

April 12, 2006

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

**Regular Meeting of  
April 18, 2006**

SUBJECT: CONSIDERATION OF MODIFICATION TO THE CONDITIONS OF APPROVAL FOR THE HERMOSA PAVILLION PRECISE DEVELOPMENT PLAN AND PARKING PLAN (RESOLUTION NO. 03-45) -- 1605 PACIFIC COAST HIGHWAY

**Recommendation:**

1. To adopt the attached Resolution amending Resolution No. 03-45 to require that the property owner provide free parking for customers with validation only during peak operating periods of the fitness club in order to increase use of the parking structure by the fitness club members and prevent spillover parking in the neighborhood; and
2. Re-evaluate the effectiveness of the validation program in six months to determine whether it is necessary to impose new conditions on the Parking Plan or repeal the mandatory validation program and initiate public parking measures to mitigate spill over neighborhood parking.

**Background:**

On February 21, 2006, the Planning Commission reviewed a parking study submitted by the Hermosa Pavilion owner, and heard testimony from residents, customers and employees which established that adequate parking is provided on site<sup>i</sup> but that a significant parking problem exists on surrounding streets, since 30-40% of building users were choosing to park on-street or in other commercial lots rather than use the building garage. Staff and the owner presented parking solutions for Commission consideration, and the Commission continued the matter, directing staff to work with the applicant to find mutually acceptable parking solutions. On March 21, 2006, the Planning Commission reviewed the owner's recommendations and determined that it was necessary to amend the project conditions in order to mitigate problems created by the parking operations of the Hermosa Pavilion.

On August 19, 2003 the Planning Commission approved Resolution No. 03-45 for the Hermosa Pavilion, which contains conditions related to the adequacy of parking supply and efficiency of parking operations for the building. The Parking Plan is based upon a shared parking analysis that allows the owner to park the project on peak parking demand for various uses in the multi-tenant building rather than on code required parking ratios, thus allowing the owner to provide significantly less parking than would typically be required under the Parking Ordinance. The Parking Plan approval is conditioned upon effective monitoring of project parking to ensure that parking operations do not create a nuisance to the surrounding neighborhood.

Condition No. 3(b) specifically states that the "adequacy of parking supplies and *efficiency* of the parking operation program shall be monitored for six-months after occupancy of the Health and Fitness Facility," requiring a report from the applicant's traffic engineer "certifying adequate on-site parking is available". The owner and staff have been monitoring the use of the parking facility in relation to the use of the fitness club and other tenants in the building. The owner has provided a report pursuant to this requirement for Commission review to address both the adequacy of parking supplies, and the efficiency of the parking operation. The report supplied by the owner's traffic and parking consultant clearly shows a significant under utilization of the structure, and a substantial off-site parking impact.<sup>ii</sup> Section 6 of Resolution 03-45 includes the provisions that states that the "Planning Commission may review this Precise Development Plan and Parking Plan 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.”

**Analysis:**

The purpose of the present agenda item is to determine whether Resolution 03-45 should be amended to require the property owner to provide free parking to mitigate problems of spill over parking in the adjacent neighborhood. The approved Parking Plan stipulates that in addition to supplying required parking, it is also the owner’s obligation to ensure that the parking is being used and that parking operations for the project do not create neighborhood problems. When the project parking is creating a nuisance, these conditions give the City authority to take action, which may include requiring improvements to the parking operations to ensure use of the parking structure. It is the owner’s obligation to demonstrate that the structure is being used efficiently.

Since a specific problem causing detrimental effects on the neighborhood has been identified and quantified, the Commission may wish to impose more specific conditions to address this problem. For example a condition could be added to require that parking be provided for free for at least two hours during peak use periods for fitness club patrons. If such a condition were added, it would explicitly give the City authority to withhold occupancy permits and construction permits for any new tenants until such free parking is provided and allow mandatory parking validation during specified periods.

Staff met with the applicant to discuss some of the options presented. The owner has focused on efforts to better promote and lower the cost for users of the Pavilion, by offering monthly or annual passes, that can potentially reduce the cost for parking from \$1.00 to 50 cents per visit. Also, a program to offer free parking validation with the purchase of a smoothie is proposed. The owner has offered to provide limited 2-hour free parking on level 2 of the parking garage in the tandem parking spaces (fitness club patrons would receive a double validation). This would require users to leave a key with a parking assistant. Sixty spaces are available at this level. Otherwise, the owner suggests that the City solve the problem by limiting parking on P.C.H. to 30 minutes, and initiate a preferential parking district for the impacted neighborhoods (please see attached correspondence).

