



DATE: August 18, 2010

TO: Chairman and Members of the Community Development Commission

FROM: Economic and Community Development Department

SUBJECT: **A RESOLUTION APPROVING AN AMENDMENT TO CONDITIONAL USE PERMIT (C-202-08) AND REGULAR COASTAL PERMIT (RC-207-08) TO AMEND SEVERAL CONDITIONS FOR DAVINA'S CABO GRILL LOCATED AT 212 NORTH TREMONT STREET – DAVINA'S CABO GRILL – APPLICANT: DAVID AGUIRRE**

SYNOPSIS

The item under consideration is an amendment to Conditional Use Permit and Regular Coastal Permit to change several conditions for Davina's Cabo Grill located at 212 North Tremont Street. Staff is recommending that the Commission approve the project and adopt the resolution as attached.

BACKGROUND

On February 4, 2009, the Community Development Commission approved a use permit to allow Davina's Cabo Grill full alcoholic beverage service and dancing on the upper deck and basement. The restaurant has now been operating for over a year and the applicant is requesting changes to several of the conditions to provide better service for its customers.

Land Use and Zoning: The subject site is located within Subdistrict 1 of the "D" Downtown District. Subdistrict 1 is primarily intended to provide a commercial/retail and office complex offering a wide variety of goods and services to both the community at large and to tourists and visitors. Residential uses are encouraged when and where appropriate.

Regular Coastal Permit: This project is situated within the Coastal Zone and requires a Regular Coastal Permit. Under the provisions of the Local Coastal Plan the project site is designated as General Commercial. The General Commercial category allows for a variety of retail, service and office uses.

Project Description: The applicant is requesting to amend seven (7) conditions of the approved resolution (see attached). The Police Department has reviewed the amended conditions and has several concerns. There have been several incidents that have occurred at the restaurant over the past year; therefore, the police are reluctant to allow

any further changes to the conditions of the existing use permit. Due to these incidents the Police Department is recommending that the only conditions they are supportive of amending would be (1) the extension of hour of operations to 2:00 a.m., and (2) the access door off Tremont to the basement. The RAC recommended allowing the increase in the number of performers as follows:

(3) "Live entertainment shall be limited to a maximum of ten performers within the entire building at any given time. At no time shall there be more than three performers on the roof deck, no more than one performer on the first floor and no more than seven performers within the basement. Entertainment on the roof deck shall only be provided between 11:00 a.m. and 10:00 p.m. and the first floor and basement from 11:00 a.m. to 2:00 a.m."

At this time the OPD does not support this request; therefore, this condition has not been added to the amended resolution.

In addition there have been several noise complaints emanating from the restaurant's upper deck. The Police Department on numerous occasions has investigated the noise complaints. As a result the restaurant owner has since installed noise meters to measure the noise decibels generating from the restaurant upper deck. The result of the noise measurements done by the owner of the restaurant indicates that he is in compliance with City codes.

Regular Coastal Permit: A Regular Coastal Permit is required because the project is situated within the Coastal Zone.

Environmental Determination: A Certificate of Exemption has been prepared for the project. Under the provisions of the California Environmental Quality Act, the Community Development Commission will consider the exemption during its hearing on the project.

ANALYSIS

Staff's analysis focused on the operation of the restaurant and the compatibility of the proposed amended conditions with the surrounding businesses within the Redevelopment Project Area. In an effort to better manage the businesses serving alcohol and having entertainment in the Redevelopment Project Area, City staff has prepared a draft "entertainment ordinance", which shall be submitted to the Community Development Commission for consideration this fall.

The Police Department has reviewed the proposed request and recommends amendment to conditions which increases the hours of operation and provides an additional entrance to the premises.

In conclusion, staff believes that the amended conditions as proposed by the Police Department will minimize any potential impacts to surrounding uses. In addition, the project is consistent with the uses in the Local Coastal Program.

COMMISSION OR COMMITTEE REPORTS

The Redevelopment Advisory Committee (RAC) reviewed the project on July 7, 2010, and approved the project unanimously with amended recommendation to performers as noted above.

FISCAL IMPACT

Not applicable.

