

April 19, 2007

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
May 8, 2007**

CONTINUED FROM THE APRIL 24, 2007 MEETING

SUBJECT: APPEAL OF A PLANNING COMMISSION MODIFICATION OF A CONDITIONAL
USE PERMIT FOR ON-SALE ALCOHOL IN CONJUNCTION WITH A RESTAURANT,
AND REVOCATION OF THE CONDITIONAL USE PERMIT FOR LIVE
ENTERTAINMENT AND OUTSIDE DINING FOR CLUB 705, 705 PIER AVENUE,
HERMOSA BEACH

APPELLANT: CLUB 705

Planning Commission Recommendation:

To sustain the Commission's decision to modify the conditions of the Conditional Use Permit for the restaurant, and to revoke the approvals for live entertainment and outside dining, as set forth in the attached resolution.

Background & Analysis:

At its regular meeting of April 24, 2007, the City Council engaged in extensive deliberation of the proposed conditions of approval to modify Club 705's Conditional Use Permit, in light of the testimony received during the public hearing on April 10, 2007. The April 10 and 24 staff reports and accompanying attachments are incorporated herein by reference as though set forth in full. At the conclusion of its discussion, the Council directed staff to modify the proposed conditions in accordance with its directives, to return with a new version of the conditions at this meeting and to publish notice that the public hearing would be re-opened so that the business owner and other interested persons could testify regarding the proposed conditions. The Council also directed the business owner to submit a new floor plan reflecting its discussion.

A revised resolution incorporating the Council's April 24 deliberations is attached for Council's review and consideration, and the newly drafted conditions are set forth below in this report. The draft resolution contains findings, supported by evidence in the record, that the business has operated contrary both to various provisions of the Municipal Code and to the conditions of approval in the governing CUPs, thereby justifying modification. The new conditions endeavor to balance the competing considerations that were articulated during the public hearing and to provide assurance that the problems caused by the business, especially its virtual conversion into a nightclub in the past, will not recur.

The proposed revised conditions are shown underlined as follows:

I. Permitted use.

1.1. The business shall be operated as a bona fide restaurant: The kitchen shall be equipped to prepare food from its component ingredients; whenever the restaurant is open it shall offer a full-service lunch and/or dinner menu; food service from the menu shall be available all hours that the establishment is open for business.

1.2. Live entertainment incidental to food service is permitted. This may include dancing to amplified music (with or without a disk jockey); live musical performance; and live performances of other kinds. Only one dance floor and one stage for live performance is permitted, consistent in size and location with the approved floor plan, as well as a piano in the location indicated in the approved floor plan. Live entertainment and dancing shall be "incidental" in the sense that it serves to entertain customers who are in the premises for the purpose of dining and with the exception of the pianist, entertainment shall be limited to the easterly third of the restaurant as shown in the approved floor plan. The dining areas in the westerly portion of the restaurant shall not contain televisions.

1.3. Alcohol may be served for on-premises consumption in a manner consistent with the license issued by the Alcohol Beverage Commission.

1.4. Admission shall not be charged for entrance into the business nor shall drink minimums of any kind be imposed at any time.

1.5. Entry into the business shall not be limited to persons 21 years of age or older.

II. Floor plan.

2.1. The furniture and interior improvements within the business premises shall conform to the floor plan attached as Exhibit A. Tables and chairs shall be conventional dining height and size (i.e. not bar height or cocktail table size). The area devoted to entertainment staging and dancing shall be as delineated in the floor plan. Other than trivial or insignificant deviations in the placement or arrangement of furniture, no change whatsoever shall be made to the interior of the premises that is inconsistent with the approved floor plan absent approval by the Planning Commission by way of a modification to this Conditional Use Permit. A fully dimensioned floor plan consistent with the requirements of this condition prepared by the business is attached as Exhibit A. To the extent that the current configuration of the restaurant does not conform to the requirements of this condition, the restaurant shall be re-configured to conform to these requirements by not later than July 8, 2007. Should the permittee fail to meet this deadline, a public hearing shall immediately be scheduled before the City Council to consider revocation of the Conditional Use Permit.

2.2. Under no circumstances shall furniture or other interior/exterior improvements be rearranged to accommodate more dancing, more entertainment or greater occupancy absent approval of the Planning Commission as prescribed in paragraph 2.1.

2.3. After 10:00 p.m. every night of the week, the exterior access at the northwest side of the restaurant into the garage shall be used for egress from the restaurant only, and the permittee shall install

appropriate signage restricting that door to egress only. The north parking area (garage) shall be used exclusively for vehicular parking and no other purpose.

2.4. Occupancy shall not exceed the permitted occupant load as prescribed by the Building Code, based on the floor plan shown in Exhibit A and review and approval of a code complying seating plan. An approved occupant load sign shall be posted in the business as directed by the Fire Department. Any single occupancy violation in excess of ten percent (10%) or repeated lesser violations of occupant load shall result in the immediate scheduling of a hearing before the Planning Commission to consider modification or revocation of this Conditional Use Permit.

