

**CITY OF HERMOSA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

MEMORANDUM

Date: April 17, 2007

To: Honorable Chairman and Members of the Planning Commission

From: Sol Blumenfeld, ^{SB}Director
Richard S. Denniston, Associate Planner
Community Development Department

Subject: Jackson's Bistro (517 Pier Avenue) Outdoor Dining

Background / Analysis

On October 10, 1992, the Planning Commission approved a Conditional Use Permit Amendment to increase outdoor dining for the Property located at 517 Pier Avenue (Attachment 1). On September 17, 1996, the Planning Commission approved another Conditional Use Permit Amendment to allow for on-sale beer and wine which includes a statement that it superseded the conditions contained in 1992 Conditional Use Permit Amendment (Attachment 2). The 1996 Resolution fails to mention outdoor dining.

Based on a review of the Staff Report and Minutes of the September 17, 1996, Planning Commission meeting, it is clear that superseding the outdoor dining approval was not the intention of the Commission. Instead it was an oversight by Staff when drafting the Resolution to not properly reference the previous Resolution.

Since there was no intent to remove the outdoor dining approval, it is the recommendation of Staff that the subject property be governed by both Resolutions.

Recommendation

Staff recommends that the Planning Commission receive and file this report, confirming that the restaurant is governed by both Resolutions allowing on-sale beer and wine and outdoor dining.

Attachment(s):

1. Planning Commission Resolution 92-60
2. Planning Commission Resolution 96-34

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2 P.C. RESOLUTION 92-60

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA
4 BEACH, CALIFORNIA, APPROVING A PARKING PLAN AND CONDITIONAL USE
5 PERMIT AMENDMENT, TO EXPAND A BAKERY/SNACK SHOP TO INCLUDE
6 RESTAURANT SERVICE AND TO INCREASE OUTDOOR SEATING AND ADOPTION
7 OF AN ENVIRONMENTAL NEGATIVE DECLARATION AT 517 PIER AVENUE AND
8 LEGALLY DESCRIBED AS A PORTION OF LOT 31, HISS' ADDITION TO
9 HERMOSA BEACH TRACT.

10 WHEREAS, the Planning Commission held a public hearing on
11 October 20, 1992, to receive oral and written testimony regarding
12 an application for a Parking Plan and Conditional Use Permit
13 Amendment, and made the following findings:

- 14 A. A C.U.P. was granted for outdoor seating in 1989 and said use
15 has continued without causing any adverse effects, and
16 adequate room is available to expand that outdoor seating;
- 17 B. The location of the business on Pier Avenue in the downtown
18 area means a substantial portion of its customers would
19 arrive on foot or bicycle;
- 20 C. The proposed change of use to expand into a restaurant does
21 not substantially change the existing use of the site and the
22 minimal increase in parking demand can be absorbed by nearby
23 available public parking;
- 24 D. The proposed use is compatible with surrounding commercial
25 activities along Pier Avenue;
- 26 E. Strict compliance with the conditions of approval will
27 mitigate any negative impact resulting from the issuance of
28 the parking plan and conditional use permit amendment;
- 29 F. The use is consistent with the General Commercial, General
30 Plan designation;

1 G. An environmental assessment has been conducted by the Staff
2 Environmental Review Committee and this project was
3 determined to qualify for a negative declaration;
4

5 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission
6 of the City of Hermosa Beach, California does hereby approve a
7 Parking Plan and Conditional Use Permit Amendment to allow the
8 expansion into a restaurant at 517 Pier Avenue subject to the
9 following conditions which incorporate and superseded the
10 conditions of P.C. Resolution 91-62:

