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RESOLUTION P.C. 07-19

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
HERMOSA BEACH, CALIFORNIA, TO APPROVE A CONDITIONAL USE
PERMIT AMENDMENT FOR AN EXPANSION AND INTERIOR ALTERATIONS
AT AN EXISTING RESTAURANT WITH ON-SALE ALCOHOL AND LIVE
ENTERTAINMENT AND OUTDOOR DINING, AND A PARKING PLAN TO PAY
IN-LIEU FEES RATHER THAN PROVIDING THE REQUIRED ADDITIONAL
PARKING AT 1320 HERMOSA AVENUE, THE SHORE, LEGALLY DESCRIBED
AS LOTS 8 AND 9 BLOCK 34, FIRST ADDITION TO HERMOSA BEACH TRACT**

Section 1. An application was filed by Restaurant Endeavors, L.L.C., owners of "The Shore" restaurant seeking an amendment to a Conditional Use Permit to allow interior expansion and alterations within an existing restaurant with on-sale alcohol, live entertainment, and outdoor dining, and for a Parking Plan to pay in-lieu fees rather than providing required parking.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit and for the Parking Plan on May 15, 2007, 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 Shore is currently operating under the terms of P.C. Resolution 03-23 which modified the previous resolution approved for Dano's restaurant in 2000. The 2000 resolution (P.C. 00-24) granted by the Planning Commission for Dano's allowed the change from on sale beer and wine to general alcohol. The location was first approved for restaurant, live entertainment and outdoor dining in 1993, when a C.U.P. was granted for on sale beer and wine and a Parking Plan for reduced parking.

2. The applicant is requesting alterations to the interior at the mezzanine level, in order to add 170 square feet of customer area and an additional 18 square feet of storage to the mezzanine, and also to convert a large portion of the existing approved mezzanine area to a dining and lounge area for customers (resulting in a total of approximately 400 square feet for dining and "lounge" area).

3. The mezzanine previously was approved only for an employee lounge, changing room, and storage area as recognized by the Planning Commission by minute order as the subject of an interpretation item at the January 18, 2005 meeting. The mezzanine is accessed through an interior stair from the ground level, but also has a direct emergency exit onto the alley, which is situated at a higher grade than Hermosa Avenue. The applicant indicates that this separate upstairs dining and lounge area only be used for special events or banquets, and that a security person will be stationed at the back door emergency exit.

4. The area proposed for the expansion, involves the conversion of inaccessible unfinished space at the mezzanine level currently separated by a wall from the employee/storage area. It was built as part of the ceiling above the kitchen in 2005, and was built to meet structural requirements for possible use as a mezzanine. It will require opening the existing wall, painting, and installation of floor covering and the construction of a new railing where it will be partially open to the floor below.

1 5. The expansion of gross floor area requires the use of parking in-lieu fees since there is no room on
2 the property to provide the two required additional parking spaces on site.

3 Section 4. Based on the foregoing factual findings, the Planning Commission makes the following
4 findings pertaining to the application to amend the Conditional Use Permit and the Parking Plan for the
5 payment of parking in-lieu fees rather than providing the parking on site:

6 1. The project is consistent with applicable general and specific plans and is in compliance with the use
7 and development requirements of the Zoning Ordinance;

8 2. The site is zoned C-2 and is physically suitable for the type and density of proposed interior
9 alterations and expansion and the proposed use complies with the development standards contained therein;

10 3. The project, as conditioned, will conform to all zoning laws and criteria and will be compatible
11 with neighboring residential and commercial properties;

12 4. The applicant will compensate for the parking deficiency of 20 spaces, by paying a parking in-lieu
13 fee, pursuant to Section 17.44.040

14 5. The requirements of Hermosa Beach Municipal Code Section 17.44.040 for granting a Parking
15 Plan for the payment of in-lieu fees for a portion of the required parking, and the policies contained in the
16 Local Coastal Plan, have been considered and are satisfied by the proposal. In making this finding, the
17 Planning Commission has determined that:

18 a. Sufficient public parking exists to accommodate the parking demand of the project without
19 causing a significant adverse impact on parking that is available to the beach going public,
20 since the peak demand for parking does not coincide with the peak demands for beach parking.

21 6. The City Council, at its meeting of August 8, 2006, set the parking in-lieu fee at \$28,900 per
22 required parking space, payable in lump sum prior to issuance of Certificate of Occupancy.