2.5 The outdoor paved area between the restaurant and public sidewalk on Pier Avenue shall not be included as part of the plan for the restaurant, and shall not be used for outdoor dining. No food or beverage service or other customer use is permitted in this area.

2.6. Vehicles exiting the parking garage after 10:00 p.m. every night of the week shall exit onto Ardmore Avenue to the left (southbound) only. The permittee shall install signs to the satisfaction of the Director in the garage alerting motorists to this requirement.

III. Operating hours.

3.1. The hours of operation for all operations of the restaurant, including the lounge/bar areas, shall be limited to between 7:00 A.M. and 12:00 Midnight Sunday through Thursday and 7:00 A.M. and 2:00 A.M. Friday and Saturday. All customers shall vacate the premises by not later than the required closing times and the doors shall be locked.

3.2. The enclosed outdoor patios shall be equipped with standard dining tables and chairs and provided food and beverage service during hours the restaurant is open for business. There shall be no amplified music, televisions or speakers within these outdoor patios.

IV. Noise attenuation.

4.1. The permittee shall implement the noise control recommendation in the acoustical study dated April 17, 2007, and attached hereto as Exhibit B, to the satisfaction of the City pursuant to the schedule attached hereto as Exhibit C.

4.2. In no event shall continuous, sustained or repeated noise from the business be audible at the property line of any residential premises at any time.

4.3. The business shall comply in all other respects with Municipal Code Chapter 8.24 (Noise Control), and noise from the premises shall not constitute a public nuisance.

4.4. The business shall install an audio control system using an outboard pre-amplifier that is locked in an enclosure accessible only to business management. The volume of amplified entertainment in the restaurant shall not exceed 95dBA.

4.5. The business shall install a sign on the exit door leading into the garage with lettering not smaller than four (4) inches in height asking patrons to exit the premises and the garage quietly out of respect for the residential neighbors. The sign shall read substantially as follows: "PLEASE LEAVE THE RESTAURANT AND OUR GARAGE QUIETLY. THANK YOU."

V. Trash storage and collection.

5.1. The refuse containers/bins utilized by the business shall be secured and locked daily such that they are not susceptible to illegal scavenging.

5.2. Every night at closing, the permittee shall collect trash from the sidewalk and landscape areas adjoining the front of the premises (from Valley Drive to and including the stairway leading up to the Plaza Hermosa parking lot), along Valley Drive (from Pier Avenue northerly to the entrance to the parking garage) and within the parking garage.

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

5.4. The permittee shall at all times be in compliance with applicable requirements of the National Pollution Discharge Elimination System (NPDES) and permits issued thereunder.

VI. Nuisance avoidance and patron behavior

6.1. The business shall not operate in a manner that adversely effects or interferes with the comfortable enjoyment of neighboring residential and commercial property.

6.2. The business shall employ adequate staffing and management/supervision to prevent serving underage persons, over-serving alcohol, and loitering, unruliness and boisterous behavior by patrons both inside and outside in the immediate area of the premises.

6.3. A security and lighting plan for the entire premises shall be submitted for review and approval of the Police Chief and shall be implemented on site.

6.4. If the Police Chief determines that there are a disproportionate number of police calls to the business due to the disorderly or disruptive behavior of patrons and the inability or refusal of the business to manage its patrons, the Chief shall so notify the Director of Community Development, who shall forthwith schedule a public hearing before the Planning Commission to consider modification or revocation of this Conditional Use Permit.

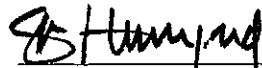
VII. Miscellaneous conditions

7.1. The operations of the business shall be reviewed by the City Council at a public hearing scheduled for January 8, 2008 to verify conformance with the conditions of approval and requirements of this Conditional Use Permit. The City Council may on its own motion accelerate the date of this review hearing.

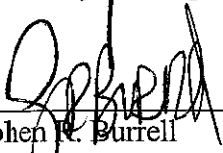
7.2. The permittee shall comply with all ordinances, regulations and laws applicable to a business of this kind in effect as of the date hereof or hereafter adopted.

7.3. In addition to any other remedy available at law, in equity or as provided in the Municipal Code, any: (i) significant or material violation, or (ii) any repeated, continuous or sustained violation of any condition of approval of this Conditional Use Permit shall constitute cause for revocation of this Permit. The permittee shall be required to reimburse the City fully for its costs and expenses, including but not limited to attorney's fees, in undertaking any such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violation has been fully remedied.

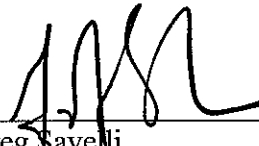
7.4. The provisions of this Conditional Use Permit shall take effect immediately upon adoption by the City Council. This Conditional Use Permit shall supersede and replace all previous Conditional Use Permits previously approved for the property – P.C. Resolutions Nos. 97-26 and 01-18 are hereby rescinded and are of no further force and effect.



