

November 7, 2006,

**Honorable Chairman and Members of the  
Hermosa Beach Planning Commission**

**Regular Meeting of  
November 21, 2006**

**SUBJECT: REVOCATION/MODIFICATION HEARING FOR CONDITIONAL USE PERMIT  
01-1 FOR ON-SALE ALCOHOL, LIVE ENTERTAINMENT AND OUTSIDE  
DINING FOR SAFFIRE /POINTE 705, 705 PIER AVENUE , HERMOSA BEACH**

**Recommendation:**

Direct staff as deemed appropriate.

**Project History:**

- April 9, 1985, City Council Resolution 85-4820 approves Marie Callendars for general alcohol sales and outdoor dining in conjunction with a restaurant and allows operating hours until 2:00 a.m.
- April 5, 1994, Planning Commission Resolution 94-10, amends original CUP for Descanso Gardens allowing live entertainment with a maximum of 3 musicians using non-amplified music in lounge/waiting area secondary.
- June 7, 1994, Planning Commission Resolution approves an amendment to above project to allow outdoor waiting area and live entertainment with acoustical study only and not as a main attraction or show.
- March 18, 1997, Planning Commission Resolution 97-26 approves a modification to floor plan to include an additional bar for a total of three, two stages and a dance floor. Changes in floor plan, no material changes to conditions.
- May 5, 2001, Planning Commission resolution 01-18 allows outside dining in area previously approved only for outdoor waiting area. Conditions only address outdoor uses (no outdoor music, maintain existing planted areas, add decorative railings). No changes to operating conditions from Resolution No. 97-26.

ZONING:	SPA 8 - Specific Plan Area
GENERAL PLAN:	Commercial Corridor
EXISTING FLOOR AREA:	8,900 Square Feet
PARKING PROVIDED:	432 Total 164 Lower Level
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

**Background:**

Saffire/ 705 is located within the Plaza Hermosa Shopping Center. The business has had several changes in ownership from a Marie Callendars restaurant to the current tenant, Saffire/705. Saffire/ 705 has recently been sold and is to be called Club 705. The new owner is proposing to change the ABC license from a restaurant to a bar/lounge. Over the last several months the police and fire departments have responded to complaints involving fights, public intoxication, underage serving and over crowding in violation of the building, fire, and penal codes. The business owner has received written notice of the subject hearing and provided correspondence describing the proposed

operation of the facility as evidence that current problems will not continue. The owner also disputes the police department response record. (Please see Attachment No. 1.)

**Analysis:**

Section 17.70.010 of the Zone Code provides that the Planning Commission may modify or revoke a CUP under any the following grounds:

- A. That the approval was obtained by fraud;
- B. That the use for which such approval is granted is not being exercised;
- C. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
- D. That the permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation;
- E. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

The Conditional Use Permit, (Resolution 01-18 and Resolution No. 97-26), contains conditions that allow the Police Chief to determine if a continuing police problem exists and to authorize presence of a police approved doorman and or security personnel to eliminate security problems and to submit a report to the Community Development Department thereby automatically initiating review of the Conditional Use Permit by the Planning Commission.

The Police Chief has not suggested the presence of additional doorman or security personnel, but has recommended that the Commission consider modifying the current CUP due to the large number of Police Department calls to the property. The call history includes excessive over-crowding, loitering around the building frontage and parking area, battery, fights and assaults and public intoxication. The call history over the last six months is summarized as follows:

**Summary of Violations**

Call Out	Action	CUP 01-18 and 97-26 Violation	Other Code Violations	No. Calls	2006 Call Outs
1. Over Crowding	FD Response	Cond, Nos. 12, 13 (Res. 01-1)	Fire Code	1	6/10
2. Noise Violation	PD Response	Cond. No. 3, (Res. 97-26)	HBMC	8	2/2, 2/6,2/19,3/16,5/11, 6/10, 6/18, 7/7
3. Loitering	PD Response	Cond. No. 1 (Res. 97-26)	Penal Code	3	3/25, 6/18,7/7,
4. Assaults	PD Response	Cond. No. 1 (Res. 97-26)	ABC Penal Code	7	3/19, 3/25,4/8,5/14, 6/11,7/1, 7/9
5. Serving Underage	PD Response	Cond. No.1 (Res. 97-26)	Penal Code ABC, HBMC	2	3/03,7/15
6. Public Intoxication	PD Response	Cond. No. 1 (Res. 97-26)	HBMC, ABC	3	7/1,5/14,2/19

P.C. Resolution 01-18 (Condition No 12) requires that the applicant submit a detailed seating and occupant load plan prepared by a licensed design professional for approval by the Community Development Department and any changes to the interior layout of the business that alters the

primary function of the business as a restaurant shall be subject to review and approval by the Planning Commission.

P.C. Resolution 97-26 (Condition No. 2) provides that "the primary emphasis of the business shall be maintained as a restaurant. Live entertainment shall be secondary and shall not be a separate or main attraction or show or promoted as such.

The business has been advertised as a lounge, disco and venue for special events, which is inconsistent with this condition of the CUP and the police department reports that the business has regularly removed tables and chairs to accommodate the special events and dancing in violation of the above condition. (Attachment No. 2)

P.C. Resolution 97-26 (Condition No. 13) provides that the operation of the business shall comply with all applicable requirements of the Municipal Code.

P.C. Resolution 97-26 (Condition No. 8) provides that "the business shall provide adequate staffing, management and supervisory techniques to prevent loitering, unruliness and boisterous activities of patrons outside the business and parking area.

Police Department response calls indicate that the business is not providing adequate supervision since patrons were reported by the Police Department to be unruly and boisterous and allowed to loiter around the building frontage and parking area. Thus the business has not utilized management and supervisory techniques to prevent unruly behavior.

P.C. Resolution 97-26 provides that live entertainment shall be limited to three musicians/performers using non-amplified instruments such as a piano, guitar, violin, etc.. If entertainment is to include amplified live entertainment and or more musicians, an acoustical study shall be prepared by an acoustical expert, including proposed sound dampening features to baffle and direct sound away from the entrance/exit and window areas to ensure compliance with the noise ordinance.

