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P.C. RESOLUTION 06-11

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE
PERMIT AMENDMENT, FOR A RESTAURANT WITH ON SALE GENERAL
ALCOHOL AT 934 HERMOSA AVENUE, AND LEGALLY DESCRIBED AS
LOTS 27-30, TRACT NO. 1564.**

The Planning Commission hereby resolves and orders as follows:

Section 1. An application was filed by John Velenica, seeking approval of an amendment to Conditional Use Permit 99-3 (P.C. Resolution 00-15) that allows on-sale general alcohol in conjunction with a restaurant, for interior alterations to the restaurant including adding three Japanese Teppan grills.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit Amendment on February 21, 2006, 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 restaurant is located on the east side of Hermosa Avenue within a mixed use commercial center, "Sand Castle Plaza," which contains retail, office, and restaurant tenants. The subject location has been a restaurant for over 25 years, dating back to a 1978 CUP granted for California Beach Sushi.

2. The restaurant space has been vacant for approximately two years and the applicant's request is to change it to a Japanese style restaurant with teppan grills, using the existing floor plan, except for minor changes to a portion of the dining area. The proposed restaurant does not have a name at this time.

3. The City issued a tenant improvement permit which enabled the applicant to start plumbing and mechanical work inside the restaurant and the applicant has already installed the teppan grills and new bench seating. Only recently were plans submitted showing the proposed alterations to the seating plan that are the subject of this request.

4. The currently applicable C.U.P. 99-3 (P.C. Resolution 00-15) includes conditions imposed by the Planning Commission as a result of a CUP hearing process initiated by the City in response to CUP and code violations connected with "Ibiza" restaurant, the restaurant tenant at that time. The master Parking Plan from 1995 was also out of compliance at that time. The property owner evicted Ibiza, and the premises have since been brought into compliance with the modified conditions of approval and the 1995 Parking Plan and the subject space has been occupied by one other restaurant in the past 6 years, "Passport" restaurant.

1 Section 4. Based on the foregoing factual findings, the Planning Commission makes the
2 following findings pertaining to the application to amend the Conditional Use Permit:

3 1. The site is zoned C-2, and the continued operation of the restaurant with the proposed
4 modifications and the same hours of operation is suitable for the proposed location.

5 2. The imposition of conditions as required by this resolution to address noise concerns
6 relative to the current requirements of the noise ordinance and to address nuisance concerns will
7 mitigate any negative impacts on, and will improve its compatibility with, nearby residential or
8 commercial properties within the downtown district.

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

11 Section 5. Based on the foregoing factual findings, the Planning Commission hereby
12 approves the Conditional Use Permit, as amended, for general on sale alcohol in conjunction with
13 a restaurant subject to the following Conditions of Approval, which supersede the conditions,
14 contained in Planning Commission Resolution 00-15.

15 **Specific Conditions of Approval**

- 16 1. **The development and continued use of the property shall be in conformance with
17 submitted plans. Minor modifications to the plan shall be reviewed and may be
18 approved by the Community Development Director.**
 - 19 A. **The existing vestibule at the entrance to the restaurant shall be maintained.**
 - 20 B. **Solid core door(s) shall be installed between the approved storage area and the
21 seating area, and shall remain closed during operating hours.**
 - 22 C. **Signs stating “Emergency Exit Only”, and panic hardware with an alarm on
23 each door shall be install on both doors on the Palm Drive side.**
 - 24 D. **A revised floor plan and seating plan correctly showing the location and layout
25 of bar and table seating and the maximum occupant load shall be submitted
26 for review and approval.**
- 27 2. **Public address system or music amplification in the outdoor courtyard and any other
28 outdoor area shall be prohibited.**
- 29 3. **All exterior doors and windows shall remain closed at all times during operating
hours.**
4. **Chairs, couches, tables, audio systems, speakers and similar items shall be prohibited
in the area designated for storage, including storage of these items.**
5. **The trash facility and bins shall be cleaned and treated at regular intervals to control
odors; roof top vents shall be prohibited.**
6. **Deliveries shall be prohibited on the Palm Drive side between the hours of 7:00 PM
and 7:00 AM. and the disposal of trash or the use of the trash facility for any purpose
shall be prohibited between 9:00 P.M. and 7:00 A.M.**
7. **The door to the trash storage area shall be closed, locked, and only opened for the
purpose of allowing the trash collector to remove the trash.**
8. **Washing, sweeping, or by any means putting garbage, trash, debris or any other
material onto the Palm Drive right way is strictly prohibited and waste water shall be
discharged into an approved floor drain.**

- 1 **9. A floor drain with a trap primer shall be provided in trash facility area.**
2 **10. The hours of operation shall be 8:00 A.M. to 11:00 P.M.**

3 **General Operating and Standard Conditions:**

- 4 **12. The establishment shall not adversely effect the welfare of the residents, and/or**
5 **commercial establishments nearby.**
6 **13. The business shall provide adequate staffing and management and supervisory**
7 **techniques to prevent loitering, unruliness, and boisterous activities of the patrons**
8 **outside the business, or in the immediate area.**
9 **14. The Police Chief shall determine if a continuing police problem exists, and may**
10 **authorize the presence of a police approved doorman and/or security personnel to**
11 **eliminate the problem, and/or shall submit a report to the Planning Commission,**
12 **which will automatically initiate a review of this conditional use permit by the**
13 **Commission**
14 **15. The exterior of the premises shall be maintained in a neat and clean manner, and**
15 **maintained free of graffiti at all times.**
16 **16. Any changes to the interior or exterior layout which alter the primary function of the**
17 **restaurant shall be subject to review and approval by the Planning Commission.**
18 **17. The operation of the business shall comply with all applicable requirements of the**
19 **Municipal Code.**
20 **18. 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 response**
24 **to any complaints.**
25 **19. The Conditional Use Permit shall become null and void if not executed within two**
26 **years of the date of the approval of this Resolution.**

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

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

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

37 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and
38 employees from any claim, action, or proceeding against the City or its agents, officers, or
39 employee to attack, set aside, void or annul this permit approval, which action is brought within
40 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.

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

VOTE:	AYES:	Allen, Hoffman, Kersenboom, Perrotti, Pizer
	NOES:	None
	ABSTAIN:	None
	ABSENT:	None

CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 06-11 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 21, 2006.

Peter Hoffman

Sol Blumenfeld, Secretary

March 21, 2006

Date