Sol Blumenfeld, Director
Community Development



Stephen R. Burrell
City Manager



Greg Savelli,
Chief of Police

Attachments

1. Proposed Resolution
2. Planning Commission Resolution
3. Planning Commission Resolutions 01-18 and 97-26

April 10, 2007 Staff Report Including Police Report History

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
29

RESOLUTION 07-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, SUSTAINING, WITH MODIFICATIONS, THE PLANNING COMMISSION DECISION TO MODIFY A CONDITIONAL USE PERMIT FOR ON-SALE GENERAL ALCOHOL, LIVE ENTERTAINMENT AND OUTDOOR DINING, IN CONJUNCTION WITH AN EXISTING RESTAURANT AT 705 PIER AVENUE, KNOWN AS "CLUB 705" AND "SAFFIRE"

Section 1. At the initiation of the Police Department and the Community Development Department, the Planning Commission on December 6, 2006 and January 16, 2007 conducted a duly noticed public hearing to consider the revocation or modification of the Conditional Use Permit governing the business at 705 Pier Avenue, 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 at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 2. Following the public hearing, on January 16, 2007 the Planning Commission modified the Conditional Use Permit for on-sale general alcohol by imposing additional operating conditions and prohibiting live entertainment and outdoor dining in the restaurant as set forth in Planning Commission Resolution 07-1.

Section 3. The current owner of Club 705, pursuant to Section 17.56.070 of the Municipal Code, filed an appeal of the decision of the Planning Commission.

Section 4. The City Council conducted a duly noticed public hearing to consider the appeal of the decision of the Planning Commission on March 27, April 10, April 24, and May 8, 2007, at which the record of the decision of the Planning Commission and additional testimony and evidence, both written and oral, was presented to and considered by the City Council.

Section 5. Based on evidence received at the public hearing, City Council makes the following findings to modify the Conditional Use Permit, pursuant to Section 17.70.010 of the Municipal Code:

1. The Hermosa Beach Chief of Police reported a history of major disturbances at this location under prior club ownership due to unruly behavior of the patrons and inadequate management of the restaurant, including overcrowding, repeated noise violations, loitering, assaults, serving alcohol to underage customers, and public intoxications.

2. Planning Commission Resolution 97-26 (Condition No. 1) requires that the project shall be consistent with submitted plans and (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 promoted as such." The business has regularly been advertised as a lounge, disco, and venue for special promoted events, which is inconsistent with these conditions of the CUP. Also, the Police Department reports that the business has regularly removed tables and chairs inconsistent with the approved floor plan, which specifically identifies these areas for restaurant seating, in order to accommodate the special promoted events and dancing in violation of these conditions. The current

owner continues to promote the business as a nightclub as evidenced by advertisements on its website, however, the owner's track record since January 2007 has improved with respect to the number of police call outs.

3. The Police Department response calls indicate that the business has not been providing adequate supervision since patrons were reported by the Police Department to be unruly and boisterous, and allowed to loiter around the building and parking area. Therefore the business has not used management and supervisory techniques to prevent this behavior as required by the CUP (P.C. Resolution 97-26, Section II, Condition No. 2).

4. The business has for a considerable period of time offered its patrons amplified live entertainment without ever receiving approval of the acoustical study required by the CUP. (P.C. Resolution 97-26, Section I, Condition No. 4).

5. This repeated pattern of disturbances and other violations was determined to be the result of poor management, staffing, and supervisory techniques contrary to the terms of the Conditional Use Permit, and contrary to what is 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 residential and commercial uses and caused excessive noise and creating a nuisance, which is also inconsistent with the requirements of the Conditional Use Permit.

6. The area approved for outdoor dining use, approved in May 2001, has not been used for that purpose (i.e. for seating or dining), and when used in conjunction with the business as a smoking or standing area has contributed to the noise and nuisance problems associated with the business.

7. Based on the evidence provided by the Police Department, the business has been operated contrary to the terms and conditions of the permit and in violation of the Municipal Code, Penal Code and Fire Code.

Section 6. The City Council finds that the decision of the Planning Commission was justified by the evidence in the record. The Council also acknowledges that in the past four months while this matter has been pending, the number of police call-outs has diminished and the new owners have maintained better control of the premises and its patrons than previously. The Council finds that modifications to the existing conditional use permits are necessary to protect the City against a recurrence of the problems that have plagued the business, but that the modifications should not, at this juncture, be as severe as adopted by the Planning Commission. The new conditions, set forth below, are calculated to prevent the recurrence of the problems identified in Section 5 above, while still allowing the permittee to provide live entertainment and later operating hours on the weekend. Based on the foregoing, and pursuant to Section 17.70.010 of the Zoning Ordinance, the City Council on appeal hereby sustains in part and reverses in part the decision of the Planning Commission, modifies the **Conditions of Approval** of the Conditional Use Permit for on-sale alcohol and live entertainment in conjunction with a restaurant, all subject to the following conditions, which supersede the conditions contained in P.C. Resolutions 97-26, and 01-18 :

I. Permitted use.

1.1. The business shall be operated as a bona fide restaurant: The kitchen shall be

1 equipped to prepare food from its component ingredients; whenever the restaurant is open it shall
2 offer a full-service lunch and/or dinner menu; food service from the menu shall be available all hours
3 that the establishment is open for business.