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

25 Section 5. Based on the foregoing, the Planning Commission hereby approves the requested
26 amendments to the Conditional Use Permit, subject to the following **Conditions of Approval**, which
27 supersede the conditions contained in P.C. Resolution 03-23:

28 **I. Permitted use.**

29 **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. Live entertainment shall be
“incidental” in the sense that it serves to entertain customers who are in the premises for the purpose of
dining.**

1 **1.3. Alcohol may be served for on-premises consumption in a manner consistent with the**
2 **license issued by the Alcohol Beverage Commission.**

3 **1.4. Entry into the business shall not be limited to persons 21 years of age or older.**

4 **II. Floor plan and parking plan.**

5 **2.1. The furniture and interior improvements within the business premises shall conform to the**
6 **submitted floor plan as reviewed by the Planning Commission on May 15, 2007. Other than trivial or**
7 **insignificant deviations in the placement or arrangement of furniture, no change whatsoever shall be**
8 **made to the interior of the premises that is inconsistent with the approved floor plan absent approval by**
9 **the Planning Commission by way of a modification to this Conditional Use Permit.**

10 **2.2. Under no circumstances shall furniture or other interior/exterior improvements be**
11 **rearranged to accommodate more occupancy absent approval of the Planning Commission as**
12 **prescribed in paragraph 2.1.**

13 **2.3. Occupancy shall not exceed the permitted occupancy load as prescribed by the Building**
14 **Code, based on the approved floor plan and review and approval of a code complying seating plan. An**
15 **approved occupant load sign shall be posted in the business as directed by the Fire Department. Any**
16 **single occupancy violation in excess of ten percent (10%) or repeated lesser violations of occupant load**
17 **shall result in the immediate scheduling of a hearing before the Planning Commission to consider**
18 **modification or revocation of this Conditional Use Permit.**

19 **2.4. Floor plans for building permit issuance shall demonstrate compliance with handicap**
20 **accessibility requirements for expanded mezzanine level.**

21 **2.5. In order to compensate for required parking that is not provided on site, the applicant**
22 **shall contribute fees to the City's parking improvement fund in lieu of the required two parking spaces,**
23 **as set forth in Section 17.44.040(E) of the Zoning Ordinance, at the amount of \$28,900 per required**
24 **space as set forth by resolution of the City Council, for a total payment of \$57,800. The payment of fees**
25 **in-lieu of parking shall be made prior to issuance of a Certificate of Occupancy for the building.**

26 **III. Operating hours.**

27 **3.1. The hours of operation for first floor operations of the restaurant, including the lounge/bar**
28 **areas, shall be limited to between 7:00 A.M. and 2:00 A.M. daily. All customers shall vacate the**
29 **premises by not later than the required closing times and the doors shall be locked**

3.2. The hours of operation and of the 2nd floor mezzanine area shall be limited to between 7:00
A.M. 12:00 midnight daily. All customers shall vacate the mezzanine no later this required closing time.

1 **3.3. The hours for live entertainment shall be limited to the hours between 9:00 P.M. and 1:15**
2 **A.M. Monday through Friday, and between 2:00 P.M. and and 1:15 A.M. Saturdays, Sundays, and**
3 **Federal and State Holidays, Cinco De Mayo, and St. Patrick's Day.**

4 **3.4. The outdoor patio shall be equipped with standard dining tables and chairs and provided**
5 **food and beverage service during hours the restaurant is open for business. There shall be no amplified**
6 **music, televisions or speakers within these outdoor patios.**

7 **IV. Noise attenuation.**

8 **4.1. The permittee shall maintain the interior acoustical treatments described in the acoustical**
9 **study dated November 28, 2006, prepared by Behrens and Associates, Inc. on file in the City of Hermosa**
10 **Beach Community Development Department.**

11 **4.2. During the performance of live entertainment all doors and windows must remain closed.**

12 **4.3. The rear access door shall be equipped with panic hardware and posted as an emergency**
13 **exit only, and remain closed during operating hours, except as necessary for handicapped accessibility**
14 **access to the mezzanine level.**

15 **4.4. In no event shall continuous, sustained or repeated noise from the business be audible at**
16 **the property line of any residential premises or audible eighty (80) feet from the property line of the**
17 **establishment at any time.**

18 **4.5. The business shall comply in all other respects with Municipal Code Chapter 8.24 (Noise**
19 **Control), and noise from the premises shall not constitute a public nuisance.**

20 **V. Trash storage and collection.**

21 **5.1. The refuse containers/bins utilized by the business shall be located as shown on the site**
22 **plan, screened from public view, and secured and locked daily in such that they are not susceptible to**
23 **illegal scavenging.**

24 **5.2. Every night at closing, the permittee shall collect trash from the sidewalk and alley areas**
25 **adjoining the premises .**

26 **5.3. The exterior of the premises shall be maintained in a neat and clean manner and free of**
27 **graffiti at all times.**

28 **5.4. The permittee shall at all times be in compliance with applicable requirements of the**
29 **National Pollution Discharge Elimination System (NPDES) and permits issued thereunder.**

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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 on both the main floor and the mezzanine, and the presence of doorman at both the main entry and rear exit door on the alley, 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, and to prevent the use of the emergency exit door at the rear for entry and/or exit from the premises.

6.3. 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.

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VII. Miscellaneous conditions

7.1. 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.

7.2. 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.

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Section 6. The Conditional Use Permit, as modified, and Parking Plan 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.

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 hereafter adopted that is 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.

