

April 13, 2004

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
April 20, 2004**

SUBJECT: PRECISE DEVELOPMENT PLAN 04-9
 CONDITIONAL USE PERMIT 04-8

LOCATION: 30-44 HERMOSA AVENUE

APPLICANT: PAT ZINGHEIM AND JAY SCHUSTER
 1541 BEL AIR ROAD
 LOS ANGELES, CA 90077

REQUEST: TO CONSTRUCT THREE RESIDENTIAL CONDOMINIUMS ABOVE THREE
 COMMERCIAL CONDOMINIUM UNITS ON THE GROUND FLOOR.

Recommendation:

To approve the project, subject to conditions as contained in the attached resolution.

Background:

The Planning Commission considered similar project requests on August 19, 2003, and January, 2004, that also contained three units above the ground floor commercial units. After the approval of the project in August 2003, which contained parking in a subterranean level, the applicant determined the groundwater on the site made construction of the underground parking cost prohibitive, and submitted revised plans. In January 20, 2004 the Planning Commission approved the revised plans that provided parking on the ground level, including a pair of tandem spaces for the commercial use. At their meeting of February 24, 2004, the City Council, upon reconsideration, denied the revised project, citing concerns with the tandem parking and non compliance with some of the mixed use development standards.

The new standards for mixed-use development in the C-1 zone are set forth in Section 17.40.180. The subject project is vested under a currently approved vesting tentative tract map and has been submitted to comply with the current mixed-use development standards.

The commercial permitted use list, Section 17.26.030, states "Residence: Residential uses above ground floor commercial uses(s), including condominium developments" are allowed in the C-1 Zone subject to approval of a Conditional Use Permit. A Precise Development Plan approval is required pursuant to Section 17.58 of the Zoning Ordinance because the project exceeds 1500 square feet. The Vesting Tentative Tract map has already been approved for the division of air space, and an amendment is not necessary.

Project Information

▪ ZONING:	C-1
▪ GENERAL PLAN:	Neighborhood Commercial
▪ COMBINED LOT AREA:	7,200 Square Feet
▪ PROPOSED FLOOR AREA:	9,690 Square Feet
▪ TOTAL BUILDING AREA:	13,890 Square Feet
▪ RESIDENTIAL SQUARE FOOTAGE:	Three Units, 2,434–2,452 Square Feet
▪ COMMERCIAL SQUARE FOOTAGE:	2,370 Square Feet (three tenant spaces, 670-855 square feet)
▪ PARKING REQUIRED:	17 Spaces (9.48 for commercial rounded down to 9 per Section 17.44.180, plus 6 for three residences, plus 2 guest)
▪ PARKING PROVIDED:	17 Spaces, including one handicapped accessible space
▪ ENVIRONMENTAL DETERMINATION:	Categorically Exempt

The property, located on the east side of Hermosa Avenue at the corner of Lyndon Street, is an assembly of three lots. The site is adjacent to other commercial uses along Hermosa Avenue, although a nonconforming residential apartment building is located immediately to the north. Access to the site is also available from the alley to the rear (Palm Drive). The site currently contains a one-story building and open play area that was previously used for a child day care center, with parking on the alley, and a commercial building that contained a thrift store.

Analysis

The revised project plans propose a three-story building with two floors of residential and a roof deck above ground floor commercial. The commercial portion includes three separate spaces for retail or office tenants, with the types of tenants not known at this time. The three residences are located side by side partially above the commercial area and partially above the parking area, with each containing three bedrooms and three and a half baths in a split-level floor plan. The plan no longer contains a subterranean level garage; so all the parking is located on the ground level with access from the alley. The residential units are similar to the previous plans, but in order to comply with the front and side setback requirements of the newly adopted mixed use standards, the square footage for each residential unit has been slightly reduced by approximately 150 square feet. The commercial space has been reconfigured to comply with the requirement for a 30-foot average minimum depth, as contained in Section 17.40.180.

The project is subject to the requirements of the C-1 zone, and the requirements for condominiums, and while it is not necessarily subject to the newly adopted mixed use requirements, it is also being evaluated for compliance with those standards.

C-1 COMMERCIAL AND COMMERCIAL MIXED USE DEVELOPMENT REQUIREMENTS

Pursuant to Section 17.26.050 the only standard that applies to the project in the C-1 zone is the building height (Maximum 30-feet). No setback requirements apply to buildings in the C-1 zone unless the property abuts residentially zoned property. Further, no standards are contained in

Section 17.26.050 relating to lot coverage, open space, or landscaping, and no special development standards are contained in Section 17.22.100 pertaining to commercial condominiums.