4 1.2. Live entertainment incidental to food service is permitted. This may include dancing to
5 amplified music (with or without a disk jockey); live musical performance; and live performances of
6 other kinds. Only one dance floor and one stage for live performance is permitted, consistent in size
7 and location with the approved floor plan, as well as a piano in the location indicated in the approved
8 floor plan. Live entertainment and dancing shall be "incidental" in the sense that it serves to
9 entertain customers who are in the premises for the purpose of dining and with the exception of the
10 pianist, entertainment shall be limited to the easterly third of the restaurant as shown in the
11 approved floor plan. The dining areas in the westerly portion of the restaurant shall not contain
12 televisions.

13 1.3. Alcohol may be served for on-premises consumption in a manner consistent with the
14 license issued by the Alcohol Beverage Commission.

15 1.4. Admission shall not be charged for entrance into the business nor shall drink
16 minimums of any kind be imposed at any time.

17 1.5. Entry into the business shall not be limited to persons 21 years of age or older.

18 II. Floor plan.

19 2.1. The furniture and interior improvements within the business premises shall conform to
20 the floor plan attached as Exhibit A. Tables and chairs shall be conventional dining height and size
21 (i.e. not bar height or cocktail table size). The area devoted to entertainment staging and dancing
22 shall be as delineated in the floor plan. Other than trivial or insignificant deviations in the placement
23 or arrangement of furniture, no change whatsoever shall be made to the interior of the premises that
24 is inconsistent with the approved floor plan absent approval by the Planning Commission by way of a
25 modification to this Conditional Use Permit. A fully dimensioned floor plan consistent with the
26 requirements of this condition prepared by the business is attached as Exhibit A. To the extent that
27 the current configuration of the restaurant does not conform to the requirements of this condition,
28 the restaurant shall be re-configured to conform to these requirements by not later than July 8, 2007.
29 Should the permittee fail to meet this deadline, a public hearing shall immediately be scheduled
before the City Council to consider revocation of the Conditional Use Permit.

1 2.2. Under no circumstances shall furniture or other interior/exterior improvements be
2 rearranged to accommodate more dancing, more entertainment or greater occupancy absent
3 approval of the Planning Commission as prescribed in paragraph 2.1.

4 2.3. After 10:00 p.m. every night of the week, the exterior access at the northwest side of the
5 restaurant into the garage shall be used for egress from the restaurant only, and the permittee shall
6 install appropriate signage restricting that door to egress only. The north parking area (garage)
7 shall be used exclusively for vehicular parking and no other purpose.

8 2.4. Occupancy shall not exceed the permitted occupancy load as prescribed by the
9 Building Code, based on the floor plan shown in Exhibit A and review and approval of a code
10 complying seating plan. An approved occupant load sign shall be posted in the business as directed
11 by the Fire Department. Any single occupancy violation in excess of ten percent (10%) or repeated
12 lesser violations of occupant load shall result in the immediate scheduling of a hearing before the
13 Planning Commission to consider modification or revocation of this Conditional Use Permit.

14 2.5 The outdoor paved area between the restaurant and public sidewalk on Pier Avenue
15 shall not be included as part of the plan for the restaurant, and shall not be used for outdoor dining.
16 No food or beverage service or other customer use is permitted in this area.

17 2.6. Vehicles exiting the parking garage after 10:00 p.m. every night of the week shall exit
18 onto Ardmore Avenue to the left (southbound) only. The permittee shall install signs to the
19 satisfaction of the Director in the garage alerting motorists to this requirement.

20 III. Operating hours.

21 3.1. The hours of operation for all operations of the restaurant, including the lounge/bar
22 areas, shall be limited to between 7:00 A.M. and 12:00 Midnight Sunday through Thursday and 7:00
23 A.M. and 2:00 A.M. Friday and Saturday. All customers shall vacate the premises by not later than
24 the required closing times and the doors shall be locked.

25 3.2. The enclosed outdoor patios shall be equipped with standard dining tables and chairs
26 and provided food and beverage service during hours the restaurant is open for business. There
27 shall be no amplified music, televisions or speakers within these outdoor patios.

28 IV. Noise attenuation.

29 4.1. The permittee shall implement the noise control recommendation in the acoustical
study dated April 17, 2007, and attached hereto as Exhibit B, to the satisfaction of the City pursuant

to the schedule attached hereto as Exhibit C.

4.2. In no event shall continuous, sustained or repeated noise from the business be audible at the property line of any residential premises at any time.

4.3. The business shall comply in all other respects with Municipal Code Chapter 8.24 (Noise Control), and noise from the premises shall not constitute a public nuisance.

4.4. The business shall install an audio control system using an outboard pre-amplifier that is locked in an enclosure accessible only to business management. The volume of amplified entertainment in the restaurant shall not exceed 95dBA.