CITY ATTORNEY'S ANALYSIS

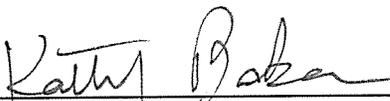
Pursuant to Oceanside Zoning Ordinance Article 41, Section 4102, and Public Resources Code 30200 et seq., and the City of Oceanside Local Coastal Program Land Use Plan, the Community Development Commission is authorized to hold a public hearing on this project's applications. Consideration of the project should be based on the evidence presented at the public hearing. After conducting the public hearing, the Commission shall approve, conditionally approve, or disapprove the project. The resolution has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

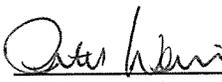
Staff recommends that the Commission adopt the resolution approving the amendment of several of the conditions for Davina's Cabo Grill restaurant located at 212 North Tremont Street.

PREPARED BY:

SUBMITTED BY:



Kathy Baker
Redevelopment Manager



Peter A. Weiss
Executive Director

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
Jane McVey, Economic and Community Development Director
Frank McCoy, Police Chief



EXHIBITS/ATTACHMENTS

- 1. Applicants Request
- 2. Resolution
- 3. Staff report dated February 4, 2009 and Resolution No. 09-R0086-3
- 4. Police Memorandum

Conditional Use Permit Modification Requests

Davina's Cabo Grill
212 N. Tremont Street
Oceanside CA 92054

The numbers listed below correspond with the numbers on the Conditional Use Permit. They are rewritten with the changes that are being requested.

12. The hours of operation are limited to 9:00am to 2:00am Sunday through Saturday. The hours of operation may be limited by the Community Development Commission when valid issues or complaints pertaining to the hours of operation arise.

13. Any live entertainment shall be limited to the definition in the Zoning Ordinance of "small scale live entertainment: found in Section 450 J.2 There shall be ten or fewer performers at any one time and entertainment shall only be provided between 11:00am and 2:00am Monday through Sunday.

15. Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of 9:00am and 2:00am Monday through Sunday.

16. Dancing is allowed.

17. Coin operated games or video machines shall be allowed to be maintained on the premise.

18. Pool or billiard tables shall be allowed to be maintained upon the premises.

26. All patrons shall be allowed to enter the premises via the three front entrances facing Tremont Street.

1 RESOLUTION NO. 10-

2 A RESOLUTION OF THE COMMUNITY DEVELOPMENT
3 COMMISSION OF THE CITY OF OCEANSIDE APPROVING
4 AN AMENDMENT TO THE CONDITIONS OF APPROVAL
5 FOR CONDITIONAL USE PERMIT AND REGULAR
6 COASTAL PERMIT FOR A RESTAURANT, DAVINAS CABO
7 GRILL, LOCATED AT 212 NORTH TREMONT STREET -
8 APPLICANT: DAVID AGUIRRE

9 WHEREAS, on February 4, 2009, the Community Development Commission held its
10 duly noticed public hearing and adopted Resolution No. 09-R0086-3 approving Conditional Use
11 Permit (C-202-08) and Regular Coastal Permit (RC-207-08) for an existing restaurant to begin
12 providing full alcoholic beverage service located at 212 North Tremont Street;

13 WHEREAS, the applicant requested an amendment to several conditions to Resolution
14 No. 09-R0086-3, related to hours of operation, entertainment, and access to the premises;

15 WHEREAS, the Redevelopment Advisory Committee (RAC) of the City of Oceanside
16 did, on April 14, 2010, review and recommend approval of an amendment to the conditions for
17 Resolution No. 09-R0086-3 for Conditional Use Permit (C-202-08) and Regular Coastal Permit
18 (RC-207-08);

19 WHEREAS, a Categorical Exemption was prepared by the Resource Officer of the City
20 of Oceanside for this application pursuant to the California Environmental Quality Act of 1970
21 and the State Guidelines implementing the Act. The project is considered an infill development
22 and will not have a detrimental effect on the environment;

23 WHEREAS, pursuant to Government Code §66020(d)(1), NOTICE IS FURTHER
24 GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or
25 other exaction described in this resolution begins on the effective date of this resolution and any
26 such protest must be in a manner that complies with Section 66020; and

27 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
28 effective upon its adoption.

