

P.C. RESOLUTION 08-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW ON-SALE BEER AND WINE AND OUTDOOR DINING IN CONJUNCTION WITH A NEW RESTAURANT ("KEN AND KENTS") IN AN EXISTING COMMERCIAL BUILDING AT 844 HERMOSA AVENUE

Section 1. On April 15, 2008 the Planning Commission of the City of Hermosa Beach conducted a public hearing regarding an application for a Conditional Use Permit (CUP) on the property legally described as Lot 23, Tract No.1564, located at 844 Hermosa Avenue in the City of Hermosa Beach. The Los Angeles County Tax Assessor's Parcel reference is 4187-007-020.

Section 2. The applicant requests approval of a Conditional Use Permit to allow service of beer and wine and a 400 square foot dining open patio for a new restaurant on the subject property. The restaurant is to occupy 4,365 square feet on the ground floor of an existing 6,383 square foot two-story commercial building. The restaurant closing times as proposed in the application are 10:00 pm Sunday through Thursday and 12:00 am (midnight) Friday through Saturday. No live entertainment or expansion of building area is proposed.

Section 3. The applicant is Louis Skelton, for Ken and Kent's New York Styled Deli.

Section 4. Prior entitlements for the subject property include P.C. Resolution No. 96-13 approving a Precise Development Plan (PDP), Conditional Use Permit and Environmental Negative Declaration adopted February 20, 1996. The Conditional Use Permit portion of the entitlement was revoked by the Planning Commission on April 17, 2007 (P.C. Resolution 07-15) because the use permit for alcohol service expired after the closure of the former restaurant. Resolution PC 96-13 and all applicable conditions remain in effect as the governing entitlement for the overall building improvement.

Section 5. The proposal is consistent with all findings and all conditions of P.C. Resolution 96-13, except as amended or clarified by this proposal and approval.

Section 6. Pursuant to Section 15332, Article 19 of the California Environmental Quality Act (CEQA) Guidelines, the project is categorically exempt from the provisions of CEQA in that it: 1) is consistent with applicable general plan and zoning policies, designations and regulations 2) is located on a site of less than five acres and is substantially surrounded by urban uses 3) has no value as habitat for endangered, rare or threatened species 4) will not result in any significant effects relating to traffic, noise, air or water quality, and 5) will be adequately served by utilities and public services.

NOW THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH DOES HEREBY APPROVE ON-SALE BEER AND WINE SERVICE AND DINING PATIO, IN CONJUNCTION WITH THE ESTABLISHMENT OF A RESTAURANT, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The use of the restaurant shall be consistent with plans submitted and approved by the Planning Commission on April 15, 2008. Other minor modifications to the plan

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shall be reviewed and may be approved by the Community Development Director. Any substantial deviation must be reviewed and approved by the Planning Commission.

2. All applicable conditions of P.C. Resolution 96-13 are incorporated in this approval by reference, and include "Specific Conditions of Approval", numbers 2 through 9 which relate to: rear building door closure, roll-up door, trash storage area and deliveries, rear parking area and prohibition of live entertainment and "General operating and standard conditions" numbers 1 through 8, and 10.
3. General condition 9 of P.C. Resolution 96-13 is amended to allow the windows in the front building wall to be modified to accommodate a dining patio. In addition, the new patio shall be used strictly for seating and dining and shall not be used for other purposes such as a standing or smoking area.
4. The Conditional Use Permit applies exclusively to on-sale beer and wine in conjunction with a restaurant. For clarification, Specific Condition 9 of Resolution PC 96-13 is revised as follows: Live entertainment (including amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds) and customer dancing is prohibited. Televisions and amplified music, including speakers shall be prohibited on the outdoor patio.
5. The permitted hours of operation shall be 7:00 am to 10:00 pm daily for all operations of the restaurant, including the dining patio, with the exception of Federal and State holidays, Cinco de Mayo, and St. Patrick's Day. All customers shall vacate the premises by not later than 10:00 pm (12:00 Midnight on holidays) and the doors shall be locked.
6. The restaurant shall be subject to annual review by the Planning Commission to verify conformance with the Conditions of Approval.
7. The building modification, in that it involves a change to an existing nonconforming structure (regarding on-site parking), shall be in conformity with HBMC Section 17.52.035.D. entitled "Requirements for buildings nonconforming to parking requirements."
8. The project shall be in conformance with all other applicable City of Hermosa Beach and regulatory agency requirements and standards including but not limited to: California ABC (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).
9. The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the Community Development Department.

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10. Each of the above conditions is separately enforced, and if one is found to be invalid by a court of law, all of the other conditions shall remain valid and enforceable.
11. 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 employees to attach, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65907. The City shall promptly notify the permittee of any claim, action, or proceeding, or if the City fails to 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 not thereafter be responsible to defend, indemnify, or hold harmless the City.
12. 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.
13. 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.
14. 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.

Section 7. 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.

Section 8. 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: Allen, Hoffman, Kersenboom, Pizer and Chairman Perrotti
 NOES: None
 ABSTAIN: None
 ABSENT: None

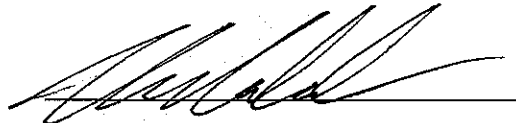
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CERTIFICATION

I hereby certify the foregoing Resolution P.C. No. 08- 26 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 April 15, 2008.



Sam Perrotti, Chairman



Ken Robertson, Secretary

Date April 15, 2008