The project complies with the 30-foot height limit of the C-1 zone as depicted on submitted plans, with proposed building less than the maximum at the critical points on the roof. The project also complies with the new mixed-use development standards, as a 30-foot minimum average depth is provided for the ground floor commercial. Further, the ground floor area is primarily commercial, as it comprises 89% of the ground floor area of the building. Also, the ground floor frontage is exclusively used for commercial purposes with the exception of the entry/exit corridors for two of the residential units.

In regards to the occupancy of the commercial tenant spaces, the condominium CC & R's will specify that the uses are limited pursuant to the requirements of Section 17.40.180, and the permitted use list of the C-1 zone. The residential homeowners association does not have the authority to prevent a commercial use if it is otherwise permitted by these use requirements.

R-3 DEVELOPMENT STANDARDS

Pursuant to the mixed-use development standards the residential portion of the project is required to comply with the R-3 development standards. The, the residential portion of the project is consistent with the density, height and open space requirements of the R-3 zone as follows:

- The proposed 3 units are lower than the density allowed on a 7,200 square foot lot in the R-3 zone, which would be 5 units.
- The height limit of the R-3 zone, 30-feet, is the same as the C-1 zone and the plans are in compliance.
- Open space is provided in decks with over 300 square feet for each unit, with a minimum 100 square feet adjacent to primary living space.
- Side yard setbacks of 5 feet are provided on the residential levels.
- Rear yard setback on the alley of 1 foot is provided.

Also, pursuant to the mixed-use development standards the residential project is consistent with the following additional requirements and exceptions of Section 17.40.180:

- The residential use is limited to less than 25% of the first floor area, as it accounts for only 11%, and the areas are for the purpose of providing entry-exit corridors and do not include any primary living or sleeping areas
- The front setbacks of the residential portion vary between 6.5 feet and 9 feet, which complies with the minimum of 5 feet.
- The front setback areas on the second level are used for required open space, even though it does not in all cases provide a minimum 7-foot dimension. This exception is allowed pursuant to the mixed-use development standards.
- No lot coverage maximum applies to the project.
- The plans do not include the one 36" box street tree required per dwelling, which is being included as a condition of approval.
- Separate secured entrances are provided to the residential units from both the parking area and sidewalk.

CONDOMINIUM DEVELOPMENT STANDARDS

Section 17.22.060 contains the development standards for residential condominiums

- The project meets the minimum unit sizes for a three-bedroom unit.
- The project has complies with the minimum 5-foot front setback for the residential floors of the project.
- Enclosed storage with a minimum of 200 cubic feet provided for each residence at the level of the parking garage.
- Detailed construction requirements relating to utilities and sound insulation under Section 17.22.060 F and G will be required at building plan check.

PARKING

Parking is provided within an open garage at the ground floor in compliance with the aggregate requirements for the commercial and residential uses, and is in compliance with all the requirements of Chapter 17.44, Off-Street Parking with respect to number of spaces required, dimensions and turning radius.

Two parking spaces per residential unit are being provided in tandem with dimensions of 20 feet in depth per space accessed from a driveway in the center of the project. Tandem parking for residential purposes is specifically allowed pursuant to Section 17.44.110. The plans also include two guest spaces for the residential units opposite the tandem spaces, and one handicapped accessible space. Eight commercial parking spaces are provided with direct access from the alley, and one accessible space in the garage interior. The spaces that directly load off the alley provide a 20-foot back up, consistent with the turning radius requirement for 10-foot wide standard parking spaces and for compact spaces. Pursuant to Section 17.44.100 up to 30% of the parking spaces in the lot (or 3 commercial spaces) may be compact size.

To address issues related to the actual use of parking, staff recommends that residential spaces be assigned for each residential owner, with residential guest parking shared among residential owners, and that commercial parking be shared in common among the commercial owners/tenants and limited to use of the commercial tenants and customers. The assigning of spaces will be implemented through required signage on the property and the project CC and R's.

PRECISE DEVELOPMENT PLAN APPROVAL

Pursuant to Chapter 17.58 a Precise Development Plan is required because of the new construction. The PDP review requirements are in conformance with minimum standards of the zone, and general review of the project relating to compatibility with surrounding uses and consideration of alternative uses.

