

P.C. RESOLUTION 02-

**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, LIVE ENTERTAINMENT (NON-AMPLIFIED MUSIC) AND ALTERATIONS TO AN EXISTING RESTAURANT TO INCLUDE BAR SEATING AND A DANCE FLOOR AND ADOPTING A MITIGATED ENVIRONMENTAL NEGATIVE DECLARATION FOR 1100 THE STRAND, LEGALLY DESCRIBED AS LOTS 1-4, BLOCK 12, HERMOSA BEACH TRACT**

Section 1. An application was filed by Peter Mangurian, seeking amendment to an existing conditional use permit to allow on-sale alcohol; live entertainment; a take-out food service window; extended hours of operation and alterations to the floor plan to include a dance floor in conjunction with an existing restaurant.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on November 19, 2002, 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, as amended, approved in 1989, for on-sale alcohol (beer/wine) in conjunction with a restaurant.
2. The property is zoned C-2, with commercially zoned property to the north and south, and public parking lot located to the east.
3. In 1993, the City Council approved, on appeal, a Conditional Use Permit for live entertainment, On-sale General Alcohol, and a dance floor. This permit was not executed and has now expired.

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, On-sale General Alcohol and a dance floor.
2. The proposed take-out window and 24-hour operation are not suitable and compatible with surroundings due to potential safety, noise and nuisance problems related to proximity to residential uses and bicycle traffic along the Strand.
3. The proposed use, without the proposed take-out window is compatible with surrounding commercial uses.
4. The imposition of conditions as required by this resolution will mitigate any negative impacts on nearby residential or commercial properties since live entertainment shall be limited to non-amplified acoustical instruments and the City's Noise Ordinance.
5. The Planning Commission concurs with the Staff Environmental Review Committee's recommendation, based on their environmental assessment/initial study, that this project will result in a less than significant impact on the environment if mitigation measures are included, and therefore qualifies for a mitigated Negative Declaration.

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2           **Section 5.**       Based on the foregoing, the Planning Commission hereby approved  
3 amendments to the Conditional Use Permit, subject to the following **Conditions of Approval**, which  
4 supersede the Conditions contained in P.C. Resolution 89-7:

- 5       **1.       The proposed interior alterations and continued use shall be substantially consistent**  
6       **with submitted floor plans and the following:**
- 7           **a.       Revised floor plan shall be submitted indicating the number of seats at the bar.**
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- 9       **2.       The exterior site plan shall remain in substantial conformance with plans submitted and**  
10       **approved at the November 4, 2002 Planning Commission meeting.**
- 11       **3.       Operating hours shall be limited to between 6:30 A.M. and 2:00 A.M.**
- 12           **a.       The hours for live entertainment shall be limited to the hours between 9:00**  
13           **P.M. to 1:15 A.M. Monday through Friday, and from 2:00 P.M. to 1:15 A.M.**  
14           **on Saturday, Sundays, and Federal and State Holidays, Cinco De Mayo, and**  
15           **St. Patrick's day.**
- 16       **4.       The bicycle parking area shall be provided and maintained on-site for a minimum of 40**  
17       **bicycles.**
- 18       **5.       Parking shall be striped as shown approved plans, and shall provide for a minimum of**  
19       **twenty three (23) spaces.**
- 20           **a.       Tandem parking spaces shall be designated for employee parking only.**  
21           **b.       The handicapped space shall be provided and located so that it is not in tandem.**  
22           **c.       Pursuant to the Zoning Ordinance, parking shall be available for customers at**  
23           **all times during business hours.**
- 24       **6       The establishment shall not adversely effect the welfare of the residents, and/or**  
25       **commercial establishments nearby.**
- 26       **7.       The business shall provide adequate staffing, management and supervisory techniques**  
27       **to prevent loitering, unruliness, and boisterous activities of the patrons outside the**  
28       **business and in nearby public areas.**
- 29       **8.       Noise emanating from the property shall be within the limitations prescribed by the**  
30       **City's Noise Ordinance and shall not create a nuisance to surrounding residential**  
31       **neighborhoods, and/or commercial establishments.**
- 32       **9.       The Police Chief may determine that a continuing police problem exists, and may**  
33       **authorize the presence of a police approved doorman and/or security personnel to**

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2 eliminate the problem, and then shall submit a report to the Planning Commission,  
3 which will automatically initiate a review of this Conditional Use Permit by the  
4 Commission.

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

7 **11. Any significant changes to the interior layout which would alter the primary function of  
8 the business as a restaurant shall be subject to review and approval by the Planning  
9 Commission.**

10 **12. The project and operation of the business shall comply with all applicable requirements  
11 of the Municipal Code.**

12 **CONDITIONS RELATING TO LIVE ENTERTAINMENT AND NOISE:**

13 **13. Entertainment shall be limited to acoustic music and shall not include amplified live  
14 entertainment of any kind.**

15 **14. Management shall be responsible for maintaining music/entertainment volumes at  
16 reasonable levels.**

17 **15. During any live entertainment and/or dancing, the exterior doors and windows shall  
18 remain closed. The building shall be equipped with air conditioning to ensure comfort  
19 of patrons during live entertainment, and compliance with this Condition.**

20 **16. Noise emanating from the property shall be within the limitations prescribed by the  
21 City's Noise Ordinance and shall not create a nuisance to surrounding residential  
22 neighborhoods, and/or commercial establishments. Noise emanating from the  
23 property shall be monitored to verify compliance with the Noise Ordinance in  
24 response to any complaints.**

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

29 The Conditional Use Permit Amendment shall be recorded, and proof of recordation shall be submitted  
30 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.

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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. 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 to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully 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.

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

VOTE:           AYES:  
                      NOES:  
                      ABSENT:  
                      ABSTAIN:

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 02- is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of November 19, 2002.

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Ron Pizer, Chairman

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Sol Blumenfeld, Secretary

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