**Discussion of Recommended Condition**

**Modify conditions of the Parking Plan to require two hour free parking only during peak periods of the fitness club operations in the morning and early evening (7:00 a.m. to 9:00 a.m. and 5:00 p.m. – 7:00 p.m.).**

A new condition may be added requiring validations for patrons of the fitness club, only during peak parking demand times in the early morning and early evening to address neighborhood spillover parking while minimizing the impact upon parking structure revenues to the owner. The City’s traffic engineer reviewed the parking study and the spillover parking problem, and supports the recommendation for providing free parking, noting that the current cost for parking encourages the patrons of the facility to find alternative means to park their vehicles. Typically those looking for parking seek the least expensive and yet convenient means to park their cars. On street parking becomes a very attractive alternative. Since the critical period for customer parking related to the gym use is early morning and early evening, two hours of free parking during these periods may resolve the on-street parking problems. The Commission may want to evaluate the effectiveness of this condition six months from the effective date of the modified resolution. At that time, if a study by the owner’s parking consultant does not demonstrate that fitness club members are parking in the structure, the Commission may wish to repeal the condition or enact new parking conditions or, recommend public parking measures to discourage parking on the streets.

The owner is opposed to this condition and does not want to provide free parking in this manner. He argues that not charging for the frequent short parking visits by the customers of the fitness club will result in a significant loss in revenue which will in turn make it impossible to continue to provide the high level of security and service in the parking structure. He notes that he provides 24-hour security, and employs several cashiers and other attendants to make sure that the parking structure is maintained safe and clean, and operates smoothly, reflecting a first class operation. Further, he notes that the current rate structure is already established in the lease with 24-Hour Fitness, which cannot be modified, therefore, he cannot pass the cost on to the fitness club, or to members in their membership dues. He also argues the providing free parking will not necessarily be an effective solution, since it is not only the cost of parking that causes patrons to use street parking. The owner is basically proposing free tandem assist parking for two hours, and to better promote parking in the structure, and offering parking passes that will reduce the cost per visit if purchased in advance.<sup>iii</sup>

As stated in Section 6 of Resolution 03-45, if the Commission finds that the use of the building is causing detrimental effects on the neighborhood, conditions of the resolution may be amended or new conditions imposed. Also pursuant to Chapter 17.70 of the Zoning Ordinance (pertaining to revocation an expiration of permits or variances granted by the Commission), the Commission may after public hearing revoke or modify any permit if “the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.” Therefore under either the Parking Plan resolution or the Zoning Ordinance the Commission may consider permit revocation or modification.

**Findings for Modifying the Conditions of Approval:**

The parking facility is currently not operating in compliance with the terms of the Parking Plan and Precise Development Plan as amended in 2003:

1. The six-month review of operations of the parking facility as required by the Parking Plan and Precise Development has demonstrated that parking operations are inefficient. This review, based upon parking intercept surveys and testimony from residents, indicates that a significant percentage of customers of the building are utilizing on street parking in the residential neighborhoods rather than using the parking structure. The parking in the structure costs at least one dollar with validation for two hours, with and an additional dollar for each hour, while the parking on the nearby streets is free. This disparity in cost is the primary reason for this inefficient use of the parking facility.
2. The demonstrated spillover parking is causing detrimental effect on these residential neighborhoods, as shown by the parking study and supported by testimony from residential property owners and occupants in the neighborhoods along 16<sup>th</sup> Street.
3. Review of parking operations within 6 months, after removal of the disparity in the cost of the parking, will clearly show if parking cost is causing spillover parking in the neighborhoods.
4. The allocation of uses and the use of the parking facility with shared parking to meet parking requirements, for which the Parking Plan was granted, is not being exercised in accordance with the approval and the assumption of the shared parking. Instead the operation of the parking facility is resulting in a detrimental impact to the public health, and safety and constitutes a nuisance.
5. Spillover parking into nearby public parking areas along both residential and commercial

streets is detrimental to the existing businesses and residences, which have long established practice of using this on street parking.

