

RESOLUTION 21 –XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, RECONSIDERING THE MARCH 16, 2021 PLANNING COMMISSION DECISION TO DENY CONDITIONAL USE PERMIT 20-8 REQUEST FOR A CONDITIONAL USE PERMIT AMENDMENT TO PROVIDE ON-SITE SALE, SERVICE, AND CONSUMPTION OF GENERAL ALCOHOL INDOORS ONLY WITHIN THE HOTEL LOUNGE FOR REGISTERED GUESTS ONLY, 7 DAYS A WEEK 7:00 A.M. TO 10:00 P.M. AT AN EXISTING HOTEL (H2O HERMOSA) AT 1429 HERMOSA AVENUE, APPROVING THE MODIFIED CONDITIONAL USE PERMIT 20-8 REQUEST FOR A CONDITIONAL USE PERMIT AMENDMENT TO PROVIDE ON-SITE SALE, SERVICE, AND CONSUMPTION OF BEER AND WINE INDOORS ONLY WITHIN THE HOTEL LOUNGE FOR REGISTERED GUESTS ONLY AND DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission adopted Resolution No. 15-25 on October 20, 2015 to approve a Precise Development Plan (PDP15-11) to allow a 30,250 square foot hotel with 30 guest rooms and common areas on an undeveloped 11,516 square foot lot; Conditional Use Permit (CUP15-10) to allow on-sale general alcohol for hotel guests in guest rooms restricted to mini-bars; and a Parking Plan (PARK 15-7) to allow a valet program and parking in tandem for a property located at 1429 Hermosa Avenue.

SECTION 2. An application was filed by 1429 Hermosa LLC seeking approval for a Conditional Use Permit and Parking Plan Amendment to CUP 20-8 & PARK 20-5. to provide on-site sale, service, and consumption of general alcohol indoors only within the hotel lounge for registered guest only, 7 days a week 7:00 a.m. to 10:00 p.m. at an existing hotel (H2O Hermosa) and to allow charging a fee for on-site parking located at 1429 Hermosa Avenue.

SECTION 3. The Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit 20-8 and Parking Plan 20-5 amendment on March 16, 2021, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission. Concerns were raised regarding the Conditional Use Permit Amendment due to the hotel's close proximity to sensitive receptors, including, residential uses, business management regarding sales of alcohol to non-registered guests, the potential for late night loud noise, and unwanted activities including, but not limited to loitering.

SECTION 4. During the March 16, 2021 public hearing, the Planning Commission directed staff to bring back a resolution denying the Conditional Use Permit to provide on-site sale, service, and consumption of general alcohol indoors only within the hotel lounge for

registered guests only, 7 days a week 7:00 a.m. to 10:00 p.m. at an existing hotel (H20 Hermosa) on consent calendar.

SECTION 5. The Planning Commission conducted a duly noticed public meeting on April 20, 2021 to formally adopt the resolution memorializing the denial of the Conditional Use Permit Amendment. The motion carried with a 4 to 1 vote denying the Conditional Use Permit Amendment.

SECTION 6. On April 27, 2021, the City Council removed Conditional Use Permit Amendment 20-08 from the Planning Commission List of Approved Actions on the Consent Calendar for reconsideration by the City Council at a public hearing. The City Council conducted a duly noticed public hearing to consider the application on May 25, 2021.

SECTION 7. Planning Commission denial of the application is exempt pursuant to Section 15270 of the 'Guidelines for Implementation of the California Environmental Quality Act (CEQA)', Title 14 of the California Code of Regulations, as the project is not subject to CEQA because CEQA does not apply to projects which a public agency rejects or disapproves.

The City Council's review and reconsideration of the project is Categorically Exempt from the California Environmental Quality Act as defined in Section, Class 1 Exemption of the CEQA Guidelines. Class 1 exemptions include modifications to existing structures that involve negligible or no expansion of an existing use.

The proposal pertains to an existing facility where the hotel operation will be maintained and providing on-site sale, service and consumption of beer and wine involves negligible or no expansion of the use. Moreover, none of the exceptions to the Categorical Exemption 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 resource 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.

SECTION 8. Based on the testimony and evidence received, the City Council makes the following factual findings pertaining to the application for a Conditional Use Permit Amendment pursuant to Hermosa Beach Municipal Code Section 17.40.080:

1. ***Distance from Existing Residential Uses:*** While the existing hotel use is within close proximity to residential uses, the proposed beer and wine on-site consumption would include service in the existing indoor lounge, south of the front desk/lobby area, restricted to hotel guests only and would be an addition to the existing mini-bars for hotel guests within guest rooms. The existing hotel offers a continental breakfast service in the lounge, however no other food service would be provided in the lounge with the exemption of bagged snacks, such as nuts, chips, and non-alcoholic beverages. The existing conditions of approval set forth in PC Resolution 15-25 would remain in full force and effect (with exception of Condition 12 d for the parking fee) in addition to the new conditions of approval included in this resolution. Finally, beer and wine, service

and consumption indoors would be limited to the hours of 7:00 AM to 10:00 PM 7 days a week.

