

**CITY OF HERMOSA BEACH**  
**RESOLUTION NO. 23-13**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO MODIFY THE EXISTING TYPE 41 ON-SALE BEER & WINE – EATING PLACE LICENSE, TO A TYPE 47 ON-SALE GENERAL – EATING PLACE LICENSE, FOR THE SALE OF BEER, WINE, AND DISTILLED SPIRITS FOR THE CONSUMPTION ON THE LICENSE PREMISES, AND TO MODIFY THE FLOOR PLAN AT AN EXISTING RESTAURANT LOCATED AT 420-422 PIER AVENUE (ROCKEFELLER), AND TO MAKE THE DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**WHEREAS**, an application was filed on April 24, 2023, by the applicant Chris Bredesen, requesting Planning Commission approval of Conditional Use Permit Amendment 23-07 to upgrade the existing Type 41 On-Sale Beer & Wine – Eating Place license to a Type 47 On-Sale – Eating Place license, for the sale of beer, wine, and distilled spirits consumption on the license premises, and to modify the floorplan to legalize an existing 170 square-foot outdoor rear patio for an existing restaurant located at 420-422 Pier Avenue; and

**WHEREAS**, the Planning Commission, at its public meeting of September 19, 2023, considered all testimony and evidence, both oral and written, that was presented to the Planning Commission; and

**WHEREAS**, the project is categorically exempt from the California Environmental Quality Act defined in CEQA Section 15301 Class 1 Existing Facilities, as the project involves a minor expansion of an existing use and would not result in a direct or a reasonably foreseeable indirect physical change in the environment.

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** Based on the foregoing factual findings, the Planning Commission establishes that the Conditional Use Permit pursuant to Hermosa Beach Municipal Code (HBMC) Section 17.40.020, (General criteria for all uses)

and HBMC Section 17.40.080, (On-sale alcohol beverage establishment) that the use as conditioned will be compatible with the surroundings and all impacts can be reduced to an insignificant level:

- A. *Distance from existing residential uses:* The project site is located on Pier Avenue in the SPA-11 zone. Fifteen shared parking spaces are located to the rear of the building. Multi-family residences are located south of the site as well as to the north on the opposite side of Pier Avenue behind the similar commercial structures located there. The residences located to the south of the property are buffered from the site by the shared parking lot located in between them.
- B. *The amount of existing or proposed off-street parking facilities, and its distance from the proposed use:* Pursuant to HBMC Section 17.44.015.(C)(1), no on-site parking is required for the first 5,000 square feet of ground floor non-residential, non-office, and non-late night alcohol establishment use. As the total ground floor area is 2,648 square feet, the existing restaurant is exempt from on-site parking requirements.
- C. *Location of and distance to churches, schools, hospitals, and public playgrounds:* The proposed change to the restaurant will not affect neighboring schools, churches, and community centers due to the distance and offset hours of operation of the establishment. Hermosa Valley School and Christian Science Church are both located 0.3 miles to the north, and Community Center is located 0.2 miles to the east. The distance between the establishment and the these uses provides a buffer to minimize impacts. Additionally, lunch and dinner hours are offset from peak times of the above-listed uses.
- D. *The combination of uses proposed:* The proposed uses on site are consistent with the development pattern and uses within SPA 11 and present diners with additional options for enjoying beverages with their meals.
- E. *Precautions taken by the owner or operator of the proposed establishment to assure compatibility of the use with surrounding uses:* The existing restaurant is located near many other similar restaurant and retail uses. As it is compatible with the existing surrounding uses, a change from

a Type 41 license (on-sale beer and wine) to a Type 47 license (on-sale general) and ending sales of alcohol at 11:00 p.m., it is not anticipated to have a negative impact on existing surrounding uses. Furthermore, the legalization of the outdoor patio will not result in significant impacts due to its small size and the conditions placed on the establishment through the approval process to ensure compatibility and harmony with the neighborhood.

