

P.C. RESOLUTION NO. 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW ON-SALE GENERAL ALCOHOL IN CONJUNCTION WITH A RESTAURANT AND APPROVING A PARKING PLAN AMENDMENT MODIFYING THE ALLOCATION OF USES WITHIN THE “HERMOSA PAVILION” INCLUDING AN 8,000 SQUARE FOOT RESTAURANT AT 1601 PACIFIC COAST HIGHWAY # 170 AKA 1605 PACIFIC COAST HIGHWAY.

The Planning Commission of the City of Hermosa Beach does hereby resolve and order as follows:

Section 1. An application was filed by Travis Jones, Stillwater Contemporary American Bistro, seeking approval for on-sale general alcohol in conjunction with a new restaurant proposed in the Hermosa Pavilion, and amendment to the Parking Plan (P.C. Resolution 03-45) to modify and update the allocation of uses approved as part of the shared parking analysis.

Section 2. The Planning Commission continued the public hearing scheduled on June 20, 2006 because the project was not properly posted on site as required by City ordinance.

Section 3. The Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit and Parking Plan Amendment on July 18, 2006, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 4. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. On August 19, 2003, the Planning Commission adopted P.C. Resolution 03-45 to approve Precise Development Plan and Parking Plan to remodel and expand an existing commercial building and to allow shared parking to accommodate a new allocation of uses within the building including a health and fitness facility, office, retail and restaurant uses. The approval included an allocation of 4,000 square feet for restaurant use.

2. The proposed restaurant will increase the allocation for restaurant use to 8,000 square feet, and proposed changes also include updates in the allocation of uses to reflect other minor modifications that have occurred since 2003 in the allocation of uses within the building.

3. The site is zoned SPA-7, Commercial, allowing restaurant uses, and on-sale general alcohol with approval of a Conditional Use Permit.

4. The Planning Commission conducted a duly noticed public hearing to consider the revocation or modification of the Precise Development Plan and Parking Plan on April 18, 2006, pursuant to Section 17.70.010 of the Zoning Ordinance (sub-sections E and F), and adopted Planning

Commission. Resolution No. 06-16 (which pertains to the entire Hermosa Pavilion) to address detrimental effects of spillover parking and which supersedes P.C. Resolution 03-45.

Section 5. 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 S.P.A. 7 which permits on-sale alcohol in conjunction with restaurant uses, and the site is suitable for the proposed use;

2. The restaurant is located entirely within a secured, sound insulated building with entry only from a common lobby accessible only from Pacific Coast Highway and no outdoor use is permitted for the business;

3. The restaurant is separated from adjacent residential uses by the Hermosa Pavilion's fully enclosed parking garage to the west, the width of Pacific Coast Highway to the east and more than 100 feet of building frontage to the north, thereby mitigating potential noise impacts from the business;

4. The proposed use is compatible with the commercial uses within the Hermosa Pavilion, consistent with the commercial character of the highway corridor and sufficiently secured within a multi-tenant building to be compatible with adjacent residential uses;

5. The imposition of conditions, including a limitation on the hours of operation, no outdoor dining and the requirement for free validated parking, as required by this resolution will mitigate any negative impacts on nearby residential or commercial properties;

6. This project is Categorically Exempt pursuant to Section 15303c of the California Environmental Quality Act.

Section 6. Based on the foregoing factual findings, the findings for the Conditional Use Permit, and the updated shared parking analysis prepared by Linscott Law and Greenspan; Parking Study Report, dated February 13, 2006, the Planning Commission makes the following findings pertaining the application to amend the Parking Plan to modify the allocation of uses within the Hermosa Pavilion:

1. The Parking Study Report identified and assessed all updated allocations including future restaurant space of 8,000 square feet (therefore including the entire square footage of the proposed restaurant), and found that weekday peak shared parking demand of 426 spaces can be accommodated by the 454 standard spaces and 42 tandem spaces as now provided with the latest revised striping layout.

2. Thus the study indicated that the shared parking impacts were immaterial to the supply of parking (Linscott Law and Greenspan; Parking Study Report, pg. 27).

3. The detrimental effects of the spillover parking which has occurred at the Hermosa Pavilion, documented in the Parking Study Report , and potentially exacerbated with a new

1 restaurant, will be mitigated with the condition requiring free validated parking applicable to the
2 restaurant and to the entire building.

3 Section 7. Based on the foregoing, the Planning Commission hereby approves the
4 Conditional Use Permit for on-sale general alcohol in conjunction with a restaurant and approves
5 the amendment to the Parking Plan to modify the allocation of uses, subject to the following