- a. The Acoustical study shall be based on a worst-case scenario or on a sound level that will not be exceeded at any given time.
- b. Management shall be responsible for the music/entertainment volume levels.
- c. During the performance of any amplified live entertainment, the exterior doors and windows shall remain closed.

The business has provided amplified live entertainment but has never supplied an acoustical study to comply with the CUP and consequently has not installed sound dampening features in compliance with the study or the City's noise ordinance.

P.C. Resolution 94-17, Section II, Condition No. 1 provides that the establishment shall not adversely affect the welfare of the residents and/or commercial establishments nearby.

The Police Department records indicate that surrounding neighbors at the mobile home park (531 Pier Avenue) have complained about be awakened due to excessive noise and unruly and boisterous behavior.

**Conclusions:**


From the above it can be concluded that the business has not been operating in accordance with the conditions of Resolution Nos. 01-18 and No. 97-26 and that the Commission has authority to revoke or modify the operating conditions under the CUP. Over the last six months, the business has demonstrated a clear pattern of non-compliance with many of the CUP operating conditions. Pursuant to Chapter 17.70 the Commission also may revoke or modify a conditional use permit to prevent a nuisance to the community. The new business owner has proposed to focus on bar/lounge activity with the proposed ABC license change, which is inconsistent with operation of the business as a restaurant and is not what was intended when the amended CUP was granted. Thus the Commission may consider modifying the current CUP to ensure the use does not create a nuisance and transition further from a restaurant to a lounge. If the Commission determines that the CUP should be modified it can adopt the attached resolution providing new restrictions on business operations as summarized below:

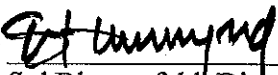
**Proposed revisions and additions to CUP:**

- **The Conditional Use Permit applies exclusively to on-sale alcohol in conjunction with a restaurant and no live entertainment. Any intensification of use involving live entertainment, such as providing a disc jockey or other forms of amplified music for customer dancing, any type of live entertainment (i.e. live music whether acoustic or amplified, comedy acts, or any other type of performances) or extended hours of operation beyond what is specified requires amending this Conditional Use Permit. In the event the City establishes an entertainment permit program, the owner must apply and receive the permit in order to offer any kind of live entertainment.**
- **If the Conditional Use Permit is amended to provide dancing, live music, or other live entertainment an acoustical analysis shall be conducted to verify compliance with the noise ordinance, demonstrating that the noise will not be audible from any adjacent residential use. Mitigation measures to attenuate noise may include sound baffles, double glazing and other methods specified in the acoustical study. The scope of the acoustical study shall be approved by the Community Development Director.**
- **The hours of operation for all operations of the restaurant, including the lounge area, shall be limited to between 7:00 A.M. and 12:00 Midnight.**
- **The parking area and exterior access at the north west side of the restaurant shall be used for egress to the restaurant only with appropriate signage restricting use to access only and appropriate lighting and security. No outdoor use other than access to the facility is permitted.**
- **The business shall not operate in a manner as to have and adverse effect on or interfere with the comfortable enjoyment of neighboring residential and commercial property.**
- **The business is prohibited from using "outside promoters" to advertise the use to obtain customers. Promoters as used herein are described as "an individual or**

organization who uses the facilities of another owner to organize, oversee, or otherwise promote entertainment that is not part of the primary business use.

- Noise emanating from the property shall be within the limitations prescribed by the City's noise ordinance and shall not be plainly audible from any residence, and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
- The restaurant shall not require any cover charge or fee for general entry into the restaurant or appurtenant areas.
- The restaurant shall be subject to annual review by the Planning Commission to verify conformance with the Conditions of Approval.
- The restaurant shall discontinue operations until a detailed seating and occupant load plan, prepared by a licensed design professional, has been submitted and approved by the Community Development and Fire Departments. An approved occupant load sign must be posted in the business as directed by the Fire Department prior to operating the business.
- The Fire Department shall maintain a record of the posted allowable occupant load for the business and regularly check the business for occupant load compliance. The Fire Chief may determine that there is a repeat pattern of occupant load violations 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.
- Any significant changes to the interior layout, which alter the primary function of the business as a restaurant, (i.e. increasing floor area for bar seating, adding a dance floor or removing furniture for dancing shall be subject to review and approval by the Planning Commission and require amendment to this Conditional Use Permit.

  
Ken Robertson,  
Senior Planner

  
Sol Blumenfeld, Director  
Community Development

  
Greg Savelli  
Chief of Police

Attachments

1. Correspondence
2. Business advertising and promotions
3. Planning Commission Resolutions 01-18 and 97-26
4. Police Report History
5. Fire Department Report
6. Proposed Resolution

P:/SaffirePoint705



# City of Hermosa Beach

Civic Center, 1315 Valley Drive, Hermosa Beach, California 90254-3884

October 23, 2006

Maximoore Inc.  
4470 W. Sunset Blvd., Suite 107-204  
Los Angeles, CA 90027  
Attention: Arkadi Minassian, President

RE: Saffire/Pointe 705 Restaurant, 705 Pier Avenue – Planning Commission Review of Conditional Use Permit

Dear Mr. Minassian :

This letter is to advise you of the upcoming Planning Commission hearing on November 21, 2006, to review the business operations at 705 Pier Avenue. The review and public hearing is being conducted pursuant to Section 17.70.010 of the Zone Code which provides that the Planning Commission may modify or revoke a Conditional Use Permit (C.U.P.) if it is being exercised contrary to the terms or conditions of such approval, or is being operated in violation of any statute, ordinance, law or regulation. The C.U.P. that governs the use of the property is for a restaurant with on-sale alcohol with the conditions as set forth in Planning Commission Resolutions 97-26 and 01-18. (copies attached).

At their meeting of October 17, the Planning Commission set the matter for public hearing based on testimony evidence presented by the Police Department the business has on several occasions been operated contrary to the terms and conditions of the C.U.P. and in violation of other laws of the City. A copy of the staff report is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Sol Blumenfeld".

