

P.C. RESOLUTION 22-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT AMENDMENT (CUP 21-09) TO RENOVATE AND EXPAND AN ASSEMBLY HALL (THE COMEDY AND MAGIC CLUB) AND RESTAURANT (THE LOUNGE) AT 1108 HERMOSA AVENUE, INCLUDING ADDITION OF 147 SQUARE FEET TO MAIN SHOWROOM WITH 100 ADDED SEATS; AND ENCLOSURE OF EXISTING OUTDOOR RESTAURANT AREA OF 399 SQUARE FEET WITH NO ADDED SEATS, 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 by Architect William (BJ) Wickett, seeking approval of a conditional use permit amendment and parking plan to renovate and expand an assembly hall use (The Comedy and Magic Club) and restaurant use (The Lounge) at 1018 Hermosa Avenue.

SECTION 2. The Planning Commission conducted a duly noticed public hearing on February 15, 2022, to consider the application for Conditional Use Permit 21-09 at which time testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

SECTION 3. The proposed project is Categorically Exempt, Section 15301(e), Class 1 Exemption, Additions to existing structures provided that the addition will not result in an increase of more than 50% of floor area, or 2500 sq. ft., whichever is less. The renovation of the existing structure and addition of 546 sq. ft. or 5.8% of floor area is well under the CEQA exemption limits and will not create adverse environmental impacts as conditioned.

Further, none of the exceptions to the CEQA exemptions apply. The project will not have cumulative impacts, will not damage scenic resources, is not located on a hazardous waste site and will not have a substantial adverse change in the significance of a historical resource. There is no reasonable possibility that the proposed project will have a significant effect on the environment due to unusual circumstances.

SECTION 4. Based on the foregoing factual findings, the Planning Commission makes the following findings for the Conditional Use Permit pursuant to Hermosa Beach Municipal Code Sections 17.40.020 and 17.40.080, finding that the use as conditioned will be compatible with the surroundings and all impacts can be reduced to an insignificant level including criteria for Late-night alcohol beverage establishments:

17.40.020 General criteria for all uses

A. Distance from existing residential uses:

The nearest residences are located in the R-3 (Multiple Family Residential) zone across Palm Drive (designated as an alley 20 feet wide) to the east with residences mostly facing Manhattan Ave.; R-3 zone across 10th Street (a local street 60 feet wide) and across Palm Drive (20 feet wide) for a total of 80 feet to the southeast with residences mostly facing Manhattan Ave; R-3 and R-2 (Two Family Residential) across Hermosa Ave. (a minor arterial street 100 feet wide) to the west behind varying widths of commercial space facing Hermosa Avenue. Paciugo Gelato is to the immediate north and other businesses continue along Hermosa Avenue to the north and south.

Conditions of approval are included in the resolution to reduce noise impacts to nearby uses, including requiring doors and windows to be closed during performances and requiring that any noise emanating from the property complies with the City's Noise Ordinance.

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

The Comedy and Magic Club is a one-story building with a rooftop parking lot accessible from the rear on Palm Drive. It has been deficient in parking for the use since its establishment in 1978. The 1990 CUP required restriping of the parking lot to increase the 35 parking spaces to 40. The proposed enclosure of the 399 sq. ft. restaurant patio would extend the roof to add 2 additional ADA accessible parking spaces, for a new total of 42 spaces. Parking is more fully discussed in the Parking Plan section below. The following condition has been added to ensure on-site parking is available:

Gates to the parking lot shall remain open and available for customer parking when either business is open.

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

Noble Park, located at 14th Street and The Strand, is the nearest of these types of sensitive receptors at approximately 1,200 feet northwest of the project site. Due to the distance and characteristics of The Comedy and Magic Club and Lounge restaurant, the uses are not anticipated to have adverse effects on Noble Park. Conditions of approval have been included in the resolution to mitigate potential impacts to the surrounding area and it is unlikely that the use will affect similar sensitive receptors in the vicinity.