6. The use of on street parking across Pacific Coast Highway is forcing customers and patrons of the Pavilion to cross P.C.H. which is a hazard to both the pedestrians crossing the street and the vehicles traveling on P.C.H.
7. The applicant has not demonstrated that his proposals to mitigate the demonstrated spillover parking will result in any substantial reduction or alleviation of the inefficient use of the parking facility and spillover parking into nearby neighborhoods:
8. The tandem assisted free parking would only available for those willing to park in level 2, which is not the most convenient location in the structure, and may not be more convenient then nearby on-street parking.
9. The monthly parking passes are aimed only at frequent users, as it would not make any sense for those parking 2-hours or less per visit who use the structure less than 20 times a month to spend \$20 for a monthly pass. So a typical gym patron that comes 2-4 times a week would have no reason to purchase a pass.
10. The smoothie validation program provides for free validated parking for customers purchasing a \$5 or \$6 smoothie. As such, its potential effect is limited, and instead of addressing the cost disparity, results in a substantial cost to park in the structure.

Conclusion:

The City Attorney has determined that the City has the authority to require free or discounted validated parking for persons conducting business in the building. This is an exercise of the City's constitutional police power to impose reasonable conditions on a project to address project impacts and mitigate adverse environmental impacts associated with a development project and to avert creation of a public nuisance.

Staff is therefore recommending that the Commission adopt the attached resolution which contains new conditions on the Precise Development Plan and Parking Plan for the Pavilion to require 2-hour free validated parking during peak hours of the health and fitness club and a 6-month review to evaluate whether the mandatory parking validation is improving the use of the structure and decreasing the impact on the nearby residential and commercial area.

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Sol Blumenfeld, Director  
Community Development Department

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<sup>i</sup>. Existing Parking Supply:  
Consistent with the approved Parking Plan a maximum of 540 parking spaces are provided as follows:  
454 standard single load,  
42 tandem (for employee parking or tandem assist for customers)  
44 parallel for valet parking.

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ii Tables 3-2 and 3-3 Parking Intercept Surveys, and Tables 3-4 and 3-5, Summary of On Street/Off-Street Parking Survey, Hermosa Beach Pavilion Parking Study Report, Linscott, Law & Greenspan, 2/13/06  
A detailed customer intercept survey was conducted on Mondays and Fridays, between 7:00 to 9:00 p.m. and on Saturday from 7:00 to 9:00 p.m. for the area bordering the Pavilion (along Pacific Coast Highway, 18<sup>th</sup>, 17<sup>th</sup>, 16<sup>th</sup> and 15<sup>th</sup>, Streets) The intercept survey revealed that on Mondays 450 cars ( 27.9%) parked on the streets within this study area and 1,124 indicated they parked on site. Most of those surveyed parked on PCH but significant numbers also parked on the side streets. On Fridays 726 parked on site and 257 (25.6%) parked on the street. On Saturdays 298 parked on site and 496 (37.2%) parked on the street. The report concludes that based on these observations it can be concluded that there are Pavilion patrons parking in the surrounding neighborhoods. The parking on 16<sup>th</sup> Street is particularly impacted. During Monday peak period, 17 vehicles were observed parking on the street and 14 of those that parked ( 82%) went to the Pavilion. This is described on Table B-5 when the survey was conducted on 1/30/05.

iii Existing Parking Rates:

Parking rates are \$1.00 per hour, or 16.00 per day. With validation, 24-hour fitness customers can park for up to two hours for \$1.00 (Monthly passes are available a price of \$20.00 per month). Employee parking passes (monthly and annual) are available to park in separately designated employee parking areas based on lease agreements with each tenant.

Attachments:

1. Proposed amended Resolution
2. Resolution No. 03-45
3. Section 17.70
4. Correspondence
5. Parking Study Report – Hermosa Pavilion

**P.C. RESOLUTION NO. 06-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, MODIFYING CONDITIONS OF APPROVAL OF A PREVIOUSLY APPROVED PRECISE DEVELOPMENT PLAN AND PARKING PLAN FOR AN EXPANSION AND REMODEL TO AN EXISTING COMMERCIAL BUILDING AND SHARED PARKING TO ACCOMMODATE A NEW ALLOCATION OF USES WITHIN THE “THE HERMOSA PAVILION” INCLUDING A NEW HEALTH AND FITNESS FACILITY, OFFICES, RETAIL AND RESTAURANT USES AT 1601 PACIFIC COAST HIGHWAY AKA 1605 PACIFIC COAST HIGHWAY.**

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

Section 1. On August 19, 2003, the Planning Commission adopted P.C. Resolution 03-45 to approve an application by Shook Development Corporation owner of property at 1605 Pacific Coast Highway, known as the “Hermosa Pavilion”, to amend a previously approved Precise Development Plan and Parking Plan to remodel and expand an existing commercial building and to allow shared parking to accommodate a new allocation of uses within the building including a health and fitness facility, office, retail and restaurant uses.