Sol Blumenfeld, Director  
Community Development Department

c. Steve Burrell, City Manger  
Planning Commission

Business plan for "Cub 705"

Years ago, Scott and Shane McColgan started a restaurant/nightclub at 705 Pier Ave in Hermosa Beach. The original business model was sound and they experienced a measure of success by utilizing local patrons as their main customer base. As far as we know, the City of Hermosa was both pleased with the operations of the business and welcomed it as a model for other like businesses in the area. Eventually, the business was sold and problems did arise. We believe that many of these problems were caused by the subsequent owners straying from the original business model of utilizing local patrons as the core customer base. Our plan is to reestablish the local customer base as the core market of our business. This can be achieved through a variety of efforts.

- Reestablish connections with local promoters
- Establish a high end Steak and Seafood restaurant
- Increase involvement with local community and charity events
- Hire local employees that have a local following
- Train security to enforce a strict dress code and standards for patrons
- Establish price points that attract our core demographic

Because promoters can play a large part in the overall composition of a crowd, choosing them needs to be done with a bit of care. Previous owners have failed to grasp this concept, and have haphazardly hired outside promoters that brought the wrong type of demographic. We plan to use local promoters so that we can recapture the local market.

A high end restaurant is sorely needed in this space to bring back the clientele that used to frequent the establishment. The feel and price point of the previous restaurant was on the lower end and tended to attract customers with a lower base income. We plan to change this by having a menu with higher price points.

  
Tim Moore

July 17, 2006

Alcoholic Beverage Control  
3927 Lennane Drive  
Suite 100  
Sacramento, CA 95834

**RECEIVED**

**OCT 12 2006**

**RE: 705 PIER AVENUE, HERMOSA BEACH  
LICENSE TRANSFER REQUEST TO: MAXIMOOR INC.**

COMMUNITY DEV. DEPT.

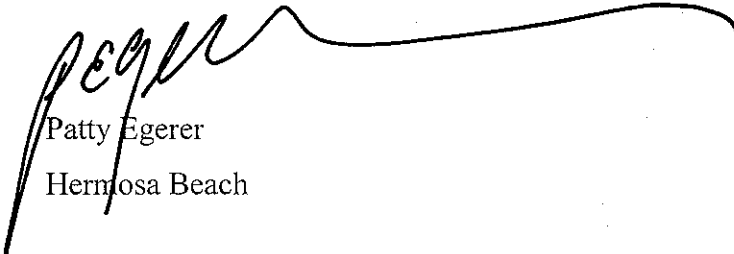
The transfer of the "on sale" alcohol license from Club 705 to Maximoore Inc., notice date June 28, 2006 is protested, as outlined below.

1. The new existing club conducts operations under the name of Club Saffire Nightclub Lounge located at 705 Pier Avenue, Hermosa Beach. This "adult" entertainment-nightclub-lounge conflicts with the original Conditional Use Permit granted by the City of Hermosa Beach. It is essential, for the City of Hermosa Beach to have necessary time and opportunity to evaluate this C.U.P. transfer request.
2. Club Saffire is a tenant within a shopping plaza, located on a central thoroughfare, near neighborhood, community facilities, and supermarket. The adult entertainment venue has staged women "pussycat dancers" scantily clothed in the storefront's window to lure and solicit business. The club keeps "lights out" (dark environment) during hours of operation. The environment cultivated at this location is dangerous and threatens residents' sense of security.
3. The club is located directly across the street from a historically significant educational facility "**Pier Avenue School.**" The school has been a distinctive landmark and source of community pride for Hermosans since construction, 1920s. The school site serves as a multi-purpose community center-park, which includes children programs and a skateboard park. Measures may be implemented in the future, to resume operation of this cornerstone school. **A priority for our community is to safeguard the desirability of our educational and community center.** An alcohol outlet at this location negatively changes the character.

As outlined, this letter represents a protest of the license transfer and continuation of alcohol licensing at 705 Pier Avenue. The proliferation of alcohol outlets has become the destruction and degradation of neighborhood and community.

Notice of all future hearings concerning this matter, is requested. My mailing address is:  
P.O. Box 1616, Manhattan Beach, CA 90267

Respectfully,



Patty Egerer  
Hermosa Beach

cc: ABC, Inglewood, CA.



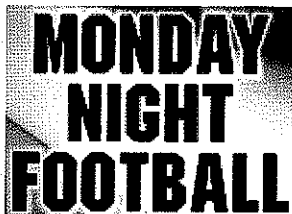


Connect with us at [www.myspace.com/club705](http://www.myspace.com/club705)



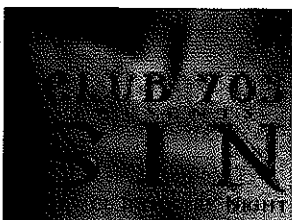
[Click Here and Add us!](#)

**HOT NEW EVENTS COMING SOON!**



**MONDAY NIGHT FOOTBALL!  
ARE YOU READY FOR SOME FOOTBALL?**

Enjoy every game with \$9.95 complete steak dinner and a beer with \$1 refills! price appetizers, 2 for 1 drinks with all specials good from 4pm until the end o game! Karaoke every monday night after the games!  
Happy Hour parties available! Contact us at ([info@club705.com](mailto:info@club705.com)) or call our off at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)



**S.I.N. NIGHT!  
Service Industry Night on Mondays for FAB (Food And Beverage)  
Industry at Club Saffire!**

\$3 drinks all night long (except top shelf) for all in the industry! Karaoke from 9pm-close and Guest Bartending! Contact [xavier@club705.com](mailto:xavier@club705.com) to sign up!  
**VIP Bottle Service available!** Contact us at ([info@club705.com](mailto:info@club705.com)) or call our offices at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)

**HOT WEEKLY EVENTS:**



**Liquid Lounge Happy Hour  
Every Day from 4-8pm**

2-for-1 Drinks and \$2 Drafts with sports on all 32 Plasma TVs!  
Happy Hour parties available! Contact us at ([info@club705.com](mailto:info@club705.com)) or call our off at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)