D. The combination of uses proposed:

The building includes two businesses owned and operated by the property owner, The Comedy and Magic Club and the Lounge restaurant. The Comedy and Magic Club entertainment showroom is the primary use with an assembly hall use with food and alcoholic beverage service. The proposed renovation includes an addition of 147 sq. ft. to enclose a covered area facing Hermosa Avenue to add to theatre main showroom, removal of employee offices to allow the existing theater seating area to expand and increase by 100 seats (from 250 to 350). The secondary use in the southern portion of the building is the Lounge restaurant with entertainment and 180 seats around full-size dinner tables. The proposed renovation includes enclosure of the existing 399 sq. ft. restaurant patio, integrating the two spaces to simplify meal service and provide visual access to the stage. The enclosure allows addition of 2 ADA accessible parking spaces above on the extended

roof parking lot. The Lounge restaurant area will continue the condition of 180 seat limit around full-size dinner tables, with auditorium style seating or cocktail lounge style seating prohibited. Both uses include food and alcohol beverage service, and if both areas have booked shows the timing is staggered to allow the shared kitchen area to serve one area at a time.

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

To assure compatibility with surrounding uses, the business owner proposes to continue its staff-assisted parking program when shows are scheduled in the main showroom or the Lounge restaurant when patrons arrive and depart at the same time. Conditions of approval are included to ensure these precautions are maintained throughout the life of the operation and, as conditioned, it is anticipated that the proposed establishment will be compatible with existing surrounding uses. The proposal 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.

F. The relationship of the proposed business-generated traffic volume and the size of streets serving the area:

The uses are established at The Comedy and Magic Club and The Lounge. The renovation will potentially increase traffic volume for the increase of seating in the main showroom from 250 to 350 seats.

Hermosa Avenue is classified as a Minor Arterial Street designed to carry vehicles entering, leaving, or traveling through the city and is adequate to serve the Downtown District. 10th Street is considered a Local Street designed to provide connections within neighborhoods. Local streets are not intended to serve through traffic and are generally one lane in each direction with lower vehicle volumes. Palm Drive is classified as an Alleyway. Alleyways provide access to private properties, including parking spaces and garages.

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

The exterior façade modifications proposed with this request are minor; the 147 sq. ft. enclosure of the covered area will match the existing exterior with two new doors, replacing two existing adjacent doors; the restaurant patio enclosure will continue the window and beam exterior finishes at the front facing Hermosa Avenue, and will continue the masonry block wall finish along the side facing 10th Street.

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

The Comedy and Magic Club and The Lounge are unique to Hermosa Beach. The only somewhat comparable entertainment venues could be the Community Center theater or perhaps the currently closed Sainte Rock music venue, both along Pacific Coast Highway. The Lounge restaurant with live entertainment could be considered similar to the Lighthouse with food and featured entertainment. The Downtown District includes 26 late night alcohol establishments, with 10 approved for live entertainment. Late night alcohol

establishments are detailed further below with added criteria for late-night alcohol beverage establishments.

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

The amended CUP for The Comedy and Magic Club and Lounge restaurant uses, as conditioned, are not anticipated to create adverse impacts. Conditions of approval are included in the resolution to reduce noise impacts to nearby uses, including requiring doors and windows to be closed during performances and requiring that any noise emanating from the property complies with the City's Noise Ordinance.

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

The existing building is adequately served by the various utility companies, infrastructure and municipal services, and the amended uses are not anticipated to place additional burden on current infrastructure and services. Police services are impacted by existing late-night uses in the area, but this established use – which has been in operation for over 40 years - has not created problems for the Police Department and due to operational practices, additional strain on police services is not expected..

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

The Comedy and Magic Club and Lounge restaurant are established businesses. The renovation and CUP amendments to the existing businesses will not contribute to a 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.

1. The CUP amendment application CUP 21-09 is requested to renovate and reopen the Comedy and Magic Club and Lounge restaurant, both of which have been closed and boarded up since March 2020. The proposed resolution for CUP 21-09 includes applicable conditions of approval from the 1990 CUP approval, removal of two conditions requested by this application (Condition 2a requiring entertainment to be permitted only as an ancillary use to the restaurant has been modified and Condition 12 requiring Comedy/Theatrical productions be maintained at least 50% of the operating time of the main showroom has been removed). A table summarizing of condition changes from PC Resolution 90-62 is attached for reference.

17.40.080 Criteria for late-night alcohol beverage establishments.

a. Whether the total number of late-night alcohol beverage establishments will exceed the City's limit on such establishments. The limit shall be set by City Council Resolution and may, upon recommendation by the Planning Commission or its own motion, be amended by the City Council from time to time.