4.5. The business shall install a sign on the exit door leading into the garage with lettering not smaller than four (4) inches in height asking patrons to exit the premises and the garage quietly out of respect for the residential neighbors. The sign shall read substantially as follows: "PLEASE LEAVE THE RESTAURANT AND OUR GARAGE QUIETLY. THANK YOU."

V. Trash storage and collection.

5.1. The refuse containers/bins utilized by the business shall be secured and locked daily such that they are not susceptible to illegal scavenging.

5.2. Every night at closing, the permittee shall collect trash from the sidewalk and landscape areas adjoining the front of the premises (from Valley Drive to and including the stairway leading up to the Plaza Hermosa parking lot), along Valley Drive (from Pier Avenue northerly to the entrance to the parking garage) and within the parking garage.

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

5.4. The permittee shall at all times be in compliance with applicable requirements of the National Pollution Discharge Elimination System (NPDES) and permits issued thereunder.

VI. Nuisance avoidance and patron behavior

6.1. The business shall not operate in a manner that adversely effects or interferes with the comfortable enjoyment of neighboring residential and commercial property.

6.2. The business shall employ adequate staffing and management/supervision to prevent serving underage persons, over-serving alcohol, and loitering, unruliness and boisterous behavior by patrons both inside and outside in the immediate area of the premises.

1 6.3. A security and lighting plan for the entire premises shall be submitted for review and
2 approval of the Police Chief and shall be implemented on site.

3 6.4. If the Police Chief determines that there are a disproportionate number of police calls
4 to the business due to the disorderly or disruptive behavior of patrons and the inability or refusal of
5 the business to manage its patrons, the Chief shall so notify the Director of Community Development,
6 who shall forthwith schedule a public hearing before the Planning Commission to consider
7 modification or revocation of this Conditional Use Permit.

8 **VII. Miscellaneous conditions**

9 7.1. The operations of the business shall be reviewed by the City Council at a public
10 hearing scheduled for January 8, 2008 to verify conformance with the conditions of approval and
11 requirements of this Conditional Use Permit. The City Council may on its own motion accelerate the
12 date of this review hearing.

13 7.2. The permittee shall comply with all ordinances, regulations and laws applicable to a
14 business of this kind in effect as of the date hereof or hereafter adopted.

15 7.3. In addition to any other remedy available at law, in equity or as provided in the
16 Municipal Code, any: (i) significant or material violation, or (ii) any repeated, continuous or
17 sustained violation of any condition of approval of this Conditional Use Permit shall constitute cause
18 for revocation of this Permit. The permittee shall be required to reimburse the City fully for its costs
19 and expenses, including but not limited to attorney's fees, in undertaking any such corrective action.
20 Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means
21 permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing
22 further permits, licenses or other approvals until such violation has been fully remedied.

23 7.4. The provisions of this Conditional Use Permit shall take effect immediately upon
24 adoption by the City Council. This Conditional Use Permit shall supersede and replace all previous
25 Conditional Use Permits previously approved for the property – P.C. Resolutions Nos. 97-26 and 01-18
26 are hereby rescinded and are of no further force and effect.

27 Section 7. The Conditional Use Permit, as modified, shall be recorded, and proof of recordation
28 shall be submitted to the Community Development Department.

29 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 The subject property shall be developed, maintained and operated in full compliance with the conditions of
2 this grant and any law, statute, ordinance or other regulation hereafter adopted that is applicable to any
3 development or activity on the subject property. Failure of the permittee to cease any development or
4 activity not in full compliance shall be a violation of these conditions.

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

8 PASSED, APPROVED, and ADOPTED this day of , 2007,

9
10 _____
11 PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California
12

13 ATTEST:

14 APPROVED AS TO FORM:

15 _____ CITY CLERK _____ CITY ATTORNEY
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Davy

& Associates, Inc.
Consultants in Acoustics

2627 Manhattan Beach Blvd., Suite 212 • Redondo Beach, CA 90278-1604 • Tel: 310-643-5161 • Fax: 310-643-5364 • Email: DavyAssoc@aol.com

Exhibit B

JN2007- 25

April 17, 2007

RECEIVED

APR 17 2007

COMMUNITY DEV. DEPT.

Mr. Xavier Flamenco
Club 705
705 Pier Avenue
Hermosa Beach, CA 90008

SUBJECT: ACOUSTICAL ANALYSIS
Club 705, Hermosa Beach, California

Dear Xavier:

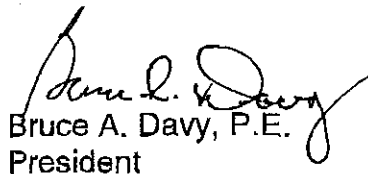
Enclosed are copies of our completed Acoustical Analysis for the Club 705 at 705 Pier Avenue in Hermosa Beach, California.

The results of the analysis indicate that the Club will comply with the requirements of the City of Hermosa Beach Noise Ordinance with no special mitigation. Even though no mitigation is required to meet the conditions of the Hermosa Beach Noise Ordinance, we have included a recommendation to ensure that noise level in Community continue to remain inaudible.

