

P.C. RESOLUTION 19-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING, IN PART, A CONDITIONAL USE PERMIT REQUEST TO ALLOW ON-SITE SALE, SERVICE AND CONSUMPTION OF BEER AND WINE INDOORS ONLY SUNDAY THROUGH THURSDAY 6:00 AM TO 9:00 PM AND FRIDAY AND SATURDAY 6:00 AM TO 11:00 PM AND ~~OUTDOORS SUNDAY THROUGH THURSDAY 8:00 AM TO 9:00 PM AND FRIDAY AND SATURDAY 8:00 AM TO 10:00 PM~~ AT AN EXISTING HOTEL (HOTEL HERMOSA), IN CONJUNCTION WITH EXPANDED FOOD SERVICE FOR HOTEL GUESTS LOCATED AT 2515 PACIFIC COAST HIGHWAY, AND DENYING THE REQUEST FOR OUTDOOR BEER AND WINE SALE, SERVICE AND CONSUMPTION; AND DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The Planning Commission of the City of Hermosa Beach does hereby resolve and order as follows:

Section 1. An application was filed by Pacifica Food and Beverage, Inc., seeking approval of a Conditional Use Permit (CUP) 19-9 and Parking Plan Amendment 19-6 to allow on-site sale, service and consumption of beer and wine indoors Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 11:00 PM and outdoors Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 10:00 PM at an existing hotel (Hotel Hermosa), in conjunction with expanded food service for hotel guests located at 2515 Pacific Coast Highway.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application on November 19, 2019, at which time testimony and evidence, both oral and written, was presented to and considered by the Planning Commission. Concerns were raised due to the hotel's close proximity to adjacent residential uses, incompatibility of uses and the potential for alcohol related noise and nuisances.

Section 3. Following the November 19, 2019 public hearing, the Planning Commission directed staff to bring back revised resolutions for indoor beer and wine sale, service, and consumption, Friday and Saturday 6:00 a.m. to 11:00 p.m., Sunday through Thursday, 6:00 a.m. to 10:00 p.m. at an existing hotel on consent calendar and denying the request for outdoor beer and wine. The motion carried with a 4 to 0 vote noting the recusal of Commissioner Saemann.

Section 43. Pursuant to the California Environmental Quality Act, the project is categorically exempt from the California Environmental Quality Act as defined in Section 15301 Class 1 Existing Facilities in that 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 indoors only in conjunction with expanded ancillary food service involves negligible or no expansion of the use.

Section 54. Based on the testimony and evidence received, the Planning Commission makes the following findings pertaining to the application for the Conditional Use Permit and Parking Plan Amendment pursuant to the criteria in Hermosa Beach Municipal Code (HBMC) Section 17.40.020 finding that the use as conditioned will be compatible with the surroundings and all impacts can be reduced to an insignificant level:

HBMC Section 17.40.020 Conditional Use Permit general criteria for all uses:

A. *Distance from existing residential uses:* The existing hotel is located at a major commercial intersection, Artesia Boulevard and Pacific Coast Highway with commercial uses dominating Pacific Coast Highway frontage and easterly along Artesia Boulevard. A 33-unit multi-family residential complex neighbors the subject property to the west while a 10-unit multiple family residential complex neighbors the subject property to the southwest. Additional single-family and multiple-family residences line the south side of Gould Avenue west of the subject property as well as along 24th Place, southwest of the subject property. ~~The proposed beer and wine service for on-site consumption, indoors only, would include service in the existing indoor bar/lounge and also within the outdoor patio at the southwest corner of the subject site.~~ Food and beverages would be limited to hotel guests only and the bar/lounge ~~and outdoor patio~~ would not be open to the public.

Due to the hotel's close proximity to adjacent residential uses (which have windows facing the outdoor area), incompatibility of uses and the potential for alcohol related noise and nuisances, distance from residential uses is a significant factor in this decision with respect to outdoor beer and wine. Testimony was presented that the wall separating the two uses has not fully mitigated existing noise and this existing condition should not be exacerbated by allowing beer and wine to be consumed in the outdoor area.