This CUP amendment request is for continuation of a late-night alcohol beverage establishment operating since 1978 with a renovation and small addition and will not affect the number of such businesses in the City.

b. Whether the use will intensify through increases in the assigned occupant load from owner/operator-initiated construction and/or remodeling that expand the square footage or alter

the floor plan. Assigned occupant load is calculated by the City under the relevant provisions of the Building Code.

The current request is to renovate The Comedy and Magic Club, add 147 sq. ft. and increase seating in the main showroom from 250 to 350 seats to restore previous occupant load and become a viable business for reopening. The 399 sq. ft. enclosure of The Lounge restaurant patio is currently part of the restaurant and is not considered an intensification since the 180-seat limit around full dinner tables will remain. The two additions total 546 sq. ft. or 5.8% of the building area.

c. Whether proposed modifications to floor plans, conditions of approval, type of alcoholic beverages served (beer and wine versus full alcohol service), or other factors may increase adverse impacts.

The only identified modification with potential to increase adverse impacts is the increase of 100 seats in the main showroom, which is likely to increase parking demand in the area. The Comedy and Magic Club building was constructed with a deficient number of parking spaces, which has been optimized through the 1990 condition to restripe to add 5 additional parking spaces. The proposed renovation will add 2 additional ADA accessible parking spaces on the extended roof over the restaurant patio. Parking impacts and mitigation measures are detailed further in the Parking Plan below and in the attached Parking Study.

d. Whether the type, quantity, or geographic location of the establishment will create an over-abundance of similar establishments in a particular area of the City such that it will reduce the diversity of businesses operating in the immediate area.

The CUP amendment request is for renovation of a long-established unique business, The Comedy and Magic Club and The Lounge restaurant. Renovation of the existing businesses will not create an over-abundance of similar establishments.

e. Notwithstanding the criteria in (a) through (d), whether exceptional opportunities exist to achieve other Community Development goals that will benefit the community, such as redevelopment of an underutilized parcel or older building; to promote or catalyze economic activity (e.g., new large or mixed use development); or to recognize the unique attributes of a new business.

On page 7 of the attached Hermosa Beach Economic and Market Study Update “Key Trends: Issues and Opportunities” section discusses reopening of the Comedy and Magic Club as an important opportunity, stating:

“The Comedy and Magic Club is an iconic destination in Hermosa Beach and a valuable asset for the downtown. It is recommended that the City work to retain this unique entertainment asset.” This is the type of use that many cities would try to attract to add recognition, vitality, and overnight hotel stays. Hermosa Beach is fortunate that this legacy business is established in the City and providing a unique cultural impact for over forty years. The owner is requesting this CUP amendment and Parking Plan for consideration to help it reopen as a viable business.

PLAN Hermosa recognizes arts and cultural as a unique identity of Hermosa Beach. The Comedy and Magic Club, as amended through this application, will have the ability to continue and expand its operation as a unique performance venue in the City.

SECTION 5. Based on the foregoing, the Planning Commission hereby approves the requested Conditional Use Permit, subject to the following **Conditions of Approval**:

- 1. The proposed development shall be in substantial conformance with submitted plans. Any minor modification shall be reviewed and approved by the Community Development Director.**
- 2. The “café” in the southwesterly portion of the building shall be used primarily for restaurant purposes.**
 - a. Entertainment is permitted with the restaurant use. Food shall be offered for sale whenever entertainment is provided.**
 - b. The seating shall be around full-size dinner tables with adequate room to serve a full meal to each customer, auditorium style seating or cocktail lounge style seating is prohibited.**
- 3. The applicant shall submit a seating plan for the entire operation, subject the approval of the Community Development Director, the Building Department and Los Angeles County Fire Department.**
 - a. The general seating plan shall be posted in the business.**
 - b. The occupancy as dictated by the seating plan shall not be exceeded.**
 - c. The seating plan may be modified for special occasions provided all requirements of the Building and Los Angeles County Fire Departments are met.**
- 4. The business shall be soundproofed to the satisfaction of the Building Official.**
- 5. The business shall provide adequate management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of patrons outside the business or in the immediate area.**
- 6. Off-sale or take-out of any alcoholic beverages shall be prohibited.**
- 7. A maximum of 50% of total receipts of the entire business shall be for alcoholic beverages. The City shall have the right during business hours, upon 15 days notice, to inspect the books and records of the establishment to determine the gross sales of alcoholic beverages. Upon request at the inspection, the business establishment shall also submit to the City, copies of all records submitted to the California Department of Tax and Fee Administration.**
- 8. A sign shall be posted notifying the patrons of the illegality of open containers on the public streets, sidewalks, Stand and the beach.**