NOW, THEREFORE, the Community Development Commission of the City of
Oceanside does resolve as follows:

FINDINGS:

For the Conditional Use Permit:

1 1. The proposed amended use permit allows for additional operating hours,
2 entertainment and increased entrances into the premises. The applicant request, to amend several
3 conditions of the previously approved use permit is to provide better service for the restaurant's
4 clientele. The proposed amended conditions are consistent with the land use objectives of
5 commercial uses in that eating and drinking establishments are an allowed use within Subdistrict 1
6 land use district of the Redevelopment Project Area.

7 2. The restrictions for the conditional use permit are consistent with the Zoning
8 Ordinance, General Plan, Local Coastal Plan and Redevelopment Plan, will not affect
9 neighborhood compatibility. The operation of the proposed business and the conditions under
10 which it will be allowed to operate will not be detrimental to the public health, safety or welfare
11 of persons residing or working in or adjacent to the subject site.

12 3. The conditional use is subject to and must comply with specific local conditions
13 and additional regulations as deemed necessary by other regulatory or permit authorities
14 including but not limited to Alcohol Beverage Control.

For the Regular Coastal Permit:

15 1. The granting of the Regular Coastal Permit is consistent with the purposes of the
16 California Coastal Act of 1976 in that the proposed Coastal Permit does not alter the building,
17 therefore, there will not be a detrimental effect regarding existing coastal views and planned
18 beach access.

19 2. The proposed project is consistent with the policies of the Local Coastal Program
20 as implemented through the City Zoning Ordinance in that the proposed Coastal Permit does not
21 alter the building, therefore, there will not be a detrimental effect regarding existing coastal
22 views and planned beach access. In addition, the project will not impact the existing coastal
23 views through the public rights-of-way view corridors because the project is located in the
24 middle of a commercial block approximately 1,000 feet east of the beach.

25 3. The proposed project will not obstruct any existing or planned public beach
26 access; therefore, the project is in conformance with the policies of Chapter 3 of the Coastal
27 Act. The proposed project is located in the middle of a commercial block approximately 1,000
28 feet east of the beach.

Conditional Use Permit (C-202-08) and Regular Coastal Permit (RC-207-08) are hereby

1 approved subject to the following conditions:

2 **Economic and Community Development:**

3 1. All of the conditions of Resolution No. 09-R0086-3 adopted on February 4, 2009,
4 continue to apply. The following conditions shall supersede and amend previous conditions
5 No.'s 12, 13, 15, 16, & 26 and include the additional conditions as follows:

6 2. The hours of operation are limited to 9:00 a.m. to 2:00 a.m Sunday through Saturday. The
7 hours of operation may be limited by the Community Development Commission when valid
8 issues or complaints pertaining to the hours of operation arise.

9 3. Live entertainment shall be limited to a maximum of five performers within the entire
10 building at any given time. Entertainment on the roof deck shall only be provided between 11:00
11 a.m. and 10:00 p.m. and the first floor and basement from 11:00 a.m. and 2:00 a.m.

12 4. Sales, service and consumption of alcoholic beverages shall be permitted only between the
13 hours of 10:00 a.m. and 2:00 a.m. Monday through Sunday.

14 5. Dancing is allowed on roof deck and basement only.

15 6. Patrons may access the southernmost door being used for access to the downstairs
16 portion of the establishment, provided the establishment complies with the following
17 conditions:

18 a. Security personnel will conduct identification checks of those entering the
19 establishment through this door.

20 b. When this door is being used as an access point, security personnel will be
21 stationed at the elevator and stairwell to ensure that guests do not enter the
22 downstairs portion of the establishment (except for those instances mandated by
23 law and City of Oceanside ordinances).

24 c. An electronic security system allowing for monitoring and recording the
25 southernmost doorway is to be installed. The system must allow for retrieval of
26 recordings which must be submitted to the Police Department upon request. The
27 establishment shall provide on-line access to the current video system by the
28 Police Department. Online access shall include the southernmost doorway.