**JAMAICA WEST!  
Every Wednesday at Club Saffire**

Free all night from 9pm-2am with Roots, Reggae, Dancehall and Hip Hop. For guest list, call Rasta at 323-980-3444  
**VIP Bottle Service available!** Contact us at ([info@club705.com](mailto:info@club705.com)) or call our offices at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)



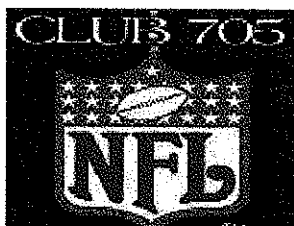
**THURSDAY SALSA NIGHT!  
Every Thursday at Club Saffire**

Free all night from 9pm-2am with Roots, Reggae, Dancehall and Hip Hop. For guest list, call Rasta at 323-980-3444  
**VIP Bottle Service available!** Contact us at ([info@club705.com](mailto:info@club705.com)) or call our offices at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)

**MEMBERSHIP BENEFITS INCLUDE:**



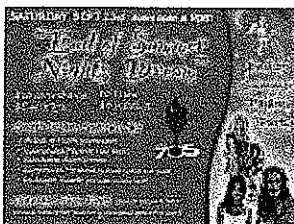
**CLUB 705 IS BACK IN FULL FORCE!:**



**EVERY SUNDAY STARTING SEPTEMBER 10TH  
THE NFL IS BACK AND FEATURED AT 705**

Go **BIG** or go home! 705 is your Fantasy Football Headquarters! If you are ready for the NFL to kickoff, then come to 705 and cheer for your favorite teams with huge drink specials, a bloody mary bar, and food specials all day long!

**VIP Bottle Service available!** Contact us at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)

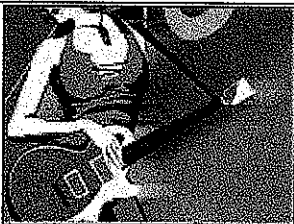


**Saturday, September 23rd  
END OF SUMMER PAJAMA PARTY!**

**Featuring Eric Jag!** \$5 cover with PJ's, \$10 without. Doors open at 9pm. \$5 Call-Its! Sweet Dreams Specials for only \$3 include Jaeger shots, 180 bombs, Sambucca Sweet Dream, Sleepless in Hermosa, Midnight Snack plus the **Midnight Pillow Fight!** Sexiest pillow fighter wins a cash prize!

**VIP Bottle Service available!** Contact us at (310) 372-9705. Visit us online at [www.club705.com](http://www.club705.com)

**CONNECT WITH US ON MYSPACE!**



Connect with us at [www.myspace.com/club705](http://www.myspace.com/club705)



**Click Here and Add us!**

**HOT NEW EVENTS COMING SOON!**

**MONDAY NIGHT FOOTBALL!  
ARE YOU READY FOR SOME FOOTBALL?**

Enjoy every game with \$9.95 complete steak dinner and a beer with \$1 refills! 1/2 price appetizers, 2 for 1 drinks with all specials good from 4pm until the end

Gidfriends Clothing Presents:

**Ed Hardy**  
By Christian Audigier

HOLLYWOOD FASHION EXPERIENCE COMES TO THE BEACH! 2 EVENTS! 1 VENUE!

GIRLFRIENDS CLOTHING MODELS AND SHEENA LEE AND FRIENDS WILL BE SHOWCASING THE NEWEST STYLES OF THE ED HARDY CLOTHING LINE.

**ED HARDY CLOTHING GIVEAWAYS!**

HOLLYWOOD'S OWN  
**DJ STEVE CASTRO**  
**DJ MISTER E**  
**DJ WIL**

8-2am @ SAFFIRE (Club 705)  
705 Pier Ave. Hermosa Beach, CA

21 and over  
Pre-sale tickets @ [www.wantickets.com](http://www.wantickets.com)

**FRIDAY AUGUST 25TH**

FRIDAY, AUGUST 25TH, 2006

**B.A.D. MAGAZINE**

2 EVENTS 1 VENUE  
FINALLY A MAGAZINE THAT HAS IT ALL! THE SEXIEST MEN'S & WOMAN'S ENTERTAINMENT AND FASHION MAGAZINE IN THE WORLD!  
[BADMAGAZINE.COM](http://BADMAGAZINE.COM)

JOIN CYBER GIRL  
**SHEENA LEE**  
AND COMPANY AS THEY SEEK OUT UPCOMING FACIES FOR B.A.D. BEACH MAGAZINE II WITH SPECIAL GUESTS

HOLLYWOOD'S OWN  
**DJ STEVE CASTRO**  
**DJ MISTER E**  
**DJ WIL**  
also hosted by the infamous c-dub and crew

8-2am @ SAFFIRE (Club 705)  
705 Pier Ave. Hermosa Beach, CA

21 and over  
Pre-sale tickets @ [www.wantickets.com](http://www.wantickets.com)

Design & Print by :: [www.MLDgraphics.com](http://www.MLDgraphics.com) :: 714.375.1221

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**P.C. RESOLUTION 01-18**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW OUTDOOR DINING IN CONJUNCTION WITH AN EXISTING RESTAURANT WITH ON-SALE ALCOHOL AT 705 PIER AVENUE LEGALLY DESCRIBED AS A PORTION OF LOT 1, TRACT NO. 9203, AND LOTS 11-18 INCLUSIVE, BLOCK 80, 2<sup>ND</sup> ADDITION TO HERMOSA BEACH TRACT**

Section 1. An application was filed by Shane McColgan, seeking approval for on-sale beer and wine in conjunction with a restaurant;

Section 2. The Planning Commission conducted a duly noticed de novo public hearing to consider the application for the Conditional Use Permit Amendment on May 15, 2001, 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 subject restaurant site is already authorized for on-sale alcohol by a Conditional Use Permit granted on March 15, 1994 (P.C. Resolution 94-10);
2. The change from outdoor seating to outdoor dining will not significantly intensify the use of the site;
3. The potential noise impacts that might result from the outside dining are less than significant because the restaurant is located within a commercial area with no residential uses nearby;

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 SPA 8, and is suitable for the proposed use;
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 resulting from the issuance of this Conditional Use Permit Amendment;
4. This project is Categorically 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 May 15, 2001. Modifications to the plan shall be reviewed and**

1 may be approved by the Community Development Director. The applicant shall also  
2 submit a seating plan for review and approval to the Community Development Director.