Parking Plan Resolution 16-16 requires compliance with the following conditions of approval (with condition 8 removed and conditions 9-11 as modified below) through Parking Plan amendment 19-6 to reduce impacts to neighboring properties as well as other motel guests. The Parking Plan resolution (as modified) will remain in full force and effect in addition to the new CUP resolution.

9. Exterior signage or any other form of outside promoting or advertising referencing any food and/or beverage products sold is prohibited.

10. Food and beverage service shall be available only for hotel guests and shall not be open to the public.

~~11. Food and beverage service requires proof of stay at the hotel via a hotel room key. Hotel guests must provide evidence of lodging at the hotel prior to receiving~~

~~food and beverage service~~ The hotel shall only provide food and alcoholic beverage services to verified registered guests of the hotel.

14. No entertainment, speakers, or televisions are allowed on the exterior of the building, or in the open-air areas. No live entertainment is permitted on-site.

15. The business shall prevent loitering, unruliness and boisterous activities of the patrons on the outdoor patio, outside the business, or in the immediate area.

16. If the operation of the establishment poses a risk or harm to persons or property, the Police Chief may direct the presence of a police approved doorman and/or security personnel to eliminate the problem, at the owner/operator's expense. If the problem persists, the Chief then shall submit a report to the Planning Commission, which will automatically initiate a review of this Parking Plan by the Planning Commission.

24. A sound and light barrier wall shall be constructed and maintained at the end of the driveway at the southwest corner of the property to the Satisfaction of the Community Development Director.

In addition, beer and wine sales, service and consumption indoors only would be limited to the hours of Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 11:00 PM ~~and outdoors Sunday through Thursday 8:00 AM to 9:00 PM and Friday and Saturday 8:00 AM to 10:00 PM~~ which, in addition to project conditions, would reduce potential impacts to insignificant levels.

A.B. *The amount of existing or proposed off-street parking facilities, and its distance from the proposed use:* The existing hotel is compliant with current parking requirements as there are 71 on-site spaces. The addition of beer and wine sale, service and consumption indoors only for hotel guests only will not change the existing hotel use, will provide incidental alcohol service in conjunction with an expanded food service to those already staying at the hotel and will therefore not increase parking demand.

B.C. *Location of and distance to churches, schools, hospitals and public playgrounds:* The ~~proposed~~ project involves no alterations to the existing hotel building ~~or outdoor patio~~ and is limited to providing food and alcoholic beverage sale, service and consumption available to guests of the hotel only. The nearest church is located to the east across Pacific Coast Highway (Hope Chapel) and the nearest public playground is west of the site on the corner of Gould Avenue and Valley Drive. These uses are generally daytime uses while food and alcohol service activity typically peaks during the evening hours. No impacts to churches, schools, hospitals and public playgrounds are anticipated.

C.D. *The combination of uses proposed:* The existing hotel use with a bar/lounge offering food service and non-alcoholic beverages is a permitted use in the C-3 zone and the proposed sale, service and consumption of alcohol on-site, when not in conjunction with a restaurant operation, requires approval of a Conditional Use Permit. The existing bar/lounge is located

indoors on the first floor and within a common area and will operate from Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 11:00 PM and since alcohol sale, service and consumption will be limited to indoors, the likelihood of potential impacts between the neighboring residential uses and the commercial hotel use are thereby reduced to an insignificant level. The existing outdoor patio is located on the first floor at the southwest corner of the subject site and will operate from Sunday through Thursday 8:00 AM to 9:00 PM and Friday and Saturday 8:00 AM to 10:00 PM, thereby reducing the likelihood of potential impacts between the uses.

D.E. The number of similar establishments or uses within close proximity to the proposed establishment: The nearest hotel is located to the south of the subject site on Pacific Coast Highway at 15th Street (Hampton Inn and Suites). Additional hotels in the City are located on Aviation Boulevard (Quality Inn) and in the downtown area. The provision of expanded food service for hotel guests and allowance for beer and wine sales, service and consumption indoors only would be ancillary to the primary hotel use and would supplement the expanded food service made available to hotel guests. The Beach House Inn was granted a CUP for on-sale general alcohol sales in 2001 which is limited the use of in-room mini-bars and private banquet rooms used only by hotel guests. The Beach House Inn is located in the City's Downtown District near Pier Plaza and is located a considerable distance away (approximately .7 miles), offers different alcohol service and therefore over-concentration of similar businesses is not anticipated.

