their affidavits stating that they are aware of, and agree to accept, all of  
25 the conditions of this grant. The grant for live entertainment shall not be in effect until the  
26 acoustical study is complete and approved by the Community Development Director, and all  
27 sound proofing measures are implemented in the building pursuant to Condition Nos. 13, 15, and  
28 17.

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

Each of the above conditions is separately enforced, and if one of the conditions of approval is  
found to be invalid by a court of law, all the other conditions shall remain valid and 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  
attack, set aside, void or annul this permit approval, which action is brought within the applicable  
time period of Government Code Section 65907. The City shall promptly notify the permittee of  
any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails

1 to promptly notify the permittee of any claim, action or proceeding, or if the City fails to  
2 cooperate fully in the defense, the permittee shall no thereafter be responsible to defend,  
3 indemnify, or hold harmless the City.

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

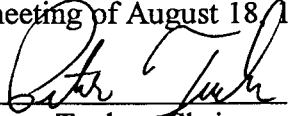
9 The subject property shall be developed, maintained and operated in full compliance with the  
10 conditions of this grant and any law, statute, ordinance or other regulation applicable to any  
11 development or activity on the subject property. Failure of the permittee to cease any  
12 development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

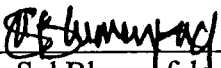
13 The Planning Commission may review this Conditional Use Permit and may amend the subject  
14 conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on  
15 the neighborhood resulting from the subject use.

16 VOTE:           AYES:           Commissioners Perrotti, Schwartz, Pizer, Chairman Tucker  
17                   NOES:           None  
18                   ABSENT:       Vice-Chair Merl  
19                   ABSTAIN:      None

20 CERTIFICATION

21 I hereby certify the foregoing Resolution P.C. 98-52 is a true and complete record of the action  
22 taken by the Planning Commission of the City of Hermosa Beach, California, at their regular  
23 meeting of August 18, 1998.

24   
25 Peter Tucker, Chairman  
26 Date 9-15-98

27   
28 Sol Blumenfeld, Secretary

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