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Section 2. At the Planning Commission meeting of February 21, 2006, the Planning Commission conducted a six-month review of parking operations as required by Condition No. 3(b) of P.C. Resolution 0-45 to evaluate if parking supply and parking efficiency were adequate. At that time, it was shown based parking surveys conducted by the property owners consultant, city staff, and on testimony considered from the public that the parking structure was not being used efficiently, causing detrimental spillover parking into the neighborhood, and the owner was given the opportunity to resolve these problems. At the March 21, 2006 meeting, the Planning Commission found that the solutions presented by the owner would not significantly reduce or alleviate the problem directed staff to schedule a public hearing to consider modifications to the Precise Development Plan and Parking Plan (P.C. Resolution 03-45) to resolve the problems being caused by inefficient use of the Parking Structure.

Section 3. The Planning Commission conducted a duly noticed public hearing to consider the revocation or amendment for the Precise Development Plan and Parking Plan on April 18, 2006, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 4. Based on evidence received at the public hearing, the Planning Commission makes the following findings:

1. The parking facility is currently not operating in compliance with the terms of the Parking Plan and Precise Development Plan as amended in 2003 for the following reasons:

a) The six-month review of operations of the parking facility as required by the Parking Plan and Precise Development has not demonstrated that the efficiency of the parking operation is adequate. Instead the six-month review has clearly demonstrated (by parking intercept surveys, and testimony from residents) that a significant percentage of customers of the building are utilizing on-street parking in the residential neighborhoods rather than using the parking structure. The parking in the structure costs at least one dollar with validation for two hours, with and additional dollar for each hour, while the parking on the nearby streets is free. This disparity in cost is the primary reason for this inefficient use of the parking facility.

b) The demonstrated spillover parking is causing detrimental effects on these residential neighborhoods, as shown by the spillover parking, and supported by testimony from residential property owners and occupants in the neighborhoods along 16<sup>th</sup> Street.

c) Another review of parking operations and spillover effects within 6 months, after

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removal of the disparity in the cost of the parking, will clearly show if the cost of parking what's causing this spillover parking.

2. The allocation of uses and the use of the parking facility with shared parking to meet parking requirements, for which the Parking Plan was granted, is not being exercised in accordance with the approval and the assumption of the shared parking. Instead the operation of the parking facility is resulting in a detrimental impact to the public health, and safety and constitutes a nuisance, in that:

- a) Spillover parking into nearby public parking areas along both residential and commercial streets is detrimental to the existing businesses and residences which have long established practice of using this on street parking.
- b) The use of on-street parking across Pacific Coast Highway is forcing customers and patrons of the Pavilion to cross P.C.H. which is a hazard to both the pedestrians crossing the street and the vehicles traveling on P.C.H.

3. The applicant has not demonstrated that his proposals to mitigate the demonstrated spillover parking will result in any substantial reduction or alleviation of the inefficient use of the parking facility and spillover parking into nearby neighborhoods:

- a) The tandem assisted free parking would only available for those willing to park in level 2, which is not the most convenient location in the structure, and may not be more convenient then nearby on-street parking.
- b) The monthly parking passes are aimed only at frequent users, as it would not make any sense for those parking 2-hours or less per visit who use the structure less than 20 times a month to spend \$20 for a monthly pass. So a typical gym patron that comes 2-4 times a week would have no reason to purchase a pass.
- c) The smoothie validation program provides for free validated parking for customers purchasing a \$5 or \$6 smoothie. As such, its potential effect is limited, and instead of addressing the cost disparity, is results in a substantial cost to park in the structure.

Section 5. Based on the foregoing, the Planning Commission hereby modifies and amends the subject Precise Development Plan and Parking Plan, subject to the following **Conditions of Approval**, which supersede and incorporate the conditions of P.C. Resolution 03-45.