6 **Conditions of Approval.**

- 7 **1. Interior and building alterations and the continued use and operation of the restaurant**
8 **with appurtenant wine and cheese shop shall be substantially consistent with the plans**
9 **submitted and reviewed by the Planning Commission on July 18, 2006.**
 - 10 **a. The Conditional Use Permit is for on-sale alcohol in conjunction with a restaurant**
11 **and ancillary uses designated on the floor plan for (wine and cheese shop closing**
12 **before 11:00 p.m.). Any intensification of use involving live entertainment, such as**
13 **providing a disc jockey or other forms of amplified music for customer dancing, any**
14 **type of live entertainment (i.e. live music whether acoustic or amplified, comedy acts,**
15 **or any other type of performances) or extended hours of operation beyond what is**
16 **specified requires amending this Conditional Use Permit.**
 - 17 **b. If the Conditional Use Permit is amended to provide dancing, live music, or other live**
18 **entertainment as noted above, an acoustical analysis shall be conducted to verify**
19 **compliance with the noise ordinance, demonstrating that the noise will not be**
20 **audible from any adjacent residential use. Mitigation measures to attenuate noise**
21 **may include sound baffles, double glazing and other methods specified in the**
22 **acoustical study. The scope of the acoustical study shall be approved by the**
23 **Community Development Director**
- 24 **2. The hours of operation for the restaurant shall be limited to between 7:00 A.M. and**
25 **12:00 Midnight.**
- 26 **3. The and wine cheese shop retail uses are appurtenant to the restaurant and shall only**
27 **operate in conjunction with it.**
- 28 **4. The kitchen shall remain open during operating hours to ensure that the use is**
29 **maintained primarily as a restaurant.**
- 5. The establishment shall not adversely affect the welfare of the residents, and/or**
commercial establishments nearby.
- 6. The business shall provide adequate staffing, management and supervisory techniques**
to prevent loitering, unruliness, and boisterous activities of the patrons outside the
business.

- 1 **7. Noise emanating from the property shall be within the limitations prescribed by the**
2 **City's noise ordinance and shall not be plainly audible from any residential use, and**
3 **shall not create a nuisance to surrounding residential neighborhoods, and/or**
4 **commercial establishments.**
- 5 **8. The Police Chief may determine that a continuing police problem exists, and may**
6 **authorize the presence of a police approved doorman and/or security personnel to**
7 **eliminate the problem, and then shall submit a report to the Planning Commission,**
8 **which will automatically initiate a review of this Conditional Use Permit by the Planning**
9 **Commission.**
- 10 **9. The applicant shall submit a detailed seating and occupant load plan prepared by a**
11 **licensed design professional, which shall be approved by the Community Development**
12 **and Fire Departments prior to implementing the restaurant use. An approved occupant**
13 **load sign must be posted in the business.**
- 14 **10. The Fire Department shall maintain a record of the posted allowable occupant load for**
15 **the business and regularly check the business for occupant load compliance. The Fire**
16 **Chief may determine that there is a repeat pattern of occupant load violations and then**
17 **shall submit a report to the Planning Commission which will automatically initiate a**
18 **review of this Conditional Use Permit by the Planning Commission.**
- 19 **11. The exterior of all the premises shall be maintained in a neat and clean manner, and**
20 **maintained free of graffiti at all times.**
- 21 **12. Any significant changes to the interior layout, which alter the primary function of the**
22 **business as a restaurant, (i.e. increasing floor area for bar seating, or adding a dance**
23 **floor) or increasing the designated floor area of restaurant seating shall be subject to**
24 **review and approval by the Planning Commission and require amendment to this**
25 **Conditional Use Permit.**
- 26 **13. The project and operation of the business shall comply with all applicable requirements**
27 **of the Municipal Code.**
- 28 **14. The Planning Commission shall conduct a review of the restaurant operations for**
29 **compliance with the terms of the Conditional Use Permit in 6 months, and in response to**
30 **any complaints thereafter**
- 31 **15. Violations of the Parking Plan for Hermosa Pavilion, as amended by P.C. Resolution 06-**
32 **16, and sustained by the City Council on July 11, 2006 shall be submitted in a report to**
33 **the Planning Commission which shall automatically initiate a review of the Conditional**
34 **Use Permit.**
- 35 **16. Two hour free validated parking shall be provided for patrons of the restaurant within**
36 **the Hermosa Pavilion parking facility and signs shall be prominently displayed at the**

entry and within the restaurant to promote the two-hour free validated parking program;

17. The Parking Plan approval, as set forth in P.C. Resolution 03-45, as amended by P.C. Resolution 06-16, and sustained by the City Council on July 11, 2006, is amended with respect to the allocation of uses, which shall be substantially consistent or less than the following allocation:

	<u>Allocation (in square feet)</u>
Health and Fitness Facility (including a basketball court and pool)	46,500
Office	20,400
Day Spa	13,000
Retail	9,600
Restaurant (Including food related retail sales)	8,000
Auditorium	3,000
Storage	<u>10,600</u>
Total	110,600

Any material change to this allocation requires amendment to the Parking Plan, and approval of the Planning Commission.

18. The Conditional Use Permit shall be subject to Planning Commission review 6 months after commencement of business operations and annually thereafter.

19. Building Permits for the tenant improvement for the restaurant cannot be issued unless the auto detail business located within the parking garage is ceases, or the business obtains a Conditional Use Permit.

Section 8. This grant shall not be effective for any purposes until the permittee and the owners of the property involved have filed at 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.

The Conditional Use Permit and Parking Plan Amendment shall be recorded, and proof of recordation shall be submitted to the Community Development Department.

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

Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of the State 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 not 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 Parking Plan Amendment 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 9. 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:
 NOES:
 ABSTAIN:
 ABSENT:

CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 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 July 18, 2006.

Peter Hoffman, Chairman

Sol Blumenfeld, Secretary

Date

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