

May 12, 2003

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

**Regular Meeting of
May 20, 2003**

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 03-4

LOCATION: 22 PIER AVENUE

APPLICANT: 22 PIER LLC, MARK COSGROVE
22 PIER AVENUE
HERMOSA BEACH, CA 90254

REQUEST: TO ALLOW INTERIOR AND EXTERIOR ALTERATIONS TO AN
EXISTING RESTAURANT WITH ON-SALE GENERAL ALCOHOL,
LIVE ENTERTAINMENT

Recommendation

To approve the request subject to the conditions by adopting the attached resolution.

Background

PROJECT INFORMATION:

ZONING: C-2 Restricted Commercial

GENERAL PLAN: General Commercial

AREA OF ESTABLISHMENT: 2,850 square feet (Interior)
292 square feet (Outdoors)

PARKING: No on site parking

ENVIRONMENTAL DETERMINATION: Categorically Exempt

The business is located on the ground floor of multiple story building, with the upper floors containing a youth hostel. A Conditional Use Permit amendment was granted by the Planning Commission in 1987 for live entertainment and dancing in conjunction with the existing restaurant with on-sale general alcohol for "The End Zone." Prior to the granting of the amendment the business was under consideration for revocation of its 1974 CUP, as it was providing live entertainment and dancing without a CUP, and causing noise problems. Therefore, when the amendment was approved, the conditions of that approval included several standard conditions for live entertainment including an acoustical analysis. The acoustical analysis at that time, recommended dual pane windows, orientation of loudspeakers toward the center of the room, an entry alcove with double doors, installation of sound absorbing material on the inside of the front walls and installation of air conditioning. These measures were implemented in the building as verified by follow-up inspections.

The building, however, was substantially altered as part of a mandatory seismic retrofit program in

1997, and outdoor seating was added in the encroachment area as allowed by the Municipal Code at about the same time. The restaurant ownership also changed in 1997 to the Beach Club. It appears that the front entry door, which was previously accessed through a narrow alcove pursuant to the 1987 CUP, was modified at that time as well, as it now contains French doors opening directly onto the outdoor seating with no defined entry. The doors are stepped back from the front of the building, which differs from the 1987 approved plan with an alcove and double doors.

Analysis

The prior business (The Beach Club) has been sold and the business will be owned and operated under new management. The applicant is requesting alterations to the interior and exterior to accommodate a new restaurant and bar with a new theme. The changes are largely to clean up and upgrade the space, and include minor changes to increase the area and functionality of the kitchen, to add a handicap accessible bathroom, and to improve the exterior appearance. The changes include a new seating plan, and a raised seating area to define restaurant seating areas separate from the bar area. No changes are proposed to the bar or the location to stage live entertainment, and no specific changes in the conditions of approval are requested. The French doors in front are proposed to be replaced with double pane glass, in the existing configuration rather than double doors.

Since the proposed restaurant, as modified, continues to involve live entertainment, the attached resolution includes all the standard conditions of the original approval relating to noise, updated to be consistent with recent Conditional Use Permits. Also, the conditions include a requirement that the applicant prepare an acoustic study pursuant to current noise ordinance requirements and implement any recommendations of the study in the building. Even though this is an existing business, staff believes a new acoustic analysis is necessary because of interior alterations and changes that have occurred since 1987, including the removal of the entry alcove and the proposed new changes, and to tailor the acoustic analysis to the current noise ordinance.

The hours limitations for live entertainment in the existing C.U.P. are limited to between 7:00 P.M. and 1:30 A.M. Thursday through Sunday. Staff is recommending maintaining the Thursday through Sunday limitation (as the building contains lodging above) and modifying the condition to be consistent with other nearby establishments to end live entertainment at 1:15 A.M.

Ken Robertson,
Senior Planner

CONCUR:

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Proposed Resolution
 2. Location Map
 4. P.C. Resolution 87-4
- Floor plans included as separate attachment

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P.C. RESOLUTION 03-

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 an amendment to a Conditional Use Permit to allow alterations to an existing restaurant 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 15323, Class 23 of the California Environmental Quality Act Guidelines. Normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same kind of purpose.

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
2 **1. Interior and exterior building alterations and the continued use and operation of the**
3 **restaurant shall be substantially consistent with the plans submitted and reviewed by the**
4 **Planning Commission on May 20, 2003.**
- 5 **2. The hours of operation shall be limited to between 7:00 A.M. and 2:00 A.M. daily.**
- 6 **3. The hours for live entertainment shall be limited to the hours between 7:00 PM to 1:15 AM**
7 **Thursdays through Sundays and on Federal, and State holidays, Cinco De Mayo and St.**
8 **Patrick's day.**
- 9 **4. Double pane windows or solid doors shall be provided on all openings to the outside.**
- 10 **5. An acoustical study shall be prepared by an acoustical engineer, including proposed sound**
11 **dampening features to baffle and direct sound away from the entrance/exit and window**
12 **areas to ensure compliance with the noise ordinance. Said study and sound dampening**
13 **features shall be reviewed and approved by the Community Development Director prior to**
14 **the issuance of building permits and shall be implemented in the building prior to**
15 **occupancy.**
 - 16 **A. The acoustical study shall be based on the worst-case scenario, or on a sound**
17 **level that will not be exceeded at any given time.**
 - 18 **B. Management shall be responsible for the music/entertainment volume levels.**
 - 19 **C. During the performance of any live entertainment, the exterior doors and**
20 **windows shall remain closed.**
 - 21 **D. The air conditioning system shall be of an adequate capacity to air condition the**
22 **entire restaurant.**
- 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, management and supervisory techniques to**
28 **prevent loitering, unruliness, and boisterous activities of the patrons outside the business**
29 **and in nearby public areas.**
- 30 **9. The Police Chief may determine that a continuing police problem exists, and may authorize**
31 **the presence of a police approved doorman and/or security personnel to eliminate the**
32 **problem, and then shall submit a report to the Planning Commission, which will**
33 **automatically initiate a review of this conditional use permit by the Commission.**
- 34 **10. The exterior of all the premises shall be maintained in a neat and clean manner, and**
35 **maintained free of graffiti at all times.**
- 36 **11. Any changes to the interior layout which would alter the primary function of the business**
37 **as a restaurant shall be subject to review and approval by the Planning Commission.**
- 38 **12. The project and operation of the business shall comply with all applicable requirements of**
39 **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 **14. The Planning Commission shall review the operation of the restaurant and the parking**
6 **facility for compliance with conditions of approval and compliance with the Noise**
7 **Ordinance 6 months from the opening of the new restaurant, and in response to any**
8 **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 Section 6. This grant shall not be effective for any purposes until the permittee and the
12 owners of the property involved have filed a the office of the Planning Division of the Community
13 Development Department their affidavits stating that they are aware of, and agree to accept, all of the
14 conditions of this grant. The grant for live entertainment shall not be in effect until the acoustical
15 study is complete and approved by the Community Development Director, and all sound proofing
16 measures are implemented in the building pursuant to Condition Nos. 4, 5, and 6.

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

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

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

29 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.

1 Section 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the
2 decision of the Planning Commission, after a formal appeal to the City Council, must be made within
3 90 days after the final decision by the City Council.

3 VOTE: AYES:
4 NOES:
5 ABSENT:
6 ABSTAIN:

6 CERTIFICATION

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

10 _____
Peter Hoffman, Chairman

Sol Blumenfeld, Secretary

11 Date May 20, 2003

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