

P.C.-RESOLUTION 10-17

4

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO MODIFY THE FLOOR PLAN AND ADD OUTDOOR DINING (A COVERED OPEN AIR DINING AREA WITHIN THE EXISTING BUILDING FOOTPRINT) AND A WALK-UP WINDOW IN CONJUNCTION WITH A RESTAURANT WITH ON-SALE BEER AND WINE (REPLACING "RAGIN CAJUN CAFÉ") AND AN EXISTING PARKING PLAN, AT 420-422 PIER AVENUE, LEGALLY DESCRIBED AS LOT 3, BLOCK 1, HISS' SECOND ADDITION TO HERMOSA BEACH TRACT, AND NW 102 FEET OF LOT 14, TRACT 780, HERMOSA BEACH.

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

Section 1. An application was filed by ISOS, LLC requesting approval of Conditional Use Permit Amendment 10-10 to modify the floor plan, add 'open air dining', and add a walk-up window in order to establish a new restaurant under new ownership with beer and wine in place of an existing restaurant with beer and wine, at 420-422 Pier Avenue. Hours of operation as regulated by the CUP are proposed to remain 7:00 a.m. to 11:00 p.m. daily. The floor plan and façade are proposed to be modified as follows:

1. The easterly door accessing the building from Pier Avenue will be replaced by a walk-up window for take-out orders; a window for take-out order pick-up is accessed from the front dining area. Internally, doors enclosing the kitchen will be added. Only minor modifications are made to the kitchen location, area and general layout.
2. The rear exit to the parking lot and separate restrooms will remain in their present location at the back of the dining area. A small new office will be added adjacent to one of the restrooms.
3. The floor plan attached to the 1996 CUP indicates the dining room contains 96 seats comprised of small tables with loose seating, and a stand-up bar in its present location along the west wall. The proposed floor plan showing seating for 92 people will create several dining experiences:
 - A. Front Dining Area: 32 seats fronting Pier Avenue are proposed. The front wall of the building with a set of French doors and an additional entry door into the dining room will be replaced by a wrought iron gate, and four planters to a height of 18" with wrought iron fencing to a height 32" above the sidewalk, and four uncovered openings. A corner fireplace will be added. This will create open air dining, with a depth of 12 feet, within the building footprint.
 - B. Center: The existing bar will be replaced with a new bar with 14 seats at the center of the tenant space, near the kitchen. A social table with 14 seats and booth seating for 12 people will be added. This area is segregated from the front dining area by retracting glass doors to allow this area to also be opened to the elements.
 - C. Rear Dining: Loose and bench seating for 20 people is provided in the rear dining area.
4. The parking lot, trash enclosure and landscaping will be remediated to a state of good repair.

Section 2. The proposed new restaurant with on-sale beer and wine and outdoor dining ('open air dining') will replace an existing restaurant with on-sale beer and wine with hours from 7:00 a.m. to 11:00 p.m. daily ("Ragin' Cajun Café") which operates pursuant to Planning Commission Resolutions 94-28 (CUP and Parking Plan) and 96-24 (CUP Amendment).

A. Resolution 94-28 approved the expansion of an existing restaurant with on-sale beer and wine, and Resolution 96-24 approved an additional 875 square foot expansion to the current footprint.

B. Those expansions were approved with less than required parking based on the following findings, made by the Planning Commission in conjunction with the 1994 and 1996 approvals, that adequate parking was available for customers because: (1) the location of the business is within walking distance of two public parking lots and a substantial number of its customers arrive on foot or bicycle, (2) the right-of-way has sufficient nighttime public parking, (3) parking in the rear of the business provides adequate spaces for customers and employees, (4) fewer than 96,250 square feet of commercial development including new buildings, expansions and intensification of uses in the Downtown Enhancement District had received a Coastal Development between 1994 and November 1, 1996, and (5) a parking study for the downtown indicated occupancy of parking spaces in the downtown was 90% or less during daylight hours on summer weekends and no more than 24,063 square feet of commercial development had received Coastal Development Permits since the study. The floor plan and façade modifications proposed for Conditional Use Permit Amendment 10-10, which show approximately equivalent seating capacity, do not impact the parking standard approved under the abovementioned Parking Plan, which will remain unchanged by this approval. All existing conditions of approval related to the Parking Plan are fully restated below in this resolution, which supersedes Resolutions 94-28 (CUP and Parking Plan) and 96-24 (CUP Amendment).

