

**CITY OF HERMOSA BEACH
RESOLUTION NO. 24-05**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), AND APPROVING A CONDITIONAL USE PERMIT (CUP 24-03), ALLOWING FOR THE ON-SALE CONSUMPTION OF ALCOHOL (BEER ONLY) AT 1048 HERMOSA AVENUE IN THE DOWNTOWN COMMERCIAL (C-2) ZONE

WHEREAS, an application was filed on February 8, 2024, by the applicant Chris Frantz of Formula Racing Partners LLC, for a Conditional Use Permit located at 1048 Hermosa Avenue, to allow the sale of beer for on-site consumption.

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the subject application on April 16, 2024 at which time testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

WHEREAS, the Planning Commission directed staff to return to the Commission with a resolution of approval subject to conditions at the May 21, 2024 meeting.

WHEREAS, the proposed project is Categorically Exempt from the California Environmental Quality Act as defined in Section 15301, Class 1 Categorical Exemption, Existing Facilities. More specifically, the approval of the Conditional Use Permit results in no physical change to the existing structure. Moreover, none of the exceptions to the Categorical Exemptions apply, nor will the project result in a significant cumulative impact of successive projects of the same type in the same place over time or have a significant effect on the environment due to unusual circumstances or damage a scenic highway or scenic resources within a state scenic highway. The site is not located on a hazardous waste site and will not cause a substantial adverse change in the significance of a historical resource.

WHEREAS, based on the testimony and evidence received, the Planning Commission hereby further finds, determines and declares the following pertaining to the application for a Conditional Use Permit. In considering the granting of a Conditional Use Permit, general criteria for all uses shall be made pursuant to HBMC Section 17.40.020.

General Criteria for all CUP uses.

1. Distance from existing residential uses:

The subject site property is located approximately 20 feet away from the closest residential property as measured from the end of the commercial property line to the beginning of the nearest residential property line. Potentially negative effects

from the scope of the CUP include potential noise or rowdy behavior from patrons due to the sale and service of alcoholic beverages.

2. The amount of existing or proposed off-street parking facilities, and its distance from the proposed use:

The project site currently has one parking space on the property and one space will remain after the completion of work. The business is permitted to contain no more than four entertainment amusement machines and is classified as a general retail commercial use, resulting in no net change in the parking demand as compared to the prior dry-cleaning use. Furthermore, the project site is exempt from providing any additional off-street parking due to Hermosa Beach Municipal Code Sections 17.44.015 (C)(1) & (D)(1). These code sections allow for no new parking to be provided for the first 5,000 square feet of ground floor, non-residential, non-office, and non-late night alcohol establishment uses. While alcohol is being proposed with the CUP request, the parking exemption still applies because the establishment will not be considered late-night due to the proposed closing time of 10 p.m. In summary, the approval of this CUP would not alter the parking requirement or number of spaces.

3. Location of and distance to churches, schools, hospitals, and public playgrounds:

The subject site is located approximately 0.6 miles to the nearest school (Hermosa Valley School), approximately 6.7 miles from the nearest hospital (Kindred Hospital), approximately 0.3 miles from the nearest church (Christian Science Church), and 0.6 miles from the nearest public playground (South Park). The presence of this establishment will not have a significant effect on these uses.

4. The combination of uses proposed:

The corridor along Hermosa Ave is currently comprised of a variety of retail, restaurant, and personal service type uses. This new driving simulator business along with on-sale alcohol would be consistent with the type of uses currently in the adjacent vicinity. This use was also found to be similar to the pool and billiard hall use classification which is currently allowed by right in C-2 and C-3 zones in a determination of the Community Development Director. The Planning Commission must also approve any substantial modifications to the approved floor plan pursuant to Condition #1 of the draft resolution.

5. Precautions taken by the owner or operator of the proposed establishment to assure the compatibility of the use with surrounding uses:

Due to the sale and service of alcohol, there is a potential for boisterous and rowdy behavior by patrons of the business. However, the proposed establishment intends to close at 10 p.m. and is not proposing to sell liquor or distilled spirits. These considerations/precautions will help ensure that the establishment is compatible with the surrounding commercial and residential uses and will not contribute to an increase in late-night alcohol-serving establishments.

