

April 9, 2002

**Honorable Chairman and Members of the  
Hermosa Beach Planning Commission**

**Regular Meeting of  
April 16, 2002**

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 02-3

LOCATION: 142 Pacific Coast Highway

APPLICANT: Gary Cullen

REQUEST: TO ALLOW ON-SALE GENERAL ALCOHOL AT EXISTING ON-SALE  
BEER AND WINE ESTABLISHMENT WITH LIVE ENTERTAINMENT.

**Recommendation**

To approve the request subject to the conditions as contained in the attached resolution.

**Background**

**PROJECT INFORMATION:**

ZONING:	Commercial SPA 7
GENERAL PLAN:	Commercial Corridor
FLOOR AREA:	2,793 Square Feet
PARKING:	8 Spaces
MAXIMUM OCCUPANCY	233 Patrons
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

In November 1997, the Planning Commission approved a Conditional Use Permit Amendment for live entertainment. The premises are currently used for billiards, video games, shuffleboard, foosball, table tennis, live entertainment, and dancing in conjunction with on-sale beer and wine sales and some food service. The use is nonconforming to parking.

**Analysis**

The applicant is requesting permission for full service alcohol while maintaining its current use as noted above. No expansion is proposed, but changes to the interior floor plan have been made in regard to the location of the dance floor and stage. The stage and dance floor has been relocated from the rear portion of the building to a more central location. The location of the stage was an issue when the Planning Commission granted the CUP for live entertainment since there was concern that the music could be audible in the residential area to the east of the establishment.

The business is considered a restaurant with a full kitchen pursuant to Resolution 97-65. The proposed interior changes maintain the kitchen and result in the same occupant load for the business. In addition to the location of the stage, two Conditions of Approval were included which required an acoustical study be prepared if there was electrical amplified music and air conditioning be provided so that the doors/windows could remain shut during live entertainment. The applicant submitted a report on acoustical conditions for the business. However, it was not prepared by an acoustical engineer. The Commission may want to have the acoustical conditions of the business reviewed by an acoustical engineer as a Condition of Approval. According to police records from July 1997 to April 2002, only two loud music complaints have been received in 1998 and one loud persons complaint in November 2001. The attached resolution of approval contains the currently applicable standard conditions for on-sale general alcohol, and live entertainment.

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Michael Schubach, City Planner

CONCUR:

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Sol Blumenfeld, Director  
Community Development Department

Attachments

1. Proposed Resolution
2. Photographs
3. Location map

**P.C. RESOLUTION 02-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING AN AMENDED CONDITIONAL USE PERMIT, TO ALLOW GENERAL ALCOHOL IN CONJUNCTION WITH LIVE ENTERTAINMENT AT 142 PACIFIC COAST HIGHWAY, AND LEGALLY DESCRIBED AS LOT 44, AND NORTHERLY 50.69 FT. OF LOTS 45 & 46 HOME BUILDERS PLACE TRACT.**

The Planning Commission of the City of Hermosa Beach does hereby resolve and order as follows:

Section 1. An application was filed by Gary Cullen, business owner of the Pitcher House located at 142 Pacific Coast Highway, seeking approval of an amended Conditional Use Permit to allow general alcohol.

Section 2. The Planning Commission conducted a duly noticed de novo public hearing to consider the subject application on April 16, 2002, at which time 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 applicant is proposing to change from beer and wine to on-sale general alcohol establishment.
2. General alcohol and entertainment with a Conditional Use Permit and the dance floor are permitted uses in the zone the property is located, commercial Specific Plan Area number 7.

