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August 10, 2005

Agenda No. 13
05/24/05

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

**Re: CONDITIONAL USE PERMIT NUMBER 200400077-(4)
(PROJECT NO. R2004-00956)**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit by which the applicant seeks authorization for continued use of an existing banquet facility with the sale of a full line of alcoholic beverages. At the conclusion of the hearing, you indicated an intent to approve the permit with conditions and instructed us to prepare the appropriate findings and conditions for approval. Enclosed are proposed findings and conditions for your consideration.

Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By

ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

RAYMOND G. FORTNER, JR.
County Counsel

EML:gjh

Enclosures

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
CONDITIONAL USE PERMIT NUMBER 200400077-(4)
(PROJECT NO. R2004-00956)**

1. The applicant, Fantasea Yachts and Yacht Club, is requesting a conditional use permit to authorize continued use of an existing banquet facility with the sale of a full line of alcoholic beverages for on-site consumption. The use was previously authorized by Conditional Use Permit No. 94-161-(4), which was approved in 1995 with a ten-year grant. The facility has operated since that time without violation.
2. The Los Angeles County Regional Planning Commission previously conducted a duly noticed public hearing on Conditional Use Permit ("CUP") No. 200400077-(4) on March 9, 2005, and subsequently approved the conditional use permit. That approval was appealed to the Los Angeles County Board of Supervisors ("Board").
3. The Board conducted a duly noticed public hearing on CUP No. 200400077-(4) on May 24, 2005.
4. The subject property is located at 4215 Admiralty Way ("Parcel 125"), Marina del Rey and in the Playa del Rey zoned district. It is currently developed with the subject banquet facility and is located adjacent to the Basin E Waterfront. Parcel 125 is also developed with condominiums and a hotel. The property takes access from Admiralty Way to the north.
5. Zoning on the site is SP ("Specific Plan"). The land use designation of the property in the Marina del Rey Specific Plan is Residential V/Waterfront Overlay. Banquet facilities are not a specifically defined use in the Los Angeles County Code ("County Code"); however, the nature of the use is similar to that of a restaurant. Pursuant to Section 22.46.1720 of the County Code, a restaurant is permitted in the Waterfront Overlay category, provided a conditional use permit is obtained.
6. The Specific Plan land use designations or City of Los Angeles zoning of surrounding properties are as follows:
 - North: Open Space Specific Plan designation, City of Los Angeles residential zoning beyond;
 - South: Residential V and Water Specific Plan designations;
 - East: Residential V, Hotel, and Public Facilities Specific Plan designations;
and

West: Parking, Hotel, and Visitor-Serving/Convenience Commercial Specific Plan designations.

7. Surrounding properties contain the following uses:

North: Public park, single family residences;

South: Multi-family residences, boat slips;

East: Multi-family residences, hotel, fire station; and

West: Public park, parking lot, hotel, and restaurant.

8. There are ten establishments licensed to sell alcoholic beverages within 500 feet of the overall Parcel 125 boundaries; however, only five of these establishments are within 500 feet of the subject facility itself. Nine of the ten establishments are restaurants, either stand-alone or within hotels, yacht clubs, or condominium complexes, with licenses to sell a full line of alcoholic beverages for on-site consumption. The remaining establishment is licensed to sell beer and wine for on-site consumption. The requested CUP revision will not require a new Alcoholic Beverage Control ("ABC") license and will not increase the number of establishments selling alcohol in the vicinity of the site.

9. One sensitive use, Admiralty Park, is located within 600 feet of the site. As the facility is already licensed to sell alcoholic beverages from ABC, a letter of public convenience and necessity is not needed.

10. As stated, the subject property is designated Residential V/Waterfront Overlay in the Marina del Rey Land Use Plan. The Residential V designation allows high density multi-family residential development to a maximum density of 75 units per acre and with a height limit of 225 feet. The Waterfront Overlay Zone allows conversion of development allocations within each development zone to visitor-serving or marine commercial use. The Marina del Rey Specific Plan, which is the Local Implementation Plan portion of the Local Coastal Program, indicates that uses permitted in the Visitor-Serving/Convenience Commercial category may be permitted in the Waterfront Overlay Zone subject to a conditional use permit.

