



## Staff Report

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File #: REPORT 20-0597, Version: 1

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### Honorable Chair and Members of the Hermosa Beach Planning Commission

#### Regular Meeting of September 15, 2020

CUP 20-06 -- 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 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" (previously "Hot's Kitchen"), and determination that the project is categorically exempt from the California Environmental Quality Act (CEQA).

#### APPLICANT:

Sheryl Brady representing Jason Cortes/ LA Hospitality (BUSINESS OWNER)  
Permit Place  
13400 Riverside Drive, Suite 202  
Sherman Oaks, CA 91423

#### PROPERTY OWNER:

300 17<sup>th</sup> Street, LLC  
6011 Bristol Highway  
Culver City, CA 90230

#### **Recommended Action:**

Adopt the attached draft Resolution amending the 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 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" (previously "Hot's Kitchen"), and determination that the project is categorically exempt from the California Environmental Quality Act (CEQA).

#### **Background:**

The applicant is opening a new restaurant (proposal attached). In order to activate the street and restaurant space, which has been vacant since January 2018, the applicant has requested a CUP amendment to modify the floor plan, extend the hours from 7:00 A.M. to 10:00 P.M. daily to 7:00 A.M. to 11:00 P.M. daily consistent with the City's Late-Night Alcohol Establishment Ordinance. The new restaurant is not proposing to operate after 11:00 P.M. and therefore will not be considered a late-night alcohol establishment.

Due to conditions that require Planning Commission approval of more substantial modifications to the floor plan, the applicant is requesting Planning Commission approval of the proposed modifications

along with amendments to applicable conditions of approval. The applicant is a new operator and is not associated with the previous restaurant establishment, Hot's Kitchen.

**Project Information:**

ZONING DESIGNATION:	C-2, Restricted Commercial
GENERAL PLAN:	Community Commercial
EXISTING USE:	Restaurant with on-sale - beer and wine (no change)
EXTERIOR MODIFICATIONS:	No exterior modifications are proposed
FLOOR AREA EXISTING:	4,220 square feet (no change)
SEATING EXISTING:	118 total: including 14 bar counter, 32 bar seating, 24 front dining area, 48 table/booth combo main dining
SEATING PROPOSED:	81 total: including 11 bar counter; 28 casual bar seating, 6 front dining area, 36 table/booth combo main dining (37 seat reduction)
OCCUPANT LOAD EXISTING:	Maximum of 130 people
OCCUPANT LOAD PROPOSED:	Maximum of 100 people (30 person reduction)
USE PERMIT PERMITTED HOURS EXISTING:	7:00 a.m. to 10:00 p.m. daily and 7:00 a.m. to 12:00 midnight on Federal and State holidays, Cinco de Mayo and St. Patrick's Day
USE PERMIT HOURS PROPOSED	7:00 a.m. - 11:00 p.m. daily
ALCOHOL SERVICE PROPOSED:	On-sale beer and wine (pending new ABC Type 41 license) - Previous restaurant also operated under a Type 41 ABC license
PARKING PROVIDED:	6 shared off-street parking spaces for multi-tenant commercial building (no change)
ENVIRONMENTAL DETERMINATION:	Categorically Exempt, CEQA Section 15301 (a) (Class 1 Exemption, Interior alterations)

**Project Setting:**

The Project is located at 844 Hermosa Avenue on the east side of the 800 block of Hermosa Avenue between 10<sup>th</sup> Street and 8<sup>th</sup> Street in the Downtown District. The Project is adjacent to Radici restaurant to the north, Hermosa Mexican Cuisine restaurant to the south and across the street from Barnacles Bar and Grill. The closest residential uses are located to east of the Project on Palm Drive. A mix of general office/commercial businesses border the Project, including six (6) other alcohol serving restaurants within a block of the Project (see table below). Three (3) establishments have on-sale general alcohol licenses while three (3) establishments have on-sale beer and wine licenses.

Four of these businesses are considered “late-night establishments.” See Attachment 10 for the Citywide beer and wine/general alcohol matrix.

<b>List of Nearby Alcohol Serving Restaurants and Establishments</b>				
<b>Business Name</b>	<b>Address</b>	<b>Alcohol License Type</b>	<b>Late-Night Establishment</b>	<b>CUP Hours of Operation</b>
1. Barnacles Bar and Grill	837 Hermosa Avenue	Type 47 on-sale general	YES	7am - 2am daily
2. Radici Ristorante	934 Hermosa Avenue (Upstairs)	Type 47 on-sale general	NO	8am - 11pm daily
3. Veggie Pub	934 Hermosa Avenue (Ground Floor)	Type 41 on-sale - beer and wine	YES	Unrestricted hours by CUP thus, same as ABC Hours 10am-12am daily
4. Comedy and Magic Club	1018 Hermosa Avenue	Type 47 on-sale general	YES	Hours not specified
5. Crafty Minds Brews and Bites	1031 Hermosa Avenue	Type 41 on-sale beer and wine	YES	7am-11pm Sun-Thurs, 7am-12am Fri-Sat
6. Locale 90	1040 Hermosa Avenue	Type 41 on-sale beer and wine	NO	7am-2am daily