6. The relationship of the proposed business-generated traffic volume and the size of streets serving the area:

There will not be a greatly increased volume of traffic as a result of the approval of this project. This proposal is consistent with similar other commercial establishments in the surrounding area and does not feature any characteristics that would result in an unusual or disproportionate traffic impact.

7. The number of similar establishments or uses within close proximity to the proposed establishment:

The subject site is surrounded by a variety of food, beverage, fitness, retail, and personal service type uses. While many businesses have similar components in the surrounding area such as alcohol service, none offer controlled simulation experiences such as what is being offered at this site.

8. Noise, odor, dust and/or vibration that may be generated by the proposed use:

Potentially negative effects from the scope of the CUP include potential noise or rowdy behavior from patrons due to the sale and service of alcoholic beverages.

9. Impact of the proposed use to the city's infrastructure, and/or services:

The sale of alcoholic beverages has the potential to impact public safety services. However, the establishments' sale of alcoholic beverages will be limited to beer only in contrast to the other alcohol-serving establishments in the surrounding area that offer distilled spirits. The lower ABV content of the beverages sold on site is expected to result in a reduced demand for public safety services relative to surrounding establishments due to the lessened potential for patrons to reach heightened levels of intoxication.

10. Will the establishment contribute to a concentration of similar outlets in the area:

The subject site is surrounded by a variety of food, beverage, fitness, retail, and personal service type uses. While many businesses have similar business components in the surrounding area such as on-sale alcohol, none offer controlled driving simulation experiences such as what is being offered at this site. Furthermore, the alcohol serving business component is considered secondary to the primary use of the simulator experiences.

11. Other considerations that, in the judgment of the planning commission, are necessary to assure compatibility with the surrounding uses, and the city as a whole.

As a result of the Planning Commission's deliberations at the April 16, 2024, meeting, conditions of approval have been included in the draft resolution which prohibit minors 12 years of age or younger from receiving goods or services from the establishment unless accompanied by an adult age 18 years or older. The hours of operation shall be limited to 10 a.m.-10 p.m. daily and from 5 a.m. to 10 p.m. on officially designated Formula 1 racing days in which the owner shall furnish

the City with a written schedule of early opening days at least three (3) weeks in advance of the planned early opening.

SECTION 1. Based on the foregoing, the Planning Commission **hereby approves** Conditional Use Permit 24-03 for the sale of beer for on-site consumption as set forth in Planning Commission Resolution 24-05 subject to the following Conditions of Approval:

1. The development and continued use of the property shall be in conformance with submitted plans received and reviewed by the Planning Commission at its meeting of April 16, 2024, in accordance with the conditions below. The Community Development Director may approve minor modifications that do not otherwise conflict with the HBMC or requirements of this approval. Any changes to the interior and/or exterior floorplan that would substantially alter the on-site use and associated operation shall be subject to review and approval of the Planning Commission.
2. The project shall fully comply with all requirements of the C-2 Zone, as applicable, of the Municipal Code.
3. The project shall comply with all requirements of the City of Hermosa Beach Building Division, Public Works Department, Los Angeles County Fire Department, California Department of Alcoholic Beverage Control, Los Angeles County Health Department, California Disabled Access Standards (Government Code Title 24), and Los Angeles County National Pollutant Discharge Elimination System Permit (NPDES) and the HBMC.
4. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this permit 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.
5. This approval shall not be effective for any purposes until the permittee and the owners of the property involved have filed at the office of the Planning Division of the Community Development Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant. The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to commencement of alcohol sales.
6. Approval of this permit shall expire twenty-four (24) months from the date of approval by the Planning Commission unless significant construction or improvements or the use authorized hereby has commenced. One or more extensions of time may be requested. No extension shall be considered unless

requested, in writing to the Community Development Director including the reason therefore, at least 60 days prior to the expiration date. No additional notice of expiration shall be provided.