7. A covenant or other recordable document approved by the City Attorney shall be
prepared by the applicant developer and recorded prior to the change in operations as a result of

1 the Amended Conditional Use Permit. The covenant shall provide that the property is subject to
2 this resolution, and shall generally list the conditions of approval as stated in this resolution.

3 8. Prior to the transfer of ownership and/or operation of the site, the owner shall provide a
4 written copy of the applications, staff report and resolutions for the project to the new owner
5 and/or operator. This notification's provision shall run with the life of the project and shall be
6 recorded as a covenant on the property.

7 9. Failure to meet any conditions of approval for this development shall constitute a
8 violation of the Conditional Use Permit (C-202-08) and Regular Coastal Permit (RC-207-08).

9 10. This Conditional Use Permit shall be called for review by the Community Development
10 Commission if complaints are filed and verified as valid by the Code Enforcement Office
11 concerning the violation of any of the approved conditions.

12 11. All conditions of Resolution No. 09-R0086-3 continue to apply unless a condition
13 directly conflicts with or is specifically modified by this resolution; in which case the most
14 recent condition shall apply.

15 12. Applicant shall be required to apply for an Entertainment Ordinance permit at such time
16 the City adopts any type of requirement for alcohol sales or entertainment.

17 PASSED AND ADOPTED by the Oceanside Community Development Commission of
18 the City of Oceanside this _____ day of _____ by the following vote:

19 AYES:

20 NAYS:

21 ABSENT:

22 ABSTAIN:

Chairman

23 ATTEST:

24 _____
25 Secretary

26 APPROVED AS TO FORM:
27 OFFICE OF THE CITY ATTORNEY

28 by _____
General Counsel



DATE: February 4, 2009

TO: Chairman and Members of the Community Development Commission

FROM: Economic and Community Development Department

SUBJECT: **CONSIDERATION OF A RESOLUTION APPROVING A CONDITIONAL USE PERMIT (C-202-08) AND REGULAR COASTAL PERMIT (RC-207-08) TO ALLOW FOR FULL ALCOHOLIC BEVERAGE SERVICE FOR DAVINA'S CABO GRILL LOCATED AT 212 NORTH TREMONT STREET – DAVINA'S CABO GRILL – APPLICANT: DAVID AGUIRRE**

SYNOPSIS

The item under consideration is a Conditional Use Permit and Regular Coastal Permit to allow for full alcoholic beverage service for Davina's Cabo Grill located at 212 North Tremont Street. Staff is recommending that the Commission approve the project and adopt the resolution as attached.

BACKGROUND

The subject site formerly housed Margarita Rocks which operated at the subject site as a full-service restaurant and bar from 2002 to 2005. The restaurant is approximately 7,000 square feet in size and has approximately 1,400 square feet of roof deck.

Land Use and Zoning: The subject site is located within Subdistrict 1 of the "D" Downtown District. Subdistrict 1 is primarily intended to provide a commercial/retail and office complex offering a wide variety of goods and services to both the community at large and to tourists and visitors. Residential uses are encouraged when and where appropriate.

Regular Coastal Permit: This project is situated within the Coastal Zone and requires a Regular Coastal Permit. Under the provisions of the Local Coastal Plan the project site is designated as General Commercial. The General Commercial category allows for a variety of retail, service and office uses.

Project Description: The applicant is requesting full alcoholic beverage service as an ancillary use to the restaurant. The purpose of the request is to provide better service for the restaurant's clientele. The applicant does not propose any exterior changes to the building.

Article 12 of the Downtown "D" District Zoning Ordinance requires a Conditional Use Permit for Eating and Drinking Establishments with full alcoholic beverage service. The proposed hours of operation are from 10:00 a.m. to 1:00 a.m. Sunday through Saturday.

The State Department of Alcoholic Beverage Control (ABC) has informed staff that the business is located within Census Tract No. 184, which allows for a maximum of 4 on-sale alcohol licenses. Currently, there are 22 on-sale alcohol licenses within this Census Tract.