#### **Site History of On-Sale Alcohol CUPs on Subject Site:**

- Planning Commission Resolution. 96-13 approved a conditional use permit and a precise development plan to allow on-sale, beer and wine, and construction of a restaurant (“California Beach Sushi”) with no limitations on the operating hours.
- Planning Commission Resolution 07-15 revoked the conditional use permit of the entitlement for on-sale beer and wine due to the closure of the former restaurant. P.C. Resolution 96-13 regarding the Precise Development Plan remains in effect as the governing entitlement for the overall building improvement.
- Planning Commission Resolution 08-26 approved a conditional use permit to allow on sale beer and wine and outdoor dining for a restaurant (“Ken and Kents”) with closing times of 10:00 p.m. Sunday through Thursday and 12:00 a.m. (midnight) Friday through Saturday.
- City Council Resolution 10-6723 approved a conditional use permit amendment to allow a restaurant with on-sale beer and wine and outdoor dining (“Hot’s Kitchen”) with hours of 7:00 a.m. to 10:00 p.m. daily and 7:00 a.m. to 12:00 midnight on Federal and State holidays, Cinco de Mayo and St. Patrick’s Day to add outdoor dining.

The restaurant has been unoccupied since 2018.

#### **Analysis:**

The applicant requests an amendment of the CUP to modify the floor plan, extend operating hours,

and to provide three (3) additional televisions, totaling 5 televisions. The applicant is requesting modifications to conditions #4 and #5 of the current CUP.

Existing condition language

**#4** The Conditional Use Permit applies exclusively to on-sale beer and wine in conjunction with a restaurant. For clarification, Specific Condition 9 of Resolution PC 96-13 is revised as follows: Live entertainment (including amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds) and customer dancing is prohibited. Televisions and amplified music, including speakers shall be prohibited within the first ten (10) feet of the front of the building. A maximum of two (2) televisions or similar displays shall be permitted in the remainder of the restaurant. The audio on all televisions or similar displays shall be turned off between 7:00 a.m. and 9:00 a.m.

**#5.** The permitted hours of operation shall be 7:00 a.m. to 10:00 p.m. daily for all operations of the restaurant, including the dining patio, with the exception of Federal and State holidays, Cinco de Mayo, and St. Patrick's Day. All customers shall vacate the premises by not later than 10:00 pm (12:00 Midnight on holidays as stated) and the doors shall be locked.

Proposed condition language

**#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.

**#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.

\_\_\_\_ The following summarizes the proposed modifications and their relationship to the current CUP and conditions of approval as provided in CC Resolution 10-6723.

Floor Plan

The current approved floor plan (attached) includes 118 total seats. There are 14 bar counter seats, 32 barstool seats, 24 front dining area seats, and 48 table/booth combo main dining seats. The kitchen, food preparation area, and storage space are located at the east portion of the tenant space. There are two restrooms (each with two stalls) to the north portion of the tenant space. The existing occupant load authorizes a maximum of 130 people.

The proposed floor plan (attached) includes 81 total seats (reduction in 37 seats). There are 11 bar counter seats; 28 casual bar seats, 6 front dining area seats, and 36 table/booth combo main dining seats. 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. Currently there are

two televisions authorized in the CC Resolution 10-6723 however the current approved floor plan does not denote any televisions on the plans. Occupant load is anticipated to decrease from 130 people to a maximum of 100 people.

#### Operating Hours/Late Night Intensification

The current operating hours are 7:00 a.m. to 10:00 p.m. daily for all operations of the restaurant, including the dining patio, with the exception of Federal and State holidays, Cinco de Mayo, and St. Patrick's Day. All customers shall vacate the premises by not later than 10:00 p.m. (12:00 Midnight on holidays as stated) and the doors shall be locked. Since the hours currently allow for the sale of alcohol past 11:00 p.m. on certain holidays, the previous restaurant ("Hot's Kitchen") was considered a late-night establishment pursuant to HBMC Subsection 17.40.080(B).

HBMC Subsection 17.40.080(B) establishes conditions for late-night alcohol beverage establishments to operate after 11:00 p.m. Further, in connection with the adoption of this section of the code, the City Council adopted Resolution No. 12-6816 to establish a limit on late-night on-sale alcohol establishments at 36 establishments. Pursuant to this Resolution, no new businesses can be permitted as late-night establishments unless they meet the criteria of Subsection 17.40.080(B). Currently there are 39 establishments considered late-night establishments (including the previous Hot's Kitchen). (see Attachment 10 Citywide Beer and Wine/General Alcohol Matrix attached).

The new restaurant is proposing to modify the operating hours to 7:00 a.m. to 11:00 p.m. daily, and is therefore not subject to Section 17.40.080, nor considered a late-night establishment, and reduces the overall number of late-night establishments to 38 city-wide.