If you have any questions concerning the enclosed report, please call me. It has been a pleasure working with you on this project.

Sincerely,

DAVY & ASSOCIATES, INC.


Bruce A. Davy, P.E.
President

BD/kbd

Davy

& Associates, Inc.
Consultants in Acoustics

2627 Manhattan Beach Blvd., Suite 212 • Redondo Beach, CA 90278-1604 • Tel: 310-643-5161 • Fax: 310-643-5364 • Email: DavyAssoc@aol.com

JN2007-25

RECEIVED

APR 17 2007

COMMUNITY DEV DEPT.

ACOUSTICAL ANALYSIS

Club 705
Hermosa Beach, California

FOR

Club 705
Hermosa Beach, California

April, 2007

1.0 Introduction

At the direction of Club 705 , Davy & Associates, Inc. has completed acoustical measurements to determine potential noise impacts from amplified music in the Club at the residences to the north and to the west.

Noise levels were measured outside the Club while amplified music was being played. These measured exterior noise levels were compared with the requirements of the City of Hermosa Beach Noise Ordinance.

2.0 Noise Measurements

Noise levels were measured outside the Club on Friday, March 23, 2007 between the hours of 9:30 p.m. and 11:30p.m.. Noise levels were measured at The Commodore residences at 1600 Ardmore Avenue to the north of the Club, in the 1500 block of Valley Drive in front of the mobile home park to the west of the and in the 700 block of Pier Avenue opposite the entrance to the Club.

All measurements were made with a Larson Davis Model 820 precision integrating sound level meter. The meter was calibrated with a B&K Model 4230 acoustical calibrator prior to the measurements and following the measurements. The 820 meter displays the equivalent noise level (LEQ) which is the average noise level over the measurement period.

At all three locations, traffic noise from vehicles on Pier Avenue, Valley Drive and Ardmore Avenue were the dominant noise sources. Noise levels from the Club were not audible at any of the measurement locations between 9:30 p.m. and 11:30 p.m.

The results of the measurements are summarized in Table 1.

Table 1

Measured A-weighted Noise Levels in dB

<u>Location</u>	<u>Traffic Noise</u>	<u>Club Music</u>
1600 Ardmore	62.0 dBA	Not Audible
1500 block of Valley	63.0	Not Audible
700 block of Pier	67.5	Not Audible

Interior noise measurements were also made inside the Club in the 11:00 p.m. time range when the Club appeared to be at nearly full capacity and live music was being played. These measurements indicated an average noise level of 90 to 95 dBA in the disco area.

An attempt was also made to measure noise levels in the parking structure outside the restaurant entrance to the Club. Noise levels from the Club were not audible inside the parking structure between the hours of 9:30 p.m. and 11:30 p.m. It should be noted that the disco area is separated from the restaurant area by glass doors that were closed during the time we were there. Additionally, the restaurant is separated from the parking structure by a vestibule with glass doors at each end. Based on this arrangement of the rooms within the Club, the noise attenuation between the disco area and the parking structure would be at least 60 dB. This means that with a sound level of 95 dBA in the disco area, noise levels in the parking structure would not exceed 35 dBA. Because the parking structure is open to Ardmere Avenue, noise levels from traffic on Ardmere, Valley and Pier Avenue are in the 60 dBA range. Therefore, it is very unlikely that noise levels from the disco area would be audible in the parking structure at any time.

3.0 Hermosa Beach Noise Ordinance Requirements

Chapter 8.24 - Noise Control of the Hermosa Beach City Code states that for commercial establishments adjacent to residential property, noise from the premises of any commercial establishment including any outdoor dining area part of the establishment between the hours of 10:00 p.m. and 8:00 a.m. that is plainly audible at the residential dwelling units' property line is prohibited

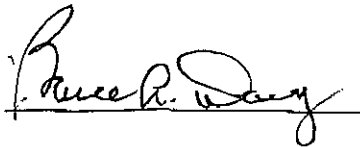
5.0 Noise Control Recommendations

Even though the Club complies with the requirements of the Hermosa Beach Noise Ordinance with no special mitigation while operating with amplified music in the 90-95 dBA range, the following recommendation is made to maximize the noise attenuation of the building that houses the Club.

- Install an audio level control system to ensure that untrained persons or musicians can not turn the volume inside the Club up above 95 dBA.. This would involve using an outboard pre-amplifier that can be locked in an enclosure. The volume of the main amplifier should be set at maximum and the output of the pre-amplifier adjusted to provide a sound level in the Club of no more than 95 dBA which is considered to be a typical and reasonable level for a disco of this size. The pre-amplifier would then be locked in the enclosure and the key would be accessible only to the Club owner. Musicians and other personnel could then turn the volume down from the 95 dBA preset level with the volume control on the main amplifier but could not turn the volume up above this preset level.