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

- A. The establishment is already approved for on-sale beer and wine and the applicant is requesting an amendment to have on-sale general alcohol;
- B. The site is zoned Commercial Specific Plan Area, and is suitable for the proposed use with the proposed amendment;
- C. The proposed use is compatible with surrounding commercial uses;
- D. The imposition of conditions as required by this resolution will mitigate any negative impacts on nearby residential or commercial properties;

1 E. The amendment is Categorically Exempt from the requirement for an environmental assessment  
2 pursuant to Section 15301 class 1 (“...involving negligible or no expansion of use beyond that  
3 previously existing....”) of the California Environmental Quality Act

4 Section 5. Based on the foregoing, the Planning Commission hereby approves the subject Conditional  
5 Use Permit, subject to the following **Conditions of Approval:**

- 6 **1. The development and continued use of the property shall be in conformance with  
7 submitted plans received and reviewed by the Commission at their meeting of April 16,  
8 2002. Any minor modification shall be reviewed and may be approved by the  
9 Community Development Director.**
- 10 **2. The hours of operation shall be limited to between 7:00 A.M. and 2:00 A.M. daily.**
- 11 **3. Entertainment shall be limited to the “entertainment stage” as shown on submitted  
12 plans on file.**
- 13 **4. An acoustical study shall be prepared by an acoustical engineer, including proposed  
14 sound dampening features to baffle and direct sound away from the entrance/exit and  
15 window areas to ensure compliance with the noise ordinance. Said study and sound  
16 dampening features shall be reviewed and approved by the Community Development  
17 Director and shall be implemented in the building.**
  - 18 **A. The acoustical study shall be based on the worst-case scenario, or on a sound  
19 level that will not be exceeded at any given time.**
  - 20 **B. Management shall be responsible for the music/entertainment volume levels.**
  - 21 **C. During the performance of any live entertainment, the exterior doors and  
22 windows shall remain closed.**
- 23 **5. An air conditioning system shall be installed of an adequate size to air condition the  
24 entire building, prior to any entertainment activity being conducted on the premises.**
- 25 **6. The establishment shall not adversely effect the welfare of the residents, and/or  
26 commercial establishments nearby.**
- 27 **7. The business shall prevent loitering, unruliness, and boisterous activities of the patrons  
28 outside the business, or in the immediate area.**
- 29 **8. The Police Chief may determine that a continuing police problem exists and may,  
subject to the review of the Planning Commission, direct the presence of a police  
approved doorman and/or security personnel to eliminate the problem. If the problem  
persists the Chief then shall submit a report to the Planning Commission, which will  
automatically initiate a review of this Conditional Use Permit by the Commission.**

- 1 9. The exterior of the premises shall be maintained in a neat and clean manner, and  
2 maintained free of graffiti at all times.
- 3 10. The project and the continued operation of the business shall comply with all applicable  
4 requirements of the Municipal Code.
- 5 11. The hours for live entertainment shall be limited to the hours between 4:00 P.M. to 1:15  
6 A.M. Monday through Friday, and from 9:00 A.M. to 1:15 A.M. on Saturday, Sundays,  
7 and Federal and State Holidays, Cinco De Mayo, and St. Patrick's day.
- 8 12. Management shall be responsible for the music/entertainment volume levels.
- 9 13. Noise emanating from the property shall be within the limitations prescribed by the  
10 city's noise ordinance and shall not create a nuisance to surrounding residential  
11 neighborhoods, and/or commercial establishments.

### 11 Section 6

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

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

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

20 Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and  
21 employees from any claim, action, or proceeding against the City or its agents, officers, or  
22 employee to attack, set aside, void or annul this permit approval, which action is brought within  
23 the applicable time period of Government Code Section 65907. The City shall promptly notify  
24 the permittee of any claim, action, or proceeding and the City shall cooperate fully in the  
25 defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or  
26 if the City fails to cooperate fully in the defense, the permittee shall not thereafter be  
27 responsible to defend, indemnify, or hold harmless the City.

28 The permittee shall reimburse the City for any court and attorney's fees which the City may be  
29 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.

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

4 **Section 7**

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

7 **Section 8**

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

11  
12 VOTE:           AYES:           .  
13                   NOES:  
14                   ABSENT:  
15                   ABSTAIN:

15 CERTIFICATION

16 I hereby certify the foregoing Resolution P.C. 02-    is a true and complete record of the action taken by  
17 the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of April 16,  
18 2002.

19 \_\_\_\_\_  
Peter Tucker, Chairman

\_\_\_\_\_ Sol Blumenfeld, Secretary

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Date

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