F. Precautions taken by the owner or operator of the proposed establishment to assure compatibility of the use with surrounding uses: In early 2017 the hotel owner voluntarily extended the sound and light barrier wall further north along the west property line, adjacent to the outdoor patio, to create a sound and privacy buffer between the 33-unit multi-family residential complex to the west and the hotel. The hotel owner also wrapped both sides of the wall with artificial greenery to be more aesthetically pleasing to both hotel guests and also the neighbors to the west who are located approximately 10-12 feet from the hotel's west property line and outdoor patio. The sound wall measures approximately 18'6" high from the parking lot (including the artificial greenery and concrete masonry wall) and approximately 10 feet high along the outdoor patio (including the artificial greenery and concrete masonry wall) and was constructed with two layers of 3/4 inch exterior grade plywood.

There are precautions in place to assure compatibility with the indoor sale of beer and wine. Due to the hotel's close proximity to adjacent residential uses (which have windows facing the outdoor area), incompatibility of uses and the potential for alcohol related noise and nuisances, distance from residential uses is a significant factor in this decision with respect to outdoor beer and wine. Testimony was presented that the wall separating the two uses has not fully mitigated existing noise and this existing condition should not be exacerbated by allowing beer and wine to be consumed in the outdoor area.

The project is conditioned to require that the hotel manager and anyone involved in the sale/service of beer and wine 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.

E.G. The relationship of proposed business-generated traffic volume and size of streets serving the area: ~~The request for beer and wine sale, service and consumption~~ indoors only within the bar/lounge ~~area and outdoor patio~~ for hotel guests only is not anticipated to generate additional traffic to the site. As such, no impacts are anticipated.

F.H. The proposed exterior signs and décor, and compatibility with existing establishments in the area: The ~~proposed~~ project does not include exterior signs or décor. No impacts are anticipated.

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

The hotel with ~~proposed~~ beer and wine sale, service and consumption indoors only limited to no later than 9:00 PM Sunday through Thursday ~~indoors and outdoors and no later than 10:00 PM outdoors~~ and 11:00 PM ~~indoors~~ Friday and Saturday is not considered a late-night alcohol beverage establishment and will not contribute to adverse impacts commonly associated with late-night alcohol establishments. Therefore, the subject request it not subject to the limitations contained within HBMC Section 17.40.080.

The noise associated with consumption of beer and wine indoors is not anticipated to contribute to additional noise outside. The request for outdoor beer and wine is not appropriate given the existing noise experienced by neighboring residential units and this condition should not be exacerbated by intensifying the outdoor activity with beer and wine sales and consumption. The 4,838 square foot outdoor patio is located in the southwest corner of the building and faces the multiple-family residences to the west and the southwest. Currently, the subject property contains a 4,838 square foot outdoor patio.

~~The bar/lounge area and outdoor patio will be regularly monitored by hotel staff to ensure neighboring residences and hotel guests are not being disturbed and that the use is limited to hotel guests. Food service may be provided on the outdoor patio beginning at 6:00 AM daily with alcohol service limited to 8:00 AM on the outdoor patio consistent with the City's Noise Ordinance. The above mentioned measures are anticipated to reduce the likelihood of noise impacts to neighboring uses.~~

H.J. Impact of the proposed use to the City's infrastructure, and/or services: The City's Police Department has concerns about activity at the hotel when compared to other similarly sized hotels in the City along Pacific Coast Highway. A report of calls for service at Hotel Hermosa, Hampton Inn, Holiday Inn Express, and Quality Inn from January 2018 to November 2019 is included as an attachment to the report. The City is committed to ensuring that the hotel establishment is closely monitored and the project is conditioned such that "If the operation of the establishment poses a risk or harm to persons or property, the Police Chief may direct the presence of a police approved doorman and/or security personnel to eliminate the problem, at the owner/operator's expense. If the problem persists, the Chief then 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." (CUP Condition No. 11). The City's

Police Department in coordination with the Code Enforcement Division are committed to monitor the establishment periodically to ensure impacts are resolved and if impacts are reoccurring that the CUP and Parking Plan be brought before the Planning Commission for modification/revocation.