4.0 Summary of Results

Based on this analysis, noise levels from the Club are in compliance with the Hermosa Beach Noise Ordinance. These noise levels will also be much less than existing ambient noise levels in the surrounding neighborhoods when amplified music is operating at an interior level of 95 dBA or less.

A handwritten signature in black ink, appearing to read "Bruce A. Davy", is written over a horizontal line.

Bruce A. Davy, P.E.
Davy & Associates, Inc.
I.N.C.E. Board Certified

Exhibit C

Conditional Use Permit - 705 Pier Avenue – Schedule for Compliance

June 8, 2007	A complete code complying seating and occupant load plan consistent with the floor plan (Exhibit A) shall be prepared by a licensed Architect and submitted to the City for review.
July 8, 2007	The reconfigured floor plan (Exhibit A) and seating plan shall be implemented within the premises.
July 8, 2007	The noise control recommendation from the April 17, 2007 acoustical study shall be implemented.
January 8, 2008	City Council public hearing to review conformance with CUP conditions of approval

P.C. RESOLUTION 07-1

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 "CLUB 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 December 6, 2006 and January 11, 2007, 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.**

2. 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.
3. 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 noise will not be audible from any adjacent residential use or from the adjacent street. Mitigation measures to attenuate noise may include sound baffles, double-glazing and other methods specified in the acoustical study. The Community Development Director shall approve the scope of the acoustical study. Any sound attenuation recommendations provided in the acoustical study must be completed and approved by the Community Development Department prior to offering live entertainment and failure to implement any of said recommendations will automatically initiate a review of this Conditional Use Permit by the Planning Commission.
4. The hours of operation for all operations of the restaurant, including the lounge/bar areas, shall be limited to between 7:00 A.M. and 12:00 Midnight.
5. 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. A security plan for the parking area and the exterior north access shall be submitted for review and approval of the Police Chief and shall be implemented on site. No outdoor use in the north parking area other than access to the facility is permitted.
6. 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.
7. 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.
8. 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.
9. The restaurant shall be subject to annual review by the Planning Commission to verify conformance with the Conditions of Approval.
10. 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
2
3
4
5
6
7
11. 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.
 12. 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.

8
9

General Operating and Standard Conditions:

- 10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
13. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.
 14. The business shall provide adequate staffing and management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of the patrons outside the business, or in the immediate area.
 15. The Police Chief shall determine if a continuing police problem exists, and may require the presence of a doorman and/or security personnel to eliminate the problem, and/or shall submit a report to the Planning Commission, which will automatically initiate a review of this conditional use permit by the Commission
 16. The exterior of the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
 17. Any changes to the interior or exterior layout which alter the primary function of the restaurant shall be subject to review and approval by the Planning Commission.
 18. The operation of the business shall comply with all applicable requirements of the Municipal Code.
 19. Noise emanating from the property shall be within the limitations prescribed by the city's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments. Noise emanating from the property shall be monitored to verify compliance with the noise ordinance in response to any complaints.

25
26
27

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.

28

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, it 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
21 VOTE: AYES: Allen, Hoffman, Kersenboom, Perrotti, Pizer
22 NOES: None
23 ABSENT: None
24 ABSTAIN: None

25 CERTIFICATION

26 I hereby certify the foregoing Resolution P.C. 07-1 is a true and complete record of the action taken by the
27 Planning Commission of the City of Hermosa Beach, California, at their regular meeting of January 16,
28 2007.

29 
30 Kent Allen, Chairman

31 
32 Sol Blumerfeld, Secretary

33 Date: January 16, 2007

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, 2ND 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

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

2. The outdoor dining shall be limited to hours of operation between 8:00 A.M. and Midnight Sunday through Thursday, and between 8:00 A.M. and 2:00 A.M. on Fridays and Saturdays.
3. A decorative railing shall be provided to clearly delineate the outdoor dining area from the public sidewalk.
4. At no time shall the public sidewalk be used by food service personnel.
5. No recorded music or amplified music is allowed in the outdoor dining area.
6. The existing Sycamore tree located within the proposed outdoor dining area shall be left undisturbed.
7. The establishment shall not adversely effect the welfare of the residents, and/or commercial establishments nearby.
8. The business shall provide adequate staffing, management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of the patrons outside the business and in the parking areas.
9. Noise emanating from the property shall be within the limitations prescribed by the City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
10. The Police Chief may determine that a continuing police problem exists, and may authorize the presence of a police approved doorman and/or security personnel to eliminate the problem, 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.
11. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
12. The applicant shall submit a detailed seating and occupancy plan prepared by a licensed design professional, which shall be approved by the Community Development Department prior to issuance of building permits. Any significant changes to this interior layout which 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

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

The Conditional Use Permit 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 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.

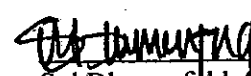
VOTE: AYES:	Tucker, Kersenboom, Chairman Perrotti
NOES:	None
ABSENT:	Hoffman, Pizer
ABSTAIN:	None

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 01-18 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 May 15, 2001.