As noted above the project meets all the basic zoning requirements of the C-1 zone, the requirements for a mixed-use development. Also, parking requirements are satisfied in the revised plan without any exception from the off-street parking requirements. Beyond these basic standards, the project plans show a substantial improvement to an under-utilized and unsightly site, and will revitalize a prominent location at a primary entrance into the City. Further, the architectural features and appearance of the building are attractive and compatible with surrounding residential and commercial uses, and the building has the same height as all the new residential projects directly to the east. Also, the overall impact on traffic and local parking will be substantially less than the previous uses, since very limited parking was provided on site for the existing day nursery and retail

use (which was nonconforming to parking), and the traffic impacts of the previous combination of uses is more intense than the proposed uses. In considering the neighborhood impacts of continuing the existing use or alternative uses, staff has attached a comparison of traffic impacts. It shows that the proposed use in most cases has a lower traffic impact than the previous use or other reasonable alternative uses.

CITY COUNCIL CONCERNS WITH PRIOR PROJECT

The applicants in this new submittal are also attempting to address the various concerns of the City Council when they denied the prior version of this project. These include:

- Tandem parking has been eliminated, and the project no longer requires a Parking Plan for exceptions from off-street parking requirements with respect to dimensions and turning radius.
- Additional building setbacks have been provided for the residential portion of the project, and the ground floor commercial use has been reconfigured to provide an average minimum 30-foot depth. Therefore, the project, as conditioned, will be in full compliance with the newly adopted provisions of Section 17.40.180 pertaining to mixed-use developments.
- The applicant has added provisions in the draft CC & R's to clearly separate residential association rights from commercial owner rights, with respect to the leasing of the commercial condominiums. Otherwise the association will share responsibilities over common building maintenance issues. Also, the residential parking will be assigned to each residential unit, and the commercial parking will be owned in common by the commercial owners.
- Reducing the project size to accommodate an upper floor side setback along Lyndon Street.

Also, in response to specific Council concerns about the commercial condominiums both the City Attorney and the applicant's attorney advise that a tenant wishing to occupy two or three of the commercial spaces could do so without filing a new condominium map.

CONDITIONS OF APPROVAL

Staff recommends the following conditions of approval to address issues noted above; the other provisions of the mixed-use development standards with respect to noise, lighting and signs; and other issues addressed at previous hearings on this project:

1. The parcels comprising the subject property shall be merged prior to issuance of building permits.
2. A landscape plan shall be provided and include off-site improvements to provide three street trees, subject to Public Works Department approval.
3. Detailed construction plans shall demonstrate compliance with Sound Transmission requirements of the condominium ordinance.
4. Detailed construction plans shall provide details with respect to lighting and signage to demonstrate in compliance with Section 17.40.180 C and D.
5. Limitation on allowed commercial uses to prohibit restaurants/bars and Laundromat/dry cleaning businesses. Snacks shops such as coffee houses would be acceptable. Limit operating hours of commercial uses to between 8:00 A.M. and 10:00 P.M.
6. Covenants, Conditions, and Restrictions in compliance with the Condominium Ordinance shall be submitted to the Community Development Department for review and approval prior

to the issuance of building permits containing provisions as indicated in the attached letter from the applicant, modified to provide common parking for the commercial uses.

7. Detailed plans for off-site improvements shall be prepared by a licensed surveyor or civil engineer for approval by the Public Works Department and shall include a design to remedy the drainage situation on Palm Drive.
8. Signs shall be posted in the parking area to specify commercial, residential and accessible parking.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Comparison of traffic impacts
2. Proposed Resolution
3. Zoning Analysis
4. Location Map
5. Correspondence
6. Photographs

P.C. RESOLUTION 04-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT, AND PRECISE DEVELOPMENT PLAN, ALLOW A MIXED USE CONDOMINIUM BUILDING WITH THREE RESIDENCES ABOVE COMMERCIAL ON THE GROUND FLOOR AT 30-44 HERMOSA AVENUE LEGALLY DESCRIBED AS LOTS 1,2 AND 3, BLOCK 41, 1ST ADDITION TO HERMOSA BEACH TRACT

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

Section 1. An application was filed by Pat Zingheim and Jay Schuster, owners of real property located at 30-44 Hermosa Avenue seeking approval of a Conditional Use Permit, and Precise Development Plan to allow the construction of condominium project consistent with the Vesting Tentative Tract Map previously approved containing three residences above commercial on the ground floor with a new development plan.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the subject application on April 20, 2004, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The subject property is located in the C-1, Neighborhood Commercial Zone. A Conditional Use Permit is required pursuant to the C-1 permitted use list of Section 17.26.030 of the Zoning Ordinance, which provides that "Residence: Residential uses above ground floor commercial uses(s), including condominium developments" as a conditionally permitted use. This section was amended by the City Council to also allow residential condominiums. A Precise Development Plan is required pursuant to Chapter 17.58 for new construction of more than 1500 square feet.