- 3 2. The outdoor dining shall be limited to hours of operation between 8:00 A.M. and Midnight  
4 Sunday through Thursday, and between 8:00 A.M. and 2:00 A.M. on Fridays and  
5 Saturdays.
- 6 3. A decorative railing shall be provided to clearly delineate the outdoor dining area from the  
7 public sidewalk.
- 8 4. At no time shall the public sidewalk be used by food service personnel.
- 9 5. No recorded music or amplified music is allowed in the outdoor dining area.
- 10 6. The existing Sycamore tree located within the proposed outdoor dining area shall be left  
11 undisturbed.
- 12 7. The establishment shall not adversely effect the welfare of the residents, and/or commercial  
13 establishments nearby.
- 14 8. The business shall provide adequate staffing, management and supervisory techniques to  
15 prevent loitering, unruliness, and boisterous activities of the patrons outside the business  
16 and in the parking areas.
- 17 9. Noise emanating from the property shall be within the limitations prescribed by the City's  
18 noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,  
19 and/or commercial establishments.
- 20 10. The Police Chief may determine that a continuing police problem exists, and may authorize  
21 the presence of a police approved doorman and/or security personnel to eliminate the  
22 problem, and then shall submit a report to the Planning Commission, which will  
23 automatically initiate a review of this Conditional Use Permit by the Planning Commission.
- 24 11. The exterior of all the premises shall be maintained in a neat and clean manner, and  
25 maintained free of graffiti at all times.
- 26 12. The applicant shall submit a detailed seating and occupancy plan prepared by a licensed  
27 design professional, which shall be approved by the Community Development Department  
28 prior to issuance of building permits. Any significant changes to this interior layout which  
29 would alter the primary function of the business as a restaurant shall be subject to review  
and approval by the Planning Commission.
13. The project and operation of the business shall comply with all applicable requirements of  
the Municipal Code.
14. All Conditions of Approval from Planning Commission Resolution 97-26, which do not  
specifically address the outdoor dining use, shall remain in effect.

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

1 Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

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

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

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

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

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

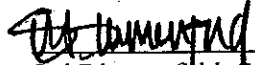
22 The Planning Commission may review this Conditional Use Permit and may amend the subject  
23 conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the  
24 neighborhood resulting from the subject use.

25  
26 VOTE: AYES: Tucker, Kersenboom, Chairman Perrotti  
27 NOES: None  
28 ABSENT: Hoffman, Pizer  
29 ABSTAIN: None

#### CERTIFICATION

30 I hereby certify the foregoing Resolution P.C. 01-18 is a true and complete record of the action taken by  
31 the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of May 15,  
32 2001

33   
34 \_\_\_\_\_  
35 Sam Perrotti, Chairman

36   
37 \_\_\_\_\_  
38 Sol Blumenfeld, Secretary

39 Date 6-19-01

40 Cupr01-1

P.C. RESOLUTION 97-26

1  
2 **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA**  
3 **BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AND PARKING**  
4 **PLAN, AS AMENDED, TO ALLOW TWO STAGES AN ADDITIONAL BAR AND**  
5 **ADDED SEATING IN CONJUNCTION WITH A RESTAURANT WITH ON-SALE**  
6 **ALCOHOL AT 705 PIER AVENUE AND LEGALLY DESCRIBED AS A PORTION OF**  
7 **LOT 1, TRACT 9203, AND LOTS 11-18 INCLUSIVE, BLOCK 80, SECOND ADDITION**  
8 **TO HERMOSA BEACH TRACT**

9 WHEREAS, the Planning Commission held a public hearing on March 18, 1997, to receive  
10 oral and written testimony regarding an application for a Conditional Use Permit Amendment and  
11 made the following findings:

- 12 A. The subject restaurant site is already authorized for on-sale alcohol by a Conditional Use  
13 Permit granted on March 15, 1994, (P.C. Resolution 94-10).
- 14 B. The additional seating, bar, and stages will not significantly intensify the use of the site as  
15 long as the use remains primarily a restaurant;
- 16 D. The use of the site for a restaurant is appropriate for the subject location and will be  
17 compatible with surrounding commercial activities along Pier Avenue;
- 18 E. Strict compliance with the conditions of approval will mitigate any negative impact resulting  
19 from the issuance of the Conditional Use Permit;
- 20 F. The project is Categorically Exempt from the requirements of the California Environmental  
21 Quality Act, pursuant to Section 15301 New Construction and Conversion of Small  
22 Structures of the CEQA guidelines, as it involves the minor alteration of an existing facility.

23 **NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City**  
24 **of Hermosa Beach, California does hereby approve a Conditional Use Permit and**  
25 **Parking Plan Amendment to allow stages and an additional bar to the existing**  
26 **restaurant with on-sale alcohol, subject to the following conditions, which supersede**  
27 **the conditions of Planning Commission Resolution 94-17:**

28 **SECTION I Specific Conditions of Approval**

- 29 1. The project shall be substantially consistent with submitted plans. Modifications to the plan shall be reviewed and may be approved by the Community Development Director.

