

CITY OF HERMOSA BEACH
ORDINANCE NO. 23-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA AMENDING CHAPTER 12.16 OF THE HERMOSA BEACH MUNICIPAL CODE ESTABLISHING AN OUTDOOR DINING PROGRAM AND MAKING PROCEDURAL CHANGES TO THE ISSUANCE AND RENEWAL OF ALL ENCROACHMENTS IN THE CITY AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS

A. As a result of the COVID-19 pandemic, on June 9, 2020, the Hermosa Beach City Council adopted Ordinance No. 20-1410U, Implementing a Temporary Permit for Outdoor Dining/Seating and Outdoor Retail Display to Assist in the Reopening of Restaurants, Food, and Retail Establishments.

B. Relatedly, on July 14, 2020, the City Council extended the provisions of Ordinance No. 20-1410U until at least January 13, 2021, in light of the ongoing pandemic, and directed City staff to work with a traffic engineering consultant to develop options for closing parking and vehicle lanes on the downtown sections of Hermosa and Pier Avenues that would encourage foot traffic and allow for more room for outdoor dining encroachments in the public right-of-way.

C. On September 8, 2020, the City Council authorized plans to temporarily close one lane of vehicular traffic in each direction on Pier Avenue, between Hermosa Avenue and Valley Drive, and plans to temporarily close vehicular traffic the northbound and southbound # 2 travel lanes (closest to the curb) on Hermosa Avenue from the 800 block at 8th Street to the 1300 block at 14th street to facilitate outdoor recreational and economic activity in the City's downtown area on a temporary basis and add a Class 2 Bike Lane in both directions throughout this project area.

D. Further, during this same period, businesses located adjacent to Pier Plaza were temporarily allowed to expand commercial encroachments into Pier Plaza to allow for more room for outdoor dining, increase economic vitality and provide alternative dining options for residents during the COVID-19 pandemic.

E. The creation and activation of these spaces for pedestrian oriented uses such as outdoor dining have been beneficial to the Pier Plaza and Downtown areas of the City. These programs have provided residents and visitors with the unique ability to patron City businesses via outdoor dining. Further, businesses have been able to avail themselves to this new opportunity which provides for a more robust economic environment and business friendly environment.

F. The City has received positive feedback from residents, visitors and businesses about all of the benefits of these expanded outdoor dining programs.

G. Based on the positive impacts and positive feedback of these temporary outdoor dining programs (*i.e.*, dining decks and expanded encroachments in Pier Plaza and other public rights-of-way), the City desires to implement permanent versions of these programs with specific operational and design standards that limit any possible view, noise or other impacts from these expanded dining uses.

H. Further, after review of Chapter 12.16, certain procedural and administrative changes are necessary to provide for a more efficient and effective regulatory regime for all encroachments in the City – not just the new or expanded encroachments for outdoor dining.

I. Thus, the City desires to amend Chapter 12.16 (Encroachments) to enact permanent versions of the various components of the current temporary outdoor dining program subject to operational and design standard(s).

SECTION 2.

Chapter 12.16 (Encroachments) of the Hermosa Beach Municipal Code is hereby amended as provided in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 3. Environmental Review.

Outdoor Dining Deck and Off-Plaza Encroachments

The proposed project is Categorical Exempt from the California Environmental Quality Act as defined in Section 15300 of the CEQA Guidelines, as follows.

The **Lane Reconfiguration** component of the project is exempt in accordance with Section 15301 which addresses minor alteration of existing public facilities; and Section 15304 which addresses minor alterations to public land. More specifically, the following two subcategories of exemption both apply.

15301(c) – Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes.

15304(h) – The creation of bicycle lanes on existing rights-of-way.

The **Outdoor Dining** component of the project is exempt in accordance with Section 15301 which address additions to existing structures and 15303 which addresses construction of limited numbers of new, small structures. More specifically, the following subcategory applies.

15301(e) – Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if:

(A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan; and

(B) The area in which the project is located is not environmentally sensitive.

15303(e) – Construction of new small facilities or structures including accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences.

None of the exceptions to the Categorical Exemption apply, nor would the project result in a significant cumulative impact of successive projects of the same type in the same place over time or have a significant effect on the environment due to unusual circumstances or damage a scenic highway or scenic resources within a state scenic highway. The site is not located on a hazardous waste site

and would not cause a substantial adverse change in the significance of a historical resource.

Additional environmental analysis, including technical studies on traffic, noise, air quality, greenhouse gas emissions and energy consumption impacts, was conducted to support the CEQA determination. A summary of the analysis and the technical studies in support of this CEQA determination are presented in Exhibit B.

Pier Plaza Encroachments

The proposed project is Categorical Exempt from the California Environmental Quality Act as defined in Section 15300 of the CEQA Guidelines, in accordance with Section **15061**, the 'common sense' exemption, and Section **15301** which addresses minor alterations of existing public facilities, specifically:

15061(b)(3) – The project is covered by the common sense exemption that applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

15301(c) – Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes.

None of the exceptions to the Categorical Exemption apply, nor would the project result in a significant cumulative impact of successive projects of the same type in the same place over time or have a significant effect on the environment due to unusual circumstances or damage a scenic highway or scenic resources within a state scenic highway. The site is not located on a hazardous waste site and would not cause a substantial adverse change in the significance of a historical resource.

SECTION 4. Severability. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance/resolution are severable. The City Council declares that it would

have adopted this ordinance/resolution irrespective of the invalidity of any portion thereof.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its passage and adoption pursuant to California Government Code section 36937 and shall be retroactive to June 1, 2023.

SECTION 6. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED and ADOPTED on this 25th day of April, 2023.

Ray Jackson

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, CA

ATTEST:

APPROVED AS TO FORM:

Myra Maravilla
City Clerk

Patrick Donegan
City Attorney

Chapter 12.16 Encroachments

12.16.010 Definitions.

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12.16.010 Definitions.

As used in this chapter:

[Commercial encroachment shall mean an encroachment into the adjoining public right-of-way for any commercial purpose.](#)

Encroachments are structures, objects, uses or landscaping owned by a private property owner and located on or over adjoining public right-of-way for the property owner's **private** use and enjoyment. Permissible **residential** encroachments are those which place a minimal burden on the right-of-way, are easily removable and do not materially alter the character of the right-of-way as open space, and include landscaping, fencing, movable personal property (such as furniture and planters), patios, decks, landscape irrigation and lighting systems and similar structures and objects, in accordance with the standards, conditions and requirements of

this chapter. No building or structural element of a building (including walls, roofs, structural supports, balconies, stairwells, and the like) shall be permitted to encroach on or over a public right-of-way.

Encroachment means and includes any obstruction, tower, pole, pole line, pipe, wire, cable, conduit, wall, fence, balcony, deck, stand or building, or any structure or object of any kind or character which is placed in, along, under, over or across public right-of-way.

Pedestrian walk street is defined by council under a separate resolution

Person includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, any district, any city, any county including this county, and all departments and bureaus thereof except the city of Hermosa Beach.

Residential encroachment shall mean an encroachment into the adjoining public right-of-way for the residential property owner's private use and enjoyment.

Shall and May. "Shall" is mandatory; "may" is permissive.

Structure is defined by the Uniform Building Code as that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

12.16.020 Permit.

An encroachment permit is required for any landscaping in excess of forty-two (42) inches in height, and any structure, object or use which is permitted by this chapter to encroach on or over a public right-of-way. The encroachment permit shall be in a form provided by the ~~public works director~~city and approved by the city attorney. Issuance of an encroachment permit is within the city's sole discretion and constitutes a privilege granted by the city as a convenience to an adjoining property owner and not a right. No land use rights or any other kind of vested rights are created by virtue of an encroachment permit. Encroachment permits shall be for a period not to exceed one (1) year and must be renewed annually. An application for renewal shall require the same findings as an original application except as otherwise noted and shall be submitted no later than sixty (60) days prior to the expiration of any existing encroachment permit. An encroachment permit is not a substitute for a building permit or a construction permit when either is otherwise required by this Code.

12.16.030 Commencement of work without permit.

Any person who shall commence any work, for which a permit is required by this chapter, without first having obtained a permit shall stop work and apply for such permit. The fee for the permit shall be doubled. In addition, failure to stop constitutes a misdemeanor and is defined in this chapter.

12.16.040 Authority to grant.

A permit to encroach into a planned or existing public right-of-way may be granted upon such terms and conditions as are deemed necessary. The authority to grant or deny such permit application is vested in the ~~director of public works~~City Manager or designee, unless otherwise specified. Approval of encroachments which deviate from the established guidelines can only be granted with city council approval in an appeal process. If the applicant for an encroachment permit is an officer or employee of the city, only the city council is authorized to issue the permit.

12.16.050 Residential encroachments.

Approvals of all residential encroachments is vested with the City Manager or designee ~~director of public works~~ and the rules and guidelines are set forth herein. Only the owner of record of real property is eligible to apply for and receive an encroachment permit for encroachments from adjacent residential property. No commercial activity of any kind is permitted on residential encroachment areas.

12.16.060 Commercial encroachments.

The authority to grant or deny commercial encroachments is vested with the ~~director of public works~~ City Manager or designee. Commercial encroachments shall comply with the requirements set forth in this chapter.

- A. If a conditional use permit is required for the encroachment, ~~pursuant to this chapter~~, approval of the commercial encroachment shall be coordinated with the conditional use permit process.
- B. ~~Only the~~ The owner of record of real property is eligible to apply for and receive an encroachment permit for encroachments ~~from for~~ adjacent commercial property, except that commercial outdoor dining encroachment permits authorized under Section 12.16.090 may be issued to a lessee, with written approval from the owner of record. ~~who shall not delegate or assign that responsibility.~~
- C. Use of the public right-of-way for commercial uses shall be subject to the conditions set forth in this Section as well as any additional guidelines, regulations or directives as adopted by the City Manager or designee. Section 12.16.090(A).

12.16.070 Findings necessary to grant an encroachment.

~~The director of public works, in~~ In granting approval of an encroachment permit application the City shall make a finding that the plans and application meet the guidelines and conditions of approval as set forth in ~~Section 12.16.080 in this Chapter,~~ any additional regulations promulgated by the City and the granting of such encroachment will not adversely affect the general plan of the city nor be injurious or negatively impact the health and wellbeing of the public. Approval of encroachments which deviate from these established criteria can only be granted with city council approval in an appeal process upon a showing of good cause.

12.16.080 Requirements and conditions of approval.

Permitted encroachments shall comply with the following minimum requirements and conditions. The City Manager or designee may determine that additional or more strenuous requirements are required.

- A. General (Applicable to All Encroachments).
 - 1. All construction shall conform to the requirements of the Uniform Building Code, the Municipal Code, and the Department of Public Works Standards and Policies.
 - 2. Landscaping encroachments for residential encroachments within the public right-of-way shall not exceed the building height limitation of the zone in which it is planted.
 - 3. In the case of an encroachment -occupying the public right-of-way enclosed by the extension of the two side property lines between the front property line and the existing or future sidewalk, a

minimum of one-third of the encroachment area shall be landscaped in accordance with a landscape plan to be approved by the ~~public works department~~ City Manager or designee in conjunction with the encroachment permit application.

4. Height of any encroachment shall be measured from the natural grade unless otherwise specifically approved by the director of public works by virtue of unusual topography or other extraordinary physical circumstances.
5. Encroachments shall not obstruct access to underground utilities nor significantly impair scenic vistas from neighboring properties or the public right-of-way.
6. Public right-of-way, through receipt of an encroachment permit, shall not satisfy required open space or any conditions of building or zoning that are normally provided on-site, except for providing required residential guest parking, pursuant to Sections 17.44.090(C) and 17.44.110(B) of the Zoning Ordinance, and for providing required parking approved by a parking plan granted pursuant to Section 17.44.210 of the Zoning Ordinance.

~~6.7.~~ Encroachments that comply with the provisions of this Chapter shall be exempt from compliance with the off street parking requirements of this Code unless otherwise noted.

~~7.8.~~ An encroachment shall not provide structural support for any structure located on private property.

B. Pedestrian walk street (applicable only to those streets):

1. Fences shall not exceed a maximum height of forty-two (42) inches.
2. Fences are allowed at a height of forty-two (42) inches maximum on top of retaining walls of masonry, block, brick or concrete. The fence height is measured from the natural grade. A retaining wall on public right-of-way shall not support any structure on private property.
3. Decks may be permitted to a maximum height of twelve (12) inches height above the existing natural grade and if they do not project into the public right-of-way more than half the distance between the property line and edge of existing or future sidewalk. Deck railings are permitted provided that they are of open construction and that deck and railing do not exceed a maximum height of forty-two (42) inches.

C. Vehicular Street (Applicable Only to Those Streets).

1. Fences shall not exceed a maximum height of forty-two (42) inches.
2. Encroachments shall not be placed over an existing or planned sidewalk.
3. Encroachment permits for new curb cuts for ingress/egress on Pier Avenue between Valley Drive and Hermosa Avenue shall not be granted.

12.16.090 Commercial outdoor dining.

Use of the public right-of-way for commercial outdoor dining may be permitted subject to issuance of an encroachment permit in compliance with this chapter, and subject to the following conditions:

A. Every encroachment permit for commercial outdoor dining shall ensure the following:

1. Provides for and maintains an area of passage for pedestrian traffic;
2. Does not inconvenience pedestrian traffic;
3. Conforms to all applicable health codes and this Code;
4. Applicant is to pay all appropriate fees, including but not limited to rental fees as set by the City Council;
5. ~~Applicant is to maintain and keep in force at all times a policy of liability insurance, naming the city as an additional insured in the amount of no less one million dollars (\$1,000,000) unless a higher amount is determined to be appropriate in the sole discretion of the City Manager or designee ;~~ and Applicant shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least two million dollars (\$2,000,000) covering the applicant's operation unless a higher amount is determined to be appropriate in the sole discretion of the City Manager or designee. Such insurance shall name, on a Special Endorsement form, the City, its elected, appointed boards, officers, agents and employees as additional insureds. A Certificate of Insurance shall contain provisions that prohibit cancellation, modification, or lapse without thirty (30) days prior written notice to the City. Both the Certificate of Insurance and the completed standard Special Endorsement form shall be submitted with the completed application for an Commercial Encroachment Permit.
6. Applicant is to pay restorative costs, if applicable, in an amount to be determined by ~~the director of public works~~ City Manager or designee, plus administrative costs.

B. Pier Plaza Commercial Encroachments. Encroachment for commercial outdoor dining activity on Pier Plaza shall comply with Section 12.16.060 and the following minimum design and operational standards and any additional standards as adopted by the City Council and/or the City Manager or designee. adopted by resolution of the city council. Deviations from the standards set forth in this section may be allowed pursuant to an appeal to the City Council following a determination by the City Manager or designee. conditional use permit granted in compliance with Chapter 17.40.

1. ~~Limited outdoor dining in compliance with this section~~ Pier Plaza Commercial Encroachments shall ~~be exempt from compliance with off street parking standards in Chapter 17.44 if it meets the~~ following standards:
 - a. The encroachment area does not exceed ~~two hundred (200)~~ one thousand (1,000) square feet. In no event shall any encroachment area, regardless of square footage extend more than twenty-five (25) feet into Pier Plaza. ;
 - b. Use of the encroachment area is limited to the hours of operation of the adjacent commercial establishment. food dining establishment. However, in no event shall any encroachment area operate past 12:00 a.m. establishment, not to exceed 7:00 a.m. to 10:00 p.m.; and However, if in the sole discretion of the City Manager or designee, an earlier closing time is warranted then the City Manage or designee may condition an encroachment permit on an earlier closing time.
 - c. Alcoholic beverages are ~~may only not be~~ offered, sold or consumed within the encroachment area pursuant to a valid California Department of Alcohol Beverage Control license for the area.

Any other limitation on the business involving the sale or consumption of alcohol shall also apply in the encroachment area. If, in the sole discretion of the Police Chief, the encroachment area has demonstrated a repeated pattern of behavior involving the service or consumption of alcohol that violates this Chapter or any other City permit or provision of law, then the City may prohibit the service of alcoholic beverages within the encroachment area.

- d. The encroachment area does not extend past the frontage of the business for which it is connected to.
 - e. In no event shall any canopy, shade structure or any other similar improvement extend more than thirteen (13) feet into Pier Plaza. Further, all improvements, fences, railings, gates, tables, chairs, umbrellas, furniture or any other items or structures shall be designed and used in a way that protects all ocean views from the public right-of-way. The temporary use of umbrellas is permitted provided that they are only utilized while customers are actively using the specific umbrella(s) in the encroachment area. The City Manager or designee shall retain the complete discretion to direct any permittee to curtail the use of any umbrellas, furniture or other items or structures to protect the public view of the ocean.
 - f. There are no outstanding ~~code enforcement violations~~ Municipal Code violations or violations of any other City-issued permit. In reviewing renewal applications the City Manager or designee must determine that there are unresolved violation of this Chapter (and any related regulations) related to the Pier Plaza Commercial Encroachment. If, in the preceding twelve (12) months, there were three (3) violations of this Chapter or related Regulations as determined by the City Manager or designee, then the City Manager shall not issue a Pier Plaza Commercial Encroachment for a period of one (1) year.
 - g. The encroachment area shall be managed, operated, and maintained as an integral part of the adjacent dining establishment.
 - h. Any improvements, fences, railings, gates, tables, chair or other equipment related to the Pier Plaza Commercial Encroachment shall be installed in such a way that, upon forty (48) hours' notice from the City, can be entirely removed and the area be returned to its previous state without any Pier Plaza Commercial Encroachments. In the event of written notice from the City, any Pier Plaza Commercial Encroachment holder shall remove or cause to be removed any and all improvements, fences, railings, gates, tables, chair or other equipment related to the Pier Plaza Commercial Encroachment to the satisfaction of the City Manager within thirty-six (36) hours notice. No rental fee shall be charged for the time the City requires removal of the improvements, fences, railings, gates, tables, chair or other equipment related to the Pier Plaza Commercial provided that the business is not using the encroachment area for commercial purposes.~~Encroachment.~~
 - e-i. The encroachment are shall be designed and operated in compliance with any regulations adopted by resolution of the City Council and any further regulations promulgated by the City Manager or designee in furtherance of City Council direction.
2. Pier Plaza Commercial Encroachments issued prior to the effective date of this ordinance (~~INSERT EFFECTIVE DATE OF THIS ORDINANCE~~) shall be valid for a period not exceeding ~~one (1) year~~ four (4) months from the date of adoption ~~date of this ordinance issuance~~. After this date, any ~~expiration~~, ~~any new~~ Pier Plaza Commercial Encroachments shall be issued under this Chapter.

C. ~~Commercial Zoning Districts Encroachments, Excluding Pier Plaza Dining Decks and Specific Plan Area No. 11 (Upper Pier Avenue). Commercial Encroachments for commercial outdoor dining on activity on sidewalks or in public parking areas or vehicular streets are only permitted within commercial zoning districts (excluding Pier Plaza) and Specific Plan Area No. 11 (Upper Pier Avenue) and shall comply with Section 12.16.060, the following minimum standards and any additional standards as adopted by the City Council and/or the City Manager or designee. Deviations from the standards set forth in this section may be allowed pursuant to an appeal to the City Council following a determination by the City Manager or designee. within commercial zoning districts, excluding Pier Plaza and Specific Plan Area No. 11 (Upper Pier Avenue), shall comply with Section 12.16.060 this Chapter and if in compliance with the following design and operational standards and limitation limitations, be exempt from the off street parking standards in Chapter 17.44.s:~~

1. Outdoor dining site located in public parking areas shall only occupy a maximum of two parallel on-street parking spaces or three, on-street, head-in parking spaces. Notwithstanding the previous sentence, for commercial encroachments located entirely in front of the encroaching business' frontage (i.e., no permission for use is required from a neighboring property owner or business), a business may occupy a maximum three parallel on-street parking spaces or four head-in on-street parking spaces. Encroachments shall only be permitted adjacent to streets with a speed limit of 25 miles per hour or less.

~~The outdoor dining commercial encroachment area shall be managed, operated, and maintained as an integral part of the adjacent food establishment commercial establishment. Food establishments include restaurants, snack shops, food and beverage markets, supermarkets, bakeries, delicatessens, or similar establishments that offer food or beverages, as determined by the director of public works in consultation with the community development department. Food establishment does not include temporary, mobile or freestanding food service providers or vendors.~~

~~1.—~~

2. Use of the encroachment area is limited to the hours of operation of the adjacent food establishment, not to exceed 7:00 a.m. to 11:00 p.m. However, if in the sole discretion of the City Manager or designee, an earlier closing time is warranted then the City Manager or designee may condition an encroachment permit on an earlier closing time.
3. Alcoholic beverages may only be offered, sold or consumed within the encroachment area pursuant to a valid California Department of Alcohol Beverage Control license for the area. Any other limitation on the business involving the sale or consumption of alcohol shall also apply in the encroachment area. If, in the sole discretion of the Police Chief, the encroachment area has demonstrated a repeated pattern of behavior involving the service or consumption of alcohol that violates this Chapter or any other City permit or provision of law, then the City may prohibit the service of alcoholic beverages within the encroachment area.
4. The encroachment area does not extend past the frontage of the business for which it is connected to.
5. All improvements, fences, railings, gates, tables, chairs, umbrellas, furniture or any other items or structures shall be designed and used in a way that protects all ocean views from the public right-of-way. The temporary use of umbrellas is permitted provided that they are only utilized while customers are actively using the specific umbrella(s) in the encroachment area. The City Manager or

designee shall retain the complete discretion to direct any permittee to curtail the use of any umbrellas, furniture or other items or structures to protect the public view of the ocean.

6. There are no outstanding Municipal Code violations or violations of any other City-issued permit. In reviewing renewal applications the City Manager of designee must determine that there are unresolved violation of this Chapter (and any related regulations) related to the Commercial Encroachment. If, in the preceding twelve (12) months, there were three (3) violations of this Chapter or related Regulations as determined by the City Manager or designee, then the City Manager shall not issue a Commercial Encroachment for a period of one (1) year.
7. The encroachment area shall be managed, operated, and maintained as an integral part of the adjacent dining establishment.
8. All furnishings, decks and barriers shall be maintained free of appendages or conditions that pose a hazard to pedestrians or vehicles, and ensure visually impaired pedestrians can detect the objects safely. No appendage shall extend outside the encroachment area. No persons including customers shall place anything within or near the encroachment area that could pose a tripping hazard or interfere with accessibility of vehicles, pedestrians or cyclists, such as animals tied to signs or utility poles, bicycles, etc.
9. Any improvements, fences, railings, gates, tables, chair or other equipment related to the Commercial Encroachment shall be installed in such a way that, within seven (7) days' notice from the City, can be entirely removed and the area be returned to its previous state without any Commercial Encroachments. In the event of written notice from the City, any Commercial Encroachment holder shall remove or cause to be removed any and all improvements, fences, railings, gates, tables, chair or other equipment related to the Commercial Encroachment to the satisfaction of the City Manager within thirty-six (36) hours. No rental fee shall be charged for the time the City requires removal of the improvements, fences, railings, gates, tables, chair or other equipment related to the Commercial Encroachment provided that the business is not using the encroachment area for commercial purposes.
10. The encroachment are shall be designed and operated in compliance with any regulations adopted by resolution of the City Council and any further regulations promulgated by the City Manager or designee in furtherance of City Council direction.
- ~~2. The encroachment area shall be located adjacent to the building, and shall not be located within or separated from the establishment by landscaping, street furniture, parking spaces, drive aisles, alleys or streets, or other elements as determined by the City Manager or designee.~~
- ~~Encroachment areas along any street frontage shall be located at least ten (10) feet from any residential zone.~~
11. ~~Outdoor dining site located in public parking areas shall only occupy a maximum of two parallel on street parking spaces or three, on street, head in parking spaces. Notwithstanding the previous sentence, for commercial encroachments located entirely in front of the encroaching business' frontage (i.e., no permission for use is required from a neighboring property owner or business), a business may occupy a maximum three parallel on street parking spaces or four head in on street parking spaces.~~

D. Commercial Encroachments, Non Pier Plaza and Non Dining Decks. Commercial Encroachments for commercial outdoor dining on sidewalks or other public rights-of-way that are not public parking spaces or vehicular streets and not in Pier Plaza shall comply with Section 12.16.060 and the following minimum standards and any additional standards as adopted by the City Council and/or the City Manager or designee. Deviations from the standards set forth in this section may be allowed pursuant to an appeal to the City Council following a determination by the City Manager or designee.

1. The encroachment area shall not exceed one thousand (1,000) square feet.

2. Use of the encroachment area is limited to the hours of operation of the adjacent food establishment, not to exceed 7:00 a.m. to 11:00 p.m. However, if in the sole discretion of the City Manager or designee, an earlier closing time is warranted then the City Manager or designee may condition an encroachment permit on an earlier closing time.

3. Alcoholic beverages may only be offered, sold or consumed within the encroachment area pursuant to a valid California Department of Alcohol Beverage Control license for the area. Any other limitation on the business involving the sale or consumption of alcohol shall also apply in the encroachment area. If, in the sole discretion of the Police Chief, the encroachment area has demonstrated a repeated pattern of behavior involving the service or consumption of alcohol that violates this Chapter or any other City permit or provision of law, then the City may prohibit the service of alcoholic beverages within the encroachment area.

4. The encroachment area does not extend past the frontage of the business for which it is connected to.

5. A clear, continuous pedestrian path not less than five (5) feet in width or more as deemed appropriate by the City Manager or designee for pedestrian circulation outside of the encroachment area shall be maintained at all times. As used herein, "pedestrian path" means a continuous obstruction-free sidewalk area between the outside boundary of the encroachment area and any obstructions, such as street trees or planters, utility poles, street furniture, newsstands, bus benches, or curbs.

6. All improvements, tables, chairs, umbrellas, furniture or any other items or structures shall be designed and used in a way that protects all ocean views from the public right-of-way. The temporary use of umbrellas is permitted provided that they are only utilized while customers are actively using the specific umbrella(s) in the encroachment area. The City Manager or designee shall retain the complete discretion to direct any permittee to curtail the use of any umbrellas, furniture or other items or structures to protect the public view of the ocean.

7. There are no outstanding Municipal Code violations or violations of any other City-issued permit. In reviewing renewal applications the City Manager or designee must determine that there are no unresolved violations of this Chapter (and any related regulations) related to the Commercial Encroachment. If, in the preceding twelve (12) months, there were three (3) violations of this Chapter or related Regulations as determined by the City Manager or designee, then the City Manager shall not issue a Commercial Encroachment for a period of one (1) year.

8. The encroachment area shall be managed, operated, and maintained as an integral part of the adjacent dining establishment.

9. All furnishings and barriers shall be maintained free of appendages or conditions that pose a hazard to pedestrians or vehicles, and ensure visually impaired pedestrians can detect the objects safely. No appendage shall extend outside the encroachment area. No persons including customers shall place

anything within or near the encroachment area that could pose a tripping hazard or interfere with accessibility of vehicles, pedestrians or cyclists, such as animals tied to signs or utility poles, bicycles, etc.

10. Any improvements, tables, chairs or other equipment related to the Commercial Encroachment shall be installed in such a way that, within seven (7) days' notice from the City, can be entirely removed and the area be returned to its previous state without any Commercial Encroachments. In the event of written notice from the City, any Commercial Encroachment holder shall remove or cause to be removed any and all improvements, fences, railings, gates, tables, chair or other equipment related to the Commercial Encroachment to the satisfaction of the City Manager. No rental fee shall be charged for the time the City requires removal of the improvements, fences, railings, gates, tables, chair or other equipment related to the Commercial Encroachment provided that the business is not using the encroachment area for commercial purposes.

11. The encroachment are shall be designed and operated in compliance with any regulations adopted by resolution of the City Council and any further regulations promulgated by the City Manager or designee in furtherance of City Council direction.

12. Commercial Encroachments issued for the public right-of-way that are not public parking spaces or vehicular streets and not in Pier Plaza prior to (INSERT EFFECTIVE DATE OF THIS ORDINANCE) shall be valid for a period not exceeding three (3) months from the effective date of this ordinance. After this date, any Commercial Encroachments shall be issued under this Chapter.

~~—The encroachment area when located on sidewalks shall not exceed two hundred (200) square feet, shall not exceed five (5) feet in depth, and shall not occupy more than thirty (30) percent of the sidewalk width excluding curb. On pedestrian walk streets the encroachment area is not subject to the depth or width limitations but shall not exceed two hundred (200) square feet.~~

~~1. Outdoor dining in compliance with this section shall be exempt from compliance with off street parking standards in Chapter 17.44.~~

~~2. Use of the encroachment area shall be limited to the hours of operation of the adjacent food establishment, not to exceed 7:00 a.m. to 11:00 p.m.~~

~~3. The encroachment area is limited to sit-down food and beverage consumption for seated customers only. Servingware used in the encroachment area shall be resistant to shattering or breaking into fragments (no glass, ceramic or similar materials).~~

~~4. Alcoholic beverages shall not be offered, sold or consumed within the encroachment area.~~Alcoholic beverages are only offered, sold or consumed within the encroachment area pursuant to a valid California Department of Alcohol Beverage Control license for the area

~~5. A clear, continuous pedestrian path not less than five (5) feet in width or more as deemed appropriate by the director of public works~~City Manager or designee for pedestrian circulation outside of the encroachment area shall be maintained at all times. As used herein, "pedestrian path" means a continuous obstruction-free sidewalk area between the outside boundary of the encroachment area and any obstructions, such as street trees or planters, utility poles, street furniture, newsstands, bus benches, or curbs.

6. ~~The layout of the encroachment area shall not impede ingress or egress, and shall be fully accessible to the physically disabled, as required by the California Building Code, Title 24, Disabled Access Standards, any other requirements of law, and the city fire marshal.~~
7. ~~Barriers shall conform to the Public Works Director's installation standards and be removable. Barriers need not be removed each evening, but shall be capable of being removed; if imbedded into the pavement they must be fixed through the use of recessed sleeves and posts, or otherwise by wheels that can be locked into place or weighted in place. Barriers cannot be exposed and must be covered on all sides with a durable exterior material to the satisfaction of the City. No off-premises signs or banners of any kind shall be placed, displayed or erected on barriers or anywhere else in the outdoor dining area. around the encroachment area shall not be provided unless required by the director of public works for public safety, such as protection from vehicles or in cases of surface or grade changes. Unless otherwise specified, required barriers need not be removed each evening, but shall be capable of being removed. If embedded into the pavement, barriers must be fixed through the use of recessed sleeves and posts, or by wheels that can be locked into place or weighted in place. Required barriers shall conform to requirements for the sight-impaired and shall be properly maintained. The height of any barrier shall not exceed three (3) feet, six (6) inches. All barriers must be able to withstand inclement outdoor weather, and one hundred (100) pounds per lineal foot of horizontal force at the top of the barricade when in their fixed positions.~~
8. ~~The elevation of the encroachment area shall not be altered (e.g., no platforms or recesses). No modification to the surface of the right of way, such as resurfacing, texturing or borings for recessed sleeves, shall be made unless approved by the director of public works.~~
9. ~~Furnishings shall be limited to sturdy chairs, benches and tables, and umbrellas sheltering tables. Furnishings shall be designed for outdoor use. No portion of an awning or umbrella No portable canopies (i.e., EZ Ups or other similar devices) are permitted in the outdoor dining area. Shade canopies must be structurally affixed to the dining deck and fully retractable. The City, in its sole and complete discretion, reserves the right to determine whether or not a shade canopy complies with this requirements shall be less than eight (8) feet above the sidewalk or extend outside the encroachment area. Awnings may extend up to four (4) feet from the building front or cover up to fifty (50) percent of the sidewalk width, whichever is less. A building permit shall be obtained prior to installation of an awning. No other objects, including but not limited to host/hostess podiums, bars or bar height tables, light stands, signs, menu boards, service items or grills, are allowed. Furnishings shall not display prominent logos or advertising. All furnishings shall be maintained in good condition at all times.~~
10. ~~All furnishings and barriers shall be maintained free of appendages or conditions that pose a hazard to pedestrians or vehicles, and ensure visually impaired pedestrians can detect the objects safely. No appendage shall extend outside the encroachment area. No persons including customers shall place anything within or near the encroachment area that could pose a tripping hazard or interfere with accessibility, such as animals tied to signs or utility poles, bicycles, etc.~~
11. ~~Approved furnishings and objects shall be removed from the encroachment area daily prior to close of business, but no later than 10:30 p.m., unless such furnishings are required to be bolted to the pavement or are approved to remain by the director of public works.~~

- ~~12. No entertainment, music, audio speakers, televisions or visual media of any type, whether amplified or unamplified, shall be located within the encroachment area.~~
 - ~~13. The encroachment area, including surfacing, shall be maintained in a neat and clean manner, free of litter, food scraps, soiled dishes, and graffiti, at all times. The business shall actively monitor the area and promptly remove food serviceware, food scraps, litter and other trash. Trash receptacles shall be supplied in an easily accessible location on the subject property. Surfacing in and around the encroachment area shall be cleaned during the business day as needed and at the end of each business day. Cleaning and the use of water for cleaning the encroachment area shall comply with good housekeeping best management practices approved by the director of public works in accordance with Chapters 8.44 and 8.56. Under no circumstances shall debris or runoff be swept, washed, or blown into the sidewalk, gutter, storm drains or street. The director of public publicity ~~Manager or designee~~ works may issue the encroachment permit only after determining that the request complies with the standards and provisions of this section and any other requirements applicable to the use set forth in the Municipal Code.~~
 - ~~14. Use of the encroachment area shall not adversely affect the welfare of the nearby residents or commercial establishments.~~
 - ~~15. The final location and configuration of the encroachment area shall be subject to approval by the director of public works City Manager or designee, after determining that the request complies with the standards and provisions of this section and any other requirements applicable to the use set forth in the Municipal Code. The City Manager or designee =director may attach conditions to mitigate public health, safety and convenience impacts unique to the specific location.~~
- ~~The encroachment permit shall be valid for one (1) year and may be annually renewed.~~
- ~~16. Deviations from the standards set in this section may be allowed pursuant to a conditional use permit, granted in compliance with Chapter 17.40.~~
 - ~~17. Specific Plan Area No. 11 (Upper Pier Avenue). Encroachments for commercial outdoor dining on sidewalks within the boundaries of the Specific Plan Area No. 11 zoning district (Upper Pier Avenue) are prohibited.~~

12.16.100 Commercial encroachments—Retail display areas.

Use of the Pier Plaza and other public rights-of-way for commercial outdoor retail display areas may be permitted subject to issuance of an encroachment permit in compliance with this chapter, and subject to the following conditions:

- A. General Provisions. Every encroachment permit for commercial outdoor retail display areas shall ensure the following:
 1. Provides for and maintains an area for passage of pedestrian traffic;
 2. Does not inconvenience pedestrian traffic;
 3. Conforms to all applicable health codes and this Code;
 4. Applicant to pay all appropriate fees, including but not limited to rental fees;

5. ~~Applicant to maintain and keep in force at all times a policy of liability insurance, naming the city as an additional insured in the amount of one million dollars (\$1,000,000.00)~~Applicant is to maintain and keep in force at all times a policy of liability insurance, naming the city as an additional insured in the amount of no less one million dollars (\$1,000,000) unless a higher amount is determined to be appropriate in the; and

6. Applicant to pay restorative costs, if applicable, in an amount to be determined by the director of public works, plus administrative costs.

B. Retail Uses. The encroachment area shall be managed, operated, and maintained as an integral part of the adjacent retail establishment.

1. For purposes of this section, retail establishment generally means a commercial establishment that sells or offers a product available on site in the adjacent retail establishment. The following types of businesses are not eligible for encroachment permits:

- a. Businesses such as grocery, convenience, drug, and liquor stores, tobacco/smoke shops, secondhand stores, or adult businesses as defined in Section 17.04.060.
- b. Businesses where retail sales are secondary to the primary service function, such as beauty salons, personal services, or repair businesses, are not eligible for encroachment permits.
- c. Third party vendors, concessions, seasonal or other promoters, solicitors, or any other business, product or service promoted or offered by any entity or party other than the business owner to whom the encroachment permit was issued are not permitted within the encroachment area.

2. In addition, the following items or types of activities are not permitted within the encroachment area:

- a. Food or beverages of any type, whether pre-packaged or not.
- b. Alcoholic beverages or tobacco or smoking products or paraphernalia of any type.
- c. Hazardous or controlled substances or goods, or goods or services that cannot be sold to minors with or without parental permission.
- d. Adult paraphernalia of any kind.
- e. Display of information or signs about a product or service is not allowed; rather, products available for sale at the business may be displayed.
- f. Products or services shall not be demonstrated within the encroachment area.
- g. Rental or sale of any used merchandise.

C. Design and Operational Standards and Limitations. Commercial eEncroachments for ~~commercial~~ outdoor retail display areas shall comply with ~~Section 12.16.060~~this Chapter and the following design and operational standards and limitations. Deviations from the standards set forth in this section may be allowed pursuant to an appeal to the City Council following a determination by the City Manager or designee. ÷

1. Commercial Encroachment areas shall be available for and located adjacent to ground floor retail businesses. The encroachment area on Pier Plaza shall not exceed thirteen (13) feet in depth. The encroachment area on Loreto Plaza shall not exceed five (5) feet in depth. The encroachment area shall not exceed the width of the tenant space frontage. The encroachment area for any tenant space fronting Pier Plaza is restricted to the Pier Plaza frontage only.
2. Barriers around encroachment areas on Pier Plaza with a maximum height of forty-two (42) inches shall be provided; provided, that barriers shall not be installed or allowed on Loreto Plaza. Each perimeter barrier shall use the same design and materials on all sides. Barriers shall be attractive with a quality appearance, made of new materials such as wood and wrought iron. Barriers shall be of a permeable design that allows for visibility of merchandise through the barrier. Chain-link fencing or other low quality materials are not permitted. The elevation of the encroachment area shall not be altered. No modification to the surface of the right-of-way, such as resurfacing, texturing or borings, shall be made.
3. Awnings may extend over the entire depth (maximum thirteen (13) feet on Pier Plaza and five (5) feet on Loreto Plaza) and width of the encroachment area. Awnings must be retracted to cover not more than fifty (50) percent of the encroachment area depth when the business is closed or the encroachment area is not in use. No portion of an awning shall be less than eight (8) feet above the paved surface. A building permit must be obtained prior to installation of an awning. Awnings shall not provide signage and shall be maintained in good repair at all times.
4. Use of the encroachment area shall be limited to the hours of operation of the adjacent retail establishment, not to exceed 7:00 a.m. to 11:00 p.m.
5. Outdoor retail displays/furnishings placed within the commercial encroachment area shall be designed and limited as follows:
 - a. Tables or racks to display goods offered for sale may be placed in the encroachment area. Other furnishings such as umbrellas, shade canopies, light stands, planters or signs are not allowed. All furnishings within each individual encroachment area shall be of uniform design and materials. All furnishings shall be of sturdy construction and maintained in good condition at all times. Plastic merchandise display furnishings are not permitted unless of quality non-plastic appearance.
 - b. Tables, racks or display furnishings, and merchandise, shall not exceed five (5) feet in height; provided, that six (6) new suriboards not to exceed seven (7) feet in height may be displayed vertically in a rack positioned against the exterior wall. Racks or shelf units individually or placed end-to-end or in any configuration shall not exceed six (6) feet in length.
 - c. Merchandise/displays shall be contained and adequately secured so that they do not become windborne, create litter or breakage, spill, drip, or create any health or safety impact.
 - d. All merchandise within the encroachment area, including any attached to the building, must be removed daily when the business is closed.
 - e. ATM machines, food service units, vending machines, podiums or stands from which to conduct sales, and similar furnishings are not permitted within the encroachment area.

- f. No entertainment, music, audio speakers, televisions, or visual media of any type, whether amplified or unamplified, shall be located within the encroachment area.
6. The layout of the encroachment area shall not impede ingress or egress, and shall be fully accessible to the physically disabled, as required by the California Building Code, Title 24, Disabled Access Standards, any other requirements of law, and the city fire chief.
7. A clear, continuous pedestrian path not less than five (5) feet in width, or more as deemed appropriate by the director of public works for pedestrian circulation outside of the encroachment area, shall be maintained at all times. As used herein, pedestrian path means a continuous obstruction-free sidewalk area between the outside boundary of the encroachment and any obstructions, including but not limited to street trees or planters, utility poles and street furniture.
8. All outdoor retail displays and allowed objects shall be maintained free of appendages or conditions that pose a hazard to pedestrians or vehicles, and ensure visually impaired pedestrians can detect the objects safely. No appendage shall extend outside the encroachment area. No persons including customers shall place anything within or near the encroachment area that could pose a tripping hazard or interfere with accessibility.
9. The encroachment area shall be maintained in a neat and clean manner, free of litter and graffiti, at all times. The business shall actively monitor the area and promptly remove litter and other trash.
10. Surfaces in and around the encroachment area shall be swept during the business day as needed and at the end of each business day. Cleaning shall comply with good housekeeping best management practices approved by the director of public works in accordance with Chapters 8.44 and 8.56. Under no circumstances shall debris or runoff be swept, washed, or blown into the sidewalk, gutter, storm drains, or street.
11. The ~~director of public works~~City Manager or designee may issue the encroachment permit only after determining that the request complies with the standards and provisions of this section, any other requirements applicable to the use set forth in the Municipal Code, and as follows:
 - a. Information on the proposed retail uses and conduct of the use, the types of products to be displayed within the encroachment area, a dimensioned floor plan that clearly designates where each merchandise display will be located, and the design of barriers, awning and types of furnishings within the encroachment area shall be submitted with the encroachment permit application. Changes to the retail use, floor plan, furnishings, barriers and awnings must be submitted and approved in advance. Deviation from the approved plan may result in revocation of the encroachment permit.
 - b. Use of the encroachment area shall not adversely affect the welfare of the nearby residents or commercial establishments.
 - c. The type of retail uses that are allowed within the encroachment areas, the final location and configuration of the encroachment area, and the barriers, awnings and display furnishings within the encroachment area shall be subject to approval by the director of public works, after obtaining written concurrence of the community development department, and determining that the request complies with the standards and provisions of this section and any other requirements applicable to the use set forth in the Municipal Code. The director of public works may attach conditions to ensure the use and its design conform to these

standards and mitigate public health, safety, access and convenience impacts unique to the specific location.

- d. An encroachment permit granted pursuant to this section shall preclude issuance of any additional encroachment permit pursuant to Section 12.16.090.
- e. The encroachment permit shall be valid for one (1) year and may be annually renewed.
- f. The encroachment permit is issued to the business owner, does not create a vested right, and shall be revocable by the city at any time without a showing of cause or prior notice by the city. Upon a finding of noncompliance with any condition of granting an encroachment permit, or upon revocation of an encroachment permit, the encroachment permit shall not be renewed and a new encroachment permit shall not be granted for a period of one (1) year.
- g. Upon termination of the encroachment permit, the permittee shall remove the barrier, return the pavement to its original condition, and remove all personal property_ and furnishings from the right-of-way.

~~12. Deviations from the standards set forth in this section may be allowed pursuant to a conditional use permit granted in compliance with Chapter 17.40.~~

12.16.110 Application procedure.

- A. Filing. An application for an encroachment into a planned or existing public right-of-way shall be filed by the owner of the property, or when provided, the business owner with written approval from the property owner, for owner, for which the encroachment is sought or by an authorized representative of the owner. Such application shall be made to ~~the director of public works~~the City Manager or designee and shall be on forms furnished by the department of public works.
- B. Filing Fee. A uniform fee, established by council under separate resolution, shall be required upon the filing and investigation of the application for encroachment or transfer of an encroachment permit to defray administrative costs incurred by the city in processing the application. Such fee shall be nonrefundable and shall include the costs of recordation of the encroachment, if granted.
- C. Investigation. An investigation shall be conducted by all departments of the city having an interest in, or jurisdiction over, the matter. Upon the receipt of an application pursuant to the provisions of this chapter, the ~~director of public works~~City Manager or designee shall transmit the application to all affected departments for written reports of findings and recommendations. All such written reports shall be submitted to the ~~director of public works~~City Manager or designee for consideration when making a decision on the application.
- D. ~~Director of Public Works~~-Findings and Decision. The ~~director of public works~~City Manager or designee shall make a written decision. Such decision shall recite the findings upon which the ~~director bases his~~decision is based. If the decision is favorable to the granting of the encroachment, it shall set forth the conditions to be imposed. The conditions set forth in ~~Sections 12.16.080 through 12.16.100~~this Chapter and any operational or design standards adopted via resolution y the City Council and/or City Manger or designee shall automatically apply to every permit unless otherwise noted.~~be attached to every permit approval.~~

- E. Appeal. The Any decision of the ~~director of public works~~City Manager or designee made pursuant to this Chapter, including a decision to revoke an encroachment permit, shall be final ten (10) days after mailing a copy of his decision to the applicant. Within said ten (10) day period, the applicant may appeal the decision of the ~~director of public works~~City Manager or designee to the City Council to review. ~~; a denial of the application or any conditions attached to an approval other than those set forth in Section 12.16.080.~~ Upon consideration of such appeal, the council may approve, modify, or disapprove the application for encroachment. The council may add, delete or modify the conditions attached to the encroachment permit. The action of the council shall be final.
- F. Time Limit for Development. Any encroachment granted pursuant to the provisions of this chapter shall be developed and utilized within a period not to exceed six (6) months from and after the date of the granting of such encroachment, and, if not so developed and utilized, such encroachment automatically shall become null and void at the expiration of such six (6) month period.
- G. Extension of Time. The permittee may apply in writing for one extension of time, not to exceed six (6) months, within which to develop and use such encroachment. The director of public works, after due consideration, shall either grant or deny the extension of time for such development and use.
- H. Renewal. Encroachment permits shall be for a period not to exceed one (1) year and must be renewed annually. An application for renewal shall require the same findings as an original application except as otherwise noted and shall be submitted no later than sixty (60) days prior to the expiration of any existing encroachment permit. An encroachment permit is not a substitute for a building permit or a construction permit when either is otherwise required by this Code.

12.16.120 Maintenance of encroachment.

It shall be the responsibility of the adjacent property owner to maintain the encroachment in a condition satisfactory to the City.

12.16.130 Nonconformance of encroachment.

No building permit shall be issued for construction of a new residential dwelling structure or addition thereto, ~~exceeding four hundred (400) square feet in floor area,~~ or for the remodel of an existing residential dwelling structure ~~valued at more than fifty (50) percent of the replacement cost of the existing structure,~~ until the adjacent city right-of-way is determined to be in accordance with city standards.

Encroachments in existence on May 15, 1996, which do not conform to the standards set forth in Section 12.16.080 may remain as they exist as of May 15, 1996, whether or not a valid encroachment permit is obtained from the city as long as the encroachment is not expanded, increased or intensified, until the earlier of either of the following events:

1. The city revokes the encroachment permit or requires removal of the encroachment for any reason, including construction of public improvements, which requires access to the encroachment area;
2. The primary structure on the property benefiting from the encroachment is remodeled or reconstructed at a cost which exceeds fifty (50) percent of the replacement cost of the existing structure.

In either of the above events, the encroachment shall be removed and any replacement encroachment shall be subject to receipt of an encroachment permit and shall conform to the requirements of ~~Section 12.16.080~~ this Chapter.

12.16.150 Revocation.

~~The director of public works~~ City Manager ~~or the council may revoke any encroachment permit for noncompliance with the conditions set forth in granting such encroachment or if it is determined that such permit is not in the public interest. A written notice shall be mailed to the permittee of such revocation. Within ten days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be reviewed by the council, and its determination of the matter shall be final.~~

The encroachment permit does not create a vested right of any kind, and shall be revocable by the City Manager or City Council at any time without a showing of cause upon forty-eight (48) hours' notice. A written notice shall be mailed to the permittee of such revocation. Within ten days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be reviewed by the council, and its determination of the matter shall be final.

Upon revocation of an encroachment permit for violation(s) of this Chapter, the encroachment permit shall not be renewed and a new encroachment permit shall not be granted for a period of one (1) year for the at-issue property and the applicant.

An encroachment permit shall expire and be of no further force and effect upon the removal of the primary building on the property.

12.16.160 Encroachment violation.

It is unlawful for any person to construct or maintain, or cause to be constructed or maintained, any encroachment in violation of the provisions of this chapter.

12.16.170 Violation—Misdemeanor.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned in the county jail for a period not exceeding six months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

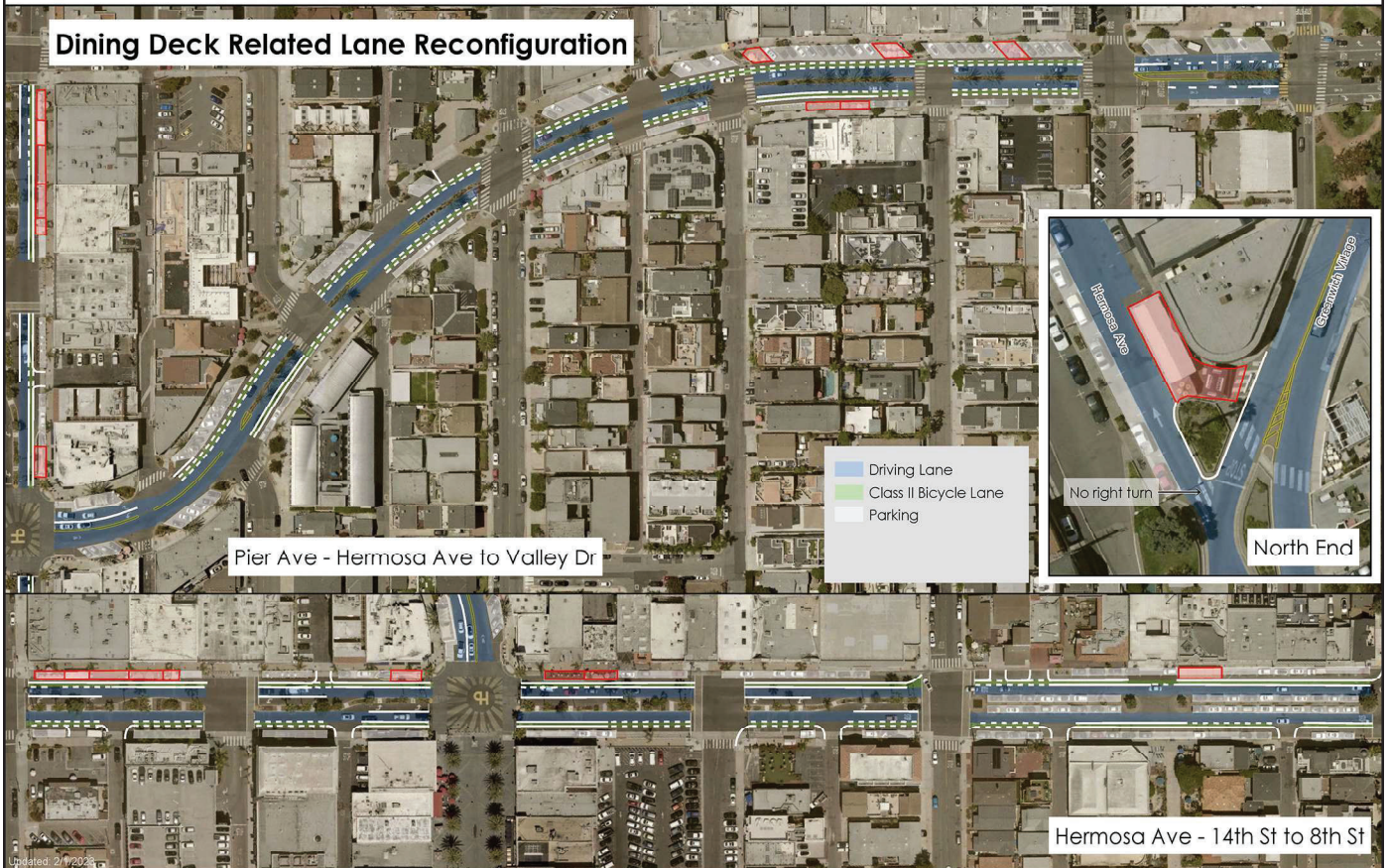
12.16.180 Violations of encroachment regulations—Additional remedies.

As an additional remedy, the construction or maintenance of any encroachment in violation of any provision of this chapter shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. In addition, violations of the provisions of this chapter are subject to the administrative penalty provisions of Chapter 1.10.

12.16.190 Fees.

All fees applicable pursuant to this chapter shall be set by resolution of the city council.

Exhibit B



Source: City of Hermosa Beach



OUTDOOR DINING PROGRAM

Supplemental Environmental Analysis

In addition to identifying the project's exemption status under CEQA, City Staff and consultants reviewed the proposed project's potential to result in adverse environmental effects, guided by the topics of the Initial Study checklist derived from Appendix G of the CEQA Guidelines. The Initial Study checklist is used by the City to determine the potential for environmental effects and the possible need for an Environmental Impact Report or other forms of CEQA documentation.

A. Direct physical Impacts

Impacts of proposed projects are of two types – construction related impacts and operational (post-construction) impacts. Most construction-related impacts are avoided if the project results in no, or minimal, subsurface disturbance of soils, grading or excavation, as is the case with the proposed Outdoor Dining Program. Because the project will not result in substantial subsurface disturbance, it will not significantly affect any of the following natural or cultural resources considered under CEQA:

- Geology & Soils
- Biological Resources
- Hydrology & Water Quality
- Wildlife
- Agriculture & Forestry
- Cultural Resources (including Historical & Paleontological Resources)
- Tribal Resources
- Mineral Resources

None of these resources will be impacted by the project as a result of either construction-related or operational impacts.

B. Impacts to Services, Facilities, Utilities and Housing

A small group of potential impacts addressed under CEQA relate to adverse effects on public services (police and fire), utilities (water, waste water, storm drain), public facilities (parks, schools, libraries) and housing. Impacts to these resources result when a project introduces a substantial number of new residents into the local population, or a substantial number of additional employees, or otherwise creates an increased demand for these services. Although the outdoor dining project has the potential to result in a minor increase in seating capacity at local restaurants, a potential incremental increase in patronage will not substantially increase the demand for services, or in the capacity of public utilities or facilities, or result in a substantial increase in housing demand. Nor will the project directly impact public facilities or utilities physically, either during construction or as an effect of their long-term operation. Avoidance of any physical impact is assured through the project's provision that the use does not obstruct access to public utilities

and infrastructure for emergency or maintenance purposes (See **Project Characteristics**).

C. Conflicts with Land Use Plans, Policies and Regulations

Impact assessment under CEQA considers a project's potential conflict with any land use plan, policy or regulation adopted for the purpose of avoiding an environmental effect. The proposed project poses no such conflict and thus avoids this category of potential impact.

D. Transportation and Traffic

The evaluation of potential impacts related to transportation (including traffic) under CEQA is limited to four topics:

(1) Will the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

The lane configuration component of the project proposes to modify lanes in specific road segments. Rather than conflict with programs, plans, ordinances or policies addressing the circulation system, the project implements policies of Goal 3 of PLAN Hermosa's Mobility Element, including Policy 3.1 Enhance public right-of-ways, Policy 3.6 Complete bicycle network, Policy 3.8 Encourage shared streets, and Policy 3.10 Require ADA standards. Consistent with its goal to improve safety for multimodal traffic, the project will result in the addition of approximately 7,000 linear feet of new Class II bike lanes available for electric and conventional bicycles and other wheeled devices, and new on-street ADA accessible parking spaces with associated signage and pavement markings.

(2) Will the project result in a significant increase in vehicle miles travelled?

Based on screening thresholds recommended by the Governor's Office of Planning and Research¹, a project that consists of less than 50,000 square feet of retail use (including retail restaurants) will not have a significant impact related to vehicle miles travelled (VMT) and is too small to warrant a technical analysis of VMT impacts. The proposed project has a maximum square footage of 9,500 square feet, well below the recommended screening threshold.

(3) Will the project substantially increase hazards due to a geometric design feature?

The proposed lane reconfigurations are identical to those that have been put in place under the temporary outdoor dining program. They were designed by the City's traffic engineer to avoid the creation of any hazardous conditions.

¹ Governor's Office of Planning and Research (OPR), 2018, Technical Advisory on Evaluating Transportation Impacts in CEQA. https://opr.ca.gov/docs/20180416-743_Technical_Advisory_4.16.18.pdf

(4) Will the project result in inadequate emergency access?

The City's traffic engineer has determined that the proposed lane reconfigurations with their reduction in vehicular travel lanes will not result in inadequate emergency access at any of the proposed locations, or along any designated emergency route.

Traffic Issues Raised by the Public

In addition to the questions posed by CEQA, the supplemental environmental analysis addressed comments received from the public. In correspondence received by City Staff in June 2022, a Hermosa Beach resident, speaking of the temporary outdoor dining program, asserted that "*the Pier Avenue Lane Reduction Project has shifted more and more commercial and commuter traffic into residential neighborhoods and turned 27th street into a defacto truck-route serving the plaza area businesses.*" To respond to this concern, City Staff and consultants performed a technical analysis focused on the question of traffic diverting from downtown as a result of the temporary lane reductions and impacting other areas in the city. The study investigated potential diversion effects throughout the city, but also specifically investigated the question of traffic diversion impacting the segment of 27th Street between Hermosa Avenue and Morningside Drive. The study also analyzed the potential for the proposed project to induce significant traffic diversion under future conditions with the project and regional background traffic considered.

The analysis examined trip distribution along primary and secondary routes for trips travelling to or from Downtown and found that 27th Street experienced a 1% decrease in distribution of downtown trips from 2019 (prior to lane reconfigurations) to 2021 (with lane reconfigurations in place). Total vehicular activity on 27th Street decreased by approximately 15% from Summer 2019 to Summer 2021. These observations lead the traffic engineers to conclude that lane reductions are not contributing significant traffic diversions onto secondary routes and 27th Street, and are not likely to do so as a result of the proposed project. The full technical analysis is provided in Appendix A (Fehr & Peers, January 2023).

E. Noise Impacts

A technical noise study was conducted to identify the potential for the project to result in significant impacts from roadway noise (increased traffic) or from noises related to outdoor dining. The study identified future noise levels on nine roadway segments, eight of which were selected because they serve the downtown area where most of the areas proposed to be eligible for outdoor dining are located. The study found that roadway noise with the maximum allowable outdoor dining (worst case) and lane reconfigurations in place, and with future background regional traffic conditions in place, would increase 0.1 dBA CNEL or less, at a distance of 30 feet from the roadway centerline, when compared to the baseline conditions of 2019 when outdoor dining and lane reconfigurations were not in place. In the case of the ninth roadway segment, 27th

Street west of Morningside Drive, the study found that roadway noise will decrease by an estimated 0.0 to 0.1 dBA, compared to 2019 baseline conditions.

Potential noise sources associated with outdoor dining activities include noise generated by outdoor restaurant patrons conversing, potentially at high volumes and/or in large groups. The study identified the potential noise level under extreme worst case conditions (40 persons dining together and all talking at once) and determined that the City's exterior noise standard of 65 CNEL would not be exceeded under those conditions at a distance of 20 feet. City Staff has determined that no proposed dining areas are within 20 feet of a residence or residential property line.

The proposed project explicitly prohibits amplified or live music from being audible beyond outdoor dining areas. Televisions may be allowed, but only with audio turned off. These restrictions ensure the project will not adversely impact the acoustic environment.

The technical noise study (MD Acoustics, April 2023a) is provided in Appendix A.

F. Air Quality, Greenhouse Gas Emissions and Energy Impacts

A technical assessment was performed to evaluate the project's potential to result in significant impacts related to air quality, greenhouse gas emissions and energy consumption. The study found that the project's air quality emissions are well below the AQMD's significance thresholds (7% or less of threshold levels for criteria pollutants) and that the project is well below screening thresholds for significant contributions to greenhouse gas emissions. The project was found not to have impacts related to excessive or wasteful energy consumption. The technical study (MD Acoustics, April 2023b) is provided in Appendix A.

G. Visual Resources

Neither the proposed lane reconfigurations nor the dining decks and their related features (planters, umbrellas, heaters, podiums, tables and chairs, etc.) are large enough in scale individually or cumulatively to substantially degrade the existing visual character or quality of public views, or significantly obstruct scenic vistas from any of the prominent public viewpoints identified in PLAN Hermosa. Overhead objects (poles, posts, canopies, signs, etc.) are restricted in height to 8 feet above ground level.

H. Cumulative Impacts

For all categories of potential environmental effects considered by CEQA, the proposed Outdoor Dining Project has no environmental effect or, in some cases, a very minimal effect that is well below thresholds of a significant impact. Based on this environmental assessment and the supporting technical studies prepared to evaluate the project's impacts, there is sufficient substantial evidence to support the statement that the project would not trigger significance thresholds even if it were 2 to 3 times greater in

magnitude (square footage) than proposed. Its contribution to cumulative potential cumulative effects on the environment is non-substantial and not significant.

I. Summary

In summary, the proposed Outdoor Dining Program does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to decrease below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of major periods of California history or prehistory. Nor will the project jeopardize long-term environmental goals in favor of short-term environmental goals, being consistent with the long-term goals established by the City as reflected in the General Plan.

The project as proposed and with implementation of all standard conditions of approval and compliance with proposed City ordinances, resolutions and guidelines will have no significant impacts to humans, directly or indirectly. Nor does the project have impacts which are cumulatively considerable.

*

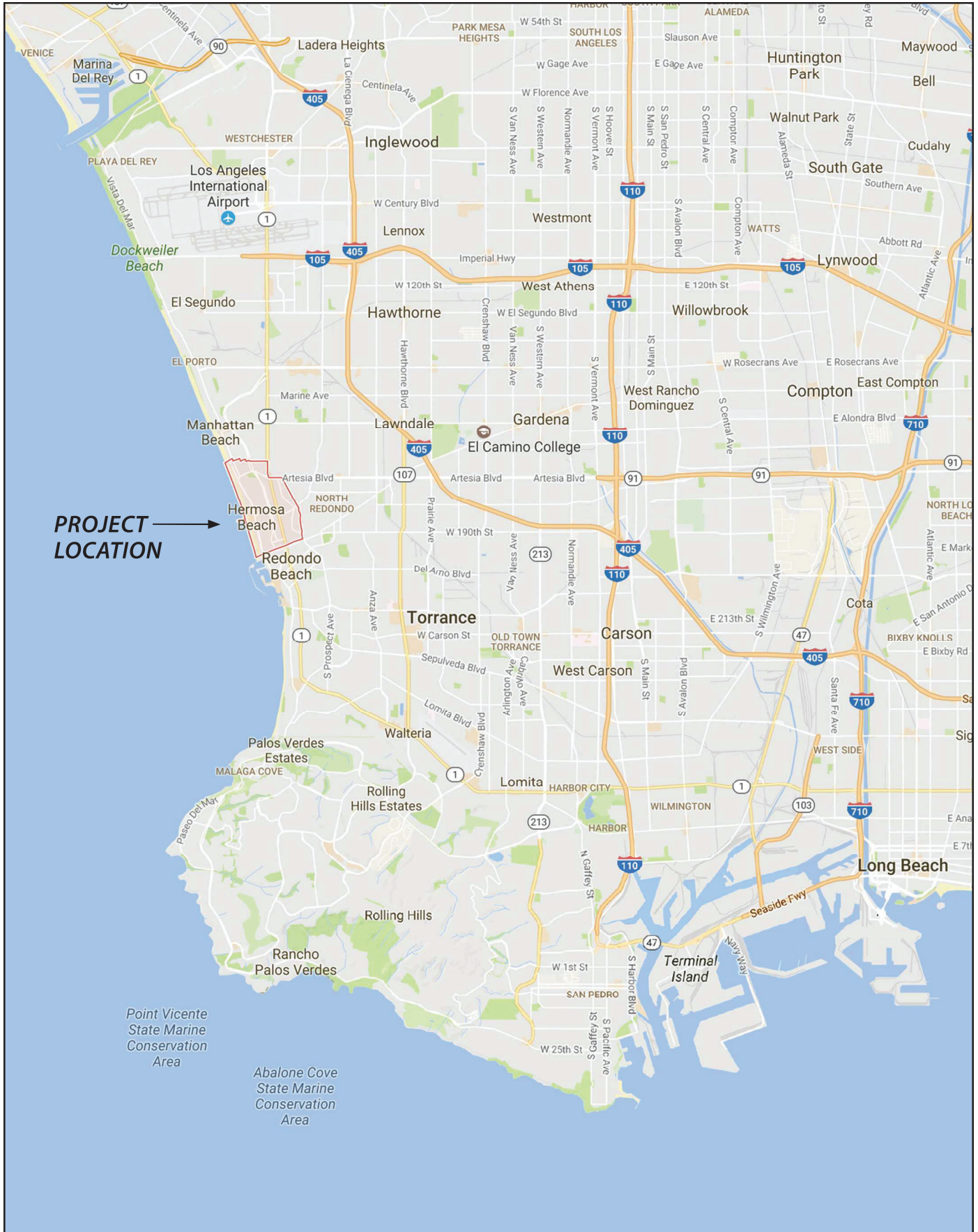
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In defining activities that are categorically exempt, CEQA does not assert that activities conforming to the exemption categories of Section 15300 will have no impacts. Rather, CEQA's categorical exemption provision establishes as a matter of law that impacts of categorically exempt projects are effectively *de minimus* and the Secretary for Resources has found that they do not have a significant effect on the environment. As such they require no further analysis, documentation or disclosure.

The supplemental analysis performed for this project is above and beyond the requirements of CEQA, especially for a project of this scale and which causes no substantial disturbance to the physical environment. It was conducted by Staff to facilitate a clear and transparent understanding of the CEQA determination for the project, and to address questions raised in public testimony related to potential effects of the City's temporary outdoor dining program and the CEQA process that would accompany the proposed permanent outdoor dining project.

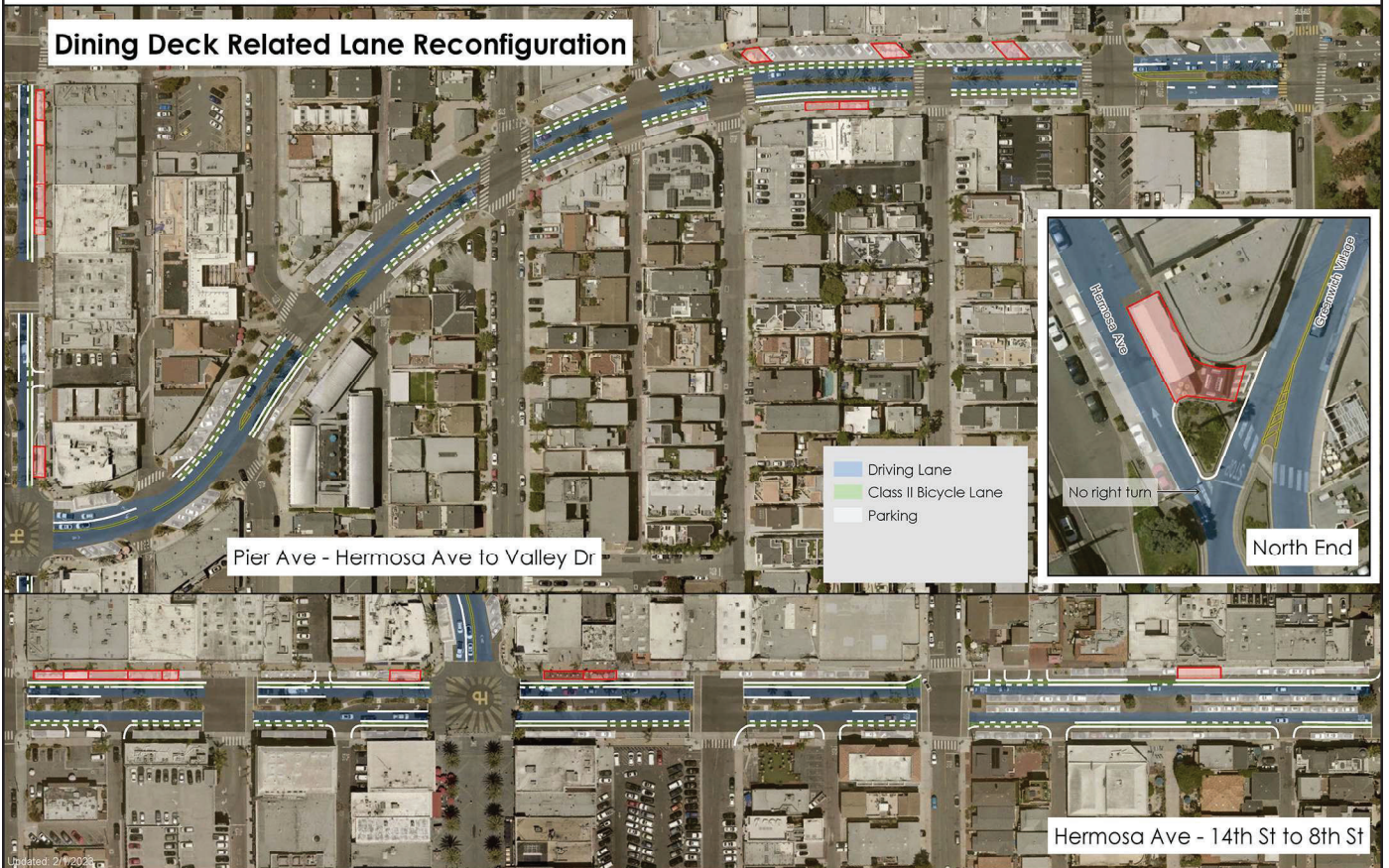
Appendix A



Source: Google Maps



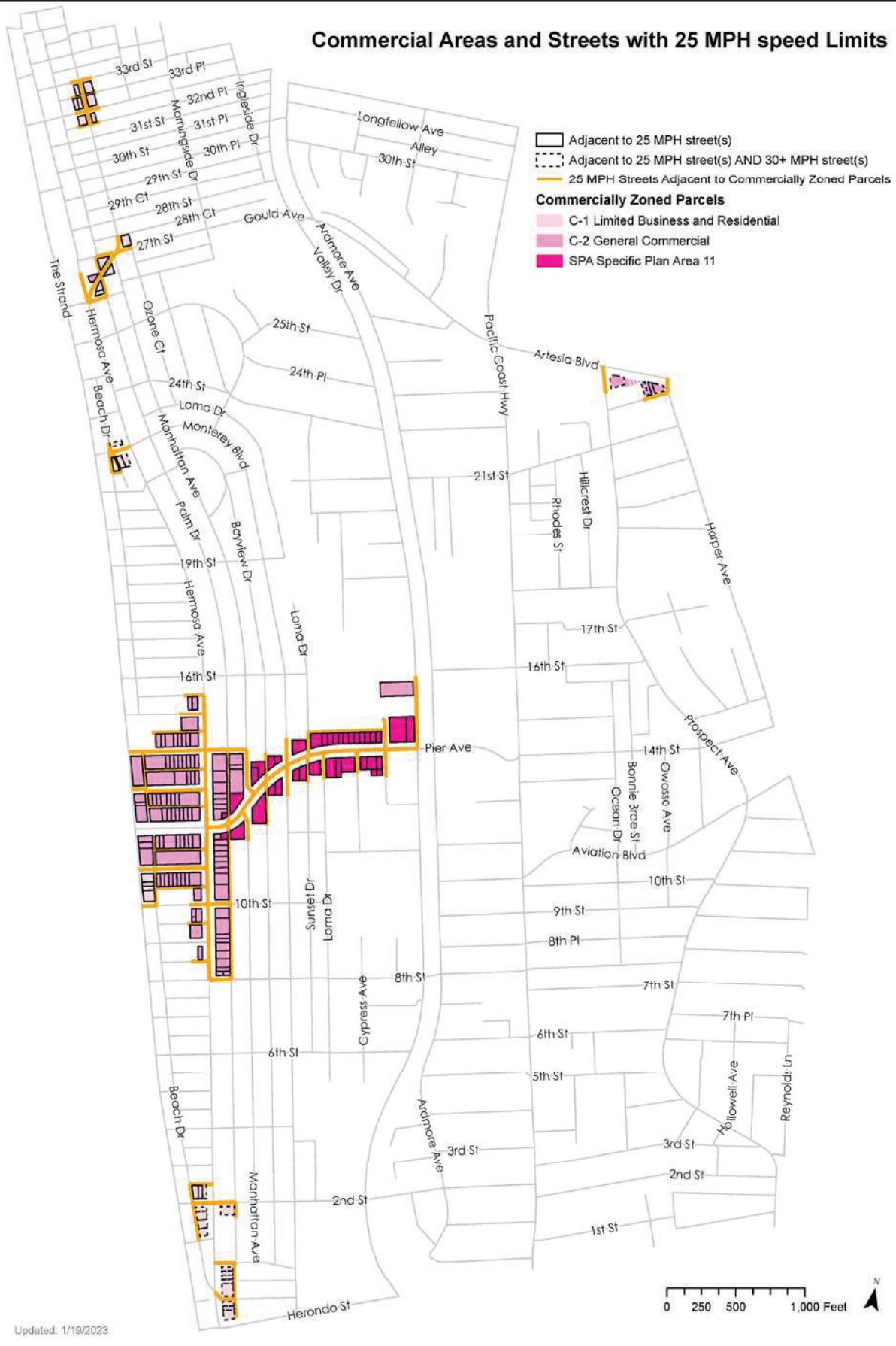
Dining Deck Related Lane Reconfiguration



Source: City of Hermosa Beach



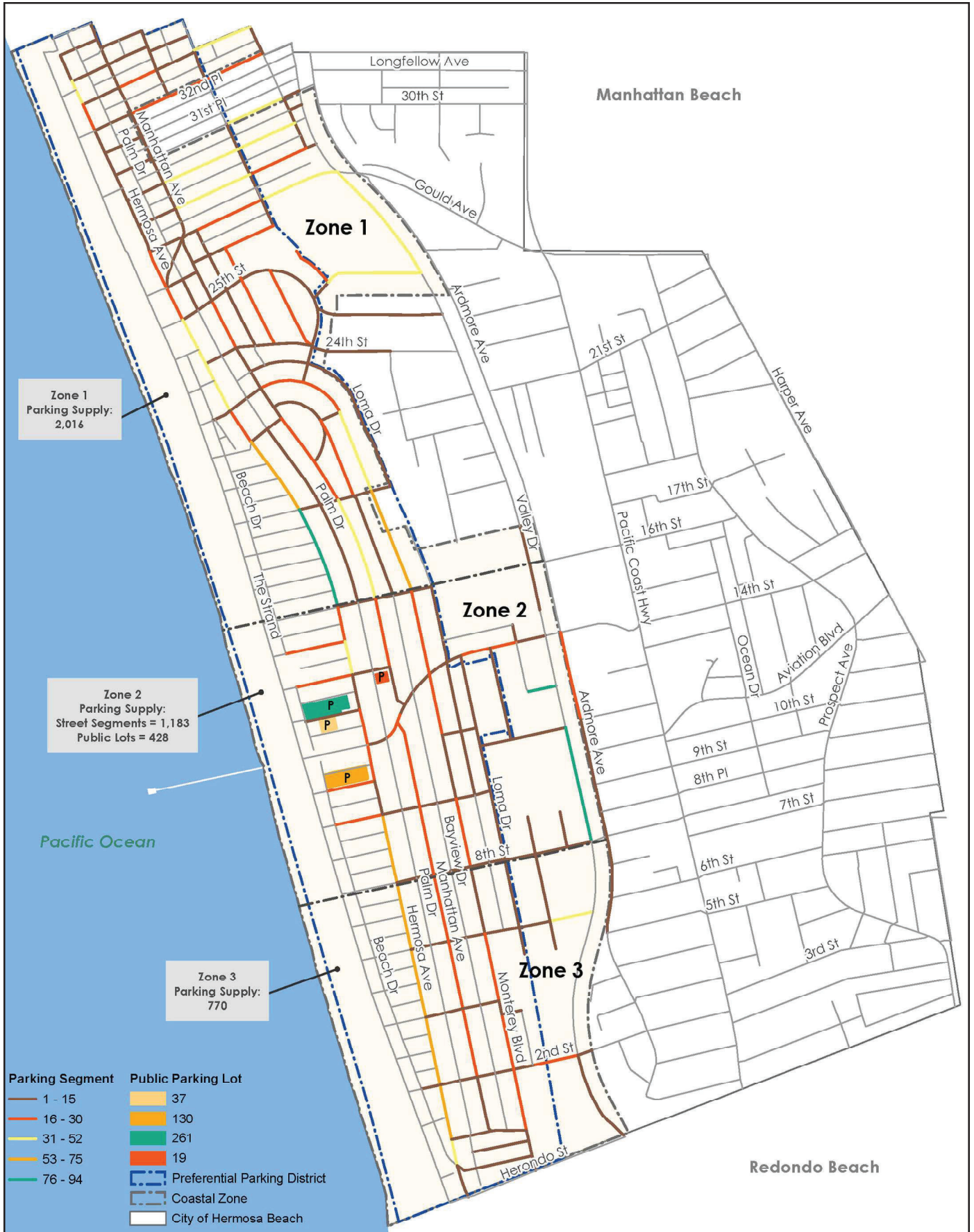
Commercial Areas and Streets with 25 MPH speed Limits



Source: City of Hermosa Beach



Exhibit 3
Areas Proposed to be Eligible for Outdoor Dining



Source: City of Hermosa Beach



Memorandum

Date: February 21, 2023

To: Douglas Krauss, Environmental Programs Manager– City of Hermosa Beach
Ed Almanza, Ed Almanza & Associates

From: Sean Reseigh, Senior Transportation Planner, and Michael Kennedy, Principal – Fehr & Peers

Subject: CEQA Transportation Assessment for City of Hermosa Beach Outdoor Dining Program

LB22-0029.02

Introduction

This memorandum documents Fehr & Peers' evaluation of the potential for significant transportation impacts under the California Environmental Quality Act (CEQA) associated with the City of Hermosa Beach's proposed outdoor dining program in Downtown Hermosa Beach.

Project Description

The City of Hermosa Beach's proposed outdoor dining program would allow for permanent outdoor dining primarily along Pier and Hermosa Avenues ("proposed Project"). Temporary pilot outdoor dining was implemented during the COVID-19 pandemic. Under the proposed permanent outdoor dining program, a cap of 9,500 square feet Citywide of outdoor dining use would be implemented. These uses would be associated with existing restaurants and incidental to their existing operations. The location of potential outdoor dining is expected to primarily continue to be in Downtown Hermosa Beach, where 87% of the commercially zoned parcels are located. However, up to 13% of the total commercially zoned parcels are located outside of Downtown Hermosa Beach, so a limited amount of outdoor dining could be located in other parts of the City. Due to the concentration of outdoor dining expected in Downtown relative to other parts of the City, this impact analysis is focused on the evaluation of travel to/from Downtown, as it constitutes the highest potential for significant transportation impacts associated with outdoor dining. Outside of Downtown, any outdoor dining is expected to be very limited in nature, and therefore, unlikely to have any significant transportation impacts under CEQA. Outdoor dining is expected to primarily continue to occur in converted on-street parking spaces.



CEQA Transportation Evaluation

Impact Criteria

Pursuant to Appendix G of the CEQA guidelines, impacts to transportation would be considered significant if the proposed Project were found to:

1. Conflict with a program, plan, ordinance, or policy (PPOP) addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.
2. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). CEQA Guidelines Section 15064.3, subdivision (b) includes the criteria for analyzing transportation impacts for land use projects, as follows: Vehicle miles traveled (VMT) exceeding an applicable threshold of significance may indicate a significant impact.
3. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).
4. Result in inadequate emergency access.

Impact Analysis

The following details the qualitative evaluation of the proposed Project under these impact criteria.

Criterion 1: Conflict with a program, plan, ordinance, or policy

The proposed Project is not expected to conflict with any local or regional programs, plans, ordinances or policies when adopted by the City Council of the City of Hermosa Beach.

Criterion 2: Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)

The ultimate level of vehicle miles travelled generated by the proposed Project will depend on the types of restaurant uses that apply for and are granted approval for outdoor dining, as well as whether or not they are locally or regionally serving uses, which would affect mode choice (how many drive, take transit, bike or walk to a use), as well as the average vehicle trip length.

Guidance from the Governor's Office of Planning and Research (OPR) in the *Technical Advisory on Evaluating Transportation Impacts in CEQA*¹ provides recommended screening thresholds to determine whether VMT analysis would be required, based on project characteristics, including:

- Locally serving retail
- Small project
- Transit Priority Area (TPA)

¹ https://opr.ca.gov/docs/20180416-743_Technical_Advisory_4.16.18.pdf. Accessed 1.6.2023.



- Low VMT Area

The proposed Project is expected to qualify for the locally serving retail screening criteria as discussed below. It is not expected to qualify for small project or TPA screening, and low VMT area screening applies only to office and residential uses.

As recommended by OPR, 50,000 square feet of retail uses can be considered locally serving. Locally serving retail may include specialty retail, shopping center, grocery store, pharmacy, financial services/banks, fitness center or health club, restaurant, and café. According to OPR's Guidance, the proposed Project is considered locally serving and presumed to have a less than significant impact related to VMT, and no further quantitative VMT analysis is required.

Criterion 3: Substantially increase hazards due to a geometric design feature

The proposed Project will not alter street design, it will simply allow for the continuation of the temporary outdoor dining program on a permanent basis. Consistent with the temporary outdoor dining program, this will occur primarily within on-street parking stalls, which will be protected by jersey barriers, or other traffic safety devices subject to the approval of the City's Traffic Engineer to ensure safe separation between outdoor diners and vehicles on City roadways. Outdoor dining areas will not impede on sight distance for motorists and pedestrians, as protective jersey barriers are lower than the height of drivers and pedestrian lines of sight. Therefore, the proposed Project's impact under this criterion will be less than significant.

Criterion 4: Result in inadequate emergency access.

The proposed project will not alter street design or parcel access that could affect emergency access. It will solely modify existing on-street parking stalls to allow for outdoor dining, which will have no effect on access. Additionally, the proposed Project will add negligible traffic volumes to roadways in the City as further detailed below. Therefore, the proposed Project's impact under this criterion will be less than significant.

Proposed Project Trip Generation

While a quantitative VMT impact analysis is not needed because the proposed Project can be screened as locally serving, to support CEQA impact analyses associated with air quality and noise impact areas, Fehr & Peers prepared trip generation estimates for the proposed Project. The ultimate trip generation will vary based on the types of restaurant uses that apply for and are approved for permanent outdoor dining under this program. The Institute of Transportation Engineers (ITE) *Trip Generation Manual, 11th Edition*, was used to estimate daily and AM and PM peak hour trips reflecting the different restaurant uses that are present in Downtown Hermosa Beach. They include:

- Fast Casual Restaurant (example: Chipotle on Pacific Coast Highway)



- Fine Dining Restaurant (example: Zane’s on Pier Avenue)
- High Turnover- Sit Down Restaurant (example: Fritto Misto on Pier Avenue)
- Drinking Place (example: Hennessey’s Tavern on Pier Plaza)

Table 1 presents the daily and AM and PM peak hour estimates for the proposed Project. Scenario 1 presents the worst-case trip generation estimates for the proposed Project, assuming that 100% of the 9,500 square feet of outdoor dining are associated with the High-Turnover Sit Down Restaurant trip rate, which has the highest daily trip rate compared with the other restaurant categories. Daily trip generation estimates for this scenario are 1,072 trips, with 96 trips in the AM peak hour, and 91 trips in the PM peak hour. In addition to using the highest trip rate, this analysis likely also overestimates the number of trips because it does not account for potential walk/bike access to Downtown Hermosa Beach, or for visitors to the coastal zone also choosing to patronize a local restaurant, which would both result in reduced trip generation compared with standard ITE rates. Additionally, because outdoor dining uses will be incidental to existing indoor restaurants, they are unlikely to generate vehicle trips at the level of trip generation accounted for in ITE rates. However, the numbers are presented here for a potential worst-case trip generation estimate.

Scenario 2 presents a more realistic scenario with the variety of restaurant use types in Hermosa Beach. For this scenario, the split is assumed to be equal across the four categories. As with Scenario 1, it is still expected to be an overestimation of potential vehicle trips, as it does not account for walk/bike access and internalization of trips from visitors to the coastal zone. Daily trip generation for this scenario is 749 trips, with 30 AM peak hour and 102 PM peak hour trips.

Table 1: Proposed Project Daily AM and PM Peak Hour Trip Generation Estimates

Proposed Land Use	ITE Land Use Code	Size (ksf)	Trip Generation [a]													
			Daily Rate	AM Rate	AM % In	AM % Out	PM Rate	PM % In	PM % Out	Daily Trips	AM In	AM Out	AM Total	PM In	PM Out	PM Total
Scenario 1																
High-Turnover (Sit-Down) Restaurant	932	9.5	107.2	9.57	55%	45%	9.05	61%	39%	1,018	50	41	91	52	34	86
Sum		9.5								1,018	50	41	91	52	34	86
Scenario 2																
Fast Casual Restaurant	930	2.38	97.14	1.43	50%	50%	12.55	55%	45%	231	2	2	3	17	14	30
Fine Dining Restaurant	931	2.38	83.84	0.73	-	-	7.8	67%	33%	199	-	-	2	13	6	19
High-Turnover (Sit-Down) Restaurant	932	2.38	107.2	9.57	55%	45%	9.05	61%	39%	255	13	10	23	13	8	21
Drinking Place	975	2.38	11.36	-	-	-	11.36	66%	34%	27	-	-	-	18	9	27
Sum		9.5								711	15	12	28	61	37	97

[a] Source: Institute of Transportation Engineers Trip Generation 11th Edition, analysis by Fehr & Peers, 2023, StreetLight Data, 2022.

Proposed Project Trip Assignment

In order to estimate the worst-case trip generation estimates on roadways used to access Downtown Hermosa Beach, Fehr & Peers used StreetLight Data, a cell phone based origin destination data set to evaluate the share of total travel to/from Downtown Hermosa Beach on various roadways. Due to changes in transportation conditions over the COVID-19 pandemic, data



for Summer 2019, 2020 and 2021 were analyzed to determine if there were varying travel patterns across those years. **Table 2** presents the percentage share of total travel to/from Downtown Hermosa Beach at nine study locations on 27th Street, 8th Street, Hermosa Avenue, Manhattan Avenue, Monterey Boulevard, and Pier Avenue. While the table presents the minor variations in the StreetLight Data share of travel to/from Downtown Hermosa Beach over the three years analyzed, Summer 2021 is considered the most typical, as most businesses had reopened from the temporary closures associated with the COVID-19 pandemic. Therefore, Summer 2021 distribution was used to estimate trips on the study locations.

Table 3 details the worst-case daily proposed Project-only trips expected at each of these study locations. They were estimated by applying the 2021 StreetLight Data trip distribution percentage to daily trip generation for Scenarios 1 and 2. Pier and Hermosa Avenues are expected to carry the vast majority of trips to/from Downtown Hermosa Beach associated with outdoor dining. The other corridors will experience negligible increases in trips per day. To be conservative 100% of the outdoor dining is assumed to occur in Downtown Hermosa Beach in order to estimate the worst-case traffic volume increases that could occur on roadway segments in the City.

Table 2: StreetLight Data Daily Distribution of Travel to/from Downtown Hermosa Beach

Study Corridor Location	Summer 2019 Daily % of Total Travel	Summer 2020 Daily % of Total Travel	Summer 2021 Daily % of Total Travel
1. 27 th Street (west of Morningside)	7.0%	5.9%	6.2%
2. 8 th Street (west of Valley)	7.4%	7.2%	6.0%
3. Hermosa Avenue (north of 16 th)	17.2%	16.9%	17.1%
4. Hermosa Avenue (north of 8 th)	21.7%	22.7%	22.6%
5. Manhattan Avenue (north of Pier)	2.9%	1.6%	2.0%
6. Manhattan Avenue (south of Pier)	2.5%	2.0%	2.1%
7. Monterey Boulevard (north of Pier)	2.2%	2.0%	1.6%
8. Monterey Boulevard (south of Pier)	3.0%	2.3%	2.5%
9. Pier Avenue (west of Valley)	36.1%	39.4%	39.9%

Source: Fehr & Peers, 2023, StreetLight Data, 2022.



Table 3: Proposed Project Daily Trips on Corridors Serving Downtown Hermosa Beach

Study Corridor Location	Scenario 1 Daily Project Only Trips	Scenario 2 Daily Project Only Trips
1. 27 th Street (west of Morningside)	64	44
2. 8 th Street (west of Valley)	61	42
3. Hermosa Avenue (north of 16 th)	174	122
4. Hermosa Avenue (north of 8 th)	230	161
5. Manhattan Avenue (north of Pier)	21	15
6. Manhattan Avenue (south of Pier)	22	15
7. Monterey Boulevard (north of Pier)	16	11
8. Monterey Boulevard (south of Pier)	25	18
9. Pier Avenue (west of Valley)	405	283

Source: Fehr & Peers, 2023

Baseline + Project ADT Volumes

In order to estimate pre-project (2019) pre-pandemic baseline conditions, StreetLight Data were used to estimate average daily traffic (ADT) for 2019, as no in-field collected traffic counts were available for pre-pandemic conditions.

StreetLight Data applies proprietary machine-learning algorithms to measure travel patterns and makes them available on-demand via StreetLight InSight®, the world’s first SaaS platform for mobility. StreetLight provides powerful analyses for a wide variety of transportation studies including volume, counts, Origin-Destination (O-D) and more. StreetLight algorithmically transforms trillions of location data points into contextualized, aggregated, and normalized travel pattern data to deliver unique insights into how vehicles, bikes, pedestrians, and bus and rail passengers move on virtually every road and Census Block. StreetLight Data collects all its transportation data as Location Based Services (LBS) data which are services based on the location of a mobile device. They obtain “low fidelity” cell phone data scrubbed of all Personally Identifiable Information (PII), and pair it with data with “high fidelity” data from GPS devices.

StreetLight Data were used to estimate ADT for summer (July & August) weekend days in 2019. ADT on the study segments are presented in **Table 4**, which also includes proposed Project trips, and the expected percent change in daily traffic volumes associated with the proposed Project. As shown in the table, under Scenario 1, the maximum change in daily segment traffic volumes change is expected to be approximately 2.3%. Under Scenario 2, the maximum change is approximately 1.6%.



Cumulative Conditions

In order to assess the potential for increased traffic volumes under cumulative conditions, Fehr & Peers reviewed the traffic analysis conducted for the PLAN Hermosa environmental impact report. Based on analysis from the Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP) forecasting model, as well as the modelling conducted for PLAN Hermosa, regional traffic volumes are not expected to increase, as land use patterns change to focus more on urban infill housing, as the regional transportation network is developed, and as transportation demand management (TDM) measures become more commonplace. As noted in the PLAN Hermosa Draft EIR, "PLAN Hermosa would guide future development and reuse projects in the city in a manner that would not increase overall demand for travel within Hermosa Beach... Regional population and employment growth will not result in increased vehicular travel demand."² Therefore, the Baseline plus Project traffic volumes contained in this memorandum represent the expected worst-case scenario.

While the PLAN Hermosa Draft EIR noted that vehicular travel demand is expected to reduce Citywide, due to some localized travel pattern changes, the PLAN Hermosa EIR projected an increase in peak hour traffic volumes at the intersection of Manhattan Avenue & 27th Street. However, PLAN Hermosa would reduce traffic volumes at that location compared to the Future without PLAN Hermosa scenario. Appendix G to the PLAN Hermosa Draft EIR includes peak hour traffic volume changes at study intersections. The primary change to traffic volumes forecast in the PLAN Hermosa Draft EIR were on the eastbound left movement, so most of the increased volumes would not travel on 27th Street, and instead would continue northbound on Manhattan Avenue. Therefore, even under Cumulative conditions, traffic volumes on 27th Street west of Morningside Drive are not expected to substantially increase.

While not needed for CEQA transportation impact analysis, the volumes provided in this memorandum serve as input data for the air quality and noise impact analysis of the proposed Project.

² *PLAN Hermosa Draft Environmental Impact Report*, City of Hermosa Beach, 2016. Page 4.14-45. Accessed 2/20/23 from <https://www.hermosabeach.gov/home/showpublisheddocument/8538/637001018228830000>



Table 4: Baseline plus Proposed Project Daily Trips on Corridors Serving Downtown Hermosa Beach

Study Corridor Location	Baseline (2019) ADT	Scenario 1 Project Only ADT	Scenario 2 Project Only ADT	Baseline + Scenario 1 ADT	Baseline + Scenario 2 ADT	Scenario 1 Delta (%)	Scenario 2 Delta (%)
1. 27 th Street (west of Morningside)	8,081	64	44	8,145	8,125	0.8%	0.5%
2. 8 th Street (west of Valley)	6,256	61	42	6,317	6,298	1.0%	0.7%
3. Hermosa Avenue (north of 16 th)	14,466	174	122	14,640	14,588	1.2%	0.8%
4. Hermosa Avenue (north of 8 th)	15,003	230	161	15,233	15,164	1.5%	1.1%
5. Manhattan Avenue (north of Pier)	2,334	21	15	2,355	2,349	0.9%	0.6%
6. Manhattan Avenue (south of Pier)	2,121	22	15	2,143	2,136	1.0%	0.7%
7. Monterey Boulevard (north of Pier)	3,839	16	11	3,855	3,850	0.4%	0.3%
8. Monterey Boulevard (south of Pier)	4,014	25	18	4,039	4,032	0.6%	0.4%
9. Pier Avenue (west of Valley)	17,563	405	283	17,968	17,846	2.3%	1.6%

Source: Fehr & Peers, 2023

April 3, 2023

To: Ed Almanza & Associates
From: MD Acoustics, LLLC

Subject: Hermosa Beach Downtown Outdoor Dining Project –Focused Air Quality, Greenhouse Gas, and Energy Impact Evaluation, City of Hermosa Beach, CA

MD Acoustics, LLC (MD) has completed a focused Air Quality, Greenhouse Gas, and Energy Impact Evaluation for the proposed Hermosa Beach Downtown Post-Pilot Installation Vehicular Changes Project located in the City of Hermosa Beach, California. The purpose of this focused study is to evaluate the air quality and greenhouse gas operational emissions as well as energy consumption of the proposed project, and to compare projected emissions and energy consumption to the relevant thresholds of significance. A list of definitions and terminology is located in Appendix A.

1.0 Project Description

The project proposes that certain commercial establishments may provide outdoor dining in public right-of-way areas (including on-street parking areas and sidewalks) in the downtown area of Hermosa Beach. The project would reconfigure travel lanes to accommodate areas where outdoor dining would be allowed and to provide lanes for bicycles and other zero-emission modes of transportation.

2.0 AQ/GHG Thresholds of Significance

2.1 AQ Significance Thresholds

Project emissions were compared to both regional and localized SCAQMD's thresholds of significance for operational emissions^{1,2}.

2.2 GHG Significance Thresholds

The project emissions were compared to the SCAQMD's 3,000 MTCO₂e draft threshold for all land uses³.

3.0 Evaluation Procedure/Methodology

MD utilized the latest version of CalEEMod (2022.1) to calculate the operational emissions from the project site⁴. The project was modeled to be operational in 2023. Regional emissions were based on an increase of 1,018 trips per day, based on the maximum scenario generated by the traffic analysis from Fehr & Peers, with a ten-mile trip length for a conservative estimate, and localized emissions were based on a two-mile trip length to approximately cover the project area twice. As stated by Fehr & Peers, the project is not anticipated to increase traffic regionally, and the estimates used in this analysis are a worst-case scenario. CalEEMod defaults were utilized. Assumptions and output calculations are provided in Appendix C.

¹ <https://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf>

² <https://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds>

³ <https://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/ghg-significance-thresholds/page/2>

⁴ <https://www.caleemod.com/>

4.0 Local Ambient Conditions

The project site is located in South Coast Air Basin (SCAB) in the Southwest Coastal Los Angeles Source Receptor Area (SRA) 3⁵. The nearest air monitoring station to the project site is the Los Angeles-Westchester Parkway Monitoring Station. Historical air quality data for the vicinity can be found both at CARB and SCAQMD’s websites^{6,7}. Temperature and historical precipitation data can be found at the Western Regional Climate Center (WRCC)⁸.

5.0 Findings

The following outlines the emissions for the project:

5.1 Regional Operational Emissions

The operating emissions were based on year 2023, which is the anticipated opening year for the project. The number of trips was based on the transportation assessment from Fehr & Peers⁹ and a trip length of 10 miles.

The summer and winter emissions created by the proposed project’s long-term operations were calculated and the highest emissions from either summer or winter are summarized in Table 1. The data in Table 1 shows that the operational emissions for the project would not exceed the SCAQMD’s regional significance thresholds.

Table 1: Regional Significance – Operational Emissions (lbs/day)

Activity	Pollutant Emissions (pounds/day) ¹					
	VOC	NOx	CO	SO2	PM10	PM2.5
Mobile Sources ²	4.00	3.47	38.60	0.08	2.89	0.56
SCAQMD Thresholds	55	55	550	150	150	55
Exceeds Threshold?	No	No	No	No	No	No
Notes: ¹ Source: CalEEMod Version 2022.1 ² Mobile sources consist of emissions from vehicles and road dust.						

5.2 Localized Operational Emissions

Table 2 indicates that the local operational emission would not exceed the LST thresholds at the nearest sensitive receptors, located adjacent to the project. This was based on trip lengths of two miles and localized significance thresholds for a 25-meter distance to the nearest sensitive receptor and a one-acre project size, which is a highly conservative comparison as the project is spread over more than 100 acres across Hermosa Beach. Therefore, the project will not result in significant Localized Operational emissions.

⁵ <https://www.aqmd.gov/docs/default-source/default-document-library/map-of-monitoring-areas.pdf?sfvrsn=6>

⁶ <https://www.aqmd.gov/home/library/air-quality-data-studies/historical-data-by-year>

⁷ <https://www.arb.ca.gov/adam/>

⁸ <https://www.wrcc.dri.edu/summary/Climsmsca.html>

⁹ Fehr & Peers. CEQA Transportation Assessment for City of Hermosa Beach Outdoor Dining Program. February 21, 2023.

Table 2: Localized Significance –Operational Emissions (lbs/day)

Phase	On-Site Pollutant Emissions (pounds/day) ¹			
	NOx	CO	PM10	PM2.5
Mobile Sources ²	0.69	7.72	0.58	0.11
SCAQMD Threshold²	91	664	1	1
Exceeds Threshold?	No	No	No	No
Notes: ¹ Source: Calculated from CalEEMod and SCAQMD’s Mass Rate Look-up Tables for one-acre, to be conservative, in Southwest Coastal Los Angeles Source Receptor Area (SRA 3). ² The nearest sensitive receptors are the residential uses located along the multiple routes being studied; therefore, the 25-meter threshold was utilized.				

5.3 GHG Emissions

Table 3 outlines the construction and operational GHG emissions for the project. The project’s emissions are below (1,386 MTCO_{2e}) the SCAQMD’s draft screening threshold of 3,000 MTCO_{2e} for all land uses and; therefore, the impact is less than significant.

Table 3: Opening Year Project-Related Greenhouse Gas Emissions

Category	Greenhouse Gas Emissions (Metric Tons/Year) ¹					
	Bio-CO2	NonBio-CO ₂	CO ₂	CH ₄	N ₂ O	CO _{2e}
Mobile Sources ⁴	0.00	1,365.00	1,365.00	0.07	0.06	1,386.00
SCAQMD Draft Screening Threshold						3,000
Exceeds Threshold?						No
Notes: ¹ Source: CalEEMod Version 2022.1 ⁴ Mobile sources consist of GHG emissions from vehicles.						

5.4 CO Hotspot Analysis

CO is the pollutant of major concern along roadways because the most notable source of CO is motor vehicles. For this reason, CO concentrations are usually indicative of the local air quality generated by a roadway network and are used as an indicator of potential local air quality impacts. Local air quality impacts can be assessed by comparing future without and with project CO levels to the State and Federal CO standards which can be found from the CARB website.¹⁰

To determine if the proposed project could cause emission levels in excess of the CO standards, a sensitivity analysis is typically conducted to determine the potential for CO “hot spots” at a number of intersections in the general project vicinity. Because of reduced speeds and vehicle queuing, “hot spots” potentially can occur at high traffic volume intersections with a Level of Service E or worse.

Micro-scale air quality emissions have traditionally been analyzed in environmental documents where the air basin was a non-attainment area for CO. However, the SCAQMD has demonstrated in the CO attainment redesignation request to EPA that there are no “hot spots” anywhere in the air basin, even at intersections with much higher volumes, much worse congestion, and much higher background CO levels

¹⁰ <https://ww2.arb.ca.gov/resources/carbon-monoxide-and-health>

than anywhere in Riverside County. If the worst-case intersections in the air basin have no “hot spot” potential, any local impacts will be below thresholds.

The traffic impact analysis showed that the project would generate a maximum total of 1,018 trips per day, and the maximum daily trips in a single corridor would be 17,968 along Pier Avenue (west of Valley). The 1992 Federal Attainment Plan for Carbon Monoxide (1992 CO Plan) showed that an intersection which has a daily traffic volume of approximately 100,000 vehicles per day would not violate the CO standard. The volume of traffic at project buildout would be well below 100,000 vehicles and below the necessary volume to even get close to causing a violation of the CO standard. Therefore, no CO “hot spot” modeling was performed and no significant long-term air quality impact is anticipated to local air quality with the on-going use of the proposed project.

5.5 Cumulative Regional Air Quality Impacts

Cumulative projects include local development as well as general growth within the project area. However, as with most development, the greatest source of emissions is from mobile sources, which travel well out of the local area. Therefore, from an air quality standpoint, the cumulative analysis would extend beyond any local projects and when wind patterns are considered, would cover an even larger area. Accordingly, the cumulative analysis for the project’s air quality must be generic by nature.

The project area is out of attainment for both ozone and PM10 particulate matter. Construction and operation of cumulative projects will further degrade the local air quality, as well as the air quality of the South Coast Air Basin. The greatest cumulative impact on the quality of regional air cell will be the incremental addition of pollutants mainly from increased traffic from residential, commercial, and industrial development and the use of heavy equipment and trucks associated with the construction of these projects. However, in accordance with the SCAQMD methodology, projects that do not exceed the SCAQMD criteria or can be mitigated to less than criteria levels are not significant and do not add to the overall cumulative impact. Therefore, as the project does not exceed any of the thresholds of significance, the project is considered less than significant. Additionally, per the project traffic analysis from Fehr & Peers (and the PLAN Hermosa EIR), cumulative traffic volumes are expected to decrease regionally, in addition to a long-term decrease in local traffic volumes as a result of implementation of the City’s General Plan.

5.6 Consistency with Applicable Plans

Consistency with AB32 Scoping Plan

The ARB Board approved a Climate Change Scoping Plan in December 2008. The Scoping Plan outlines the State’s strategy to achieve the 2020 greenhouse gas emissions limit. The Scoping Plan “proposes a comprehensive set of actions designed to reduce overall greenhouse gas emissions in California, improve our environment, reduce our dependence on oil, diversify our energy sources, save energy, create new jobs, and enhance public health” (California Air Resources Board 2008). The measures in the Scoping Plan have been in place since 2012.

This Scoping Plan calls for an “ambitious but achievable” reduction in California’s greenhouse gas emissions, cutting approximately 30 percent from business-as-usual emission levels projected for 2020, or about 10 percent from today’s levels. In May 2014, the CARB released its *First Update to the Climate Change Scoping Plan* (CARB 2014). This *Update* identifies the next steps for California’s leadership on climate change. In November 2017, the CARB released the 2017 Scoping Plan. This Scoping Plan incorporates, coordinates, and leverages many existing and ongoing efforts and identifies new policies and actions to accomplish the State’s climate goals, and includes a description of a suite of specific actions to meet the State’s 2030 GHG limit. The 2017 Scoping Plan builds upon the successful framework established by the Initial Scoping Plan and First Update, while identifying new, technologically feasible, and cost-effective strategies to ensure that California meets its GHG reduction targets.

As the project was found to not increase traffic regionally by Fehr & Peers in the project traffic assessment, the project is consistent with the Scoping Plan.

Consistency with SCAG’s 2020-2045 RTP/SCS

At the regional level, the 2020-2045 RTP and Sustainable Communities Strategy represent the region’s Climate Action Plan that defines strategies for reducing GHGs. In order to assess the project’s potential to conflict with the RTP/SCS, this section analyzes the project’s land use profile for consistency with those in the Sustainable Communities Strategy. Generally, projects are considered consistent with the provisions and general policies of applicable City and regional land use plans and regulations, such as SCAG’s Sustainable Communities Strategy, if they are compatible with the general intent of the plans and would not preclude the attainment of their primary goals.

Table 4 demonstrates the project’s consistency with the Actions and Strategies set forth in the 2020-2045 RTP/SCS. As shown in Table 4, the project would be consistent with the GHG reduction related actions and strategies contained in the 2020-2045 RTP/SCS.0

Table 4: Project Consistency with SCAG 2020-2045 RTP/SCS¹

Actions and Strategies	Responsible Party(ies)	Consistency Analysis
Land Use Strategies		
Reflect the changing population and demands, including combating gentrification and displacement, by increasing housing supply at a variety of affordability levels.	Local Jurisdictions	Consistent. The project is an expansion of outdoor dining space for local restaurants and will not impact housing.
Focus new growth around transit.	Local Jurisdictions	Consistent. The project is an expansion of outdoor dining space for local restaurants that would be consistent with the 2020 RTP/SCS focus on growing near transit facilities.
Plan for growth around livable corridors, including growth on the Livable Corridors network.	SCAG, Local Jurisdictions	Consistent. The project is an expansion of outdoor dining space for local restaurants that would be consistent with the 2020 RTP/SCS focus on growing along the 2,980 miles of Livable Corridors in the region.
Provide more options for short trips through Neighborhood Mobility Areas and Complete	SCAG, Local Jurisdictions	Consistent. The proposed project would help further jobs/housing balance objectives. The

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City of Hermosa Beach, CA

Actions and Strategies	Responsible Party(ies)	Consistency Analysis
Communities.		proposed project is also consistent with the Complete Communities initiative that focuses on creation of mixed-use districts in growth areas.
Support local sustainability planning, including developing sustainable planning and design policies, sustainable zoning codes, and Climate Action Plans.	Local Jurisdictions	Not Applicable. This strategy calls on local governments to adopt General Plan updates, zoning codes, and Climate Action Plans to further sustainable communities. The proposed project would not interfere with such policymaking and would be consistent with those policy objectives.
Protect natural and farmlands, including developing conservation strategies.	SCAG, Local Jurisdictions	Consistent. The project is an expansion to outdoor dining for local restaurants that would help reduce demand for growth in urbanizing areas that threaten green fields and open spaces.
Transportation Strategies		
Preserve our existing transportation system.	SCAG, County Transportation Commissions, Local Jurisdictions	Not Applicable. This strategy calls on investing in the maintenance of our existing transportation system. The proposed project would not interfere with such policymaking.
Manage congestion through programs like the Congestion Management Program, Transportation Demand Management, and Transportation Systems Management strategies.	County Transportation Commissions, Local Jurisdictions	Consistent. The proposed project is an expansion to outdoor dining for local restaurants that will minimize congestion impacts on the region because of its proximity to public transit and general density of population and jobs.
Promote safety and security in the transportation system.	SCAG, County Transportation Commissions, Local Jurisdictions	Not Applicable. This strategy aims to improve the safety of the transportation system and protect users from security threats. The proposed project would not interfere with such policymaking.
Complete our transit, passenger rail, active transportation, highways and arterials, regional express lanes goods movement, and airport ground transportation systems.	SCAG, County Transportation Commissions, Local Jurisdictions	Not Applicable. This strategy calls for transportation planning partners to implement major capital and operational projects that are designed to address regional growth. The proposed project would not interfere with this larger goal of investing in the transportation system.
Technological Innovation and 21st Century Transportation		
Promote zero-emissions vehicles.	SCAG, Local Jurisdictions	Consistent. The project includes lane reconfigurations which would provide new lanes for bikes and other zero-emissions transportation modes.
Promote neighborhood electric vehicles.	SCAG, Local Jurisdictions	Not applicable. The proposed project would not interfere with the goal of promoting neighborhood electric vehicles.
Implement shared mobility programs.	SCAG, Local Jurisdictions	Not Applicable. This strategy is designed to integrate new technologies for last-mile and alternative transportation programs. The proposed project would not interfere with these emerging programs.

Actions and Strategies	Responsible Party(ies)	Consistency Analysis
Notes: ¹ Source: Southern California Association of Governments; 2020–2045 RTP/SCS; September 3, 2020.		

6.0 Energy

Energy consumption in support of or related to project operations would consist of transportation energy demands (energy consumed by employee and patron vehicles accessing the project site). Additional energy that would be consumed by the construction or operation of the additional outdoor dining is assumed to be negligible as no additional buildings are to be built.

This energy analysis is based upon Appendix F of the CEQA Guidelines which states that any project that results in wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources would have a significant impact.

6.1 Transportation Fuel Consumption

The largest source of operational energy use would be vehicle operation of customers. The site is located in an urbanized area just in close proximity to transit stops. Using the CalEEMod output, it is assumed that an average trip for all vehicles were assumed to be 10 miles. To show a worst-case analysis, it was assumed that vehicles would operate 365 days per year. Table 5 shows the worst-case estimated annual fuel consumption for all classes of vehicles from autos to heavy-heavy trucks. Table 5 shows that an estimated 155,002 gallons of fuel would be consumed per year for the operation of the proposed project.

Table 5: Estimated Vehicle Operations Fuel Consumption

Vehicle Type	Vehicle Mix	Number of Vehicles ¹	Average Trip (miles) ²	Daily VMT	Average Fuel Economy (mpg)	Total Gallons per Day	Total Annual Fuel Consumption (gallons)
Light Auto	Automobile	518	10	5,184	31.82	162.92	59,467
Light Truck	Automobile	56	10	559	27.16	20.56	7,506
Light Truck	Automobile	183	10	1,832	25.6	71.56	26,121
Medium Truck	Automobile	174	10	1,737	20.81	83.47	30,468
Light Heavy Truck	2-Axle Truck	37	10	369	13.81	26.73	9,755
Light Heavy Truck 10,000 lbs +	2-Axle Truck	9	10	92	14.18	6.52	2,380
Medium Heavy Truck	3-Axle Truck	11	10	114	9.58	11.87	4,331
Heavy Heavy Truck	4-Axle Truck	29	10	293	7.14	41.03	14,975
Total		1,018	--	10,180	--	424.66	--
Total Annual Fuel Consumption							155,002

Notes:

¹ Per the trip generation assessment, the project is to generate 1,018 total net new trips in the maximum scenario. Default CalEEMod vehicle fleet mix utilized.

² Based on the size of the site and relative location, trips were assumed to be local rather than regional.

Trip generation of the proposed project is consistent with other similar commercial uses of similar scale and configuration as reflected in the traffic analysis from Fehr & Peers. That is, the proposed project does not propose uses or operations that would inherently result in excessive and wasteful vehicle trips, nor

associated excess and wasteful vehicle energy consumption. Additionally, as stated by Fehr & Peers, the project is not anticipated to increase traffic regionally, and the estimates shown in this analysis are a worst-case scenario. Therefore, project transportation energy consumption would not be considered inefficient, wasteful, or otherwise unnecessary.

7.0 Conclusions

Operational project emissions were evaluated and compared to both regional and localized SCAQMD's thresholds of significance. In addition, project GHG emissions were evaluated and compared to SCAQMD's draft threshold of 3,000 MTCO₂e per year for all land uses. Project emissions are anticipated to be below SCAQMD's thresholds of significance with no mitigation and project energy usage was found not to be inefficient, wasteful, or otherwise unnecessary. Therefore, the impact is less than significant.

MD is pleased to provide this focused Air Quality, Greenhouse Gas, and Energy Impact Evaluation. If you have any questions regarding this analysis, please don't hesitate to call us at (805) 426-4477.

Sincerely,
MD Acoustics, LLC



Tyler Klassen, EIT
Air Quality Specialist

Appendix A
Glossary of Terms

AQMP	Air Quality Management Plan
CAAQS	California Ambient Air Quality Standards
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CH ₄	Methane
CNG	Compressed natural gas
CO	Carbon monoxide
CO ₂	Carbon dioxide
CO ₂ e	Carbon dioxide equivalent
DPM	Diesel particulate matter
GHG	Greenhouse gas
HFCs	Hydrofluorocarbons
LST	Localized Significant Thresholds
MTCO ₂ e	Metric tons of carbon dioxide equivalent
MMTCO ₂ e	Million metric tons of carbon dioxide equivalent
NAAQS	National Ambient Air Quality Standards
NO _x	Nitrogen Oxides
NO ₂	Nitrogen dioxide
N ₂ O	Nitrous oxide
O ₃	Ozone
PFCs	Perfluorocarbons
PM	Particle matter
PM ₁₀	Particles that are less than 10 micrometers in diameter
PM _{2.5}	Particles that are less than 2.5 micrometers in diameter
PMI	Point of maximum impact
PPM	Parts per million
PPB	Parts per billion
RTIP	Regional Transportation Improvement Plan
RTP	Regional Transportation Plan
SCAB	South Coast Air Basin
SCAQMD	South Coast Air Quality Management District
SF ₆	Sulfur hexafluoride
SIP	State Implementation Plan
SO _x	Sulfur Oxides
SRA	Source/Receptor Area
TAC	Toxic air contaminants
VOC	Volatile organic compounds
WRCC	Western Regional Climate Center

Appendix B
Project Map

Appendix C
CalEEMod Output

April 11, 2023

To: Ed Almanza & Associates
From: MD Acoustics, LLLC

Subject: Hermosa Beach Downtown Outdoor Dining – Noise Assessment – City of Hermosa Beach, CA

MD Acoustics, LLC (MD) is pleased to provide this noise assessment for the Hermosa Beach Downtown Outdoor Dining Project in the City of Hermosa Beach, CA. The project proposes that certain commercial establishments may provide outdoor dining in public right-of-way areas (including on-street parking areas and sidewalks) in the downtown area of Hermosa Beach. The project identifies areas where outdoor dining would be allowed. This assessment analyzes the baseline and baseline plus project traffic noise conditions for nine (9) street segments that were identified by the technical traffic consultants as the key routes for vehicular access to and from the project area. It provides a quantitative analysis of outdoor dining noise and compares projected roadway and outdoor dining noise levels to the City's applicable noise standards. For your reference, Appendix A contains a glossary of acoustical terms.

1.0 Assessment Overview

This assessment evaluates the baseline noise conditions and the baseline + project noise conditions experienced along the following streets:

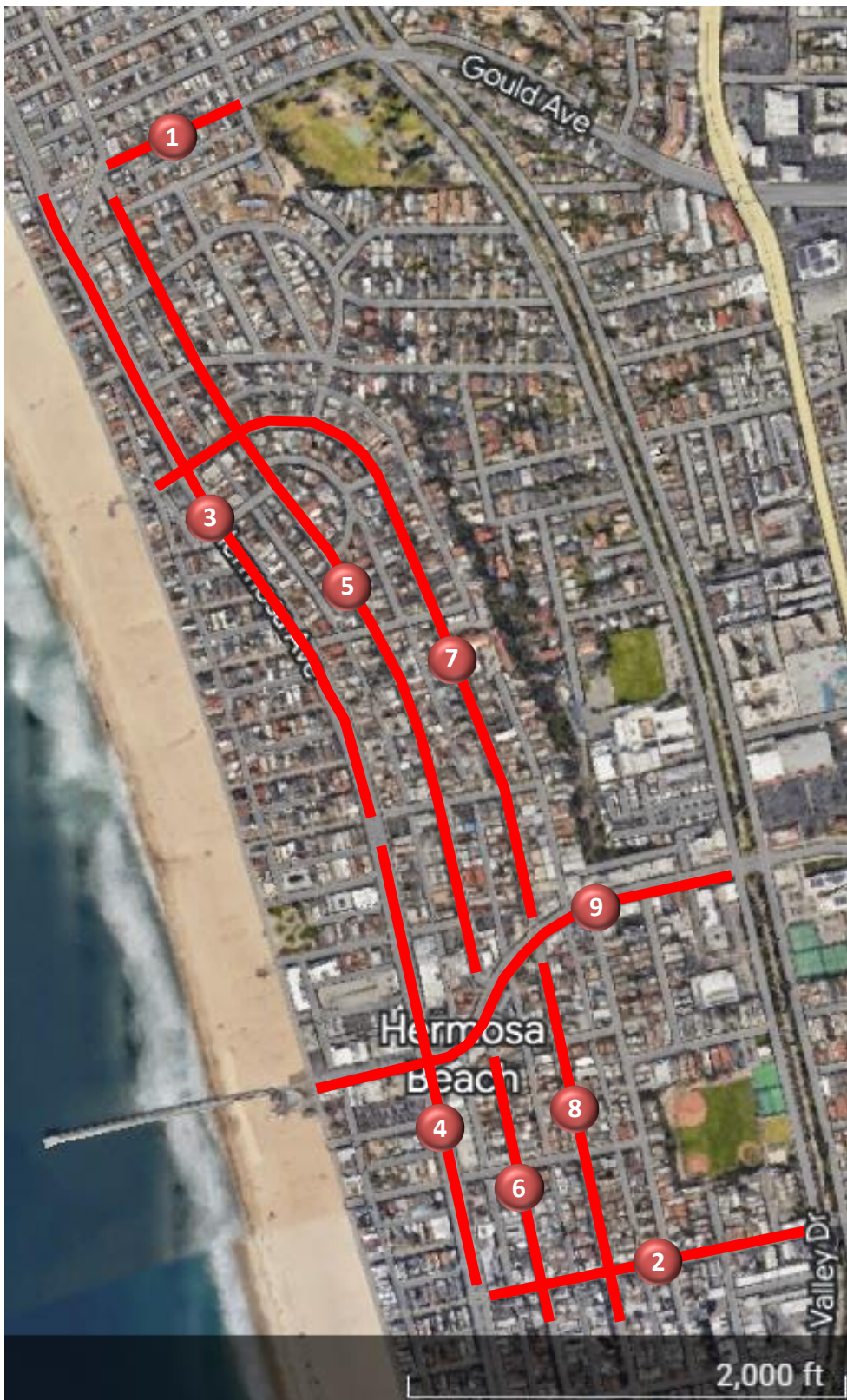
1. 27th Street (west of Morningside)
2. 8th Street (west of Valley)
3. Hermosa Avenue (north of 16th Street)
4. Hermosa Avenue (north of 8th Street)
5. Manhattan Avenue (north of Pier)
6. Manhattan Avenue (south of Pier)
7. Monterey Boulevard (north of Pier)
8. Monterey Boulevard (south of Pier)
9. Pier Avenue (west of Valley)

The nine analyzed roadways will be the most affected by the project and represent the worst-case scenario. Baseline traffic conditions for each roadway were provided by Fehr & Peers (February 2023 in Appendix B of this report). The traffic noise level has been compared to the City's noise standards. All modeling assumptions follow FHWA traffic noise modeling protocols. The study also assesses the stationary noise impact on adjacent land uses due to outdoor dining. Exhibit A identifies the roadway segments that were assessed. The eligible outdoor dining areas are shown in Exhibit B.

2.0 City of Hermosa Beach Noise Standards

The City of Hermosa Beach outlines their noise regulations and standards within the Public Safety Element from the General Plan and the Noise Ordinance from the Municipal Code. Table 6.3 in the City's Public Safety Element outlines the interior and exterior noise standards (Table 1 of this report).

Exhibit A Roadway Segments



1. 27th Street
(west of Morningside)
2. 8th Street
(west of Valley)
3. Hermosa Avenue
(north of 16th Street)
4. Hermosa Avenue
(north of 8th Street)
5. Manhattan Avenue
(north of Pier)
6. Manhattan Avenue
(south of Pier)
7. Monterey Boulevard
(north of Pier)
8. Monterey Boulevard
(south of Pier)
9. Pier Avenue
(west of Valley)

Table 1: Interior and Exterior Noise Standards¹

Land Use	Community Noise Equivalent Level (CNEL)	
	Exterior	Interior
Residential	65 dB	45 dB
Hotels/Motels	65 dB	45 dB
Schools, Libraries, Churches, Hospitals, Nursing Homes	65 dB	45 dB
Auditoriums, Concert Halls, Amphitheaters	65 dB	45 dB
Sports Arena, Outdoor Spectator Sports	65 dB	N/A
Playgrounds, Neighborhood Parks	70 dB	N/A
Golf Courses, Riding Stables, Water Recreation, Cemeteries	75 dB	N/A
Office Buildings, Business Commercial and Professional	70 dB	50 dB
Industrial, Manufacturing, Utilities, Agriculture	75 dB	65 dB

Notes:

1. Outdoor environment limited to private yard of single-family residences; private patios of multi-family residences that are accessed by a means of exit from inside the unit; mobile home park; hospital patio; park picnic area; school playground; and hotel and motel recreation area.
2. Interior environment excludes bathrooms, toilets, closets, and corridors. Noise level requirement is with windows closed. Mechanical ventilation system or other means of natural ventilation shall be provided pursuant to the requirements of the Uniform Building Code (UBC).
3. See Table 6.3 Public Safety, PLAN Hermosa¹

3.0 Study Method and Procedure

Traffic Noise Level Prediction Modeling

Traffic noise from the vehicular traffic was projected using the FHWA Traffic Noise Prediction Model (FHWA-RD-77-108). The software utilizes FHWA protocol and is similar to the Traffic Noise Model (TNM 2.5) algorithms to calculate noise level projections and are typically accurate within ± 3 dBA. The FHWA model arrives at the predicted noise level through a series of adjustments to the Reference Energy Mean Emission Level (REMEL).

Roadway volumes and project trip generation were obtained from Fehr & Peers. Fehr & Peers estimated pre-pandemic (2019) and post-pandemic (2020-2021) conditions using StreetLight Data. The estimates show that traffic volumes decreased significantly from 2019 to 2020 and began to increase in 2021, indicating that activity is returning to pre-pandemic conditions. Traffic volumes were analyzed during summer weekends to represent the loudest conditions. Temporary roadway diversions were put in place after 2019, and the project proposes to make the lane reconfigurations permanent. The baseline condition represents the worst-case noise before roadway diversions were put in place and without project-generated traffic. The baseline plus project condition represents the worst-case noise with project-generated traffic and with the roadway diversions in place.

27th Street traffic volumes and vehicle distribution were monitored by Fehr & Peers on 12/15/2022, after roadway diversions were put in place. For this study, MD evaluated 27th Street separate from the other roadways to compare baseline conditions, existing conditions, and baseline plus project conditions. Baseline conditions represent pre-pandemic (2019) traffic volumes prior to lane reconfiguration. Existing conditions represent the current post-pandemic traffic volumes with roadway diversions put in place. Baseline plus project conditions represent 2019 traffic volumes, including the roadway diversions and project-generated

traffic. Fehr & Peers found that the lane reductions caused a 1% decrease in distribution on 27th Street, making it highly unlikely that the lane reductions diverted 27th Street traffic.

Fehr & Peers provided two trip generation scenarios. Scenario 1 provides the worst-case trip generation estimates and Scenario 2 provides more realistic estimates by accounting for the variety of restaurant uses. For this analysis, MD utilized the trip generation estimates from Scenario 1 in order to calculate the absolute worst-case scenario.

The following outlines the key adjustments made to the REMEL for the roadway inputs:

- Roadway classification – (e.g. freeway, a major arterial, arterial, secondary, collector, etc),
- Roadway Active Width – (distance between the center of the outermost travel lanes on each side of the roadway)
- Average Daily Traffic Volumes (ADT), Travel Speeds, Percentages of automobiles, medium trucks and heavy trucks
- Roadway grade and angle of view
- Site Conditions (e.g. soft vs. hard)
- Percentage of total ADT which flows each hour throughout a 24-hour period
- Vertical and horizontal distances (Sensitive receptor distance from noise source)
- Noise barrier vertical and horizontal distances (Noise barrier distance from sound source and receptor).
- Traffic noise source spectra
- Topography
- The Model doesn't include the noise reduction effects of the single family residences

Roadway modeling assumptions utilized for the technical study are provided in Table 2 and Table 3.

Table 2: Roadway Noise Modeling Parameters

Roadway	Segment Limits	Baseline (2019) ADT ¹	Project Only ADT ¹	Baseline + Project ADT ¹	Distance to Centerline (ft) ²	Speed (MPH)
8th Street	West of Valley Dr	6,256	61	6,317	25	25
Hermosa Avenue	North of 16th St	14,466	174	14,640	48	30
Hermosa Avenue	North of 8th St	15,003	230	15,233	50	25
Manhattan Avenue	North of Pier Ave	2,334	21	2,355	23	25
Manhattan Avenue	South of Pier Ave	2,121	22	2,143	25	25
Monterey Boulevard	North of Pier Ave	3,839	16	3,855	23	25
Monterey Boulevard	South of Pier Ave	4,014	25	4,039	25	25
Pier Avenue	West of Valley Dr	17,563	405	17,968	50	25

Notes:

¹ Provided by Fehr & Peers (February 2023).

² Distance from the nearest residential property to the centerline.

Table 3: Vehicle Mix Data

Motor-Vehicle Type	Daytime % (7 AM to 7 PM) ¹	Evening % (7 PM to 10 PM)	Night % (10 PM to 7 AM)	Total % of Traffic Flow
Automobiles	77.5	12.9	9.6	97.42
Medium Trucks	84.8	4.9	10.3	1.84
Heavy Trucks	86.5	2.7	10.8	0.74
Notes: ¹ Typical Southern California Traffic Mix				

Roadway modeling assumptions for 27th Street are provided in Table 4 and Table 5.

Table 4: 27th Street Roadway Noise Modeling Parameters

Roadway	Segment	Baseline (2019) ADT ¹	Existing (2022) ADT ²	Baseline + Project ADT ²	Distance to Centerline (ft) ³	Speed (MPH)
27 th Street	West of Morningside	6,036	8,081	8,145	16	30
Notes: ¹ Baseline ADT volumes provided by Fehr & Peers, February 2023. ² Existing ADT volumes and vehicle distribution provided by Fehr & Peers, 12/15/22. ³ Distance from the nearest residential property to the centerline.						

Table 5: 27th Street Vehicle Mix Data

Motor-Vehicle Type	Daytime % (7 AM to 7 PM)	Evening % (7 PM to 10 PM)	Night % (10 PM to 7 AM)	Total % of Traffic Flow
Automobiles	77.5	12.9	9.6	97.6
Medium Trucks	84.8	4.9	10.3	2.2
Heavy Trucks	86.5	2.7	10.8	0.2
Notes: ¹ Existing ADT volumes and vehicle distribution provided by Fehr & Peers, 12/15/22.				

Stationary Noise Prediction Modeling

MD utilized the inverse square law to calculate noise level projections due to outdoor dining noise. MD assumed that the maximum number of outdoor guests at any given restaurant would be 40 people. A typical voice would be 65 dBA at 3 feet away when speaking normally. As a worst-case scenario, the calculation assumes that all 40 guests are speaking simultaneously. MD analyzed the minimum allowable distance between an outdoor dining area and a sensitive receptor in order to meet the City’s code.

4.0 Findings

Traffic Noise

The potential off-site noise impacts caused by the increase in vehicular traffic as a result of the project were calculated at the nearest residential location for each affected road segment. The noise levels both with and without project-generated vehicle traffic were compared and the increase was calculated. The

distance to the 55, 60, 65, and 70 dBA CNEL noise contours are also provided for reference (Appendix C). Noise contours were calculated for the following scenarios and conditions (excluding 27th Street):

- **Baseline Condition:** This scenario refers to the baseline traffic noise condition (2019, prior to temporary roadway diversions) and is demonstrated in Table 6.
- **Baseline + Project Condition:** This scenario refers to the baseline plus project traffic noise condition (with roadway diversions in place) and is demonstrated in Table 6.

Table 6: Change in Noise Levels as a Result of Project Generated Traffic

Roadway	Segment	Modeled Noise Levels (dBA CNEL) at Nearest Residence			
		Baseline Without Project	Baseline With Project	Change in Noise Level	Increase of 3 dB or more ²
8th Street	West of Valley Dr	62.8	62.9	0.1	No
Hermosa Avenue	North of 16th St	66.4	66.4	0.0	No
Hermosa Avenue	North of 8th St	64.3	64.4	0.1	No
Manhattan Avenue	North of Pier Ave	59.1	59.1	0.0	No
Manhattan Avenue	South of Pier Ave	58.1	58.2	0.1	No
Monterey Boulevard	North of Pier Ave	61.2	61.2	0.0	No
Monterey Boulevard	South of Pier Ave	60.9	60.9	0.0	No
Pier Avenue	West of Valley Dr	64.5	64.6	0.1	No

Notes:
¹ FHWA roadway noise modeling worksheets provided in Appendix C.
² Typically, the human ear can barely perceive the change in noise level of 3 dB

As shown in Table 6, the baseline plus project noise will meet the residential noise limit of 65 dBA CNEL for every roadway segment except for Hermosa Avenue north of 16th Street. However, the noise due to the project will not increase the baseline noise and would not be significant. The baseline and baseline plus project conditions analyzed in this study represent the loudest conditions.

27th Street noise levels for existing, baseline, and baseline plus project traffic conditions were compared and the increase was calculated. The distance to the 55, 60, 65, and 70 dBA CNEL noise contours are also provided for reference (Appendix C). Noise contours for 27th Street were calculated for the following scenarios and conditions:

- **Baseline Condition:** This scenario refers to the baseline traffic noise condition (2019, prior to temporary roadway diversions) and is demonstrated in Table 7.
- **Existing Condition:** This scenario refers to the current traffic noise condition (2022, with roadway diversions in place) and is demonstrated in Table 7.

- **Baseline + Project Condition:** This scenario refers to the baseline plus project traffic noise condition (with roadway diversions in place) and is demonstrated in Table 7.

Table 7: 27th Street Change in Noise Levels as a Result of Project Generated Traffic

Roadway	Segment	Modeled Noise Levels (dBA CNEL) at Nearest Residence				
		Baseline (2019) Without Project	Existing (2022) Without Project	Baseline With Project	Change in Noise Level ³	Increase of 3 dB or more ²
27th Street	West of Morningside	67.3	66.0	67.3	0.0	No
Notes: ¹ FHWA roadway noise modeling worksheets provided in Appendix C. ² Typically, the human ear can barely perceive the change in noise level of 3 dB. ³ Change in noise level between baseline noise conditions and baseline + project noise conditions.						

As shown in Table 7, project-generated traffic noise will not increase the baseline traffic noise. Thus, the temporary roadway diversions do not have an impact on the existing or baseline traffic noise conditions. Existing traffic noise along 27th Street has decreased by 1.3 dBA CNEL since 2019 due to a decrease in activity caused by the pandemic. The existing traffic noise will increase by a maximum of 1.3 dBA CNEL as traffic volumes increase to pre-pandemic conditions and will not be a noticeable change in loudness. Thus, the impact is less than significant.

Stationary Noise

Stationary noise at sensitive receptors cannot exceed the City’s noise limit of 65 dBA CNEL for residential properties, per City standards. As a worst-case scenario, stationary noise was calculated assuming that 40 guests are speaking simultaneously. The average speaking voice is 65 dBA from 3 feet away. 40 people speaking from 20 feet away would be 64 dBA. Thus, the impact due to stationary noise will not be significant if residential locations are located 20 feet or further from future outdoor dining areas.

Music (live or otherwise) is not going to be an impact assuming that the noise due to music does not extend past the dining area. Any additional noise sources (speakers, extra guests, etc.) must abide by the City code.

5.0 CEQA Analysis

The California Environmental Quality Act Guidelines establishes thresholds for noise impact analysis as presented below:

(a) Would the project result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise Code, or applicable standards of other agencies?

Transportation Noise Impacts

Traffic noise would be significant if levels are increased by more than 3 dBA to levels above 65 dBA CNEL in areas with sensitive uses. Baseline traffic represents the worst-case future traffic when activity returns to pre-pandemic conditions. The worst-case baseline plus project traffic noise levels will meet the residential noise limit of 65 dBA CNEL at seven of the nine roadway segments. Baseline plus project traffic volumes are

expected to be up to 0.1 dBA CNEL louder respectively than baseline traffic noise levels at existing land uses and will not result in a significant noise increase.

MD also compared baseline (2019) conditions, existing (2022) conditions, and baseline plus project noise conditions for one of the roadway segments. The project will not increase the baseline traffic noise and will not have an impact. Thus, the project will not have an impact on existing noise conditions and is not significant. However, the baseline plus project noise will increase the existing noise by a maximum of 1.3 dBA CNEL due to traffic volumes returning to pre-pandemic conditions. It takes a change of 3 dBA to perceive a change in loudness, thus, the impact is less than significant.

Stationary Noise Impacts

Stationary noise will be significant if it exceeds the levels outlined in the Hermosa Beach Municipal Code as outlined in Section 2.0. Assuming an outdoor dining area consists of 40 people speaking simultaneously, the noise level due to outdoor dining will meet the City's standard of 65 dBA CNEL when sensitive receptors (residential locations) are at a minimum of 20 feet away from an outdoor dining area. Music (live or otherwise) is not going to be an impact assuming that the noise due to music does not extend past the dining area. Any additional noise sources (speakers, extra guests, etc.) must abide by the City code. The impact will not be significant.

5.0 Conclusions

MD is pleased to provide this noise assessment for the Outdoor Dining Project in the City of Hermosa Beach, CA. The worst-case traffic noise due to the project will increase the baseline conditions by 0 to 0.1 dBA CNEL and will not be significant. A typical outdoor dining area will meet the City's standard of 65 dBA CNEL. If you have any questions regarding this analysis, please call our office at (805) 426-4477.

Sincerely,
MD Acoustics, LLC



Mike Dickerson, INCE
Principal



Rachel Edelman
Acoustic Consultant

Appendix A
Glossary of Acoustical Terms

Glossary of Terms

A-Weighted Sound Level: The sound pressure level in decibels as measured on a sound level meter using the A-weighted filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the response of the human ear. A numerical method of rating human judgment of loudness.

Ambient Noise Level: The composite of noise from all sources, near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

C-Weighted Sound Level: The sound pressure level in decibels as measured on a sound level meter using the C-weighted filter network. The C-weighting filter greatly de-emphasizes very high frequency components of the sound and slightly de-emphasizes the very low frequency components. A numerical method of rating human judgment of loudness.

Community Noise Equivalent Level (CNEL): The average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five (5) decibels to sound levels in the evening from 7:00 to 10:00 PM and after addition of ten (10) decibels to sound levels in the night before 7:00 AM and after 10:00 PM.

Decibel (dB): A unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro-pascals.

dB(A): A-weighted sound level (see definition above).

dB(C): C-weighted sound level (see definition above).

dB(Z): Z-weighted sound level (see definition of dB above).

Equivalent Sound Level (LEQ): The sound level corresponding to a steady noise level over a given sample period with the same amount of acoustic energy as the actual time varying noise level. The energy average noise level during the sample period.

Maximum Sound Level (LMAX): This is the highest sound level measured during a single noise event. Lmax does not consider the number and duration of these events, and cannot be totaled into a one-hour or 24-hour cumulative measure of impact.

Habitable Room: Any room meeting the requirements of the Uniform Building Code or other applicable regulations which is intended to be used for sleeping, living, cooking or dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting

corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

Human Sensitivity to Sound: In general, the healthy human ear can hear between 20 Hz to 20,000 Hz. Frequencies below 125 Hz are typically associated with low frequencies or bass. Frequencies between 125 Hz and 5,000 Hz are typically associated with mid-range tones. Finally, frequencies between 5,000 and 20,000Hz are typically associated with higher range tones.

The human ear is sensitive to changes in noise levels, depending on the frequency. Generally speaking, the healthy human ear is most sensitive to sounds between 1,000 Hz and 5,000 Hz (A-weighted scale) and perceives a sound within that range as being more intense than a sound with a higher or lower frequency with the same magnitude. At lower and higher frequencies, the ear can become less sensitive depending on a number of factors. Figure 1 provides a brief summary of how humans perceive changes in noise levels.

Figure 1: Change in Noise Level Characteristics¹

Changes in Intensity Level, dBA	Changes in Apparent Loudness
1	Not perceptible
3	Just perceptible
5	Clearly noticeable
10	Twice (or half) as loud

https://www.fhwa.dot.gov/Environment/noise/regulations_and_guidance/polguide/polguide02.cfm

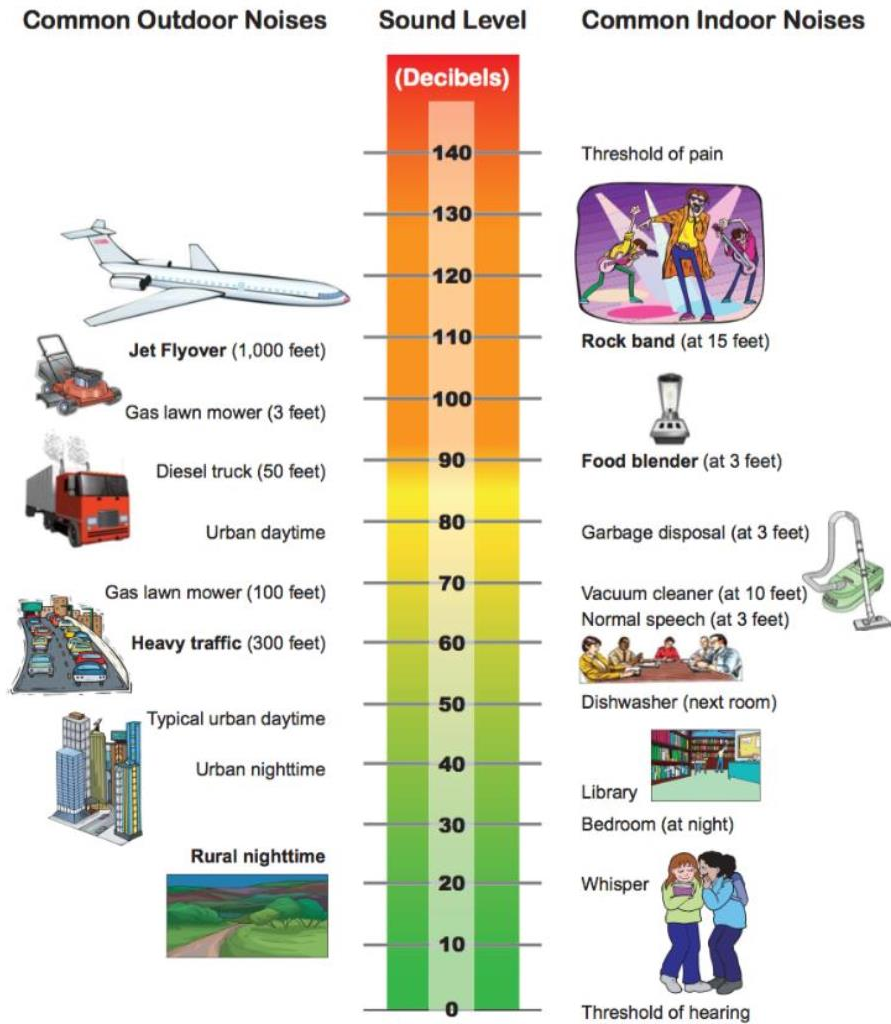
L(n): The A-weighted sound level exceeded during a certain percentage of the sample time. For example, L10 in the sound level exceeded 10 percent of the sample time. Similarly, L50, L90 and L99, etc.

Noise: Any unwanted sound or sound which is undesirable because it interferes with speech and hearing, or is intense enough to damage hearing, or is otherwise annoying. The State Noise Control Act defines noise as "...excessive undesirable sound...".

Percent Noise Levels: See L(n).

Sound Level (Noise Level): The weighted sound pressure level obtained by use of a sound level meter having a standard frequency-filter for attenuating part of the sound spectrum. Figure 2 provides the sound level associated with common noise sources.

Figure 2: Common Sound Levels
Common Indoor and Outdoor Noise Levels



Note: Sound is perceived differently by every individual



Sound Level Meter: An instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement and determination of noise and sound levels.

Single Event Noise Exposure Level (SENEL): The dB(A) level which, if it lasted for one second, would produce the same A-weighted sound energy as the actual event.

Appendix B
Fehr & Peers Traffic Counts

Appendix C
Traffic Noise Calculations