In addition, "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 or to the public safety and welfare resulting from the subject use pursuant to the procedures for modification/revocation in the HBMC." (CUP Condition No. 23).

CUP Condition No.5 requires that 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. A minimum 42" high concrete wall surrounding the outdoor dining area shall be maintained.~~
- ~~g.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.
- ~~h.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.

Impacts to police services have been an issue with some late night alcohol serving facilities clustered in the downtown area. However, given the existing use is a hotel, food and beverages will only be available to hotel guests, alcohol will be limited to beer and wine indoors only and will exclude liquor, and hours for sale, service and consumption of alcohol are limited, the request is not anticipated to impact City services.

K. *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:* No other considerations are identified.

Section 67. Based on the foregoing, the Planning Commission hereby denies the request for a conditional use permit for outdoor beer and wine sale, service, and consumption, at an existing hotel, pursuant to HBMC Section 17.40.

As explained above, outdoor beer and wine sale, service and consumption at an existing hotel (Hotel Hermosa) is incompatible with CUP criteria A. Distance from existing residential uses; D. The combination of uses proposed; and I. Noise,...that may be generated by the proposed use.

The hotel establishment is located in very close proximity to adjacent residential uses. A 33-unit multi-family residential complex neighbors the subject property to the west while a 10-unit multiple family residential complex also neighbors the subject property to the southwest. The residents to the west are located approximately 10-12 feet from the hotel's west property line and outdoor patio. The 4,838 square foot outdoor patio is located in the southwest corner of the building and faces the multiple-family residences to the west and the southwest. The neighbors have testified that noise from existing activities on the patio exists and the condition should not be exacerbated by intensifying outdoor activity with alcohol use.

The Planning Commission denies, in part, CUP 19-9 finding that the request for outdoor beer and wine sale, service and consumption within the 4,838 square foot patio Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 10:00 PM would result in increased potential for alcohol related noise and nuisance concerns due to the hotel's close proximity to adjacent residential uses and incompatibility of uses.

Section 675. Based on the foregoing, the Planning Commission **hereby approves, in part,** the request for Conditional Use Permit 19-9, approving indoor beer and wine sale, service, and consumption, Friday and Saturday 6:00 a.m. to 11:00 p.m., Sunday through Thursday, 6:00 a.m. to 10:00 p.m. at an existing hotel, -subject to the following Conditions of Approval:

1. **The use consisting of a hotel with on-sale beer and wine service indoors only and the site and building shall be substantially consistent with plans ~~and application submitted and modified approved approval~~ by the Planning Commission on ~~November 19~~December 9, 2019. The Community Development Director shall review and may approve minor modifications that do not otherwise conflict with the Municipal Code or requirements of this approval, provided that the use is not changed, intensity of use is not increased and the arrangement of space would not increase negative impacts. Any substantial deviation, changes to the floor plan, site plan, building exterior or addition to the hours which alter the primary function of the use as a hotel shall be subject to review and approval by the Planning Commission.**
2. **Parking Plan P.C. Resolutions 16-16 (as amended through P.C. Resolution 19-XX) ~~and 19-XX~~ shall additionally apply.**
3. **On-sale, service and consumption of beer and wine shall be limited to indoors only Sunday through Thursday 6:00 AM to ~~9~~10:00 PM and Friday and Saturday 6:00 AM to 11:00 PM ~~and outdoors Sunday through Thursday 8:00 AM to 9:00 PM and~~**

~~Friday and Saturday 8:00 AM to 10:00 PM~~ at an existing hotel (Hotel Hermosa), in conjunction with expanded food service for hotel guests only.

~~4. The permitted hours of food service shall be indoors Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 11:00 PM and outdoors Sunday through Thursday 6:00 AM to 9:00 PM and Friday and Saturday 6:00 AM to 10:00 PM. Food service shall be provided available during all hours alcoholic beverages are served on the site.~~

4.5. 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 verified registered 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. A minimum 42" high concrete wall surrounding the outdoor dining area shall be maintained. Sale, service, and consumption of beer and wine on the outdoor patio are prohibited.**~~
- g.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.**
- h.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.**

5.6. Live entertainment and customer dancing are prohibited (including amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds) per Section 17.04.050, ("Entertainment, Live"), with the exception of administratively approved Temporary Minor Special Event Permits and Limited Live Entertainment Permits in conformance with HBMC Sections 17.42.150 and 17.42.190.

