

**CITY OF HERMOSA BEACH
P.C. RESOLUTION NO. 23-04**

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, AT AN EXISTING RESTAURANT LOCATED AT 425 PIER AVENUE (HOOK & PLOW), AND TO MAKE THE DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

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

WHEREAS an application was filed on January 30, 2023, by the applicant Lisa Cassity, requesting Planning Commission approval of Conditional Use Permit 23-04 to modify 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, for an existing restaurant located at 425 Pier Avenue.

WHEREAS, the Planning Commission, at its public meeting of March 21, 2023, considered all testimony and evidence, both oral and written, that was presented to the Planning Commission.

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 no 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 makes the following findings that the Conditional Use Permit pursuant to Hermosa Beach Municipal Code (HBMC) Section 17.40.020 and incorporation of the

conditions set forth in HBMC Section 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:

- A. *Distance from existing residential uses:* The project site is located on Upper Pier Avenue in the SPA-11 zone. Three parking spaces are located to the rear of the building. Multi-family residences and the mobile home park are located north (rear) of the site as well as across Pier Avenue abutting commercial buildings. The residences located to the rear of the lot are separated from the restaurant by Oak Street and a significant downward grade. While the applicant is requesting a change in alcohol type from Type 41 license (on-sale beer and wine) to a Type 47 license (on-sale general) ,no other modifications or changes are proposed. The existing closing time of 11:00 p.m., occupant load of 49, continued operation as a bona fide restaurant with 65/35 food to alcohol sales ratio, and prohibition of entertainment, music, speakers, televisions, or audio or visual media of any type, whether amplified or unamplified within the outdoor patio area, all reduce the potential for noise disturbances to neighboring residences.

- 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 existing ground floor area is 1,080 square feet and no additional square footage is proposed, 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 in use is not likely to affect neighboring schools, churches, and community centers due to the distance and offset hours of operation of the establishment. Valley View 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 sensitive uses provides a buffer to minimize impacts. Additionally, lunch and dinner hours are offset by peak times of the sensitive uses.

- D. *The combination of uses proposed, concentration and number of similar establishments or uses within close proximity to the proposed establishment:* The proposed project is located in the Specific Plan Area No. 11 which aims to create pedestrian oriented commercial development that attracts and serve residents and visitors. As the existing exterior entrance incorporates an

open-air dining area observed from Pier Avenue, the change from a Type 41 license (on-sale beer and wine) to a Type 47 license (on-sale general) will provide residents and visitors additional beverage options to pair with their meal. As the restaurant is not considered a late-night alcohol establishment (establishments open after 11:00 p.m.), the request would not propose to increase the number of late-night alcohol beverage establishments pursuant to HBMC Section 17.40.080.B.

- 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 in the context of other similar 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.

- F. *The relationship of the proposed business-generated traffic volume and the size of streets serving the area:* The 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 does not involve a change in the existing restaurant use or square footage of the building and outdoor dining areas.

- G. *The proposed exterior signs and decor, and the compatibility thereof with existing establishments in the area:* Building design/aesthetics would be retained with no proposed changes and 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 (Upper Pier Avenue) with existing Type 20, 41, 42 and 58 licenses.

Restaurant Name	Address	License Type	CUP Provisions for Hours of Operation
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 5pm 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 Rockefeller	422 Pier Ave.	Type 41 (On-Sale General – Eating Place license)	7:00 a.m. to 11:00 p.m. daily

Uncorked	302 Pier Ave.	Type 20 (Off-Sale Beer & Wine), 42 (On-Sale Beer & Wine Public Premises) and 58 (Cater's Permit)	7:00 a.m. to 10:00 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 a.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) would not significantly generate additional noise, odor, dust and/or vibration, as the proposal does not involve a change in the existing restaurant use.

- 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. Since the original CUP approval in 1980, 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 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 Goals 1.3, 1.4, and 2.1.

Section 3. Based on the foregoing, the Planning Commission **hereby approves** the subject Conditional Use Permit Amendment Case No. CUP 23-04 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 March 21, 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 upon request.
4. 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. Food shall include the sale of beverage 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 provision of alcoholic beverages shall comply with the following:
 - a. All alcoholic beverages shall be served in non-disposable drink-ware.
 - b. Alcoholic beverage shall be served or allowed only during hours when food (other than snacks such as pretzels or nuts) is served.
 - c. No alcoholic beverages shall be provided "to-go".
 - d. Signs shall be posted in conspicuous location warning patrons of the illegality of consuming alcoholic beverages in any public place.
 - e. Signs shall be posted complaints with HBMC Section 8.48.060 Alcoholic beverages – Warning signs.
7. A property line railing/guard shall be installed and permanently maintained on the outdoor patio complaint with Department of Alcohol

Beverage Commission standards. Ingress and egress shall not be permitted directly from the patio to the sidewalk.

8. The establishment shall not adversely affect the welfare of residents, and/or commercial establishments nearby.
9. The business shall prevent loitering, unruliness and boisterous activities of the patrons outside the business or in the immediate area.
10. If the operation of the establishment poses a risk of harm to persons or property, the Police Chief may direct the presence of a police approved doorman and/or security personnel to eliminate the problem, at the owner/operators expense. 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.
11. The exterior of the premises 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 hours of discovery of its appearance on the property is required.
12. 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.
 - a. The rear door to the restaurant shall be maintained in a closed position at all times during business operations to reduce noise transmission.
 - b. The volume on any audio devices or speakers shall be turned off after 10:00 p.m. each night. Air conditioning shall be installed to facilitate implementation of this condition.
 - c. Not more than two (2) televisions, electronic, video, projection or similar visual displays shall be located within ten (10) feet from the façade (accordion doors) or visible from any area accessible to customers.
 - d. Seating at the designated counter shall not exceed eleven (11) seats. No stand-up bar shall be allowed.
13. Live entertainment (including but not limited to amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all kinds), excluding two acoustic musicians providing background music as allowed by the Municipal Code, and customer dancing is prohibited. Such acoustic musicians shall not be located within ten (10) feet from the façade (accordion doors).
14. 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.

- 15.** The establishment shall not use polystyrene take-out containers, which may or may not be identified with a "No. 6" or "PS" recycle code.
- 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.** Management shall successfully complete ABC Licensee Education on Alcohol and Drugs (LEAD) training and Responsible Beverage Servers Training, or equivalent as determined by Chief of Police. All employees engaged in the sale or service of alcoholic beverages shall complete Responsible Beverage Service Training, or equivalent as determined by the Chief of 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.
- 18.** The business 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.
- 19.** Exterior and interior water use shall comply with HBMC Section 8.56 Proof of compliance with water conserving devices shall be provided.
- 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.** This resolution shall supersede Board of Zoning Adjustment Resolution 154-382 and Planning Commission Resolution 13-20 which shall be of no further force or effect.
- 22.** 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 by the Planning Commission.
- 23.** 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.

24. 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.
25. The subject property 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. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

Section 4. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the Planning Commission, after exhaustion of any available administrative remedies, must be made within 90 days after the final decision by the City. The Hermosa Beach City Council may on its own initiative review all actions of the Planning Commission. If the City Council does not initiate review of this decision as set forth in Hermosa Beach Municipal Code Section 2.52.040, this decision will become final.

PASSED, APPROVED and ADOPTED on this 21st day of March, 2023.

VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 23-04 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 March 21, 2023.

Stephen Izant, Chair

Carrie Tai, Secretary

March 21, 2023

Date