15  
97 1610501

- 1 a. Plans shall indicate that the outside waiting area shall have no service. In the event  
2 that future service occurs, at no time shall the use of the public right-of-way be  
3 used by the servers.
- 4 2. The primary emphasis of the business shall be maintained as a restaurant. Live  
5 entertainment and dancing shall be secondary, and shall not be a separate or main attraction  
6 or show, or promoted as such.
- 7 3. The hours of operation shall be limited to between 8:00 A.M. and 2:00 A.M. daily.
- 8 4. Live entertainment shall be limited to using non amplified instruments such as a piano,  
9 guitar, violin, etc. If entertainment is to include amplified (i.e. use of electrical amplifier)  
10 live entertainment, an acoustical study shall be prepared by an acoustical expert, including  
11 proposed sound dampening features to baffle and direct sound away from the entrance/exit  
12 and window areas to ensure compliance with the noise ordinance. Said study and sound  
13 dampening features shall be reviewed and approved by the Community Development  
14 Director and shall be implemented in the building.
- 15 a. The acoustical study shall be based on the worst-case noise scenario, or on a sound  
16 level that will not be exceeded at any given time.
- 17 b. Management shall be responsible for the music/entertainment volume levels.
- 18 c. During the performance of any amplified live entertainment, the exterior doors and  
19 windows shall remain closed.

15 SECTION II General operating and standard conditions:

- 16 1. The establishment shall not adversely effect the welfare of the residents, and/or commercial  
17 establishments nearby.
- 18 2. The business shall provide adequate staffing, management and supervisory techniques to  
19 prevent loitering, unruliness, and boisterous activities of the patrons outside the business  
20 and in the parking areas.
- 21 3. Noise emanating from the property shall be within the limitations prescribed by the city's  
22 noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,  
23 and/or commercial establishments.
- 24 4. The police chief may determine that a continuing police problem exists, and may authorize  
25 the presence of a police approved doorman and/or security personnel to eliminate the  
26 problem, and then shall submit a report to the Planning Commission, which will  
27 automatically initiate a review of this conditional use permit by the Commission.
- 28 5. The exterior of the premises shall be maintained in a neat and clean manner, and maintained  
29 free of graffiti at all times.
- 6. Any significant changes to the interior layout which would alter the primary function of the  
restaurant shall be subject to review and approval by the Planning Commission.
- 7. The project and operation of the business shall comply with all applicable requirements of  
the Municipal Code.

SECTION III

**97 1610501**



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

4 The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the  
5 Planning Department.

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

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

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

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


25 SECTION IV

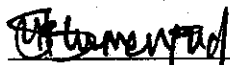
26 The Planning Commission may review this Conditional Use Permit and may amend the subject  
27 conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the  
28 neighborhood resulting from the subject use.

29 VOTE:           AYES:           Comms. Perrotti, Pizer, Chmn. Tucker  
                  NOES:           none  
                  ABSENT:       Comms. Merl, Schwartz  
                  ABSTAIN:      none

30 CERTIFICATION

31 I hereby certify the foregoing Resolution P.C. 97- 26 is a true and complete record of the action  
32 taken by the Planning Commission of the City of Hermosa Beach, California, at their regular  
33 meeting of March 18, 1997.

34   
35 Peter Tucker, Chairman

36   
37 Sol Blumenfeld, Secretary

38 4-15-97  
39 Date

## HERMOSA BEACH POLICE DEPARTMENT

This document outlines ongoing concerns at the business on 705 Pier Avenue in Hermosa Beach, California. The Alcohol Beverage Control License for this establishment is 413089.

On 07092006 two men reported that they were assaulted by at least two employees of the business. The case is currently under investigation. The HBPD case number is 06-2494.

On 07072006 officers were dispatched to a report of loud noise at the location. The police dispersed a group of people loitering on the premises.

On 07012006 officers were dispatched to a report of a kidnapping at the business. The involved party was reported to be an employee who was involved in an altercation with a female companion. Both were reported to be possibly under the influence of alcohol. A report was not filed. At this time there is no investigation. Officers contacted a subject in front of the business and subsequently arrested him for public intoxication. The HBPD case number is 06-2278.

On 06182006 officers were dispatched to a reported disturbance involving loud subjects outside the business. The officer observed that patrons gathered outside the business after closing waiting for transportation were the cause of the disturbance.

On 06112006 an officer reported observing a fight at the location. No crime report was made.

On 06102006 a customer reported that a man was bleeding from the head inside the business. HBFD responded and observed severe overcrowding. The HBFD issued citations for both overcrowding and maintaining a hazardous condition. The case number is 06-1967. Because of the large crowd that had to be removed from the business, police officers from two adjacent cities, Redondo Beach and Manhattan Beach, were called to the scene to assist the Hermosa Beach police officers. The incident lasted approximately one and one half-hours.

## HERMOSA BEACH POLICE DEPARTMENT

On 06102006 a resident reported a loud music disturbance from the business that was causing a kitchen appliance to vibrate.

On 06022006 officers were dispatched to a report of a noise disturbance at the business. Officers observed a large group of patrons outside at closing that were the cause of the disturbance.

On 05142006 officers were dispatched to a fight at the business. One of the subjects involved in the fight was subsequently arrested. The HBPD case number is 06-1579.

On 05112006 officers were dispatched to a noise disturbance at the business. Officers observed the cause of the disturbance to be patrons leaving at closing time.

On 04082006 officers were dispatched to a battery investigation involving a customer who was allegedly struck by an employee. Officers determined that the employee and customer had engaged in mutual combat and no report was taken.

On 03252006 officers were dispatched to a fight at the business. Officers observed disturbances related to patrons leaving the business and remained on scene an additional ten minutes for the crowd to disburse.

On 03192006 officers observed a disturbance at the location and responded to keep the peace.

On 03182006 officers were dispatched to the location for a report of a drunk driver. The suspected driver was an intoxicated male who was refused entry to the business. Officers did not find the vehicle.

On 03162006 officers were dispatched to a disturbance involving loud music from vehicles parked in the lot behind the business.

HERMOSA BEACH POLICE DEPARTMENT

On 03122006 officers were dispatched to a fight at the location involving two females. Upon arrival officers observed that the fight had already ended. No report was taken.

On 03032006 officers conducted two separate business checks at the location. During the first check they observed under aged individuals attempting to gain entry to the business. During the second check they observed consumption of alcohol by under aged patrons. The HBPD case number is 06-734.

On 02192006 officers were dispatched to a disturbance involving loud subjects and vehicles at the business.

On 02062006 officers were dispatched to a disturbance involving loud music coming from vehicles parked outside the business.