There are several areas throughout the City (and throughout the County) that have an overconcentration of alcohol outlets. Alcoholic Beverage Control (ABC) applies a ratio to a census tract based on the average number of outlets per general population. The ratio for on-sale licenses (restaurant) is one outlet for every 2,000 population and for off-sale licenses (retail) not to exceed one outlet per 2,500 populations. Areas adjacent to shopping centers typically exceed the number of alcohol outlets due to the abundance of restaurants that serve alcoholic beverages and retail stores that sell packaged liquor. Typically, the regulatory authorities, i.e., ABC, local police and the Planning Department (if applicable), place additional restrictions on applications for new liquor licenses that are located within an area that has an overconcentration of alcohol outlets.

Regular Coastal Permit: A Regular Coastal Permit is required because the project is situated within the Coastal Zone.

Environmental Determination: A Certificate of Exemption has been prepared for the project. Under the provisions of the California Environmental Quality Act, the Community Development Commission will consider the exemption during its hearing on the project.

ANALYSIS

Staff's analysis focused on the operation of the restaurant and the compatibility of the full alcoholic beverage service with the surrounding businesses within the Redevelopment Project Area.

In staff's opinion, the full alcoholic beverage service is an ancillary use to the restaurant service. The Police Department has reviewed the proposed license and their recommended conditions are included (Conditions No. 11 through 27). It should be noted that in order to maintain a full alcoholic beverage service, ABC requires that the quarterly sale of alcohol cannot exceed the quarterly sale of food, and this condition is also attached to the permit.

In conclusion, staff believes that the full alcoholic beverage service is an ancillary use to the restaurant service and the permit has been conditioned to minimize any potential impacts to surrounding uses. In addition, the project is consistent with the uses in the Local Coastal Program.

COMMISSION OR COMMITTEE REPORTS

The Redevelopment Advisory Committee (RAC) reviewed the project on January 28, 2009, and its recommendation will be presented orally.

FISCAL IMPACT

Not applicable.

CITY ATTORNEY'S ANALYSIS

Pursuant to Oceanside Zoning Ordinance Article 41, Section 4102, and Public Resources Code 30200 et seq., and the City of Oceanside Local Coastal Program Land Use Plan, the Community Development Commission is authorized to hold a public hearing on this project's applications. Consideration of the project should be based on the evidence presented at the public hearing. After conducting the public hearing, the Commission shall approve, conditionally approve, or disapprove the project. The resolution has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

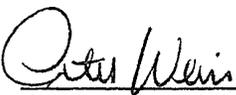
Staff recommends that the Commission adopt the resolution approving the full alcoholic beverage service for Davina's Cabo Grill restaurant located at 212 North Tremont Street.

PREPARED BY:



Kathy Baker
Redevelopment Manager

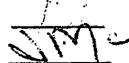
SUBMITTED BY:



Peter A. Weiss
Executive Director

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
Jane McVey, Economic and Community Development Director



EXHIBITS/ATTACHMENTS

- 1. Resolution
- 2. Notice of Exemption
- 3. Site Plan / Floor Plans / Elevations
- 4. Management Plan

1 RESOLUTION NO. 09-R0086-3

2 A RESOLUTION OF THE COMMUNITY DEVELOPMENT
3 COMMISSION OF THE CITY OF OCEANSIDE APPROVING
4 A CONDITIONAL USE PERMIT AND REGULAR COASTAL
5 PERMIT FOR PROVIDING FULL ALCOHOLIC BEVERAGE
6 SERVICE FOR A RESTAURANT LOCATED AT 212 NORTH
7 TREMONT STREET – APPLICANT: DAVID AGUIRRE

8 WHEREAS, on February 4, 2009, the Community Development Commission held its
9 duly noticed public hearing for an application for a Conditional Use Permit (C-202-08) and
10 Regular Coastal Permit (RC-207-08) for an existing restaurant to begin providing full alcoholic
11 beverage service located at 212 North Tremont Street;

12 WHEREAS, the Redevelopment Advisory Committee (RAC) of the City of Oceanside
13 did, on January 28, 2009, review and recommend approval of Conditional Use Permit (C-202-
14 08) and Regular Coastal Permit (RC-207-08);

15 WHEREAS, a Categorical Exemption was prepared by the Resource Officer of the City
16 of Oceanside for this application pursuant to the California Environmental Quality Act of 1970
17 and the State Guidelines implementing the Act. The project is considered an infill development
18 and will not have a detrimental effect on the environment;

19 WHEREAS, pursuant to Government Code §66020(d)(1), NOTICE IS FURTHER
20 GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or
21 other exaction described in this resolution begins on the effective date of this resolution and any
22 such protest must be in a manner that complies with Section 66020; and

23 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
24 effective upon its adoption.