**A. New Conditions**

**Two hour free validated parking shall be provided for patrons of the Health and Fitness Club during peak usage times of the fitness club, at a minimum between 7:00 A.M. and 9:00 A.M. in morning and between 5:00 P.M. and 7:00 P.M. in the evening.**

**The effectiveness of the free validated parking program and the overall efficiency of the use of the parking structure and off-site parking impacts shall be evaluated in 6-months from the**

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effective date of this Resolution. The owner shall provide the necessary parking receipts, and parking intercept surveys and parking counts to demonstrate the effectiveness of this program.

**B. Original Conditions of Approval**

1. The development and continued use of the property shall be in conformance with submitted plans reviewed by the Planning Commission at their meeting of August 19, 2003. Minor modifications to the plan shall be reviewed and may be approved by the Community Development Director, including modifications to the allocation of uses if consistent with the shared parking analysis.
2. To ensure compliance with the Parking Plan for shared parking the allocation of uses within the building shall be substantially consistent or less than the following allocation:

	<u>Allocation(in square feet)</u>
Health and Fitness Facility (including a basketball court and pool)	46,500
Office	26,000
Retail	28,500
Restaurant	4,000
<b>Total</b>	<b>105,000</b>

**Any material change to this allocation requires amendment to the Parking Plan, and approval of the Planning Commission.**

3. A parking operation plan shall be submitted for approval by the Planning Division prior to issuance of the building permit for the Health and Fitness Facility, ensuring maximum use of parking structure consistent with the Shared Parking Analysis (prepared by Linscott, Law and Greenspan, dated August 3, 2003), and to ensure efficient ingress and egress to and from the structure. The parking structure shall be operated in accordance with said plan.
  - a) A minimum of 450 single use and 30 dual use (tandem) parking spaces shall be available within the structure for employees and customers of all tenants within the building, and all parking shall be available on a first come first serve basis (i.e. no assigned parking except that tandem spaces may be assigned to employees).
  - b) The adequacy of parking supplies and the efficiency of the parking operation program shall be monitored for six-months after occupancy of the Health and Fitness Facility, and annually thereafter in the month of January, with a report submitted to the Community Development Department by the applicant's traffic engineer certifying adequate on-site parking is available. If supplies are found to be inadequate, the applicant shall provide valet assisted parking, and a detailed valet assistance program shall be provided to the City for review by the City's traffic engineer. If the City's traffic engineer finds the parking supply inadequate the Planning Commission shall review the Parking Plan and may modify the Parking Plan to resolve any parking inadequacy.



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- c) **A lighting and security plan, including possible use of security personnel shall be reviewed and approved by the Police Department to ensure that the parking structure is well lit and safe for the patrons prior to issuance of building permits.**
  - d) **A lighting and security plan, including possible use of security personnel shall be reviewed and approved by the Police Department to ensure that the parking structure is well lit and safe for the patrons prior to issuance of building permits.**
  4. **Architectural treatment including sign locations shall be as shown on building elevations and site and floor plans. Any modification shall require approval by the Community Development Director**
  5. **The project shall comply with the requirements of the Fire Department and the Public Works Department.**
  6. **Final building plans/construction drawings including site, elevation, floor plan, sections, details, signage, landscaping and irrigation, submitted for building permit issuance shall be reviewed for consistency with the plans approved by the Planning Commission and the conditions of this resolution, and approved by the Community Development Director prior to the issuance of any Building Permit.**
    - a. **The landscape plans shall include landscaping along Pacific Coast Highway and street trees and shall be consistent with the original landscape plans approved for the Hermosa Pavilion, subject to review and approval of the Community Development Director.**
    - b. **Project plans shall include insulation to attenuate potential noise problems with surrounding residential uses.**
  7. **All exterior lights shall be located and oriented in a manner to insure that neighboring residential property and public right-of-way shall not be adversely effected.**
  8. **Bicycle racks shall be provided in conveniently accessible locations to the satisfaction of the Community Development Director**
  9. **The project and operation of the businesses shall comply with all applicable requirements of the Municipal Code.**
  10. **The Precise Development Plan and Parking Plan shall be recorded, and proof of recordation shall be submitted to the Community Development Department.**

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

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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.

The Planning Commission may review this Precise Development Plan and Parking Plan 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.

Section 7. 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:  
                      NOES:  
                      ABSTAIN:  
                      ABSENT:

#### CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 06-    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 April 18, 2006.

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Peter Hoffman, Chairman

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Sol Blumenfeld, Secretary

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Date