On 02022006 officers were dispatched to a disturbance involving loud music coming from vehicles parked outside the business.

The twenty dates listed above represent incidents reported at the business in the past 6 months. They involve multiple violations of law, including the California Penal Code, the Hermosa Beach Municipal Code, the Fire Code, as well as the Conditional Use Permit issued by the city to the business.

Because of these issues the HBPD opposes the license transfer, until or unless additional restrictions are placed with the license. The HBPD also requests the current license be investigated for compliance with the Department of ABC.

Sgt. Lance Heard #140

File in COP files  
for  
The Dragon / Blue 32  
The shore / Sapphire

## Hermosa Beach Fire Department Memorandum

Date: 6/12/2006

To: Chief Tingley

From: Captain Crawford


Re: Operations at Hermosa Nightclubs

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Recently, a resident phoned the H.B.F.D. to voice her concern regarding the use of "Go-Go" dancers in Hermosa Beach Night Clubs. She felt it was offensive, and didn't believe they should be allowed in our city. Although she did not want to leave her name, she asked that we look into the practice of having women, with very little clothing, dancing on stages. I have personally witnessed this practice at "The Dragon," "Blue 32," "The Shore," as well as this past Saturday night at "Sapphire."

I am not sure which department handles these type of "Use" issues, so I am forwarding this concern to you. Please let me know how we should proceed.

Respectfully,

  
Captain Crawford

**Hermosa Beach Fire Department  
Report of Overcrowding**

**Date: 06/10/2006**

**To: Watch Commander**

**From: Captain Crawford**

**Re: Occupancy Violation**

**CC: Chief Tingley, Assistant Chief Gomez**

---

**DR# 1967**

**FR# 900**

**On 06/10/2006 at approx. 2300 hrs. Hermosa Fire Units were dispatched to a rescue call at 705 Pier ave. Club "Sapphire." Upon arrival, rescue units were not able to gain entrance to the building due to excessive numbers of patrons outside the business blocking the entrance, as well as what appeared to be overcrowding inside the club. At that time, E11 was dispatched to assist with the overcrowding issue.**

**Summary**

**Upon arrival at Club Sapphire, we found a very large crowd outside the business completely blocking the sidewalk, and forcing pedestrians to walk around the parked cars on Pier Ave. and into the first lane of traffic to get up or down the street. We met the doorman at the western most entrance and asked him if he knew how many people were inside the business. He stated that he was not sure, but he was sure it was less than the 800 that they were allowed. I advised him that he was mistaken about how many people were allowed into Club Sapphire, and that they should be kept just over 400. At this point I had Engineer Marks, and FF/PM Lopez do independent counts with manual "Clickers" and report back to me with numbers for each of the three designated occupant areas. I also advised the Doorman that no one else was allowed into the business until the count was complete. Upon completion, the count totals were:**

**Engineer Marks 147, 140, 238 = 525**

**FF/PM Lopez 140, 130, 252 = 522**

**The approved total occupancy is 447**

**The business was in violation of Section 2501.16.3 of the Uniform Fire Code. Overcrowding and admittance of people beyond the approved capacity of a place of assembly is prohibited. 103.4.4 UFC/15.20.010 Hermosa Beach Municipal Code, Maintaining a Hazardous condition.**

**Interior Inspection**

**The interior of the business was extremely crowded. Free movement was impeded, with aisles and means of egress obstructed or nonexistent.**

**Issuance of Citation**

**Manager Xavier A. Flamenco III was cited . Mr. Flamenco acknowledged the overcrowding situation, apologized, and stated they had accidentally booked 2 parties for the same night and allowed too many people in.**

**Violations Observed**

**Permitting Overcrowding  
Uniform Fire Code  
Section 2501.16.3  
Maintaining a Hazardous Condition  
103.4.4 UFC/15.20.010 HBMC**

**Attachments**

**Fire Incident Report  
Copy of Citation  
Occupancy Load Sign**

**James A. Crawford  
Captain  
Hermosa Beach Fire Department**

**CC:  
Fire Chief Tingley  
Asst. Fire Chief Gomez**

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**P.C. RESOLUTION 06-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, MODIFYING A CONDITIONAL USE PERMIT FOR ON-SALE GENERAL ALCOHOL, IN CONJUNCTION WITH AN EXISTING RESTAURANT AND REVOKING THE APPROVALS FOR LIVE ENTERTAINMENT AND OUTDOOR DINING, AT 705 PIER AVENUE, KNOWN AS "POINT 705" AND "SAFFIRE"**

Section 1. The Planning Commission conducted a duly noticed public hearing to consider the revocation or modification of Conditional Use Permit, approved March 18, 1997 (P.C. Resolution 97-26), and amended May 5, 2001 to allow outside dining (P.C. Resolution 01-18), pursuant to Section 17.70.010 of the Zoning Ordinance on November 21, 2006, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 2. Based on evidence received at the public hearing, the Planning Commission makes the following findings:

1. The Hermosa Beach Chief of Police reported major disturbances due to unruly behavior of the patrons and inadequate management of the existing restaurant, including overcrowding, repeated noise violations, loitering, assaults, serving alcohol to underage customers, and public intoxications.

2. This repeated pattern of disturbances and other violations was determined to be the result of poor management, staffing, and supervisory techniques as required by the Conditional Use Permit, and as required of any responsible operation of an establishment serving general alcohol under the license granted by the State Department of Alcohol Beverage Control. This behavior adversely affected the public welfare and the welfare of surrounding commercial establishments and caused excessive noise creating a nuisance, which also inconsistent with the requirements of the Conditional Use Permit.

3. The area approved for outdoor dining use, approved in May 2001, has not been used for that purpose in several years.

4. Based on the above evidence provided by the Police Department the permit has been exercised contrary to the terms and conditions of the permit, in violation of the Municipal Code, and the portion for outside dining has ceased to exist.