2. The subject property is currently developed with one-story structures most recently used for a child day care center and thrift store. The property consists of the three 30-foot wide lots fronting on Hermosa Avenue with alley access to the rear.

3. The applicant proposes to construct a new building with three commercial tenant spaces on the ground floor and with three attached two-level residential condominiums units above. 17 parking spaces are provided to comply with the aggregate parking requirements of the commercial and residential uses.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application for a Conditional Use Permit, and Precise Development Plan.

1 1. The project is consistent with applicable general and specific plans and is in compliance with
2 the use and development requirements of the Zoning Ordinance for both the commercial and residential
3 portions of the project, and the project as a whole is in compliance with Section 17.44.180 Mixed-Use
4 Development;

5 2. The site is zoned C-1 and is physically suitable for the type and density of proposed
6 development and the project and proposed use comply with the development standards contained
7 therein;

8 3. The subdivision or types of improvements are not likely to cause serious public health
9 problems;

10 4. The subdivision or type of improvements will not conflict with easements, acquired by the
11 public at large, for access through or use of property within the proposed subdivision;

12 5. Design of the proposed subdivision is compatible and consistent with applicable elements of
13 the City's General Plan, and is compatible with the immediate environment;

14 6. The project, as conditioned, will conform to all zoning and condominium laws and criteria and
15 will be compatible with neighboring residential properties;

16 7. The project provides the number of required off-street parking spaces on-site in compliance
17 with Chapter 17.44 of the Zoning Ordinance.

18 8. The project is Categorically Exempt from the requirement for an environmental assessment,
19 pursuant to the California Environmental Quality Act Guidelines, Sections 15303(b) and 15315 with the
20 finding that the project is in an area with available services.

21 Section 5. Based on the foregoing, the Planning Commission hereby approves the subject
22 Conditional Use Permit, Precise Development Plan subject to the following **Conditions of Approval:**

- 23 **1. The development and continued use of the property shall be in conformance with**
24 **submitted plans, received and reviewed by the Commission at their meeting of April 20,**
25 **2004.**
- 26 **2. Occupancy of the commercial space on the ground floor shall be limited to uses**
27 **permitted in the C-1 zone, and shall not include residential use. Uses that are subject to**
28 **greater parking requirements, such as restaurants/cafes, and medical or dental clinics**
29 **are not permitted. Also, Laundromats and dry cleaning business are prohibited.**
- 3. Commercial uses shall be limited to operation hours between 8:00 A.M. and 10:00**
P.M., except that a snack shop or coffee house shall have hours limited to between 7:00
A.M. and 9:00 P.M. Any lighting for commercial signs shall be turned off when the
business is not in operation.

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4. The project shall meet all requirements of the Condominium Ordinance.

- a) Each residential unit shall have the minimum 200 cubic feet of storage space and plans shall clearly denote storage space and the location of the FAU and vacuum canister, if provided.
- b) Covenants, Conditions, and Restrictions in compliance with the Condominium Ordinance shall be submitted to the Community Development Department for review and approval prior to the issuance of building permits.
- c) Proof of recordation of approved CC & R's shall be submitted to the Community Development Director six (6) months after recordation of the Final Map.
- d) Requirements of Section 17.22.060(F) relating to utilities & (H) relating to Sound Insulation between units shall be shown on structural plans and reviewed at the time of Building Division plan check.

4. Project CC and R's, and on-site signage shall specify how the commercial and residential off-street parking will be used by occupants and customers of the building, including the following:

- a) Tandem parking for two spaces per residential unit shall be permanently and exclusively assigned to individual residential units. Residential guest parking shall be assigned for use of all residences.
- b) The handicap accessible space shall be appropriately signed at the garage entry and stall.
- c) Commercial parking shall not be assigned to individual tenants, and instead shall be available to all commercial occupants and customers.

5. Precise building height information shall be provided on final project plans, which shall include corner point elevations provided on a detailed roof plan indicating corner points of the lot, the location of all property lines and maximum and proposed heights at the critical points on the roof.

6. Architectural treatment shall be as shown on building elevations and site and floor plans. Any modification shall require approval by the Community Development Director.

