

RESOLUTION NO. 02-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, SUSTAINING THE DECISION OF THE PLANNING COMMISSION TO APPROVE A PRECISE DEVELOPMENT PLAN AND PARKING PLAN, AS AMENDED, FOR AN EXPANSION AND REMODEL TO AN EXISTING COMMERCIAL BUILDING, “THE HERMOSA PAVILION;” AND TO SUSTAIN THE DECISION OF THE PLANNING COMMISSION TO APPROVE A VARIANCE TO THE 35’ HEIGHT LIMIT TO ENCLOSE THE UPPER FLOOR OPEN DECK AREAS AND TO ENCLOSE THE OPEN AREA ABOVE THE PARKING STRUCTURE AND ADOPTION OF AN ENVIRONMENTAL NEGATIVE DECLARATION AT 1605 PACIFIC COAST HIGHWAY

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

Section 1. Applications were filed by Shook Development Corporation owner of property at 1605 Pacific Coast Highway, known as the “Hermosa Pavilion”, seeking approval of a 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 and retail uses, seeking a Variance to the 35-foot height limit to enclose the upper floor open deck areas and to add floor area above the open area of the parking structure.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for a Precise Development Plan, Parking Plan and Variance on February 19, 2002, and based on the testimony and evidence, both written and oral, that was presented to and considered by the Planning Commission, approved the Precise Development Plan and Parking Plan subject to conditions as set forth in P.C. Resolution 02-8 and approved the Variance subject to conditions as set forth in P.C. Resolution 02-9.

Section 3. The City Council conducted a duly noticed public hearing to reconsider the decision of the Planning Commission to approve the Precise Development Plan, Parking Plan and Variance on April 9, and May 28, 2002, and heard testimony and evidence, both written and oral, that was presented to and considered by the City Council, including modifications to the plan made by the applicant based on City Council input.

Section 4. Based on the record of decision of the Planning Commission and the evidence received at the public hearing, the City Council makes the following factual findings pertaining to the application for a Precise Development Plan and Parking Plan Amendment:

1. The Hermosa Pavilion retail and entertainment complex was originally approved in 1986, with said approval consisting of a Parking Plan for shared parking and a Conditional Use Permit for a 6-plex movie theatre (Resolution P.C. 86-40). The applicant is proposing changes to the allocation of uses summarized as follows:

Prior Approved Use	Allocation	Proposed Project	Proposed Allocation
Theatre (6-Plex)	26,680 SF	Health and Fitness Club	44,300
Retail and Restaurant	<u>46,180 SF</u>	Office	49,080
Total	72,860 SF	Retail	<u>15,050</u>
		Total	108,430 SF

2. The existing 6-level parking structure will be reconfigured to contain 450 parking spaces (334 standard, 116 compact size) with an additional 31 spaces if tandem parking is used and up to 514 spaces with valet assistance in the existing six-level parking structure.

3. The site is zoned S.P.A. 8 which requires a Precise Development Plan for a remodel and expansion project that exceeds 10,000 square feet and exceeds a floor areas to lot area ratio of 1:1. A Parking Plan is necessary to amend the existing approved shared parking arrangement in order to comply with the parking requirements of the Zoning Ordinance.

Section 5. Based on the foregoing factual findings, the City Council makes the following findings pertaining to the application for a Precise Development Plan and Parking Plan Amendment:

1. The project is consistent with applicable general and specific plans, and is in compliance with the use and development requirements of the Zoning Ordinance.

2. The site is zoned S.P.A. 8, Specific Plan Area-Commercial, and the project and proposed use complies with the development standards contained therein.

3. Pursuant to Section 17.44.210 of the Zoning Ordinance, a reduction in the number of parking spaces required is acceptable due to the proposed mix of uses with varying peak hours of parking needs. Parking demand is projected to be satisfied by the supply within the parking structure due to the proposed new mix of uses with varying times of peak parking demand. The applicant has submitted a Shared Parking Analysis, prepared by Linscott Law and Greenspan (dated May 22, 2002) to demonstrate that the parking will be sufficient for the proposed mix of uses. The shared parking analysis shows that the proposed supply of 450 spaces is adequate to meet peak parking demand, based on projected hourly parking counts for the health and fitness club (derived from a similar operation in Costa Mesa), plus projected parking needs of the office and retail uses (based on City parking requirements). Further the 450 spaces can be supplemented with parking management.

4. Compliance with the conditions of approval will mitigate any negative impact resulting from the issuance of the Precise Development Plan.

5. The City Council concurs with the Planning Commission based on the Staff Environmental Review Committee's recommendation, based on their environmental assessment/initial study, that this project will result in a less than significant impact on the environment, and therefore qualifies for a mitigated Negative Declaration.

1 Section 6. Based on the foregoing, the City Council hereby approves the subject Precise
2 Development Plan and Parking Plan subject to the following **Conditions of Approval:**

- 3 **1. The development and continued use of the property shall be in conformance with**
4 **submitted plans reviewed by the City Council at their meeting of May 28, 2002.**
5 **Modifications to the plan shall be reviewed and may be approved by the Community**
6 **Development Director.**
- 7 **2. To ensure compliance with the Parking Plan for shared parking the allocation of uses**
8 **within the building shall be substantially consistent with the following allocation:**

	<u>Allocation(in square feet)</u>
9 Health and Fitness Facility (including a	44,300
10 basketball court and pool)	
11 Office	49,080
12 Retail	15,050
13 Total	108,430

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

- 16 **3. A parking operation plan shall be submitted for approval by the Planning Division**
17 **prior to issuance of the building permit for the Health and Fitness Facility, ensuring**
18 **maximum use of parking structure consistent with the Shared Parking Analysis**
19 **(prepared by Linscott, Law and Greenspan, dated January 23, 2002 and revised**
20 **May 22, 2002), and to ensure efficient ingress and egress to and from the structure.**
21 **The parking structure shall be operated in accordance with said plan.**
- 22 **a) A minimum of 450 single use and 30 dual use (tandem) parking spaces shall be**
23 **available within the structure for employees and customers of all tenants within**
24 **the building, and all parking shall be available on a first come first serve basis**
25 **(i.e. no assigned parking except that tandem spaces may be assigned to**
26 **employees).**
- 27 **b) The applicant shall certify the adequacy of parking supplies and the efficiency of**
28 **the parking operation program six-months after occupancy of the Health and**
29 **Fitness Facility with a report submitted to the Community Development**
Department by the applicant's traffic engineer verifying 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.