Section 3. Based on the foregoing, and pursuant to Section 17.70.010 of the Zoning Ordinance, the Planning Commission hereby revokes the Conditional Use Permit for live entertainment and outdoor dining and modifies the **Conditions of Approval**, which supersedes the conditions contained in P.C. Resolutions 97-26, and 01-18:

1. **The continued use of the restaurant shall be substantially consistent with plans submitted and approved by the Planning Commission on May 15, 2001, with the exclusion of the outdoor dining area. Minor modifications to any of the plans shall be reviewed and may be approved by the Community Development Director.**



- 1       **2. The Conditional Use Permit applies exclusively to on-sale alcohol in conjunction with a**  
2       **restaurant and no live entertainment. Any intensification of use involving live entertainment,**  
3       **such as providing a disc jockey or other forms of amplified music for customer dancing, any**  
4       **type of live entertainment (i.e. live music whether acoustic or amplified, comedy acts, or any**  
5       **other type of performances) or extended hours of operation beyond what is specified requires**  
6       **amending this Conditional Use Permit. In the event the City establishes an entertainment**  
7       **permit program, the owner must apply and receive the permit in order to offer any kind of live**  
8       **entertainment.**
- 9       **3. If the Conditional Use Permit is amended to provide dancing, live music, or other live**  
10       **entertainment an acoustical analysis shall be conducted to verify compliance with the noise**  
11       **ordinance, demonstrating that the noise will not be audible from any adjacent residential use.**  
12       **Mitigation measures to attenuate noise may include sound baffles, double glazing and other**  
13       **methods specified in the acoustical study. The scope of the acoustical study shall be approved**  
14       **by the Community Development Director.**
- 15       **4. The hours of operation for all operations of the restaurant, including the lounge/bar areas, shall**  
16       **be limited to between 7:00 A.M. and 12:00 Midnight.**
- 17       **5. The parking area and exterior access at the North West side of the restaurant shall be used for**  
18       **egress to the restaurant only with appropriate signage restricting use to access only and**  
19       **appropriate lighting and security. No outdoor use in the north parking area other than access**  
20       **to the facility is permitted.**
- 21       **6. The business shall not operate in a manner as to have and adverse effect on or interfere with the**  
22       **comfortable enjoyment of neighboring residential and commercial property.**
- 23       **7. The business is prohibited from using "outside promoters" to advertise the use to obtain**  
24       **customers. Promoters as used herein are described as "an individual or organization who uses**  
25       **the facilities of another owner to organize, oversee, or otherwise promote entertainment that is**  
26       **not part of the primary business use.**
- 27       **8. Noise emanating from the property shall be within the limitations prescribed by the City's noise**  
28       **ordinance and shall not be plainly audible from any residence, and shall not create a nuisance**  
29       **to surrounding residential neighborhoods, and/or commercial establishments.**
- 9. The restaurant shall not require any cover charge or fee for general entry into the restaurant or**  
      **appurtenant areas.**
- 10. The restaurant shall be subject to annual review by the Planning Commission to verify**  
      **conformance with the Conditions of Approval.**
- 11. The restaurant shall discontinue operations until a detailed seating and occupant load plan,**  
      **prepared by a licensed design professional, has been submitted and approved by the**  
      **Community Development and Fire Departments. An approved occupant load sign must be**  
      **posted in the business as directed by the Fire Department prior to operating the business.**

1 **12. The Fire Department shall maintain a record of the posted allowable occupant load for the**  
2 **business and regularly check the business for occupant load compliance. The Fire Chief may**  
3 **determine that there is a repeat pattern of occupant load violations and then shall submit a**  
4 **report to the Planning Commission which will automatically initiate a review of this**  
5 **Conditional Use Permit by the Planning Commission.**

6 **13. Any significant changes to the interior layout, which alter the primary function of the business**  
7 **as a restaurant, (i.e. increasing floor area for bar seating, adding a dance floor or removing**  
8 **furniture for dancing shall be subject to review and approval by the Planning Commission and**  
9 **require amendment to this Conditional Use Permit.**

10 **General Operating and Standard Conditions:**

11 **14. The establishment shall not adversely affect the welfare of the residents, and/or commercial**  
12 **establishments nearby.**

13 **15. The business shall provide adequate staffing and management and supervisory techniques to**  
14 **prevent loitering, unruliness, and boisterous activities of the patrons outside the business, or in**  
15 **the immediate area.**

16 **16. The Police Chief shall determine if a continuing police problem exists, and may require the**  
17 **presence of a doorman and/or security personnel to eliminate the problem, and/or shall submit**  
18 **a report to the Planning Commission, which will automatically initiate a review of this**  
19 **conditional use permit by the Commission**

20 **17. The exterior of the premises shall be maintained in a neat and clean manner, and maintained**  
21 **free of graffiti at all times.**

22 **18. Any changes to the interior or exterior layout which alter the primary function of the**  
23 **restaurant shall be subject to review and approval by the Planning Commission.**

24 **19. The operation of the business shall comply with all applicable requirements of the Municipal**  
25 **Code.**

26 **20. Noise emanating from the property shall be within the limitations prescribed by the city's noise**  
27 **ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or**  
28 **commercial establishments. Noise emanating from the property shall be monitored to verify**  
29 **compliance with the noise ordinance in response to any complaints.**

**Section 5.** 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 Amendment, as modified, 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.

1 Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any  
2 claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or  
3 annul this permit approval, which action is brought within the applicable time period of Government Code.  
4 The City shall promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate  
5 fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if  
6 the City fails to cooperate fully in the defense, the permittee shall no thereafter be responsible to defend,  
7 indemnify, or hold harmless the City.

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

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

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

20 VOTE:           AYES:  
21                   NOES:  
22                   ABSENT:  
23                   ABSTAIN:

24 CERTIFICATION

25 I hereby certify the foregoing Resolution P.C. 06-    is a true and complete record of the action taken by the  
26 Planning Commission of the City of Hermosa Beach, California, at their regular meeting of November 21,  
27 2006.

28 \_\_\_\_\_  
29 Kent Allen, Chairman

\_\_\_\_\_ Sol Blumenfeld, Secretary

Date \_\_\_\_\_