9. **If, in the judgement of the Police Department, it is deemed necessary, two police officers will be assigned as doormen at the business' expense during hours of operation.**
10. **Alcoholic beverages shall only be sold to individuals over the age of 21 years old, and violations of this condition may result in revocation and/or a citation.**
11. **Service of alcohol to anyone on skates shall be prohibited.**
12. **Noise emanating from the property shall be within the limitations prescribed by the City's noise ordinance and the business shall not create a nuisance to the surrounding residential neighborhoods or commercial establishments.**
 - a. **During the performance of any type of entertainment after 10:00 P.M., whether in the main showroom or in the restaurant, the exterior doors and windows shall remain closed.**
13. **Screens shall be installed on all openable exterior windows at the ground floor level to prevent pass-through of alcoholic beverages and to control flies.**
14. **An employee who is aware of the conditions of this conditional use permit shall be on the premises during business hours.**
 - a. **All employees shall be given a copy of the conditional use permit and shall acknowledge by signature that the conditional use permit has been read and understood.**
15. **The exterior of the premises, including parking areas, shall be maintained in a neat and clear manner at all times.**
16. **Any changes to the exterior or interior design shall be subject to review and approval by the Community Development Director.**
17. **The hours of operation shall be limited to between 6:00 A.M. and 2:00 A.M daily for both the main showroom and the restaurant.**
18. **Gates to the parking lot shall remain open for customer parking when either business is open.**
19. **An illuminated exit sign is required on all exit doors.**
20. **Emergency lighting is required on the path of travel to each exit.**
21. **The building must be fully Fire Sprinklered.**

22. The Occupant Load Review, including all emergency exiting and lighting, will be conducted by the Building Department in conjunction with the Los Angeles County Fire Department.
23. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.
24. The project and operation of the business shall comply with all applicable requirements of the Hermosa Beach Municipal Code.
25. The practice of washing and rinsing floor mats, equipment, tables, etc., or discharge of any liquids, other than storm water, onto the public right-of-way, into the parking lot drain or storm drains, is strictly prohibited. Discharge of liquids or wash water shall be limited to the sanitary sewer.
26. Exterior and interior water use shall comply with Chapter 8.56.
27. The operations shall comply with all requirements of the Building, Public Works, and Los Angeles County Fire Department.
28. 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 Disabled Access Standards (Government Code Title 24) and Los Angeles County National Pollutant Discharge Elimination System Permit (NPDES).
29. This conditional use permit incorporates where applicable and supersedes all previous conditional use permit resolutions regarding 1018 and 1014 Hermosa Avenue (Resolution P.C. 90-62, Resolution P.C. 88-25, B.Z.A. Resolution 154-561, B.Z.A. Resolution 154-472, B.Z.A. Resolution 154-467, B.Z.A. Resolution 154-337, and Resolution P.C. 78-3).
30. 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 sixty (60) days prior to the expiration date. No additional notice of expiration will be provided.

SECTION 7. 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 permit.

The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to the issuance of a building 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.

To the extent permitted by law, Permittee shall defend, indemnify and hold harmless the City of Hermosa Beach, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void any permit or approval for this project authorized by the City, including (without limitation) reimbursing the City its actual attorney's fees and costs in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

The permittee shall reimburse the City for any court and attorney's fees which 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 condition.

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 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.

SECTION 8. 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: 5 - Commissioner Saemann, Commissioner Hoffman, Commissioner Izant,
Vice Chair Pedersen and Chair Rice


NOES: None

ABSENT: None

ABSTAIN: None

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 22-02 is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at their adjourned regular meeting of February 15, 2022.


Marie Rice, Chair


Ken Robertson, Secretary

February 15, 2022
Date