There are no Land Use Plan policies that apply to the project because the proposed project does not involve any change to the existing use or structure.

11. The site plan depicts the existing two-story 6,900 square foot banquet hall and parking areas as previously approved in CUP 94-161-(4). The building is depicted toward the southerly end of the parcel with parking between the street and the building and within the parking structure for the adjacent Marina City Club condominiums. Floor plans of the facility and elevation drawings depicting the maximum height of the building at 24 feet were also submitted.

12. The existing use complies with all applicable Marina del Rey Specific Plan community-wide development standards as provided in Section 22.46.1060 of the County Code, as follows:
- a. The existing six-foot wide landscape planters at the northern property line do not meet the eight-foot minimum width requirement; however, as this requirement was not in effect when the use was established on the property, the applicant would not be required to comply.
 - b. The existing building footprint covers 6,700 square feet of the 18,500 square-foot site or 36 percent in compliance with the 90 percent lot coverage limitation. A total of 1,962 square feet of landscaping is provided in compliance with the 10 percent landscaping requirement.
 - c. Pursuant to Section 22.52.1110 of the County Code, the parking requirement for restaurants is one space per every three occupants, based on the occupancy load determination from the Department of Public Works.

An occupancy load determination dated February 22, 1996, was submitted with this application indicating an occupancy load of 369 persons; therefore, 123 parking spaces are required. A total of 141 parking spaces are depicted on the site plan, 25 of which are located immediately adjacent to the facility with the remaining 116 spaces being located within the adjacent parking structure for the Marina City Club on the same parcel.

Six of the existing parking spaces are depicted as being developed in tandem. Such an arrangement is generally not permitted without a parking permit; however, because these spaces are in excess of the requirement, a parking permit is not required for these spaces.

13. The existing use complies with all applicable Marina del Rey Specific Plan Residential V development standards as provided in Section 22.46.1330 of the County Code, as follows:
- a. The elevation of the building is a maximum of 24 feet when viewed from the south, in compliance with the 225-foot height limit.
 - b. The structure is set back 100 feet or more from the front property line. The rear property line is not depicted; however, based on the location of the rear property line on the Assessor's map, a rear setback of approximately 20 feet is being maintained on the site.
 - c. The existing structure is set back approximately 33 feet from the westerly property line and over 1,000 feet from the easterly boundary of Parcel 125.

14. The project is categorically exempt from the provisions of the California Environmental Quality Act ("CEQA"). As the commercial building is an existing use, the project is within a class of projects which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in section 15301 of the State CEQA Guidelines and Class 1 of the County Environmental Document Reporting Procedures and Guidelines, Appendix G.
15. Prior to the Commission public hearing, staff received one public comment related to waterside uses conducted by the applicant. Similar comments on waterside uses were made at the hearings. These comments, however, were not related to the landside operation of the banquet facility, which is the subject of the conditional use permit renewal request.
16. The applicant has operated the banquet facility in a responsible fashion.
17. The banquet facility operations are consistent with prevailing uses in the area and the Marina Local Coastal Plan.
18. The documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter are located at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Land Divisions Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare;
- C. The proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as otherwise required in order to integrate said uses with the uses in the surrounding area; and
- D. The proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such uses would generate, and by other public or private service facilities as are required;

THEREFORE, THE BOARD OF SUPERVISORS:

1. Approves CUP No. 200400077-(4) subject to the attached conditions.

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NUMBER 200400077-(4)
(PROJECT NO. R2004-00956)**

1. This grant authorizes the use of the subject property for continued use of an existing banquet facility with the sale of a full line of alcoholic beverages for on-site consumption, as depicted on the approved revised Exhibit "A." The grant is subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County Department of Regional Planning ("Department") their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 10.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the Department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according to Section 2.170.010 of the Los Angeles County Code ("County Code").