Section 3. The Planning Commission conducted a duly noticed public hearing to consider the application for a Conditional Use Permit Amendment 10-10 on November 16, 2010 at which time testimony and evidence, both oral and written, was presented to and considered by the Planning Commission.

Section 4. Based on the testimony and evidence received, the Planning Commission makes the following factual findings:

- 1. The site is zoned Specific Plan Area No. 11 (SPA-11) which allows outdoor dining with approval of a Conditional Use Permit and a walk-up ordering window incidental to the sit-down restaurant. Residential uses (R-3 zoning) abut the site to the rear, and R-3 zoning and the Mobilehome Park also lie north of the businesses along Pier Avenue.
- 2. The restaurant will occupy 2,500 square feet of an existing 7,965 square foot commercial building. The modified floor plan and walk-up window service will not increase gross floor area.
- 3. The proposed restaurant replacing "Ragin' Cajun Café," which operated pursuant to Planning Commission Resolutions 94-28 and 96-24, proposes to retain beer and wine service with hours from 7:00 a.m. to 11:00 p.m. daily.
- 4. The walk-up window fronting Pier Avenue shown on the project plans is not a permitted or conditional use in the SPA-11 zone pursuant to H.B.M.C Section 17.38.540 ; however the walk-up window proposed within the front dining area facing west is not prohibited and may be considered. .

Section 5. The project is categorically exempt from the provisions of the California Environmental Quality Act per CEQA Guidelines, Section 15301(a), Class 1, Existing Facilities, because the proposal involves a change to floor plan to a commercial use within an existing building for essentially the same use, intensity is essentially equivalent, all services are available, and no significant impacts are identified.

Section 6. Based on the foregoing factual findings the Planning Commission makes the following findings that the Conditional Use Permit Amendment as conditioned will be compatible with and not adversely affect the surrounding area pursuant to Section 17.40.020 of the Hermosa Beach Municipal Code:

- 1. The proposal conceptually complies with the requirements of SPA-11 including 17.38.550(G) addressing Storefront Frontages, by providing a permeable facade fronting Pier Avenue to facilitate pedestrian activity, including planters, wall openings and open air seating fronting the sidewalk that create visibility for the pedestrian, as encouraged in the SPA-11 zone.

6

2. The establishment of a walk-up window facing Pier Avenue set back two feet from the sidewalk is prohibited by the code, however, a walk-up window within the front dining area is permitted and will not cause substantial impacts to the surrounding uses as follows:

- A. People placing or waiting for an order will not create an impediment to pedestrian movement or entrances to adjacent establishments due to location within the property boundaries, availability of seating in this area, and conditions of approval placed on the operation of the walk-up window.
- B. Trash or food dropped within the front dining area will not generate debris or contaminated runoff to the storm drain system due to conditions of approval including provision of enclosed trash/recycle containers in a prominent location near the walk-up window and restrictions on washing the site.
- C. Styrofoam and plastics associated with take-out food, indicated as significant contributors to pollution on beaches and in Santa Monica Bay where these materials affect marine life and are introduced into the food chain, will be reduced by providing appropriate receptacles and not allowing take-out containers with a "No. 6" recycle code.
- D. The existing condition requiring alcohol to be served in non-disposable drinkware is retained.

