

**CITY OF HERMOSA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

MEMORANDUM

Date: August 21, 2007

To: Honorable Chairman and Members of the Planning Commission

From: Ken Robertson, Acting Director
Richard Denniston, Associate Planner
Community Development Department

Subject: Conditional Use Permit (CUP) 07-11
1031 Hermosa Avenue, Mama D's

Mama D's restaurant applied for a CUP for on-sale beer and wine based on the initial advice of staff since the prior use, Subway restaurant, did not serve beer and wine. However, upon further review of the history of the site and discussions with the City Attorney, it has been determined that the rights granted in a prior CUP in 2000 for on-sale beer and wine run with the land and do not expire with the cessation of the use. Therefore, no further Commission approval is needed to re-establish on-sale beer and wine under the terms of that CUP.

A copy of the 2000 CUP is attached, and the conditions include a limitation on hours (7AM-11PM Monday through Thursday; and 7AM to Midnight on Fridays and Saturdays) and a limitation on outdoor dining until 10:00 P.M. The new restaurant owner is aware of these conditions, and is seeking no changes to the hours or other conditions of approval. The new owner will be required to obtain building permits for the tenant improvements and a license to serve beer and wine from the State.

Attachment(s):

1. City Council Resolution No. 00-6103

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO. 00-6103

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, SUSTAINING APPROVAL OF A CONDITIONAL USE PERMIT FOR ON-SALE BEER AND WINE IN CONNECTION WITH A 405 SQUARE FOOT INDOOR SEATING AREA AND A 260 SQUARE FOOT OUTDOOR PATIO SEATING AREA ADDITION TO AN EXISTING RESTAURANT AT 1031 HERMOSA AVENUE LEGALLY DESCRIBED AS LOTS 16, 17 AND 18, BLOCK 11 IN HERMOSA BEACH TRACT

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. An application was filed by Alfredo Carrillo, seeking approval for on-sale beer and wine in connection with a 405 square foot indoor seating area and a 260 square foot outdoor seating area addition to an existing restaurant;

Section 2. The Planning Commission conducted a duly noticed de novo public hearing to consider the application for the Conditional Use Permit on September 19, 2000, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission;

Section 3. The City Council conducted a duly noticed de novo public hearing to consider the appeal of the application for the Conditional Use Permit on October 24, 2000, at which testimony and evidence, both written and oral, was presented to and considered by the City Council;

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

1. The subject restaurant space is approximately 1,080 square feet, with a small existing seating area, and is being remodeled to accommodate new equipment and female bathroom facilities.

2. The site is zoned C-2, Restricted Commercial allowing restaurant uses, and on-sale beer and wine with approval of a Conditional Use Permit. Since the occupancy of the building will

1 continue to be used for restaurant purposes there is no intensification of use, and the
2 reconfiguration of the parking area meets all parking requirements.

3 **Section 5.** Based on the foregoing factual findings, the City Council makes the following
4 findings pertaining to the application to amend the Conditional Use Permit:

- 5 1. The site is zoned C-2, and is suitable for the proposed use;
- 6 2. The proposed use is compatible with surrounding commercial and residential uses;
- 7 3. The imposition of conditions as required by this resolution will mitigate any negative
8 impacts on nearby residential or commercial properties;
- 9 4. This project is Categorically Exempt pursuant to Section 15303c of the California
10 Environmental Quality Act.

11 **Section 6.** Based on the foregoing, the City Council hereby sustains the approval for the
12 Conditional Use Permit subject to the following Conditions of Approval;

- 13 1. The project shall be substantially consistent with submitted plans as reviewed by the
14 Planning Commission on September 19, 2000. Minor interior modifications to the plan shall be
15 reviewed and may be approved by the Community Development Director.
- 16 2. The hours of operation shall be limited to between 7:00 A.M. to 11:00 P.M. on
17 Sunday through Thursday and 7:00 A.M. to 12:00 midnight on Friday and Saturday.
- 18 3. No music is allowed on the patio, and the patio shall close daily at 10:00 P.M.
- 19 4. The establishment shall not adversely effect the welfare of the residents, and/or
20 commercial establishments nearby.
- 21 5. The business shall provide adequate staffing, management and supervisory
22 techniques to prevent loitering, unruliness, and boisterous activities of the patrons outside the
23 business and in the parking areas.
- 24 6. Noise emanating from the property shall be within the limitations prescribed by the
25 City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,
26 and/or commercial establishments.
- 27 7. The Police Chief may determine that a continuing police problem exists, and may
28 authorize the presence of a police approved doorman and/or security personnel to eliminate the

1 problem, and then shall submit a report to the Planning Commission, which will automatically
2 initiate a review of this Conditional Use Permit by the Planning Commission.

3 8. The exterior of all the premises shall be maintained in a neat and clean manner, and
4 maintained free of graffiti at all times.

5 9. The applicant shall submit a detailed seating and occupancy plan prepared by a
6 licensed design professional, which shall be approved by the Community Development Department
7 prior to issuance of building permits. Any significant changes to this interior layout which would
8 alter the primary function of the business as a restaurant shall be subject to review and approval by
9 the Planning Commission.

10 10. The project and operation of the business shall comply with all applicable
11 requirements of the Municipal Code.

12 11. A six-month review of the business, after the date of opening, shall be conducted by
13 the Planning Commission.

14 **Section 7.** This grant shall not be effective for any purposes until the permittee and the
15 owners of the property involved have filed a the office of the Planning Division of the Community
16 Development Department their affidavits stating that they are aware of, and agree to accept, all of
17 the conditions of this grant.

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

20 Each of the above conditions is separately enforced, and if one of the conditions of approval
21 is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.
22 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees
23 from any claim, action, or proceeding against the City or its agents, officers, or employee to attack,
24 set aside, void or annul this permit approval, which action is brought within the applicable time
25 period of the State Government Code. The City shall promptly notify the permittee of any claim,
26 action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly
27 notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the
28

1 defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless the
2 City.

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

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

12 The City Council may review this Conditional Use Permit and may amend the subject
13 conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the
14 neighborhood resulting from the subject use.

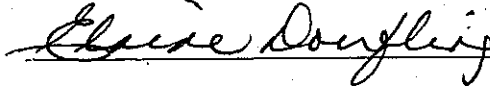
15 **Section 8.** Based on the foregoing, the City Council hereby sustains approval of a
16 Conditional Use Permit for on-sale beer and wine in connection with a 405 square foot indoor
17 seating area and a 260 square foot outdoor seating area addition to an existing restaurant.

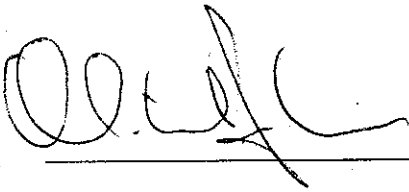
18 **PASSED, APPROVED and ADOPTED** this 24th day of October, 2000.

19
20
21 
22 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

23
24 **ATTEST:**

APPROVED AS TO FORM:

25
26
27 
28 **City Clerk**


City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF HERMOSA BEACH

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Resolution No. 00-6103 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a Regular Meeting of said Council at the regular place thereof on October 24, 2000.

The vote was as follows:

AYES: Bowler, Edgerton , Oakes
NOES: Dunbabin, Mayor Reviczky
ABSTAIN: None
ABSENT: None

Dated: November 9, 2000


Elaine Doerfling, City Clerk