2. ***Precautions taken by the owner or operator of the proposed establishment to assure compatibility of the use with surrounding uses:*** In order to prevent potential negative impacts on surrounding properties, hours for the existing hotel facilities such as the multi-functional room and the pool/spa have been limited to 10:00 P.M. The applicant proposes to also limit hours of the onsite sale, service, and consumption of beer and wine within the hotel lounge from 7:00 A.M. to 10:00 P.M. The applicant has removed the inconsistent hours for the roof deck from the business website.

The proposed sale, service, and consumption of beer and wine are limited to registered guests only. Since the existing lounge is located beyond the front desk/lobby area, hotel front desk and bar staff can easily witness those entering the lounge and will have the ability to confirm that only registered guests are utilizing the on-site alcohol service. Security cameras also currently monitor the front desk and lobby area for additional security. In the applicant's original proposal, the applicant also provided their employee alcohol-training handbook, which includes information for guest verification in regard to the alcohol service (attached). Bar staff can verify the names of the registered hotel guests through the hotel's POS system (POS stands for Point of Sales is a computer system which allows business owners to track sales, cash flow etc.). The applicant has also committed to hire additional employees to monitor the lounge area if issues arise with the proposed beer and wine on-site sale, service and consumption.

Finally, in 2020, the Planning Commission approved on-site sale, service, and consumption of beer and wine indoor only at another existing hotel (Hotel Hermosa). Due to concerns from the public and the City's Police Department, conditions of approval were added to the resolution to mitigate potential impacts. The same conditions of approval that were identified by the City's Police Department to lower negative impacts for Hotel Hermosa are included in the conditions of approval for the proposal.

3. ***The number of similar establishments or uses within close proximity to the proposed establishment:*** While the existing hotel is located in the downtown area of the City, which is home to many late-night alcohol establishments, the provision to expand the onsite sale, service, and consumption of beer and wine to the hotel lounge for hotel guests only would be ancillary to the primary hotel use. A similar use in the downtown area can be found at the Beach House Inn. The Beach House Inn was granted a CUP for on-sale general alcohol sales in 2001, which is limited to the use of in-room mini-bars and private banquet rooms used only by hotel guests. Since both the subject business and the Beach House Inn offer alcohol service exclusively to their hotel guests, over-concentration of similar businesses is not anticipated. The provision for on-site sale, service and consumption beer & wine only, would allow the business to remain competitive in the market and provide the same services offered at similar luxury boutique hotels.

4. ***Impact of the proposed use to the City's infrastructure, and/or services:*** Impacts to police services have been an issue with some late night alcohol serving facilities clustered in the downtown area. However, given the proposal is not a late night establishment and the provision only includes on-site sale, service and consumption of beer and wine only indoors for hotel guests only, the request is not anticipated to impact City services. Though the proposed use is not anticipated to create adverse effects to the City's infrastructure and/or services, several measures have been taken through the conditions of approval to mitigate any potential impacts. The City is committed to ensuring that hotel establishments are closely monitored and the existing hotel use is conditioned such that, "Should the Police Chief determine that a continuing police problem exists, he/she may, subject to appeal to the Planning Commission, direct the presence of a police approved security personnel to eliminate the problem. An appeal to the Planning Commission shall be heard within sixty (60) days of filing the appeal. The Police Chief's determination will not be stayed during the pendency of the appeal. If the problem persists, the Police Chief then shall submit a report to the Planning Commission, which will automatically initiate a review of the conditional use permit." (CUP Condition 19). In addition, "The Planning Commission may review this Conditional Use Permit or Precise Development Plan or Parking Plan 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." (CUP Condition 30). Finally, in 2020, condition of approvals that were identified by the City's Police Department for the CUP Amendment for Hotel Hermosa to mitigate potential services impacts from the proposed onsite sale, service, and consumption of beer and wine at an existing hotel have been added to the conditions of approval:

The establishment shall have security personnel on-duty during the hours of alcohol sales, service and consumption at the owner/operator's expense. In addition to other security duties at the hotel property, the security personnel shall be responsible for monitoring the dining and alcohol service area to address any loud, boisterous or unruly behavior. If the security personnel are not able to reduce or eliminate incidents and problems at the hotel property, the Chief of Police may direct the establishment to hire additional security personnel, at the owner/operators expense, who will have the sole responsibility of monitoring the dining and alcohol service area within the hotel property. If the problem persists, the Chief of Police shall submit a report to the Planning Commission, which will automatically initiate a review of this Conditional Use Permit and Parking Plan by the Planning Commission. If the establishment can demonstrate that security personnel is no longer necessary to the satisfaction of the Police Chief due to a reduced impact to the City's services, such as, but not limited to a reduction in the number and severity of Calls for Service (CFS) directly attributed to the hotel property over a twelve month period the Police Chief may modify the requirement for security personnel. If there is no longer a necessity for security personnel, then the requirement to have security personnel shall be annulled upon notification from the Police Chief to the Community Development Director and the applicant. Any other change to the requirement to have security personnel shall require an amendment to this CUP following a public hearing before the Planning Commission.

