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P.C. RESOLUTION 05-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT FOR ON-SALE GENERAL ALCOHOL IN CONJUNCTION WITH A RESTAURANT AT 117 PIER AVENUE LEGALLY DESCRIBED AS LOTS 1 AND 2, BLOCK 34, 1ST ADDITION TO HERMOSA BEACH

Section 1. An application was filed by Hibachi, seeking approval for on-sale general alcohol in conjunction with a restaurant.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit on February 15, 2005, 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 combination of a restaurant use with a retail use as a portion of the premises was previously approved through a Parking Plan by the Planning Commission (P.C. Resolution 97-27), which included the City payment of in-lieu fees to allow for the restaurant use of the front portion of the building.

2. A Conditional Use Permit for on-sale beer and wine in conjunction with a restaurant was previously approved by the Planning Commission (P.C. Resolution 98-54).

3. The site is zoned C-2, restricted Commercial allowing restaurant uses, and on-sale general alcohol with approval of 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 and Parking Plan:

1. The site is zoned C-2, and is suitable for the proposed use with the proposed amendment;

2. The proposed use is compatible with surrounding commercial and residential uses;

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 Categorical Exempt pursuant to Section 15303c of the California Environmental Quality Act.

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

1. **The project shall be substantially consistent with submitted plans as reviewed by the Planning Commission on February 15, 2005. Minor modifications to the plan that do not alter the function of the business shall be reviewed and may be approved by the Community Development Director.**
2. **The hours of operation shall be limited to between 7:00 A.M. and 11:00 P.M.**
3. **Dining is limited to the areas shown on the submitted plans.**
4. **The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.**
5. **The business shall provide adequate staffing, management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of the patrons outside the business.**
6. **Noise emanating from the property shall be within the limitations prescribed by the City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.**
7. **The Police Chief may determine that a continuing police problem exists, and may authorize the presence of a police approved doorman and/or security personnel to eliminate the problem, and then shall submit a report to the Planning Commission, which will automatically initiate a review of this Conditional Use Permit by the Planning Commission.**
8. **The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.**
9. **The applicant shall submit a detailed seating and occupancy plan prepared by a licensed design professional, which shall be approved by the Community Development Department prior to final occupancy of restaurant, and posting of the occupant load.**
10. **Any significant changes to the interior layout which would alter the primary function of the business as a restaurant, or increase the designated floor area of restaurant seating shall be subject to review and approval by the Planning Commission.**
11. **The project and operation of the business shall comply with all applicable requirements of the Municipal Code.**
12. **The Planning Commission shall conduct a review of the restaurant operations for compliance with the terms of the Conditional Use Permit in 6 months, and in response to any complaints thereafter.**

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

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

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

5 Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from
6 any claim, action, or proceeding against the City or its agents, officers, or employee to attack, set
7 aside, void or annul this permit approval, which action is brought within the applicable time period of
8 the State Government Code. The City shall promptly notify the permittee of any claim, action, or
9 proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the
10 permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the
11 permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

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

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

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

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

28 **CERTIFICATION**

29 I hereby certify 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
February 15, 2005.

30 Sam Perrotti, Chairman

Sol Blumenfeld, Secretary

31 February 15, 2005

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