25 NOW, THEREFORE, the Community Development Commission of the City of
26 Oceanside does resolve as follows:

27 FINDINGS:

28 For the Conditional Use Permit:

1. The existing restaurant operation allowing for full alcoholic beverage service is
consistent with the land use objectives of the commercial uses in that eating and drinking
establishments are an allowed use within Subdistrict 1 land use district of the Redevelopment
Project Area. The applicant request, full alcoholic beverage service, is considered an ancillary use

1 to the main business (restaurant). The purpose of the request is to provide better service for the
2 restaurant's clientele.

3 2. The restrictions for the conditional use permit are consistent with the Zoning
4 Ordinance, General Plan, Local Coastal Plan and Redevelopment Plan, will not affect
5 neighborhood compatibility. The operation of the proposed business and the conditions under
6 which it will be allowed to operate will not be detrimental to the public health, safety or welfare
7 of persons residing or working in or adjacent to the subject site. The project has 16 conditions
8 that restrict the operation of the business including noise, security, hours of operation, egress
9 and ingress into the premise and advertising. These conditions, when implemented, will
10 mitigate and nuisances to the surrounding businesses or residences.

11 3. The conditional use is subject to and must comply with specific local conditions
12 and additional regulations as deemed necessary by other regulatory or permit authorities
13 including but not limited to Alcohol Beverage Control.

14 For the Regular Coastal Permit:

15 1. The granting of the Regular Coastal Permit is consistent with the purposes of the
16 California Coastal Act of 1976.

17 2. The proposed project is consistent with the policies of the Local Coastal Program
18 as implemented through the City Zoning Ordinance. In addition, the project will not impact the
19 existing coastal views through the public rights-of-way view corridors because the project is
20 located in the middle of a commercial block approximately 1,000 feet east of the beach.

21 3. The proposed project will not obstruct any existing or planned public beach
22 access; therefore, the project is in conformance with the policies of Chapter 3 of the Coastal
23 Act. The proposed project is located in the middle of a commercial block approximately 1,000
24 feet east of the beach.

25 That Conditional Use Permit (C-202-08) and Regular Coastal Permit (RC-207-08) are
26 hereby approved subject to the following conditions:

27 Building:

28 1. Applicable Building Codes and Ordinances shall be based on the date of
submittal for Building Department plan check.

1 2. The granting of approval under this action shall in no way relieve the
2 applicant/project from compliance with all State and local building codes.

3 3. The property located at 212 North Tremont Street is subject to an Agreement to
4 relocate exit and to close unprotected openings dated September 22, 2004, recorded as
5 Document #2006-1007558 in the official records at the San Diego County Recorders Office.
6 This Agreement and the conditions thereof are hereby made part of this resolution as though set
7 forth fully herein.

8 **Economic and Community Development:**

9 4. This Conditional Use Permit (C-202-08) and Regular Coastal Permit (RC-207-
10 08) shall expire on February 4, 2011, unless implemented as required by the Zoning Ordinance.

11 5. This Conditional Use Permit and Regular Coastal Permit approves only full
12 alcoholic beverage services for an existing restaurant as shown on the plans and exhibits
13 presented to the Community Development Commission for review and approval. No deviation
14 from these approved plans and exhibits shall occur without Economic and Community
15 Development Department approval.

16 6. The applicant, permittee or any successor-in-interest shall defend, indemnify and
17 hold harmless the City of Oceanside, its agents, officers or employees from any claim, action or
18 proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul
19 an approval of the City, concerning Conditional Use Permit (C-202-08) and Regular Coastal
20 Permit (RC-207-08). The City will promptly notify the applicant of any such claim, action or
21 proceeding against the City and will cooperate fully in the defense. If the City fails to promptly
22 notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the
23 defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold harmless
24 the City.