F. *The relationship of the proposed business-generated traffic volume and the size of streets serving the area:* The legalization of the 170 square-foot patio and modification from a Type 41 license (on-sale beer and wine) to a Type 47 license (on-sale general) would not affect existing streets or significantly impact traffic volume, as the proposal involves a negligible change in the restaurant capacity and intensity.

G. *The proposed exterior signs and decor, and the compatibility thereof with existing establishments in the area:* The only proposed change to the exterior of the property would be the fenced in outdoor dining patio area which is located in the rear of the property away from the high visibility corridor of Pier Ave. As such, aesthetics would continue to remain compatible with existing establishments in the area.

H. *The number of similar establishments or uses within close proximity to the proposed establishment:* There are six similar establishments nearby with existing Type 20, 41, 42, 47, & 58 licenses. One has a Type 47 license.

<b>Restaurant Name</b>	<b>Address</b>	<b>License Type</b>	<b>Allowed Hours per CUP</b>
Sosta	439 Pier Ave	Type 41 (On Sale General-Eating Place license)	11:30 a.m. to 11:00 p.m. daily (Serving alcohol, no earlier than 5 p.m. daily)
Crème de la Crepe	424 Pier Ave	Type 41 (On-Sale General – Eating Place license)	8:00 a.m. to 10:00 p.m. daily
The Hook & Plow	425 Pier Ave	Type 47 (On-Sale General-Eating Place license)	7:00 a.m. to 11:00 p.m. daily
Uncorked	302 Pier Ave	Type 20 (Off-Sale	7:00 a.m. to 10:00

		Beer & Wine), 42 (On-Sale Beer & Wine Public Premises) and 58 (Caterer's Permit)	p.m. daily
Fritto Misto	316 Pier Ave	Type 41 (On-Sale General – Eating Place license)	11:30 a.m. to 11:00 p.m. daily
El Tarrasco	337 Pier Ave	Type 41 (On-Sale General – Eating Place license)	11:00 a.m. to 10:00 p.m. daily

- I. *Noise, odor, dust and/or vibration that may be generated by the proposed use:* The modification from a Type 41 license (on-sale beer and wine) to a Type 47 license (on-sale general) and the legalization of the outdoor patio would not significantly generate additional noise, odor, dust and/or vibration due to the minimal increase in restaurant capacity and intensity.
- J. *Impact of the proposed use to the City's infrastructure, and/or services:* The existing restaurant use would be maintained, and the current infrastructure is adequate. The tenant space has housed restaurants of similar size and operation. Existing utilities and services will be sufficient and are not anticipated to be impacted.
- K. *Will the establishment contribute to a concentration of similar outlets in the area:* The requested modification from Type 41 license (on-sale beer and wine) to a Type 47 license (on-sale general), would not add to the concentration of similar outlets in this area because a restaurant providing the sale of alcoholic beverages is currently already operating at this location.
- 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 2.** Based on the evidence received at the public meeting, the Planning Commission hereby further finds, determines, and declares that the project is

consistent with the City's General Plan (PLAN Hermosa) because the Conditional Use Permit Amendment is consistent with Land Use Policy's 1.3, 1.4, and 2.1 as shown below.

**Goal 1. Create a sustainable urban form and land use patterns that support a robust economy and high quality of life for residents.**

Policies:

- **1.3 Access to daily activities.** Strive to create sustainable development patterns such that the majority of residents are within walking distance to a variety of neighborhood goods and services, such as supermarkets, restaurants, churches, cafes, dry cleaners, laundromats, farmers markets, banks, personal services, pharmacies and similar uses.
- **1.4 Diverse commercial areas.** Promote the development of diversified and unique commercial districts with locally owned businesses and job- or revenue-generating uses.

Conformity:

The proposal put forth is consistent with policies 1.3 and 1.4 since it provides residents with an additional amenity within walking distance and promotes a revenue generating use within a diverse commercial district.

