

RESOLUTION P.C. 94 - 28

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2 **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA**  
3 **BEACH, CALIFORNIA, APPROVING A PARKING PLAN AND CONDITIONAL USE**  
4 **PERMIT TO ALLOW AN EXPANSION OF AN EXISTING RESTAURANT, ON-SALE**  
5 **BEER AND WINE, AND AN ENVIRONMENTAL NEGATIVE DECLARATION AT 422**  
6 **PIER AVENUE AND LEGALLY DESCRIBED AS LOT 3, BLOCK 1, HISS' SECOND**  
7 **ADDITION TO HERMOSA BEACH TRACT, AND LOT 14 OF TRACT 780.**

8 **WHEREAS, the Planning Commission held a public hearing on October 18, 1994 to**  
9 **receive oral and written testimony regarding this matter and made the following findings:**

- 10 **A. The applicant is requesting a parking plan and conditional use permit to allow an expansion**  
11 **of an existing restaurant, and on-sale beer and wine;**  
12 **B. The proposed use is compatible with surrounding commercial and residential uses; and**  
13 **C. The imposition of conditions as required by this resolution will mitigate any negative**  
14 **impacts on nearby residential or commercial properties;**  
15 **D. Less than the required parking is justified for this expanded business, pursuant to Section**  
16 **1169, Parking Plans, as adequate parking is already available for customers for the**  
17 **following reasons:**  
18 **1. The location of the business is within walking distance of two public parking lots**  
19 **and a substantial portion of its customers arrive on foot or bicycle.**  
20 **2. The adjacent right-of-way has sufficient night time public parking.**  
21 **3. The parking in the rear of the business of 18 spaces are available for customers and**  
22 **employees.**

23 **NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION**  
24 **OF THE CITY OF HERMOSA BEACH, DOES HEREBY APPROVE THE PARKING**  
25 **PLAN AND CONDITIONAL USE PERMIT SUBJECT TO THE FOLLOWING:**

26 **SECTION 1. Specific Conditions of Approval:**

- 27 **1. The project shall be substantially consistent with submitted plans. Modifications to the**  
28 **plans shall be reviewed and may be approved by the Community Development Director.**  
29 **a. Revised plans accurately showing parking layout, trash enclosure, and correctly**  
**identifying the storage room shall be submitted within a reasonable time to the**  
**satisfaction of the Community Development Director not to exceed one year from**  
**the date of approval.**  
**2. The hours of operation shall be limited to between 7:00 A.M. and 11:00 P.M. daily.**

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3. All trash containers shall be maintained at all times in the existing enclosure, or an additional enclosure shall be provided for that purpose if necessary.
4. Any debris, materials, equipment, or other storage shall be removed and prohibited in the parking area.
5. The subject lots to be developed shall be merged together, pursuant to Section 29.5-29, prior to the final approval of building permits.
6. All parking spaces shall be properly striped with appropriate signs posted indicating that the spaces are for employees and customers only. The following shall be provided within a reasonable time as determined by the Community Development Director not to exceed one year from the date of approval.
  - a. A handicapped parking space shall be provided.
  - b. The parking lot shall be resurfaced.
7. Three (3) copies of a revised landscaping plan indicating size, type, and quantity of plant materials (including trunk diameter at planting time) shall be submitted to the Community Development Director for review and approval within a reasonable time as determined by the Community Development Director and shall be implemented on site not to exceed one year from the date of approval.
  - a. An automatic landscape irrigation system shall be provided, and shall be shown on plans.
  - b. The type of trees provided along the length of the south property line shall be appropriate for buffering purposes and shall be minimum 24" box size.
  - c. The planting shall be a minimum of five (5) feet in width, with a brick, or concrete border.
8. A bicycle rack for the entire property shall be provided. Type, size and location shall be reviewed and approved by the Community Development Director.

**SECTION 2. General Operating and Standard Conditions:**

1. The establishment shall not adversely effect the welfare of the residents and/or commercial establishments nearby.
2. The business shall provide adequate staffing , management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of the patrons outside the business.
3. Noise emanating from the property shall be within the limitations prescribed by the city's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.

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- a. Windows and doors shall remain closed during operating hours past 10:00 P.M. if complaints regarding noise are received.
- 4. Signs shall be posted in a conspicuous location warning patrons of the illegality of open alcoholic containers in any public areas such as the public sidewalk and beach.
- 5. A manager or employee who is aware of the conditions of this conditional use permit shall be on the premises during business hours.
- 6. The conditional use permit conditions shall be placed on the property in a location where employees can easily read the conditions.
- 6. All alcoholic beverages shall be served in non-throw-away glass containers, including beer and wine.
- 7. The police chief may determine that a continuing police problem exists, and may authorize the presence of a police approved doorman and/or security personnel to eliminate the problem, and then shall submit a report to the Planning Commission, which will automatically initiate a review of this conditional use permit by the Commission.
- 8. The exterior of the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
- 9. Any significant changes to the layout which would alter the primary function of the business shall be subject to review and approval by the Planning Commission.
- 10. This conditional use permit is issued exclusively for and as long as the premises remains a restaurant; a minimum of sixty five (65) percent of the total gross sales, computed monthly, shall result from the sale of prepared food.
- The city shall have the right during business hours upon 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. Upon request at the time the City inspects the books and records of the applicant, the applicant shall also submit to the City copies of all records submitted to the State Board of Equalization for purposes of computing sales tax. Applicant gives the right to the City to review the records of the State Board of Equalization for the purpose of verifying the applicants books and records, with the understanding that these reviews are confidential.
- 11. Any violation of the conditions of approval and/or violation of the Hermosa Beach Municipal Code may be grounds for a public hearing for revocation of the conditional use permit.

**SECTION 3**

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 Community Development Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

1 The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the  
2 Community Development Department.

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

5 Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees  
6 from any claim, action, or proceeding against the City or its agents, officers, or employees to attack,  
7 set aside, void or annul this permit approval, which action is brought within the applicable time  
8 period of Government Code Section 65907. The City shall promptly notify the permittee of any  
9 claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to  
10 promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate  
11 fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold  
12 harmless the City.

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

18 The subject property shall be developed, maintained and operated in full compliance with the  
19 conditions of this grant and any law, statute, ordinance or other regulation applicable to any  
20 development or activity on the subject property. Failure of the permittee to cease any development  
21 or activity not in full compliance shall be a violation of these conditions.

22 **SECTION 4**


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

26 VOTE: AYES: Comms. Marks, Merl, Tucker, Chmn. Dettelbach  
27 NOES: None  
28 ABSTAIN: Comm. Di Monda  
29 ABSENT: None

**CERTIFICATION**

I hereby certify that the foregoing Resolution P.C. 94- 28 is a true and complete record of the  
action taken by the Planning Commission of the City of Hermosa Beach, California at their  
regular meeting of October 18, 1994.

  
Alan M. Dettelbach, Chairman

  
Sol Blumenfeld, Secretary

12/6/94  
Date