6. This grant will expire unless used within two years from the date of approval. A one-year time extension may be requested, in writing and with payment of the applicable fee, at least six months before the expiration date.
7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property. Upon recordation, an official copy of the recorded conditions shall be provided to the Director of the Department.
9. This grant will terminate on March 30, 2025. Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, a new conditional use permit application shall be filed with the Department at least six months prior to the expiration of this permit, whether or not any modification of the use is requested at that time.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of \$1,500. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for ten biennial inspections. Inspections shall be unannounced.
11. If additional inspections are required to ensure compliance with the conditions of this grant or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be \$150 per inspection, or the amount equal to the current recovery cost at the time of payment, if that amount is different.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance. In the event that the County deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the permittee shall compensate the County for all costs incurred in such proceedings.
13. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided to the satisfaction of and within the time periods established by said department.
14. All requirements of the zoning ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
15. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.
16. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
17. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
18. The subject facility shall be developed and maintained in compliance with requirements of Los Angeles County Department of Health Services. Adequate water and sewage disposal facilities shall be provided to the satisfaction of said department.
19. The subject property shall be developed and maintained in substantial compliance with the approved revised Exhibit "A." All revised plot plans must be accompanied by the written authorization of the property owner.

20. A minimum of 123 parking spaces shall be provided on the subject property. Any parking spaces in excess of the required number of spaces may be developed in tandem, provided said tandem spaces are marked and managed by a valet service.
21. The use of the subject property for the sale of alcoholic beverages for on-site consumption is subject to the following additional conditions:
 - a. The permittee shall not advertise the sale of alcoholic beverages on the exterior walls or windows of the subject facility or at any exterior location on the subject property. No self-illuminating advertising for alcoholic beverages shall be located on the building walls or windows.
 - b. Telephone numbers of local law enforcement shall be posted adjacent to the cashiers' areas within the facility.
 - c. There shall be no alcoholic beverages consumed in open areas adjacent to the facility under the control of the permittee.
 - d. There shall be no loitering permitted on the subject property. Signage shall be posted on the premises prohibiting consumption of alcoholic beverages outside of the facility and prohibiting loitering. The signage shall be in English and the predominant second language in the neighborhood.
 - e. The permittee shall provide adequate lighting above the entrance of the facility. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons entering or exiting the premises.
 - f. The permittee shall instruct all employees in the regulations prohibiting loitering and consumption of alcoholic beverages outside the subject facility. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary.
 - g. The permittee shall continuously maintain the property in a neat, clean, and healthful condition, free of litter and debris, to the satisfaction of the Director.
 - h. The total occupancy of the facility shall not exceed 369 persons.
 - i. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any County Sheriff, Zoning Inspector, or ABC Investigator. The Facility Manager and all employees of the facility shall be knowledgeable of the conditions herein.

- j. All servers of alcoholic beverages must be at least 18 years old.
- k. The sale of alcoholic beverages for consumption outside the subject facility is prohibited.
- l. The facility shall develop and implement a Designated Driver program (i.e., free soft drinks or coffee to a designated driver of a group). The permittee shall submit the program to the Director for approval prior to the approval of the revised Exhibit "A." A written document explaining this program shall be provided to all persons renting the facility.
- m. The permittee shall comply with all applicable rules and regulations of the state Department of Alcoholic Beverage Control.
- n. The sale of alcoholic beverages shall be permitted only between the hours of 11:00 a.m. and 11:30 p.m., Sunday through Thursday, and between 11:00 a.m. and 12:30 a.m., Friday and Saturday.
- o. The permittee shall employ a full-time security guard to monitor the parking area for noise and loitering.
- p. The use of any outdoor acoustical devices or electronic amplification shall be prohibited.
- q. The permittee shall not advertise or hold any alcoholic beverage "happy hour" drink specials, "2 for 1" specials, or similar promotions.
- r. The permittee shall not install or maintain video games, pool tables, or similar game activities or equipment on site;
- s. The licensed premises shall have no other coin-operated amusements, such as small carousel rides or similar riding machines, at any time, with the exception of official state lottery machines.
- t. All employees of the restaurant shall participate in the Licensee Education on Alcohol and Drugs ("LEAD") Program offered by the California Department of Alcoholic Beverage Control. This training shall be on-going and all new employees shall be required to attend. The licensee shall display a certificate or plaque in the lobby of the establishment indicating its participation in this program.