3. Allowing 'open air dining' within the front dining area, and within the remainder of the restaurant when the glass wall is retracted, will not impact the surrounding area as follows:

- A. Beer and wine service must comply with the CUP and ABC license, a barrier segregating alcohol use from the sidewalk will be installed, alcohol must be served in non-disposable beverage containers, and alcoholic beverages are not allowed on the public right-of-way.
- B. Impacts associated the floor plan modification and reconfiguration of the bar, such as noise and disturbances that may be associated with a bar/sports bar atmosphere, will be minimal due to conditions requiring that food sales must constitute 65% of total sales, the retracting doors may be closed if noise is an issue, the establishment must close by 11:00 p.m. under the CUP, live entertainment is not allowed, and noise controls must be complied with, together with standard conditions applied to alcoholic beverage establishments.
- C. The restaurant site abuts R-3 zoning, and R-3 zoning and the Mobilehome Park are located adjacent to businesses along the Pier Avenue corridor. Noise impacts associated with the proposed use and floor plan can be reduced through compliance with the Noise Ordinance. Section 8.24 040(I) prohibits "continuous, repeated or sustained noise from the premises of any commercial establishment which is adjacent to one or more residential dwelling units, including any outdoor area part of or under the control of the establishment, between the hours of 10:00 p.m. and 8:00 a.m. that is plainly audible from the residential dwelling unit's property line." Subsection A also limits the "amplification of music or any other sound on private property, through speakers located either (1) outdoors, or (2) in one or more windows or doorways, when such speakers are directed towards and such music is plainly audible on an immediately adjacent public right-of-way."

Noise impacts are also reduced by conditions regarding keeping the back door closed, closing the retracting doors, a prohibition on televisions within the front dining area (being the first 12-feet of the building envelope as shown on the plans), limiting the total number of televisions to a maximum of 5 televisions, and turning off the volume on audio devices between 10:00 p.m. and 8:00 a.m. within areas being operated as open air dining (i.e., the remainder of the restaurant when the retracting doors are open).

4. The kitchen will be enclosed to facilitate open air dining. The area devoted to dining and seating will not increase, and no other impacts are identified

Section 7. Based on the foregoing, the Planning Commission hereby approves the request for Conditional Use Permit Amendment 10-10 subject to the following **Conditions of Approval:**

1. The use consisting of on-sale beer and wine, open air dining, and walk-up window located within the building footprint facing west in conjunction with a restaurant shall be consistent with plans submitted and approved by the Planning Commission on November 16, 2010. Minor modifications to the plan shall be reviewed and may be approved by the Community Development Director. Any substantial deviation must be reviewed and approved by the Planning Commission. This approval does not authorize dining on the public sidewalk.
2. The permitted hours of operation shall be 7:00 a.m. to 11:00 p.m. daily for all operations of the restaurant. All customers shall vacate the premises by not later than 11:00 pm 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 lunch and/or dinner 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 upon request.
4. The provision of alcoholic beverages shall be limited to beer and wine and comply with the following:
 - A. All alcoholic beverages shall be served in nondisposable drinkware.
 - B. The gate and planters shall be maintained thereby providing a barrier between the sidewalk and the dining areas in which alcohol is served. Said gate and any doors or windows shall not open into the public right of way.
 - C. 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.
5. The front dining area shall be open for seating whenever walk-up window service is provided. Should customers waiting for walk-up service create a recurrent impediment to pedestrians on the sidewalk, as determined by the Community Development Director, the operator shall provide a plan to address those concerns, such as signage or provision of additional waiting room in the front dining area, to the satisfaction of the Director.
6. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.
7. The business shall prevent loitering, unruliness and boisterous activities of the patrons outside the business or in the immediate area.
8. The Police Chief may determine that a continuing police problem exists, and may, subject to the review of the Planning Commission, direct the presence of a police approved doorman and/or security personnel to eliminate the problem. If the problem persists the Chief then shall submit a report to the Planning Commission, which will automatically initiate a review of this conditional use permit by the Commission.
9. Any changes to the interior layout which alter the primary function of the business shall be

subject to review and approval by the Planning Commission.

10. The exterior of the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
11. The operator shall monitor the area in front of the business to ensure that the walk-up window is not creating a litter problem. The operator shall provide enclosed trash/recycle containers in a prominent location near the walk-up window. Alternatively, subject to approval of the Public Works Department the operator may pay an in-lieu fee for approved city containers to be located in the vicinity of the walk-up window.
12. To reduce marine debris associated with take-out containers, the establishment shall not use take-out containers with a "No. 6" recycle code.
13. The business shall comply in all other respects with Municipal Code Chapter 8.24 (Noise Control) and noise from the premises shall not constitute a public nuisance.
 - A. The rear door to the restaurant shall be maintained in a closed position to reduce noise transmission.
 - B. The volume on audio devices and speakers shall be turned off between 10:00 p.m. and 8:00 a.m. within the front dining area and in the remainder of the restaurant when the retracting glass interior doors are open.
 - C. The maximum number of televisions/monitors shall be five (5). Televisions/monitors are prohibited within the front dining area, being the front twelve (12) feet of the building footprint.
14. Live entertainment (including amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds) and customer dancing is prohibited.
15. 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.
16. 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.
17. 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.
18. The parking lot and all landscaping and planters shall be well-maintained.
 - A. Landscaping in poor condition shall be replaced with live plants. An automatic landscaping irrigation system shall be provided and maintained.
 - B. Prior to installation of new landscaping, a landscape plan indicating size, species and quantity of plants shall be submitted to the Community Development Department for review and approval.
 - C. In the parking lot, any new/replacement trees along the south property line shall be appropriate for buffering purposes, shall be a minimum 24-inch box size. The planting shall be a minimum of five (5) feet in width, with a brick or concrete border.
 - D. All new or replacement landscaping shall comply with Chapter 8.60.070.

- 9
- E. The existing parking spaces (15 plus one disabled) shall be stripped with appropriate signs posted indicating that the spaces are for employees and customers only.**
- F. The parking lot shall be resurfaced and maintained free of debris, outside storage and other impediments. Parking lot/driveway remediation, surfaces and/or infiltration systems shall be undertaken as required by the Public Works Department.**
- 19. A bicycle rack for the entire property shall be provided. Type, size and location to be approved the Community Development Department. If infeasible, the operator may pay an in-lieu fee for an approval bike rack to be located on the public right of way in the vicinity of the premises at the rate of one (1) bicycle space per seven (7) employees or 3,000 square feet of floor area, pursuant to Section 17.38.550(I)(5).**
- 20. The business shall participate in the City's downtown parking validation program, providing validations for parking in public lots for no less than two hours, if and when such program is available.**
- 21. Trash and recycle containers adequate for all uses on the property shall be maintained within a trash enclosure approved by the Community Development Director compatible with the premises and in compliance with Chapter 8.12. The trash enclosure shall not be located adjacent to residential properties.**
- 22. Exterior and interior water use shall comply with Chapter 8.56.**
- 23. This approval incorporates conditions from and supersedes Planning Commission Resolutions 94-28 and 96-24, which hereafter shall be of no further force and effect.**
- 24. The improvements 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 prior to issuance of the Certificate of Final Occupancy.**
- 25. 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).**
- 26. The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant 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.**
- 27. 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.**
- 28. 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.**

Section 8. This grant 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 grant.

The Conditional Use Permit Amendment 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 attorneys 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 grant. 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 grant 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.

Section 9. 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.

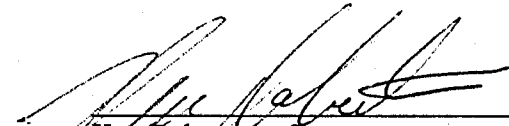
VOTE:	AYES:	Comms.Darcy, Hoffman, Perrotti, Pizer, Chmn. Allen
	NOES:	None
	ABSTAIN:	None
	ABSENT:	None

CERTIFICATION

I hereby certify the foregoing Resolution P.C. No. 10-17 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 November 16, 2010 and memorialized on December 1, 2010.



Kent Allen, Chairman



Ken Robertson, Secretary

December 1, 2010
Date