The establishment shall install and maintain a video surveillance system in the ground-level lounge alcohol service area, where alcohol will be consumed. The video surveillance system shall have a retention period of at least thirty (30) days. The establishment agrees to cooperate with the City's Code Enforcement and Police Department to provide copies of video surveillance for criminal or administrative investigations.

The establishment will arrange a meeting with the Police Chief on an annual basis to review the impact of the CUP. During the annual meeting, the Police Department will review the number and severity of the Calls for Service (CFS) directly attributable to the hotel property for the previous twelve months. If there are any increases in the number and severity of CFS directly attributable to the hotel property, the establishment will provide the Police Chief with a plan to reduce the impacts within thirty (30) days of the meeting.

SECTION 9. Based on the foregoing, the City Council hereby **approves an amendment to a Conditional Use Permit. This resolution modifies Planning Commission Resolution No. 15-25, which shall remain valid. Unless modified herein, all conditions of approval contained in PC Resolution No. 15-25 shall prevail.**

The following conditions of approval are hereby added to PC Resolution No. 15-25 to read as follows:

14. The provision of alcoholic beverages shall comply with the following:

- a. The hotel manager and anyone involved in the sale/service of beer and wine shall attend and pass a responsible beverage service training provider program to educate hotel management and servers of alcohol responsibility and California laws in order to serve alcoholic beverages safely, responsibly, and legally, and to prevent illicit drug activity.**
- b. Exterior signage or any other form of outside promoting or advertising referencing any food and/or beverage products sold is prohibited.**
- c. Food and beverage service shall be available only for hotel guests and shall not be open to the public.**
- d. The hotel shall only provide alcoholic beverage services to verified registered guests of the hotel.**
- e. All alcoholic beverages shall be served in non-disposable drink ware.**
- f. Signs shall be posted in a conspicuous location warning patrons of the illegality of removing alcoholic beverages from the hotel property, and carrying and consuming alcoholic beverages in any public place such as the public sidewalk.**
- g. Any substantial deviation, changes to the floor plan, site plan or building exterior, which alters or intensifies the alcoholic beverages service shall be subject to review and approval by the Planning Commission.**

15. The establishment shall have security personnel on-duty during the hours of alcohol sales, service and consumption at the owner/operator's expense. In addition to other

security duties at the hotel property, the security personnel shall be responsible for monitoring the dining and alcohol service area to address any loud, boisterous or unruly behavior. If the security personnel are not able to reduce or eliminate incidents and problems at the hotel property, the Chief of Police may direct the establishment to hire additional security personnel, at the owner/operators expense, who will have the sole responsibility of monitoring the dining and alcohol service area within the hotel property. If the problem persists, the Chief of Police shall submit a report to the Planning Commission, which will automatically initiate a review of this Conditional Use Permit and Parking Plan by the Planning Commission. If the establishment can demonstrate that security personnel is no longer necessary, to the satisfaction of the Police Chief and/or a reduced impact to the City's services, such as, but not limited to a reduction in the number and severity of Calls for Service (CFS) directly attributed to the hotel property, over a twelve month period, the Police Chief may modify the requirement for security personnel. If there is no longer a necessity for security personnel, then the requirement to have security personnel shall be annulled upon notification from the Police Chief to the Community Development Director and the applicant. Any other change to the requirement to have security personnel shall require an amendment to this CUP following a public hearing before the Planning Commission.

16. The establishment shall install and maintain a video surveillance system in the dining and alcohol service area, and all other common areas of the hotel where alcohol may be consumed. The video surveillance system shall have a retention period of at least thirty (30) days. The establishment agrees to cooperate with the City's Code Enforcement and Police Department to provide copies of video surveillance for criminal or administrative investigations.

17. The establishment will arrange a meeting with the Police Chief on an annual basis to review the impact of the CUP. During the annual meeting, the Police Department will review the number and severity of the Calls for Service (CFS) directly attributable to the hotel property for the previous twelve months. If there are any increases in the number and severity of CFS directly attributable to the hotel property, the establishment will provide the Police Chief with a plan to reduce the impacts within thirty (30) days of the meeting.

SECTION 10. This permit shall not be effective for any purposes until the permittee and the owner of the property involved provide evidence to the office of the Planning Division of the Community Development Department of recording of the signed Acceptance of Conditions' affidavit with the Los Angeles County Recorder's Office stating that they are aware of, and agree to accept, all of the conditions of this permit.

The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to the issuance of a business license.

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.

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.

SECTION 11. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the final decision on this Parking Plan (either by the Planning Commission, or the City Council should they take jurisdiction of the project), must be made within 90 days after the final decision.

PASSED, APPROVED AND ADOPTED this 25th day of May, 2021.

MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney