

RESOLUTION NO. 20-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW ON-SALE BEER AND WINE, FLOOR PLAN ALTERATIONS, AND TO MODIFY CONDITIONS OF APPROVAL TO CHANGE OPERATING HOURS FROM BETWEEN 7:00 AM AND 10:00 PM DAILY AND 7:00 AM TO MIDNIGHT ON HOLIDAYS TO BETWEEN 7:00 AM AND 11:00 PM DAILY AT AN EXISTING RESTAURANT LIMITED TO ON-SALE BEER AND WINE, AT 844 HERMOSA AVENUE “THE STANTON” (PREVIOUSLY “HOT’S KITCHEN”), AND DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

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

SECTION 1. An application was filed on July 16, 2020 by Sheryl Brady representing Jason Cortes/ LA Hospitality, LLC (Business Owner), seeking approval for a Conditional Use Permit Amendment for to allow on-sale beer and wine, floor plan alterations, and to modify conditions of approval to change operating hours from between 7:00 am and 10:00 pm daily and 7:00 am and Midnight on Holidays to between 7:00 am and 11:00 pm daily at an existing restaurant limited to on-sale beer and wine at 844 Hermosa Avenue, “The Stanton HB” (previously “Hot’s Kitchen”), and determination that the project is categorically exempt from the California Environmental Quality Act (CEQA).

SECTION 2. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Guidelines, Section 15301(a), Class 1, Existing Facilities, because the proposal involves a change to the floor plan of a commercial use within an existing building.

SECTION 3. The Planning Commission conducted a duly noticed public hearing to consider CUP 20-06 on September 15, 2020, at which time the Staff Report and testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

SECTION 4. Based on evidence received at the public hearing, the Planning Commission hereby makes the following findings to modify the Conditional Use Permit, pursuant to section 17.40.020 of the Municipal Code:

A. Distance from existing residential uses;

The entrance of the building is oriented towards Hermosa Avenue, a commercial street and there is no entrance or windows oriented towards the residential uses. Adjacent residential uses are located north of 8th Street between Palm Drive and

Manhattan Avenue, within the R-3 Multiple Family residential zone and approximately 100 feet from the east tenant space wall. Conditions of approval are included that require: no more than 50% of the building frontage will have operable windows; noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and the building shall be equipped with acoustic features and air conditioning to maximize sound proofing.

B. The amount of existing or proposed off-street parking facilities, and its distance from the proposed use;

The restaurant will share the building with an entertainment firm, International Tours Specialist (office use). There are six (6) shared parking spaces at the rear of the building. The parking is to remain shared and unassigned. The proposed modifications will maintain the existing restaurant use, and will not add floor area, and therefore parking is adequately provided in compliance with HBMC Subsection 17.52.035(D) (Requirements for buildings nonconforming to parking requirements). The resolution includes a condition of approval for a bike rack for a minimum of six (6) bikes however the location of the bike racks is not shown on the submitted floor plans. At the time of plan check, the Planning Department will confirm the location of the bike rack to ensure compliance with the CUP condition of approval.

C. Location of and distance to churches, schools, hospitals and public playgrounds;

The proposed modifications are not likely to affect Noble Park which is the nearest sensitive receptor at approximately 0.4 miles from the project site, or other parks or similar uses in the vicinity due to distance and conditions on operation.

D. The combination of uses proposed;

The proposed project is located within the C-2 Restricted Commercial zone which aims to provide opportunities for a limited range of office, retail, and service commercial uses specifically appropriate for the scale and character of the downtown, a resident and visitor serving pedestrian-oriented shopping/entertainment district.

HBMC 17.04 defines restaurant as “a bona fide public eating establishment (A) whose primary function is the sale or offering for sale of prepared food during all hours it is open for business, and (B) that prepares food on-site in a kitchen capable of refrigerating and preparing food from its component ingredients.”

The proposed restaurant, limited to on-sale beer and wine, is consistent with the C-2 Restricted Commercial zone and the surrounding uses. The proposed use and characteristics of the operation are consistent with the definition of a restaurant, and should not be considered a bar, stated in the HBMC 17.04 for the following reasons:

- The business will provide a total of 81 seats within the customer dining area which lends to a dine in and sit-down restaurant service.

- It is proposed that 18-25 employees will be hired, which is typical of restaurant establish. A bar-only establishment does not typically service full meals and does not require additional service.
- The sample menu provided shows that full meals will be served
- The restaurant kitchen will include additional facilities such as multiple food preparation and serving stations. A station is a designated area where a certain type of food is prepared. Stations help keep a restaurant kitchen running smoothly. Restaurants also typically include a kitchen line, which is the area where the servers pick up their food. It's often operated by the expeditor; the individual who's responsible for sending dishes to the dining room and who ensures meals are presentable. In larger kitchens, the expeditor might also communicate the wait staff's orders to the cook(s) in the kitchen. The kitchen line may include garnish, plates, a spindle for order tickets, and heating lamps to keep the waiting food hot. Restaurant kitchens are also larger, and stations are usually more spread out allowing for fewer collisions with the larger number of back of house restaurant staff. Kitchen staffing at restaurants typically include chef(s), waiters and waitresses, food preparation staff, expeditors and often times back of house management. Restaurant kitchens are not laid out to prepare snacks and quick serve food. They are designed to provide full meals to perhaps several hundreds of people every day depending on the size of the restaurant and season.

E. Precautions taken by the owner or operator of the proposed establishment to assure the compatibility of the use with surrounding uses;

The proposal to alter restaurant operating hours from 7 a.m. - 10 p.m. (7 a.m. – Midnight on Holidays) daily to 7 a.m. to 11 p.m. daily will not increase the number of late-night alcohol beverage establishments pursuant to Section 17.40.080 of the Hermosa Beach Municipal Code.

Late-night alcohol beverage establishments are on-sale establishments which operate after 11:00 P.M., including restaurants, establishments that serve or allow alcoholic beverages as the primary use (e.g., bars), and establishments that provide live entertainment. The objective of the City's late-night alcohol beverage establishment policy is to reduce the potential for adverse impacts associated with late-night alcohol beverage establishments after 11:00 P.M. The proposal to alter hours will not increase the number of late-night alcohol beverage establishments and is consistent with the surrounding uses, and the intent of the C-2 zone.

The applicant is proposing to recess the additional televisions 12 feet away from the pedestrian frontage. The applicant is also reducing the seat capacity and occupant load to assure compatibility of the new restaurant with the surrounding uses. The change in hours will also help the City meet its goal of reducing late-night alcohol establishments.

F. The relationship of the proposed business-generated traffic volume and the size of

streets serving the area;

No additional trips are anticipated to be generated as the restaurant use will remain and will not be expanded.

G. The proposed exterior signs and decor, and the compatibility thereof with existing establishments in the area;

Signage is reviewed and approved through a separate sign permit review. There are no exterior modifications proposed.

H. The number of similar establishments or uses within close proximity to the proposed establishment;

There is a mix of commercial businesses along Hermosa Avenue, including six (6) other alcohol serving restaurants within a block of the Project. Three (3) of the six (6) establishments have on-sale general alcohol licenses while three (3) establishments have on-sale beer and wine. Four of these businesses are considered "late-night establishments." The proposed physical modifications will have no effect on the number of similar establishments or uses within close proximity to the proposed establishment.

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

The entrance of the building is oriented towards Hermosa Avenue, a commercial street and there is no entrance or windows oriented towards the residential uses. Conditions of approval are included which require: no more than 50% of the building frontage will have operable windows, and noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and the building shall be equipped with acoustic features and air conditioning to maximize sound proofing as conditioned.

Five televisions are proposed on the floor plans. Three are proposed to be located behind the bar area, and will be setback 12 feet from the face of the building, one is proposed to be located in the casual dining area, and one is proposed to be located in the main dining area. The separation of the televisions in different rooms will lessen the noise impact and add to more of a sit-down restaurant ambiance.

The applicant is further proposing the following sound dampening practices: instead of metal furniture as the previous location installed, the new business will utilize softer wood table tops and fabrics booths and seats, sound reduction boards on the main room walls and under the bar counters, and commercial grade area rugs on the hard surface floors under the louder seating areas.

J. Impact of the proposed use to the city's infrastructure, and/or services;

The existing restaurant use will continue, and current infrastructure is not anticipated to be impacted.

K. Will the establishment contribute to a concentration of similar outlets in the area;

The existing restaurant use will continue, and the proposed modifications will not

change concentration of similar outlets in the area.

L. Other considerations that, in the judgment of the Planning Commission, are necessary to assure compatibility with the surrounding uses, and the city as a whole.

No other issues are identified.

SECTION 5. Based on the foregoing, and pursuant to Hermosa Beach Municipal Code (HBMC) Sections 17.40.020 and 18.40.080, the Planning Commission hereby modifies the **Conditions of Approval** of the Conditional Use Permit for on-sale alcohol – beer and wine, in conjunction with a restaurant for the property at 844 Hermosa Avenue, which supersedes City Council Resolution 10-6723 and Planning Commission Resolution 96-13 as follows:

1. **The continued operation of the business shall be as a bona fide restaurant: the kitchen shall be equipped to prepare food from its component ingredients whenever the restaurant is open and it shall offer a full-service lunch and/or dinner menu; food service from the menu shall be available during all hours that the establishment is open for business, provided that said food service may cease one hour prior to close daily.**
2. **Alcohol may be served for on-premise consumption only and in a manner consistent with its license issued by the State Department of Alcoholic Beverage Control (ABC).**
3. **The restaurant shall maintain sales reports showing the actual items sold and price charged and invoices for all food, nonalcoholic beverages and alcohol beverages sold for the prior twelve (12) months. Should the Planning Commission or City Council initiate a CUP modification or revocation proceeding, the Commission, or the Council, may at its discretion require the subject business to provide (a) a statement of the percentage of gross sales, computed monthly, that resulted from the sale of prepared food for not longer than the prior twelve (12) months; and (b) the supporting data upon which the percentage is based.**

The Planning Commission, or City Council, may also require an audit of the records of the business by a certified public accountant to determine the gross sales of food and alcohol or a forensic audit by a qualified auditor selected by the city of the information and data systems by which the information is produced. The results of these audits may be used to determine whether the grounds for modification or revocation exist. When considering revocation or modification, a restaurant that sells or provides on-sale alcoholic beverages will be

presumed to be operating as a restaurant if the monthly food to alcohol sale ratios are consistent with the ratios in HBMC Subsection 17.70.010(H).

4. Live entertainment (including amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds) and customer dancing is prohibited. Televisions and amplified music, including speakers shall be prohibited within the first ten (10) feet of the front of the building. A maximum of five (5) televisions or similar displays shall be permitted in the remainder of the restaurant.
5. The permittee shall not solicit, advertise, or otherwise encourage the use of its premises for "pub crawl" activities whereby persons travel in an organized or predetermined fashion between premises with the goal of consuming alcoholic beverages at each stop along the way.
6. The hours of operation for all operations of the restaurant, including the bar area, shall be limited to between 7:00 A.M. and 11:00 P.M daily. All customers shall vacate the premises by no later than 11:00 P.M. and the doors shall be locked.
7. The furniture and interior improvement within the business operation shall conform to the floor plan, attached as "Exhibit A". The use consisting of a restaurant with on-sale beer and wine, and open air dining, shall be substantially consistent with the plans submitted August 24, 2020 and approved by the Planning Commission on September 15, 2020. Minor modifications to the plans shall be reviewed and may be approved by the Community Development Director. Any substantial deviation must be reviewed and approved by the Planning Commission.
8. The modifications and the operation shall comply with all requirements of the Building, Fire and Public Works Departments. The applicant shall submit a plan for occupant load calculation and approval prior to issuance of the Certificate of Final Occupancy.
9. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance (Hermosa Beach Municipal Code Chapter 8.24) and shall not create a nuisance to surrounding residential neighborhoods and/or commercial establishments.
10. Management shall be responsible for maintaining noise volumes at reasonable levels.

11. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.
12. The business shall employ adequate staffing and management/ supervision to prevent serving underage persons, over-serving alcohol, and loitering, unruliness, and boisterous behavior by patrons both inside and outside on the business premises, or in the immediate area. A manager who is aware of the conditions of this Conditional Use Permit shall be on the premises during business hours. The Conditional Use Permit shall be maintained on the premise in a location where employees can easily read the conditions.
13. If the Police Chief determines that there are a disproportionate number of police calls to the business due to the disorderly or disruptive behavior of patrons and the inability or refusal of the business to manage its patrons, the Chief shall so notify the Director of Community Development of this action, who shall forthwith schedule a public hearing before the Planning Commission to consider modification or revocation of this Conditional Use Permit.
14. The building shall be equipped with acoustic features to maximize sound proofing to the satisfaction of the Community Development Director.
15. The exterior of the premises shall be maintained in a neat and clean manner and maintained free of graffiti at all times.
16. The rear door, emergency exit, facing the alley shall remain closed at all times during business hours, and shall be equipped with panic hardware including an alarm and a self-closing door mechanism, equipment shall be maintained in operational order at all times.
17. The rear roll-up door shall be maintained closed at all times except during deliveries and trash pickup.
18. Storage of trash bins or cans must be screened and remain in the utility room as described on the approved floor plans. Odor elimination equipment shall be installed for the trash bin area; venting untreated air from this area shall be prohibited.
19. Deliveries to the rear doors on Palm Drive are prohibited between the hours of 10:00 P.M and 8:00 A.M daily.

20. The provisions of this Conditional Use Permit shall take effect immediately upon adoption by the Planning Commission and upon completion of the applicable appeal period, should no appeal be filed.
21. This Conditional Use Permit Resolution shall supersede and replace City Council Resolution 10-6723 and Planning Commission Resolution 96-13 which is hereby rescinded and of no further force and effect.
22. The operation of the business shall comply with all Ordinances, regulations and laws applicable to a business of this kind in effect as of the date hereof or hereafter adopted. In addition to any other remedy available at law, in equity or as provided in the Municipal Code, (i) any significant or material violation, or (ii) any repeated, continuous or sustained violation of any condition of approval of this Conditional Use Permit shall constitute cause for revocation of this Permit. The Permittee shall be required to reimburse the City fully for its costs and expenses, including but not limited to attorney's fees, in undertaking any such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this Permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violation has been fully remedied.
23. The project shall maintain in conformance with all other applicable City of Hermosa Beach and regulatory agency requirements and standards, including but not limited to: California Department of Alcoholic Beverage Control, Los Angeles County Health Department, California Disabled Access Standards (Government Code Title 24), and Los Angeles County National Pollutant Discharge Elimination System Permit (NPDES).
24. The restaurant with on-sale alcoholic beverage service may be subject to a periodic review process established by the City to verify conformance with the conditions of approval.
25. The provision of alcoholic beverages shall comply with the following:
 - a. All alcoholic beverages shall be served in non-disposable drinkware.
 - b. Signs shall be posted in a conspicuous location warning patrons of the illegality of removing alcoholic beverages from the restaurant, and carrying and consuming alcoholic beverages in any public place such as the public sidewalk or beach.

26. To reduce marine debris associated with take-out containers, the establishment shall not use take-out containers with a "No. 6" recycle code or use certain polystyrene products, single-use plastic products, and single-use products in compliance with HBMC Chapter 8.64.
27. The practice of washing and rinsing restaurant floor mats, equipment, tables, etc., or discharge of any liquids, other than stormwater, onto the public right-of-way, into the parking lot drain or stormdrains, is strictly prohibited. Discharge of liquids or wash water shall be limited to the sanitary sewer.
28. Exterior and interior water use shall comply with Chapter 8.56.
29. Approval of this permit shall expire twenty-four (24) months from the date of approval by the Planning Commission, unless significant construction or improvements or the use authorized hereby has commenced. One or more extensions of time may be requested. No extension shall be considered unless requested, in writing to the Community Development Director including the reason therefore, at least 60 days prior to the expiration date. No additional notice of expiration will be provided.
30. A bicycle rack for a minimum of six (6) bikes shall be provided. The location shall be reviewed and approved by the Community Development Director.
31. The six (6) standard parking spaces shall be shared and fully available to employee and patrons of the entire multi-tenant commercial building. No spaces may be assigned to a particular tenant.

SECTION 6. The Conditional Use Permit, as modified, shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to commencement or issuance of Building Permit Certificate of Occupancy.

This permit shall not be effective for any purposes until the permittee and the owners of the property involved have filed at the office of the Planning Division of the Community Development Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this Conditional Use Permit.

Each of the above conditions is separately enforced, and if one of the conditions of approval is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.

The subject property shall be developed, maintained and operated in full compliance with the conditions of this permit and any law, statute, Ordinance or other regulation hereafter adopted that is applicable to any development or activity on the

subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

The Planning Commission may review this Conditional Use Permit and may amend the subject conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the neighborhood resulting from the subject use.

The Permittee shall defend, indemnify and hold harmless the City of Hermosa Beach and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this Conditional Use Permit. The City shall promptly notify the Permittee of any claim, action or proceeding and the City shall fully cooperate in the defense. If the City fails to promptly notify the Permittee of any claim, action or proceeding, or the City fails to cooperate fully in the defense, the Permittee shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The Permittee shall reimburse the City for any court and attorney's fees that the City may be required to pay as a result of any claim or action brought against the City because of this permit. Although the Permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action but such participation shall not relieve the Permittee of any obligation under this Permit.

SECTION 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the Planning Commission, after a formal appeal to the City Council, must be made within 90 days after the final decision by the City Council.

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

CERTIFICATION

I hereby certify the foregoing Resolution P.C. No. 20-XX is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at its regular meeting of September 15, 2020.

Rob Saemann, Chairman

Ken Robertson, Secretary

September 15, 2020

Date