

RESOLUTION NO. 05-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DENYING A REQUESTED CONDITIONAL USE PERMIT AND VARIANCE TO ALLOW A PERMANENT DECK COVER ON THE SECOND FLOOR DECK, AND SEASONAL TENT ON THE UPPER FLOOR DECK TO EXCEED THE 30-FOOT HEIGHT LIMIT AT UNION CATTLE COMPANY RESTAURANT AT 1301 MANHATTAN AVENUE

The Planning Commission does hereby resolve and order as follows:

Section 1. An application was filed by Allen Sanford, owner of the restaurant, Union Cattle Company, located at 1301 Manhattan Avenue, seeking a Conditional Use Permit Amendment and a Variance to allow to allow a permanent deck cover on the second floor deck, and season tent on the upper floor deck and to allow these deck structures to exceed the height limit.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for a Conditional Use Permit and Variance on January 18, 2005, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 3. Based on the evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The applicant is requesting approval of a variance to maintain an existing deck cover and seasonal tent structure located on the 2nd and 3rd level decks respectively, which exceed the height limit, and which were constructed without required permits. These alterations also require amending the Conditional Use Permit for the restaurant with on-sale alcohol.

2. The illegal condition surfaced as a code enforcement action in October 2004 when the City's code enforcement officer discovered the structures.

3. The second floor deck is adjacent to the banquet room on the second floor of the building. A deck cover trellis structure was permitted for this deck when the restaurant was Einstein's, equipped with a retractable canvas roof, and is shown on the approved plans for Union Cattle Company. However, the deck cover that was issued a building permit was below the existing roofline, and sloped down at a much lower ceiling clearance than the new cover in order to comply with the 30-foot height limit. The newer structure extends above the existing roofline creating a much higher clearance, and exceeds the height limit by as much as 6 feet at the peak of the sloped roof. The proposed seasonal "canvas" tent, which is still considered a structure, is located on the upper most level deck, and is 8-9 feet above the height limit at its highest point.

4. Variances are necessary for both proposed structures as they exceed the 30-foot height limit for the C-2 zone, and cannot be considered as elements that are allowed to exceed the height limit pursuant to Chapter 17.46.

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

1 1. The applicant has not demonstrated that exceptional or unusual conditions exist with respect
2 to the physical conditions of the property. The lot is fairly typical of lots in the vicinity sloping from
3 east to west, and with the construction of the building in 1997 it is clearly a site that can
4 accommodate a fairly substantial development project, with two levels of parking and two floor
5 levels above, which include the subject restaurant which contains ample interior seating and banquet
6 areas in addition to the exterior seating.

7 2. The proposed Variance is not necessary for the enjoyment of a substantial property right.
8 The recent development of the property has established a variety of commercial uses demonstrating
9 that that a substantial property right is currently being enjoyed by several businesses on the property
10 including the subject restaurant. The applicant appears to be seeking to obtain a special privilege,
11 well beyond the substantial property rights currently enjoyed, to exceed the height limit otherwise
12 applicable to surrounding properties, and to convert areas that were always constructed as and
13 intended to be outdoor dining areas to partially enclosed weather proofed spaces.

14 3. The project may potentially be materially detrimental to property improvements in the
15 vicinity and zone since the project as constructed may marginally obstruct some views, or access to
16 sunlight, of adjacent properties. While the construction apparently does not obstruct prominent
17 westerly views to the ocean from properties directly to east, it potentially has impact on other views
18 from a southerly or northerly direction, or at angles from the northeast or southeast.

19 Section 5. Based on the foregoing, and since the Planning Commission cannot make all 4
20 required finding as required by Section 17.54.020 of the Zoning Ordinance, the Planning
21 Commission hereby denies the requested Variance and since the Variance is necessary to amend the
22 Conditional Use Permit the Commission hereby denies the requested amendment to the Conditional
23 Use Permit.

24 VOTE: AYES:
25 NOES:
26 ABSTAIN:
27 ABSENT:

28 CERTIFICATION

29 I hereby certify that the foregoing Resolution P.C. 05- 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 January 18, 2005.

Sam Perrotti, Chairman

Sol Blumenfeld, Secretary

January 18, 2005
Date