#### Staff Recommended Changes to Existing Conditions of Approval:

In addition to the proposed modifications to conditions related to the applicant's request, staff recommends a new resolution of approval which incorporates all prior applicable conditions of approval, incorporating amendments from the applicant and staff, which will supersede prior resolutions CC 10-6723 and PC 96-13 and include more current conditions required of new restaurant establishments. Amendments to PC 96-13 include General Condition #2, #5 and CC 10-6723 Conditions #4-6, 8, 12 (attached) while removing condition PC 96-13 Special Condition #7 and PC 96-13 General Condition #7, and adding conditions #5, #10, #12, #19, #23, #27 (attached) to provide additional clarity, remove irrelevant conditions and to include standard conditions of approval.

#### CUP Criteria, Conditions, and Standards:

Municipal Code Sections 17.40.020 and 17.40.080 address criteria, conditions and standards for reviewing, granting and amending CUPs in order to reduce the potential for adverse secondary land use impacts.

In considering the granting of any conditional use permit, including an amendment, for any use, the following criteria for granting said permit shall be considered:

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 8<sup>th</sup> 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 establishments. 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.

**Environmental Determination:**

Staff finds the project to be categorically exempt from the California Environmental Quality Act as defined in Section 15301 Existing Facilities, Item (a), Class 1 Existing Facilities. The modification of the floor plan at 844 Hermosa Avenue is exempt from CEQA because the Project involves a change to the floor plan of a commercial use within an existing building.

**General Plan Consistency:**

The establishment is located within the Community Commercial (CC) land use area, and the purpose is to provide opportunities and locations for uses designed to serve the shopping, dining, and employment desires of the entire community, including a mix of locally-owned businesses and regional or national restaurants located on the ground floor, which generate sales tax revenue. Community Commercial land uses primarily serve the local market, though they may also serve the needs of visitors and residents of nearby jurisdictions. Coastal priority uses include restaurants



located Downtown which serve visitors to the beach and which rely on beach visitors for much of their revenue.

The future vision of the Downtown District includes enhancing the building form and orientation as well as transforming the realm on Hermosa Avenue. Building design and orientation which supports high quality and lively pedestrian activity on Downtown streets is encouraged. The pedestrian orientation of Downtown streetscapes should be improved through providing cafés and recessed outdoor seating opportunities. The proposed restaurant is located on the first-floor street level which will promote lively pedestrian activity on Hermosa Avenue. The open-air dining further improves the public realm and promotes the pedestrian orientation of Downtown streets.

One of the overarching goals of the General Plan is the need to maintain a strong, diverse and vibrant local economy. Attracting businesses sought after by the public will generate extra revenue and will ensure a healthy, vibrant economy. The Stanton HB is an upscale restaurant that will contribute to the local culture and economic vitality of the community. The restaurant will activate a space that has been vacate since 2018 and will provide a quality experience for visitors and the local community. Another goal of the General Plan is the desire to build a resilient economy that is supported by keeping local dollars in the local economy. The Stanton HB will support local jobs for the community and contribute to the culture of the Downtown District.

The proposal also implements the following PLAN Hermosa goals and policies: Land Use policies 1.3 Access to daily activities, 1.5 Balance resident and visitor needs, 1.7 Compatibility of uses, 1.8 Respond to unique characteristics, 1.9 Retain commercial land area, 6.6 Human-scale buildings, 6.7 Pedestrian-oriented design, and 8.2 Coastal-related uses as well as Governance policy 5.7 Visitor and resident balance.

**Summary:** Staff recommends the Commission adopt the attached draft Resolution amending the Conditional Use Permit for alterations to a restaurant with on-sale beer and wine, modify the floor plan, and alter the operating hours to 7:00 a.m. to 11:00 p.m. daily at 844 Hermosa Avenue, “The Stanton HB” (previously “Hot’s Kitchen”), and determine that the project is categorically exempt from the California Environmental Quality Act (CEQA).

Attachments:

1. Draft Resolution for CUP 20-06
2. Planning Commission Resolution 96-13
3. Planning Commission Resolution 07-15 (Revoked CUP)
4. Planning Commission Resolution 08-26 (Replaced by CC 10-6723)
5. City Council Resolution 10-6723 (Current CUP)
6. Approved Floor Plan for The Stanton HB (Director Determinations of Minor Modifications through tenant improvements)
7. Summary of Proposed Modifications to Conditions of Approval
8. Poster Verification and Radius Map
9. Applicant Submittals (Business Narrative, Sample Menu, Floor Plan, Photos)
10. Citywide Beer and Wine/General Alcohol Matrix (updated 05/20/20)
11. City Council Ordinance No. 12-6789 (No Intensification Policy)
12. City Council Ordinance No. 12-6816 (Policy to Set Limit of Late-Night Establishments to 36 Citywide)

**Respectfully Submitted by:** Melanie Emas, Assistant Planner  
**Concur:** Nicole Ellis, Associate Planner  
**Reviewed for Legal Consistency:** Pat Donegan, City Attorney's Office  
**Approved By:** Ken Robertson, Community Development Director