7. The permitted hours of operation shall be from 10 a.m. - 10 p.m. daily and from 5 a.m. - 10 p.m. on officially scheduled Formula 1 racing days as requested by the business owner or designee and approved by the Community Development Director.
 - a. The business owner or designee shall furnish the City with a written schedule of days in which the establishment plans to open prior to 10 a.m. a minimum of (3) weeks in advance of the planned early opening. In the event the Community Development Director denies any such request, that decision shall be final.
8. Live entertainment shall be prohibited unless otherwise permitted by the City.
9. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance (Hermosa Beach Municipal Code Chapter 8.24).
10. The business shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.
11. The applicant shall be prohibited from installing any reflective tint on any exterior surface of the building.
12. The business shall prevent loitering, unruliness, and boisterous activities of the patrons outside the business or in the immediate area.
13. The exterior of the business shall be maintained in a neat and clean manner and maintained free of graffiti at all times. The removal of all graffiti from the walls, fences, pavement, or buildings within twenty-four hours of discovery of its appearance on the property is required.
14. The following signs shall be posted in a conspicuous location in a readily visible manner, warning patrons of the illegality of selling/providing alcoholic beverages to persons loitering and drinking within the public realm.
 - a. "No Loitering or Public Drinking."
 - b. "It is illegal to possess an open container of alcohol in the vicinity of this establishment."
15. The approved sale of alcohol is limited to beer only and off-site sales are explicitly prohibited.

16. No alcoholic beverages shall be sold from any temporary locations on the premises such as ice tubs, barrels, or any other containers.
17. Any patron 12 years of age or younger must be accompanied by an adult aged 18 years or older in order to receive goods or services provided by the establishment.
18. A manager who is aware of the conditions of this Conditional Use Permit shall be on the premises during business hours. The Conditional Use Permit shall be maintained on the premises in a location where employees can easily read the conditions.
19. The project site shall be the point-of-sale for the purpose of collecting any sales tax on goods that are sold, delivered or rented on the site.
20. 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 any detrimental effects on the neighborhood resulting from the subject use.
21. Under no circumstances shall furniture or other interior/exterior improvements be rearranged from the floor plan attached to the CUP to accommodate dancing, additional entertainment, or greater occupant load absent approval by the Chief of Police, or the Planning Commission.
22. The business shall install and maintain a video surveillance system that monitors within the interior of the business and the Immediate Area. The video system must be capable of delineating on playback the activity and physical features of persons and areas within the premises and Immediate Area. Recordings shall be retained for a minimum of sixty (60) days and video will be available to Police Department upon request. All video security cameras shall be installed to the satisfaction of the Chief of Police. At the discretion of the Chief of Police, Licensee may be required to add additional video cameras.
23. In addition to any other remedy provided by law, if the business operating pursuant to this CUP violates any condition of this CUP, the Police Chief or designee may meet and confer with the business to clarify the reason for the violation and to formulate a course of action to mitigate the risk for any future violation. If the business operating pursuant to this CUP continues to violate this CUP (*i.e.*, either a repeat violation or another violation) within any six (6) month period following a meet and confer with the Police Chief, then, at the sole discretion of the Police Chief, modified or additional operational requirements may be imposed by the Police Chief to curtail the violations until the time that the matter is brought before the Planning Commission. These modified or additional operational requirements include, but are not limited to, a

reduction in operating hours, required number of staff members during operating hours, additional training for existing staff, and/or any other measures deemed appropriate by the Police Chief. The Planning Commission shall consider any modification or additional requirement(s) imposed by the Police Chief during its discussion of the matter. The Police Chief's determination will remain in effect until considered by the Planning Commission.

24. To the extent permitted by law, Permittee shall defend, indemnify and hold harmless the City of Hermosa Beach, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void any permit or approval for this project authorized by the City, including (without limitation) reimbursing the City its actual attorney's fees and costs in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice. 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 permit. 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.

25. 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.

SECTION 2. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the Planning Commission, after a formal appeal to the City Council, must be made within 90 days after the final decision by the City Council.

VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

CERTIFICATION

I hereby certify the foregoing Resolution PC 24-05 is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at its regular meeting of May 21, 2024.

Peter Hoffman, Chair

Carrie Tai, Secretary