7. Two copies of a final landscaping plan indicating size, type, and quantity of plant materials to be planted shall be submitted to the Community Development Department, Planning Division for review and approval prior to the issuance of Building Permits.

- a) At least three street trees shall be provided along the Hermosa Avenue frontage subject to approval by the Public Works Department.

8. A sign program shall be submitted for review and approval by the Community Development Department prior to the issuance of any sign permits for individual businesses. All commercial signs shall be located on the first floor commercial portion of the building, and shall be in compliance with the Sign Ordinance requirements for the C-1 zone.

1 **9. There shall be compliance with all requirements of the Public Works Department and**
2 **Fire Department**

3 **(a) Detailed plans for off-site improvements shall be prepared by a licensed**
4 **surveyor or civil engineer for approval by the Public Works Department and**
5 **shall include improving the alley to provide an improved 20-foot wide paved**
6 **alley, and a design to remedy the drainage situation on Palm Drive.**

7 **10. The lots comprising the project site shall be merged in accordance with Section**
8 **16.20.110 of the Subdivision Ordinance.**

9 **11. The address of each condominium unit shall be conspicuously displayed on the street**
10 **side of the buildings with externally or internally lit numbers and the method for**
11 **illumination shall be shown on plans. Addressing numbering and display subject to**
12 **approval by the Community Development Department**

13 **12. If garage doors are installed on the garage door openings for the residential parking, it**
14 **shall be a roll-up automatic garage door with a minimum 7-foot clearance with the door**
15 **in the open position.**

16 **13. Two copies of final construction plans, including site, elevation and floor plans, which**
17 **are consistent with the conditions of approval of this conditional use permit, shall be**
18 **reviewed and approved by the Planning Division for consistency with Planning**
19 **Commission approved plans prior to the submittal to the Building Division for Plan**
20 **Check.**

21 **a) Construction plans shall include details regarding lighting so as not to adversely**
22 **impact residences, and shall not include any flashing, blinking or high intensity lighting.**
23 **Lighting shall be included to adequately illuminate parking areas and corridors.**

24 **b) Construction plans shall include locations for electrical connections for commercial**
25 **signs**

26 **14. Final construction plans shall include detailed lighting plans to ensure compatibility**
27 **between uses, and to provide adequate security for the parking areas.**

28 **15. Prior to approval of the Final Map, and prior to issuance of a Certificate of Occupancy,**
29 **outstanding assessments must either be paid in full or apportioned to any newly created**
30 **parcels. Notice of same shall be provided to the Community Development Director.**
31 **Assessment payoff amounts may be obtained by calling the City's Assessment**
32 **Administrator at (800) 755-6864. Applications for apportionment may be obtained in the**
33 **Public Works Department.**

34 **16. The Conditional Use Permit and Precise Development Plan shall be null and void**
35 **eighteen months from the date of approval unless building permits have been obtained,**
36 **and approval of the Vesting Tentative Parcel Map shall become null and void twenty-**
37 **four months from the date of approval unless the map is finalized and the project**
38 **implemented. The applicant may apply in writing for an extension of time to the**
39 **Planning Commission prior to the dates of expiration.**

17. Prior to issuance of a building permit, abutting property owners and residents within 100 feet shall be notified of the anticipated date for commencement of construction.

a) The form of the notification shall be provided by the Planning Division of the Community Development Department.

b) Building permits will not be issued until the applicant provides an affidavit certifying mailing of the notice.

18. The owner shall provide separate written disclosure upon sale or rental of the subject property that it is a mixed use and permits commercial and residential uses within the building.

Section 6. 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, Precise Development Plan, and Parking Plan shall be recorded, and proof of recordation shall be submitted to the Community Development Department.

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.

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

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.

1 The Planning Commission may review this Conditional Use Permit, Precise Development Plan
2 and may amend the subject conditions or impose any new conditions if deemed necessary to mitigate
3 detrimental effects on the neighborhood resulting from the subject use.

4 Section 7. Pursuant to the Code of Civil Procedure Section 1094.6 any legal challenge to the
5 decision of the Planning Commission, after a formal appeal to the City Council, must be made within 90
6 days after the final decision by the City Council.

7 VOTE: AYES:
8 NOES:
9 ABSENT:
10 ABSTAIN:

11 CERTIFICATION

12 I hereby certify the foregoing Resolution P.C. 04- is a true and complete record of the action taken by
13 the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of April,
14 2004.

15 _____
16 Langley Kersenboom, Chairman

17 _____
18 Sol Blumenfeld, Secretary

19 April 20, 2004
20 Date

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