25 7. A covenant or other recordable document approved by the City Attorney shall be
26 prepared by the applicant developer and recorded prior to the issuance of building permits. The
27 covenant shall provide that the property is subject to this resolution, and shall generally list the
28 conditions of approval.

 8. Prior to the issuance of building permits, compliance with the applicable
provisions of the City's anti-graffiti Ordinance (Ordinance No. 93-19/Section 20.25 of the City

1 Code) shall be reviewed and approved by the Economic and Redevelopment Department.
2 These requirements, including the obligation to remove or cover with matching paint all graffiti
3 within 24 hours, shall be recorded in the form of a covenant affecting the subject property.

4 9. Prior to the transfer of ownership and/or operation of the site, the owner shall
5 provide a written copy of the applications, staff report and resolutions for the project to the new
6 owner and/or operator. This notification's provision shall run with the life of the project and
7 shall be recorded as a covenant on the property.

8 10. Failure to meet any conditions of approval for this development shall constitute a
9 violation of the Conditional Use Permit (C-202-08) and Regular Coastal Permit (RC-207-08).

10 11. This Conditional Use Permit shall be called for review by the Community
11 Development Commission if complaints are filed and verified as valid by the Code Enforcement
12 Office concerning the violation of any of the approved conditions.

13 12. The hours of operation are limited to 10:00 a.m. to 1:00 a.m. Sunday through
14 Saturday. The hours of operation may be limited by the Community Development Commission
15 when valid issues or complaints pertaining to the hours of operation arise.

16 13. Any live entertainment shall be limited to the definition in the Zoning Ordinance
17 of "small scale live entertainment" found in Section 450 J.2. There shall be five or fewer
18 performers at any one time and entertainment shall only be provided between 11:00 a.m. and
19 12:00 a.m. Monday through Sunday.

20 14. The approval does not relieve the applicant from an obligation to obtain an
21 alcohol license from the State Department of Alcoholic Beverage Control (ABC). Any license
22 and permit conditions imposed by the ABC and the City Police Chief shall be in addition to the
23 conditions of this approval and the most restrictive conditions shall apply.

24 15. Sales, service and consumption of alcoholic beverages shall be permitted only
25 between the hours of 10:00 a.m. and 1:00 a.m. Monday through Sunday.

26 16. Dancing is prohibited, unless a dance permit is issued pursuant to City of
27 Oceanside City Municipal Code, Chapter 10.

28 17. There shall be no coin operated games or video machines maintained upon the
premises at any time.

18. There shall be no pool or billiard tables maintained upon the premises.

1 19. The sale of alcoholic beverages for consumption off the premises is strictly
2 prohibited.

3 20. Security may be required as the need arises.

4 21. There shall be no audible music or noise emitting from the premises, which
5 would disturb the quiet and peaceful enjoyment of the property of the tenants and residences of
6 the area.

7 22. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales
8 of food during the same period; however, the City reserves the right to revise this request. The
9 permittee shall at all times maintain sales records, which separately account for gross food
10 sales apart from gross alcohol sales.

11 23. No wine shall be sold with an alcoholic content of greater than 15% by volume,
12 except wines which have been aged a minimum of two years or more and maintained in corked
13 bottles.

14 24. There shall be no exterior advertising or sign of any kind or type, including
15 advertising directed to the exterior from within, promoting or indicating the availability of
16 alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible
17 to the exterior shall constitute a violation of this condition.

18 25. The rear and side doors of the premises shall be kept closed at all times during
19 the operation of the premises except in the case of emergency and to permit deliveries. Said
20 doors are not to consist solely of a screen or ventilated security door.

21 26. All patrons shall be required to enter the premises via the primary front entrance
22 facing Tremont Street.

23 27. No pay phones which are capable of receiving incoming calls will be maintained
24 on the interior or exterior of the premises.