11 SECTION I Conditions of Approval

- 12 1. The establishment shall be in substantial conformance with
13 submitted plans, including the seating plan. The number of
14 seats (14 indoors, 16 outdoors) shall not be increased and
15 any modification to the plan shall be reviewed and approved
16 by the Planning Director.
- 17 2. The primary emphasis of the business shall be maintained as a
18 bakery and snack shop offering baked goods and coffee for
19 take-out or consumption on the premises and secondarily as a
20 restaurant offering full meals.
- 21 3. The hours of operation shall be limited to between 6:00 A.M.
22 and 11:00 P.M. daily.
- 23 4. A bicycle rack shall be provided on site to the satisfaction
24 of the Planning Director prior to the addition of restaurant
25 service.
- 26 5. A barrier (consisting of a low railing, planter box, or
27 combination thereof) shall be provided to clearly separate
28 the outside dining area from the public sidewalk, and to
prevent encroachment into the public sidewalk. Detailed
plans shall be submitted to the Planning Commission for
review and approval prior to installation of the barrier.
The barrier shall be installed prior to the addition of the
restaurant service.
6. The establishment shall not adversely effect the welfare of
residents, and/or commercial establishments nearby.
7. The business shall provide adequate management and
supervisory techniques to prevent boisterous activities of
the patrons outside the business or in the immediate area.
8. An employee who is aware of the conditions of this
conditional use permit shall be on the premises during
business hours.

- 1 9. The existing parking area, located in the rear of the cafe
2 shall be striped according to Hermosa Beach parking
standards, and maintained.
- 3 10. Signs shall be posted which indicate that parking is for the
4 cafe's employees and patrons only.
- 5 11. The trash dumpster enclosure at the rear of the building
6 shall be maintained per Building Department requirements, and
shall be kept in satisfactory condition.
- 7 12. The exterior of the premises shall be maintained in a neat
8 and clean manner along both Pier Avenue and the alley to the
rear. Coffee and food stains and litter shall be removed
promptly.
- 9 Decorative trash receptacles shall be provided for the use of
10 patrons both indoors and out. Said trash receptacles shall
be subject to approval by the Planning Department.
- 11
- 12 13. All signs shall be approved by the Building Department prior
to installation.
- 13 14. This grant shall not be effective for any purposes until the
14 permittee and the owner of the property involved (if other
than the permittee) have filed at the office of the
15 Department of Planning their affidavit stating that they are
aware of, and agree to accept, all of the conditions of this
16 grant.
- 17 15. The Conditional Use Permit shall be recorded, and proof of
recordation shall be submitted to the Planning Department.
- 18 16. There shall be compliance with all requirements of the
19 municipal code.

20 SECTION II

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

23 Permittee shall defend, indemnify and hold harmless the City, its
24 agents, officers, and employees from any claim, action, or
proceeding against the City or its agents, officers, or employees
25 to attack, set aside, void or annul this permit approval, which
action is brought within the applicable time period of Government
26 Code Section 65907. The City shall promptly notify the permittee
of any claim, action, or proceeding and the City shall cooperate
27 fully in the defense. If the City fails to promptly notify the
permittee of any claim, action or proceeding, or if the City
28 fails to cooperate fully in the defense, the permittee shall not

1 thereafter be responsible to defend, indemnify, or hold harmless
2 the City.

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

11 The subject property shall be developed, maintained and operated
12 in full compliance with the conditions of this grant and any law,
13 statute, ordinance or other regulation applicable to any
14 development or activity on the subject property. Failure of the
15 permittee to cease any development or activity not in full
16 compliance shall be a violation of these conditions.

17 SECTION III


18 Any violation of the conditions of approval and/or violation of
19 the Hermosa Beach Municipal Code may be grounds for a public
20 hearing for the revocation of the conditional use permit.


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

25 VOTE: AYES: Comm. DiMonda, Marks, Oakes, Suard, Chmn. Merl
26 NOES: None
27 ABSTAIN: None
28 ABSENT: None

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 92-60 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 20, 1992.

