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P.C. RESOLUTION 05-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW ON-PREMISES WINE SAMPLING IN CONJUNCTION WITH A MARKET WITH OFF-SALE BEER AND WINE AT 302 PIER AVENUE LEGALLY DESCRIBED AS LOT 8, BLOCK 55, FIRST ADDITION TO HERMOSA BEACH

Section 1. An application was filed by Lara Sowinski seeking an amendment to a Conditional Use Permit to allow wine sampling in conjunction with an existing market with off-sale beer and wine.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend 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 site is zoned C-2 allowing the existing off-sale of beer and wine sales for off site consumption, with a Conditional Use Permit required to sell beer and wine after 11:00 P.M.

2. A Conditional Use Permit for off-sale beer and wine was granted for this location in 1990 as part of the City's program to amortize existing business selling alcohol without Conditional Use Permits. The C.U.P. allows the off-sale business to be open after 11:00 P.M. until midnight. Since the applicant is proposing on-sale consumption, no matter how limited it may be, a C.U.P. amendment is required for the "on-sale" beer and wine pursuant to the City's permitted use list.

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 market with the proposed limited on-site wine sampling is suitable for the proposed location.

2. The imposition of conditions as required by this resolution will adequately prevent the possible use of the market as a wine bar or other use inconsistent with its primary use as a retail market.

3. This project is Categorically Exempt pursuant to 15301, Class 1 of the California Environmental Quality Act Guidelines, minor alterations to existing private structures.

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 90-33

- 1. Interior and building alterations and the continued use and operation of the restaurant shall be substantially consistent with the plans submitted and reviewed by the Planning Commission on February 15, 2005.**

- 1 **2. The hours of operation of the market shall be limited to between 7:00 A.M. and**
2 **10:00 P.M. daily.**
- 3 **3. On premises consumption of alcohol is limited to wine sampling only, within the**
4 **80 square foot area shown on the plan.**
- 5 **4. The wine sampling area shall be separated from retail market by a non-portable**
6 **barrier (low wall, shelving, etc.) that are affixed to a clearly marked location on**
7 **the floor and noted on project plans.**
- 8 **5. No seating to be allowed in wine sampling area, and any tables shall be**
9 **appropriate for standing only, and noted on project plans.**
- 10 **6. Wine sampling shall be limited to one-ounce sampling sizes, maximum of 5**
11 **samples per customer, and pouring of samples shall be done by employees only.**
- 12 **7. No serving or preparation of food or meals is allowed (other than minimum**
13 **associated with wine sampling such as small pieces of cheese, bread, or fruit)**
- 14 **8. The proposed sampling area, and other improvements must be in compliance**
15 **with requirements of the LA County Department of Health, the State Alcohol**
16 **Beverage Control, and the Hermosa Beach Municipal Code.**
- 17 **9. The establishment shall not adversely affect the welfare of the residents, and/or**
18 **commercial establishments nearby.**
- 19 **10. The business shall provide adequate staffing and management and supervisory**
20 **techniques to prevent loitering, unruliness, and boisterous activities of the**
21 **patrons both inside and outside the business and in nearby public areas.**
- 22 **11. Any changes to the interior layout which would alter the primary function of the**
23 **business shall be subject to review and approval by the Planning Commission.**
- 24 **12. The project and operation of the business shall comply with all applicable**
25 **requirements of the Municipal Code.**
- 26 **13. The Planning Commission shall review the operation of the wine sampling for**
27 **compliance with conditions of approval 6 months from the date of opening of the**
28 **wine sampling portion of the market, and in response to any complaints**
29 **thereafter.**
- 14. The Conditional Use Permit shall become null and void if not executed within**
 two years of the date of the approval of this Resolution.

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 Amendment shall be recorded, and proof of recordation shall
2 be submitted to the Community Development Department prior to the issuance of a building
3 permit.

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

7 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and
8 employees from any claim, action, or proceeding against the City or its agents, officers, or
9 employee to attack, set aside, void or annul this permit approval, which action is brought within
10 the applicable time period of Government Code Section 65907. The City shall promptly notify
11 the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense.
12 If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City
13 fails to cooperate fully in the defense, the permittee shall no thereafter be responsible to defend,
14 indemnify, or hold harmless the City.

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

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

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

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

30 VOTE: AYES: Allen, Hoffman, Koenig, Perrotti, Pizer,
31 NOES: None
32 ABSENT: None
33 ABSTAIN: None

34 **CERTIFICATION**

35 I hereby certify the foregoing Resolution P.C. 05-10 is a true and complete record of the action
36 taken by the Planning Commission of the City of Hermosa Beach, California, at their regular
37 meeting of May 20, 2003.

38 _____
39 Sam Perrotti, Chairman

Sol Blumenfeld, Secretary

40 Date _____
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