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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.

4. Architectural treatment including sign locations shall be as shown on building elevations and site and floor plans prior to issuance of building permits. 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, roof plan (with all required roof-top equipment), 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 conceptual landscape plans approved by the City Council and 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 Public Works Department and the Community Development Director
9. The project and operation of the businesses shall comply with all applicable requirements of the Municipal Code.
10. A Variance for exceeding the maximum height shall be required for the proposed enclosure and roofing of additional floor area.
11. 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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12. Each of the above Conditions of Approval 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.
 13. 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.
 14. 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.
 15. 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

19 Section 7. Based on the record of decision of the Planning Commission and the evidence
20 received at the public hearing, the City Council Commission makes the following factual findings with
21 respect to the Variance request:

22 1. As part of an overall remodel and expansion to an existing retail entertainment center, the
23 applicant desires to enclose open deck areas located within gaps between existing enclosed spaces at
24 the upper level originally set aside for outdoor uses (dining, open corridors). The building height is not
25 being increased above existing roof heights at these locations, however, the Variance is needed because
26 the height limit was changed from 45 to 35 feet when the subject property was rezoned from C-3 to
27 Specific Plan Area 8 in 1990.

28 2. The applicant also desires to enclose open deck areas located on the southern and western
29 side of the building and to add floor area above the open area of the parking structure at the
southwestern corner of the building. This enclosure and added floor will exceed the existing building
height since the deck railing and wall of the parking structure represent the highest point of the building
along this edge.

1 3. The Variance is being requested in conjunction with a substantial remodel and expansion to
2 an existing retail and entertainment center, “The Hermosa Pavilion” to accommodate a health and fitness
3 facility, office and retail space.

4 Section 8. Based on the foregoing factual findings, the City Council makes the following
5 findings pertaining to the application for a Variance:

6 1. There are exceptional circumstances relating to the property due to the combination of
7 the site conditions, and the open deck design on the upper floor of the building. The lot contains a fairly
8 steep slope (a grade change of 20 feet between the upper portion on Pacific Coast Highway and
9 westerly lower side) and is already significantly built-out to its near maximum potential with a height to
10 its highest point (measured from the sloping grade) of about 40 feet at the front, and height of 45 feet at
11 the back even though the back portion of the building is stepped 12 feet down feet from the highest
12 point of the roof on the front. The original design of the building contains an open deck design on the
13 upper level and compromises the utility of the building it was anticipated that restaurants would occupy
14 these spaces. Most of these areas could have been enclosed at the time of original construction if an
15 alternate use required enclosure of these areas such as the fitness club.

16 2. The Variance is necessary for the enjoyment of a substantial property right possessed
17 by other properties in the vicinity because as the property owner is seeking to retrofit a building in order
18 to use a portion of a largely vacant building for a viable economic purpose. This viable use that is a
19 substantial property right (given that the building is already in place) would otherwise be denied by strict
20 application of the height limit.

21 3. The requested Variance will not be materially detrimental to the public welfare or
22 injurious to property or improvements in the vicinity because as it permits the enclosure of gaps between
23 existing roof lines and will negligibly effect the visual appearance of the building, and will not effect any
24 views. Also, the enclosure of these deck areas which could be used for outside dining under the current
25 plan will actually be beneficial to nearby residential uses as it will attenuate potential noise impacts.

26 4. The proposed Variance does not conflict with and is not detrimental to the General Plan
27 as it does not result in material damage to surrounding properties, and is also consistent with the goals,
28 objectives, and policies of the General Plan. The General Plan encourages viable economic uses along
29 the Commercial Corridor, and also encourages compatibility between commercial and residential uses.

30 5. The Planning Commission concurs with the Staff Environmental Review Committee’s
31 recommendation, based on their environmental assessment/initial study, that this project will result in a
32 less than significant impact on the environment, and therefore qualifies for a mitigated Negative
33 Declaration.

34 Section 9. Based on the foregoing, the City Council hereby sustains the Planning Commission
35 decision to approve the Variance subject to the following **Conditions of Approval:**

36 **1. The project shall be consistent with submitted plans. Any minor modifications to the
37 plan shall be reviewed and may be approved by the Community Development Director.**

1 **2. The Variance is specifically limited to the situation and circumstances that result**
2 **relative to the proposed expansion and remodeling of the existing structure and is not**
3 **applicable to the development of new structures or any future expansion.**

4 Section 10. This grant shall not be effective for any purposes until the permittee and the owners
5 of the property involved have filed at 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 conditions of
7 this grant.

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

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

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

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

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

28 The Planning Commission may review this Precise Development Plan, Parking Plan and
29 Variance 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 11. Pursuant to the Code of Civil Procedure Section 1094.6 any legal challenge to the
decision of the City Council, must be made within 90 days after the final decision by the City Council.

PASSED, APPROVED, and ADOPTED this day of , 2002,

PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

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_____ CITY CLERK

_____ CITY ATTORNEY