29 
30 _____
31 Rod Merl, Chairman

32 
33 _____
34 Michael Schubach, Secretary

35 11-4-92
36 Date

37 p/pcrs517
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RESOLUTION P.C.96-34

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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AMENDMENT FOR ON-SALE ALCOHOL, BEER AND WINE, AT 517 PIER AVE. LEGALLY DESCRIBED AS LOT 31, HISS ADDITION TO HERMOSA BEACH TRACT

WHEREAS, the Planning Commission held a public hearing on September 17, 1996, to receive oral and written testimony on this matter and made the following Findings:

A. The location and size of the subject site is adequate for the proposed use.

B. Any impact caused by approval of this Conditional Use Permit will be mitigated by the imposed conditions of approval;

C. This project is Categorically Exempt pursuant to Section 15303c of the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Hermosa Beach, California, does hereby approve the requested amendment to the Conditional Use Permit subject to the following conditions which supersede the conditions contained in Resolution P.C. 92-60:

SECTION I Specific Conditions of Approval

1. The proposed use shall be substantially consistent with submitted plans. Modifications to any of the plans shall be reviewed and may be approved by the Community Development Director.

- 1 a. A bar or counter for the service of alcohol beverages is prohibited
- 2
- 3 2. The hours of operation shall be limited to between 7:00 AM and 2:00 AM.
- 4

5 SECTION II General operating and standard conditions:

- 6
- 7 1. The establishment shall not adversely effect the welfare of the residents, and/or
- 8 commercial establishments nearby.
- 9
- 10 2. The business shall to prevent loitering, unruliness, and boisterous activities of the patrons
- 11 outside the business or in the immediate area.
- 12
- 13 3. Noise emanating from the property shall be within the limitations prescribed by the City's
- 14 noise ordinance and shall not create a nuisance to surrounding residential neighborhoods,
- 15 and/or commercial establishments.
- 16
- 17 4. The Police Chief may determine that a continuing police problem exists, and may
- 18 authorize the presence of a police approved doorman and/or security personnel to
- 19 eliminate the problem, and then shall submit a report to the Planning Commission, which
- 20 will automatically initiate a review of this Conditional Use Permit by the Commission.
- 21
- 22 5. The exterior of all the premises shall be maintained in a neat and clean manner, and
- 23 maintained free of graffiti at all times.
- 24
- 25 6. Any significant changes to the interior layouts which would alter the primary function of
- 26 the restaurant serving alcohol shall be subject to review and approval by the Planning
- 27 Commission.
- 28
- 29 7. The project and operation of all the business shall comply with all applicable requirements
- of the Municipal Code.

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2 SECTION III
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4 This grant shall not be effective for any purposes until the permittee and the owners of the
5 property involved have filed a the office of the Planning Division of the Community Development
6 Department their affidavits stating that they are aware of, and agree to accept, all of the
7 conditions of this grant.
8

9 The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the
10 Community Development Department.
11

12 Each of the above conditions is separately enforced, and if one of the conditions of approval is
13 found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.
14

15 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees
16 from any claim, action, or proceeding against the City or its agents, officers, or employee to
17 attack, set aside, void or annul this permit approval, which action is brought within the applicable
18 time period of Government Code Section 65907. The City shall promptly notify the permittee of
19 any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails
20 to promptly notify the permittee of any claim, action or proceeding, or if the City fails to
21 cooperate fully in the defense, the permittee shall no thereafter be responsible to defend,
22 indemnify, or hold harmless the City.
23

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

29 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

1 development or activity on the subject property. Failure of the permittee to cease any
2 development or activity not in full compliance shall be a violation of these conditions.
3 The Planning Commission may review this Conditional Use Permit and may amend the subject
4 conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on
5 the neighborhood resulting from the subject use.

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7 **This Resolution supersedes Resolution P.C. 92-60.**

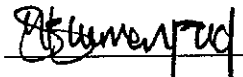
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9 **VOTE:** **AYES:** Comms. Merl, Perrotti, Pizer, Schwartz, Chmn. Tucker
10 **NOES:** none
11 **ABSENT:** none
12 **ABSTAIN:** none

13
14 **CERTIFICATION**

15
16 I hereby certify the foregoing Resolution P.C. 96-34 is a true and complete record of the action
17 taken by the Planning Commission of the City of Hermosa Beach, California, at their regular
18 meeting of September 17, 1996.

19
20 

21 Peter Tucker, Chairman

22 

23 Sol Blumenfeld, Secretary

24 1-21-97

25 Date