- a. Entertainment, music, speakers, televisions, or audio or visual media of any type, whether amplified or unamplified, shall be prohibited on the exterior of the building, in the open-air areas and within the outdoor patio.**

6.7. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.

~~7.8.~~The business shall prevent loitering, unruliness and boisterous activities of the patrons on the outdoor patio, outside the business, or in the immediate area.

~~8.9.~~Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance (Hermosa Beach Municipal Code Chapter 8.24) and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.

~~9.10.~~_____The exterior of the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.

~~10.11.~~_____If the operation of the establishment poses a risk or harm to persons or property, the Police Chief may direct the presence of a police approved doorman and/or security personnel to eliminate the problem, at the owner/operator's expense. If the problem persists, the Chief then 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.

~~11.12.~~_____All exterior lighting shall be downcast and fully shielded, and illumination shall be contained within the property boundaries. New lighting shall be energy-conserving and motion detector lighting shall be used for all light except low-level (three feet or less in height) security lighting. Lamp bulbs and images for new fixtures shall not be visible from within any on-site or off-site residential unit. New exterior lighting shall not be deemed finally approve until 30 days after installation, during which period the Building Official may order the dimming or modification of any illumination found to be excessively brilliant or impactful to nearby properties.

~~12.13.~~_____To reduce marine debris associated with take-out containers, the establishment shall not use take-out containers with a "No. 6" recycle code.

~~13.14.~~_____The practice of washing and rinsing restaurant floor mats, equipment, tables, etc., or discharge of any liquids, other than stormwater, onto the public right-of-way, into the parking lot drain or stormdrains, is strictly prohibited. Discharge of liquids or wash water shall be limited to the sanitary sewer.

~~14.15.~~_____The property shall demonstrate the provision of enclosed solid waste facilities prior to final City inspection and compliance shall be maintained with HBMC Section 8.12.220.

~~15.16.~~_____A manager who is aware of the conditions of this Conditional Use Permit P.C. Resolution 19-XX and related Parking Plan conditions contained within P.C. Resolution 16-16 (as modified as modified through Parking Plan Amendment 19-6 P.C. Resolution 19-XX) shall be on the premises during business hours. The Conditional Use Permit and Parking Plan shall be maintained on the premise in a location where employees can easily read the conditions.

~~16.17.~~ The hotel with on-sale beer and wine service indoors only may be subject to a periodic review process established by the City to verify conformance with the Conditions of Approval.

~~17.18.~~ Exterior and interior water use shall comply with HBMC Chapter 8.56.

~~18.19.~~ The project and operations shall comply with all requirements of the City of Hermosa Beach Building Division, City of Hermosa Beach Public Works Department and Los Angeles County Fire Department, and the City of Hermosa Beach Municipal Code.

- a. The applicant shall submit a plan prepared by a licensed architect, consistent with the Planning Commission approved floor plan, for occupant load calculation and approval prior to implementing alcohol service.**

~~19.20.~~ Prior to implementing alcohol service, an 'Acceptance of Conditions' affidavit and recording fees shall be filed with the Planning Division of the Community Development Department stating that the applicant/property owner is aware of, and agrees to accept, all of the conditions of this permit of approval.

~~20.21.~~ The project shall maintain in conformance with all other applicable regulatory agency requirements and standards, including but not limited to: 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).

~~21.22.~~ The subject property shall be developed, maintained and operated in full compliance with the conditions of this permit and Parking Plan P.C. Resolution 16-16 (as modified through Parking Plan Amendment 19-6 P.C. Resolution 19-XX) 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.

~~22.23.~~ 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 or to the public safety and welfare resulting from the subject use pursuant to the procedures for modification/revocation in the HBMC.

~~23.24.~~ 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 will be provided.

Section 86. This permit 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 permit.

The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to implementing alcohol service.

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 97. 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 P.C. No. 19-XX 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 ~~November 19~~December 9, 2019.

~~David Pedersen~~Peter Hoffman, Chair

Ken Robertson, Secretary

~~November 19~~December 9, 2019

Date