**Goal 2. Neighborhoods provide for diverse needs of residents of all ages and abilities, and are organized to support healthy and active lifestyles.**

Policies:

- **2.1 Complete neighborhoods.** Neighborhoods are complete and well-structured by encouraging, where appropriate, the following characteristics:
  - Contain a high level of connectivity for pedestrians, bicycles and vehicles.
  - Have homes with entries and windows facing the street.
  - Provide a diversity of architectural styles.
  - Have goods and services within a short walking distance.
  - Address the needs of multiple ages and physical abilities.

Conformity:

The proposal put forth is consistent with policies 2.1 since it provides another service to residents within a highly connected area of the city for those traveling in a variety of modes.

**Section 3.** Based on the foregoing, the Planning Commission hereby approves the subject Conditional Use Permit Amendment Case No. CUP 23-07 subject to the following Conditions of Approval:

1. The project shall be substantially consistent with the application submitted and approved by the Planning Commission on September 19, 2023.
2. The permitted hours of operation shall be 7:00 a.m. to 11:00 p.m. daily, at which times all customers shall vacate the premises and the doors shall be locked.
3. The business shall be operated 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 menu; food service from the menu shall be available during all hours that the establishment is open for business; a minimum of sixty-five (65) percent of the total gross sales, computed monthly, shall result from the sale of prepared food. The permittee shall maintain a summary of gross receipts of food and alcohol indicating the percentage of each to the total on a monthly basis for inspection by the City for the prior twelve (12) months upon request.
4. The City shall have the right during business hours upon fifteen (15) days notice to inspect the books and records of the applicant to determine the gross sales of food and/or the gross sales of alcoholic beverages. Food shall include the sale of beverages other than alcoholic beverages.
5. Upon request at the time the City inspects the books and records of the applicant, the applicant shall submit to the City copies of all records submitted to the State Board of Equalization for the purposes of verifying the applicant's books and records, with the understanding that these reviews are confidential.
6. The business shall prevent loitering, unruliness, and boisterous activities of the patrons outside the business or in the immediate area. The business shall utilize an electronic method of reservation management to text or otherwise electronically notify patrons when the business is able to

accommodate them without the patrons gathering in the immediate area.

7. Live entertainment (including but not limited to amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds), is prohibited.
8. A manager who is aware of the conditions of this CUP shall be on the premises during business hours. The CUP shall be maintained on the premise in a location where employees can easily read the conditions.
9. Management shall successfully complete ABC Licensee Education on Alcohol and Drugs (LEAD) training and Responsible Beverage Servers Training, or equivalent as determined by Police Chief. All employees engaged in the sale or service of alcoholic beverages shall complete Responsible Beverage Service Training, or equivalent as determined by the Police. The business shall maintain records that management and employees have participated in the required trainings. Records shall be maintained for two years after training.
10. The Police Chief may determine that a continuing police problem exists and may, subject to appeal to the Planning Commission, direct the presence of a police approved doorman and/or security personnel to eliminate the problem. An appeal to the Planning Commission shall be heard within sixty (60) days of filing the appeal. The Police Chief shall then submit a report to the Planning Commission, which will automatically initiate a review of the conditional use permit.
11. The following signs shall be posted in a conspicuous location in a readily visible manner, warning patrons of the illegality of selling alcoholic beverages to persons under twenty-one years of age, loitering and drinking within the public realm, and removing alcoholic beverages from the premises, and carrying:
  - a. "California State Law prohibits the sale of alcoholic beverages to persons under twenty-one years of age."
  - b. "No Loitering or Public Drinking"
  - c. "It is illegal to possess an open container of alcohol in the vicinity of this establishment."

- d. Signs shall be posted compliant with Hermosa Beach Municipal Code (HBMC) Section 8.48.060 Alcoholic beverages – Warning signs.
12. All alcoholic beverages shall be served in non-disposable drinkware and shall not be offered “to-go”.
13. The business shall not adversely affect the welfare of the residents, and/or commercial establishments nearby. The business shall comply in all other aspects with HBMC Section 8.24 (Noise Control) and noise from the premises shall not constitute a public nuisance.
14. The business shall install and maintain a video surveillance system that monitors within the interior of the business and the immediate area. The video surveillance system must be capable of delineating on playback the activity and physical features of persons and areas within the premises and immediate area. Recordings shall be retained for a minimum of sixty (60) days and video will be available to Police Department upon request. All video security cameras shall be installed to the satisfaction of the Chief of Police. At the discretion of the Police Chief, Licensee may be required to add additional video cameras.
15. Under no circumstances shall furniture or other interior/exterior improvements be rearranged from the floor plan attached to the CUP Amendment to accommodate dancing, more entertainment, or greater occupant load absent approval from the Police Chief, or the Planning Commission.
16. Any changes to the interior or exterior layout which alter the primary function of the business to create open space, shall be subject to review and approval of the Planning Commission.
17. Notwithstanding the structure occupant load limits under the Building Code, each customer in the business shall have an available seat at a table or counter, in substantial conformance with the floor plan and seating plan included as an attachment to the staff report. Customers are permitted to move freely around the business and are not required to be seated at all times; however, each customer shall have an available seat.

18. The exterior of the business shall be maintained in a neat and clean manner and maintained free of graffiti at all times. The removal of all graffiti from the walls, fences, pavement, or buildings within twenty-four (24) hours of discovery of its appearance on the property is required.
19. The business with on-sale alcoholic beverage service may be subject to a periodic review process to established by the City to verify conformance with the conditions of approval.
20. The business 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).
21. The business shall be maintained and operated in full compliance with the conditions of this CUP and any law, statute, ordinance, or other regulation hereafter adopted that is applicable to any development or activity on the subject property.
22. In addition to any other remedy provided by law, if the business operating pursuant to this CUP violates any condition of this CUP, the Police Chief or designee may meet and confer with the business to clarify the reason for the violation and to formulate a course of action to mitigate the risk for any future violation. If the business operating pursuant to this CUP continues to violate this CUP (ie., either a repeat violation or another violation) within any six (6) month period following a meet and confer with the Police Chief, then, at the sole discretion of the Police Chief, modified or additional operational requirements may be imposed by the Police Chief to curtail the violations. These modifications include, but are not limited to, a reduction in operating hours, required number of staff members during operational hours, additional training for existing staff, and/or any other measures deemed appropriate by the Police Chief. An appeal may be filed to the Planning Commission for any modification or additional operational requirement(s) imposed by the Police Chief. However, the Police Chief's determination will not be stayed during the pendency of the appeal.

23. The Planning Commission may review this CUP and may amend the subject conditions or impose any new conditions if deemed necessary to mitigate the detrimental effects on the neighborhood resulting from the subject use.
24. Approval of this permit shall expire twenty-four (24) months from the date of approval by the Planning Commission unless 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.
25. The practice of washing and rinsing restaurant floor mats, tables, equipment, etc., or discharge of any liquids, other than stormwater, 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. Designation of a mop sink and provision of a grease trap shall be provided as required by the Public Works and Building Division.
26. The establishment shall not use polystyrene take-out containers, which may or may not be identified with a "No. 6" or "PS" recycle code.
27. Exterior and interior water use shall comply with HBMC Section 8.56. Proof of compliance with water conserving devices shall be provided.
28. This resolution shall supersede P.C. Resolution 10-17 which shall be of no further force or effect.

**PASSED, APPROVED and ADOPTED** on this Tuesday the 19<sup>th</sup> of September, 2023.

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VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

### CERTIFICATION

I hereby certify the foregoing Resolution P.C. 23-13 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 19, 2023.

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Peter Hoffman, Chair

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Carrie Tai, Secretary

September 19, 2023

Date