25 28. The project shall prepare a Management Plan. The Management Plan is subject
26 to the review and approval of the Economic and Community Development Director and the
27 Police Chief prior to the occupancy of the project, and shall be recorded as CC&R's against the
28 property. The Management Plan shall cover the following:

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- a) Security - The Management Plan, at a minimum, shall address on-site management, hours-of-operation and measures for providing appropriate security for the project site.
- b) Maintenance - The Management Plan shall cover, but not be limited to anti-graffiti and site and exterior building, landscaping, parking lots, sidewalks, walkways and overall site maintenance measures and shall ensure that a high standard of maintenance at this site exists at all times. The maintenance portion of the management plan shall include a commitment for the sweeping and cleaning of parking lots, sidewalks and other concrete surfaces at sufficient intervals to maintain a "like new" appearance. Wastewater, sediment, trash or other pollutants shall be collected on site and properly disposed of and shall not be discharged off the property or into the City's storm drain system.
- c) Any graffiti within the center shall be removed by management or its designated representative within 24 hours of occurrence. Any new paint used to cover graffiti shall match the existing color scheme.

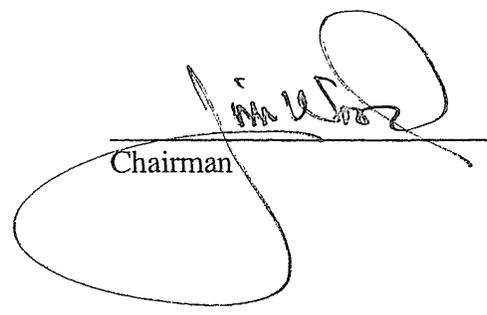
PASSED AND ADOPTED by the Oceanside Community Development Commission of the City of Oceanside this 4th day of February, 2009, by the following vote:

AYES: Wood, Feller, Chavez, Sanchez, Kern

NAYS: None

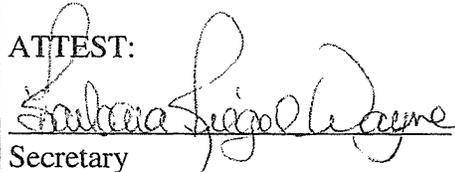
ABSENT: None

ABSTAIN: None



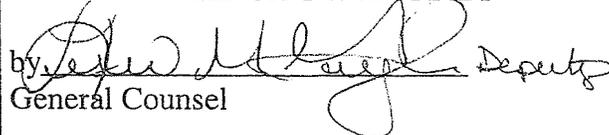
Chairman

ATTEST:



Secretary

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



by, Deputy
General Counsel



MEMORANDUM

INVESTIGATIONS DIVISION
Office of the Division Commander

TO: Shan Babick, Senior
FROM: Reginald Grigsby, Captain
SUBJECT: Davina's Cabo Grill: Request for Modifications to Operating Conditions
DATE: June 29, 2010

The Police Department is in receipt of an application from the proprietor of Davina's Cabo Grill for a modification to their current operating conditions. The Police Department has given careful consideration to this request and concur with the two modifications referenced below.

1. We concur with the request that operating hours being extended by one hour to 2:00 a.m.
2. The Police Department is in concurrence with the southernmost door being used for access to the downstairs portion of the establishment, provided the establishment complies with the following conditions:
 - a. Security personnel will conduct identification checks of those entering the establishment through this door.
 - b. When this door is being used as an access point, security personnel will be stationed at the elevator and stairwell to ensure that guests do not enter the downstairs portion of the establishment (except for those instances mandated by law and City of Oceanside ordinances).
3. The Police Department recommends that these modifications be in place for one year and be reviewed at the conclusion of that time.
4. The Police Department reserves the right to extend the time frame prior to the expiry of a year should it be determined that these modifications have not generated additional enforcement issues.
5. The Police Department, by agreeing to these modifications, does not in any way abrogate its ability to take actions in accordance with the law or City of Oceanside Policy should it be necessary to do so for any violations of these modifications or any other operating conditions.

6. With regards to other modifications requested by the proprietor, the Police Department is not in concurrence and does not support them at this time. We will be willing to revisit those requests at a future date.

C: Chief McCoy
Mr. Tarquin Preziosi, Deputy City Attorney
Ms. Kathy Baker, Redevelopment Manager