Sam Perrotti, Chairman



Sol Blumenfeld, Secretary

Date 6-19-01

Cupr01-1

P.C. RESOLUTION 97-26

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

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

- A. 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).
- B. The additional seating, bar, and stages will not significantly intensify the use of the site as long as the use remains primarily a restaurant;
- D. The use of the site for a restaurant is appropriate for the subject location and will be compatible with surrounding commercial activities along Pier Avenue;
- E. Strict compliance with the conditions of approval will mitigate any negative impact resulting from the issuance of the Conditional Use Permit;
- F. The project is Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301 New Construction and Conversion of Small Structures of the CEQA guidelines, as it involves the minor alteration of an existing facility.

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

SECTION I Specific Conditions of Approval

- 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.

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.

20 SECTION II General operating and standard conditions:

- 21 1. The establishment shall not adversely effect the welfare of the residents, and/or commercial
22 establishments nearby.
- 23 2. The business shall provide adequate staffing, management and supervisory techniques to
24 prevent loitering, unruliness, and boisterous activities of the patrons outside the business
25 and in the parking areas.
- 26 3. Noise emanating from the property shall be within the limitations prescribed by the city's
27 noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,
28 and/or commercial establishments.
- 29 4. The police chief may determine that a continuing police problem exists, and may authorize
the presence of a police approved doorman and/or security personnel to eliminate the
problem, and then shall submit a report to the Planning Commission, which will
automatically initiate a review of this conditional use permit by the Commission.
5. The exterior of the premises shall be maintained in a neat and clean manner, and maintained
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 Marsh 18, 1997.

34 
35 Peter Tucker, Chairman

36 
37 Sol Blumenfeld, Secretary

38 4-15-97
39 Date

RECEIVED

MAY - 1 2007

Per.....

April 30, 2007

Members of the City Council
City of Hermosa Beach
1316 Valley Drive
Hermosa Beach, CA 90254

RE: Re-Opening of Club 705 Public Hearing

Dear Mr. Mayor and Members of the City Council,

I wish to go on record as opposed to the issuing of a Conditional Use Permit for the operation of a restaurant with closing hours of 2 AM in the morning. It goes beyond ones imagination how the City Council can even consider the issuing of a CUP for a restaurant closing at 2 AM in the morning.

Club 705 has one restaurant, several bar areas and several dance floors. After 10 PM one can only assume that the bars and dance floors provide the entertainment and income for the remainder of the time till closing. This defies one's definition of a restaurant. Club 705 will become the stopping off point for all the late hour drinkers from the downtown restaurants and sports bars with 12 PM closing. Are we closing our eyes to the real issues?

Leaving the closing hours at 2 AM will invite other Hermosa Beach restaurants and sports bars with 12 PM closing to petition for their CUP's to be reviewed for later hours. It appears that the City is opening up new legal problems.

Club 705 continues to appear in online advertising. You have many examples of that from previous resident submissions on the CUP hearings. This implies that the Club appears to be using promoters. The City Council started to address the issue of promoters but appears to have erased that fact from City Council documentation. The use of promoters and online advertising for the bars and dancing changes the definition from restaurant to sports bar or an event center. How can the City Council justify continuing a CUP until 2 AM for a restaurant when in fact the establishment contains multiple bars and dance areas and is promoting shows. This is really stretching the imagination for a definition of a restaurant.

By allowing the CUP to continue to 2 AM the City Council is adding more burden to our Hermosa Beach Police department. The department has presented testimony of the number of calls for issues related to sports bars. Residents are becoming worried that the City Police will not have officers available in the late evening for other emergency and non-emergency issues.

If we review previous testimony from individuals supporting Club 705 almost every person has spoke to fun of the bars, dancing, etc. Only in one case did I hear someone speak of the restaurant.

We request that the City Council at least keep the closing hours at 12 PM which is consistent with previous CUP issues that have come before the Council. This is also consistent with the City definition of a restaurants operating hours.

We request that the City perform 3 month reviews of operational performance for the next year.

We request that the City Council retain the right to immediately suspend the CUP for any major violation of Club 705 CUP requirements. This includes overcrowding, use of promoters for events, scheduling of shows or events, excessive noise from patrons on Pier and 16th street and Ardmore, excessive police interaction for noise, fights and other issues that affect the neighborhood.

We request that the owner or operator of Club 705 provide staff to work in the garage during hours of operation to control noise and to prohibit drinking in the underground garage area.

We request that the garage area be altered to reduce noise on the 16th street side. This can be accomplished by using some form of hanging insulation strips on the north side of the garage.

The residents of Hermosa Beach do not understand how Club 705 can state that they can not operate their business without the late hours. The CUP is for a restaurant not a sport or show lounge.

Ron Miller
Hermosa Beach

FOR BACKGROUND MATERIALS
(APRIL 10, 2007 STAFF REPORT)
PLEASE GO TO CITY'S WEBSITE AT
WWW.HERMOSABCH.ORG
UNDER "AGENDA/MINUTES",
"CITY COUNCIL"
"04-10-07",
AND CLICK ON ITEM NO. 5A