

June 5, 2002

**Honorable Mayor Members of the
Meeting of
Hermosa Beach City Council**

Regular

June 11, 2002

SUBJECT: RECONSIDERATION OF PRECISE DEVELOPMENT PLAN 01-19, PARKING PLAN 01-4, VARIANCE 01-4
CONTINUED FROM THE APRIL 9 AND MAY 28 MEETINGS

LOCATION: 1605 PACIFIC COAST HIGHWAY

APPLICANT: SHOOK DEVELOPMENT CORPORATION
220 TECHNOLOGY DRIVE, SUITE 110
IRVINE, CA 92618

REQUESTS: PRECISE DEVELOPMENT PLAN FOR AN EXPANSION AND REMODEL TO AN EXISTING RETAIL AND ENTERTAINMENT CENTER, "THE HERMOSA PAVILION;" PARKING PLAN FOR SHARED PARKING TO ACCOMMODATE A HEALTH AND FITNESS FACILITY IN CONJUNCTION WITH OFFICE AND RETAIL USES; VARIANCE TO THE 35' HEIGHT LIMIT TO ENCLOSE THE UPPER FLOOR OPEN DECK AREAS AND TO ADD FLOOR AREA ABOVE THE OPEN AREA OF THE PARKING STRUCTURE

Planning Commission Recommendation

To sustain the decision to approve the Precise Development Plan and Parking Plan subject to the conditions as contained in the attached resolution, and to sustain the decision to approve the Variance to enclose the upper floor deck areas and open area of the parking structure.

Background

At the meeting of May 28, the Council reviewed and considered changes to the plan as recommended by the Council at the meeting of April 9. These changes involved modifications to the building façade and a slight increase in the usable floor area.

At the hearing, however, the applicant submitted a revision to the allocation of uses within the building. This latest request is to increase the area for the health and fitness club and decrease the area for office space. The City Council continued the hearing for the applicant to provide more information on the parking impacts of these changes, and for staff to review these changes.

Project Information

As presented previously, the applicant is proposing new construction and remodeling to expand and reconfigure the uses within the existing retail and entertainment center. The existing approved use and proposed uses, as revised, are summarized as follows:

Prior Approved Use	Allocation	Proposed Project	Proposed Allocation		
			P.C. Approved	5/02 Revision	5/28 Revision
Theatre (6-Plex)	26,680 SF	Health and Fitness	44,300	44,300	68,000
Retail and	<u>46,180 SF</u>	Office	48,990	49,080	25,380
Restaurant	72,860 SF	Retail	12,088	15,050	15,050
		Total	105,378 SF	108,430 SF	

Total	108,430
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For further background and project information please refer to the previous staff reports.

Analysis

The reason for the recent change in the floor area allocation is to provide the greater floor area necessary for an “Ultra Sport” facility. The Ultra-Sport facility provides expanded amenities and upgrades as compared with a typical 24-Hour Fitness club. For example, in addition to a pool and sport court, the club will include squash and racquetball courts, a juice bar, tanning booths, and a larger “kids club.” Upgrades include executive locker rooms, towel service, and dry-cleaning service. Please refer to the attached letter from 24-Hour Fitness which describe this type of club.

PARKING

The applicant has submitted a revised and updated Shared Parking Analysis to evaluate the impacts of the new allocation of uses (dated June 4, 2002), prepared by Linscott Law and Greenspan. The shared parking analysis continues to demonstrate that with this latest change that the existing parking supply will be sufficient for the proposed mix of uses based upon peak and off-peak usage.

Parking spaces within the parking structure will be striped to provide 450 parking spaces (334 standard size, and 116 compact size). If necessary, attendant assistance could be provided for parking vehicles in 31 tandem spaces and 33 parallel aisle-parking spaces, for a possible total of 514 spaces. The original project of 72,860 square feet was approved with 540 parking spaces. (474 standard and compact, and 66 valet assisted)

The analysis shows that based on the City’s parking requirements the proposed mix of uses results in a total aggregate parking requirement of 842 spaces (Table B) as compared to 699 for the project prior to increasing the size of the health club. This calculation is based on net floor area, and excludes common areas/internal circulation within the office area.. This calculation, however, does not take into account the peak parking requirements and hourly variation in parking demand for each individual use in a mixed-use project. Therefore, the study includes a *shared demand parking analysis* based on the methodology and hourly parking adjustment factors developed by the Urban Land Institute (Table C and D). The parking demand rates used for the health club are less than the code required 1 space per 100 square feet and are less than used in previous analyses (5.0 spaces per 1000 square feet for the proposed “Ultra-Sport Club” with executive amenities rather than 6.75 spaces per 1000 square feet as previously used for a more typical club). The parking rates for the office and retail uses are the same, based on the parking requirements in the Zoning Code (4 spaces per 1,000 square feet). The study analyzed other 24-Hour Fitness clubs of various sizes, including larger executive clubs, to come up with the current parking rate (see page 3, and Appendix C, of the parking study).

Parking Tabulation:

Proposed Use	Allocation	Code Requirement	Number	Peak Shared Weekday 5:00 P.M
Fitness Club	68,000 SF	10 per 1000 sq. ft	680	340*
Retail	15,050 SF	4 per 1000 sq. ft	60	47
Office	25,380 SF	4 per 1000 sq. ft	102	48
Total	105,378 SF		842	435

*Based on parking rate of 5.0 spaces per 1000 square feet.

Based on this analysis, the peak-shared use on a weekday of 435 spaces is actually less than under the previous allocation of uses which yielded a peak demand of 438 spaces. While staff generally agrees that this executive type club has lower intensity types of amenities and may lower the occupancy per square foot, its very difficult to verify the accuracy of the parking ratio of 5 spaces per 1,000 square feet. Further its difficult to determine whether or not the assumptions made in the analysis are accurate. A thorough parking study of comparable facilities was not done, and instead, the study relied on occupancy data provided by 24 Fitness (based on the number of scanned entrants to the club) for an “executive” club larger than the proposed club (110,000 square feet.). It was assumed that since the size of the proposed club is in between the sizes of the studied clubs, it will have a ratio that falls in between the 6.75 previously used and 3.27 parking rate assumed for the larger club based on the occupancy data. The City Traffic Engineer also states he would concur with the parking analysis if it could be confirmed that the data and assumptions are accurate; however, this cannot be completely verified at this time with the available information (see attached memorandum dated 6/4/02).

Given the lack of assurance that the parking ratios used are reliable, and highly dependent on the proposed club being an “executive” club, staff recommends including a condition that the health and fitness club contain all the amenities as described. Further, the draft resolution continues to include a condition that requires periodic parking studies, and use of the managed parking to increase parking supplies if necessary. Also it requires Planning Commission review of the Parking Plan if supplies are found inadequate.

Please refer to the April 9 staff report for the discussion of the Variance issues and findings.

CONCUR:

Ken Robertson
Associate Planner

Sol Blumenfeld, Director
Community Development Department

Stephen R. Burrell
City Manager

Attachments

1. Proposed Alternative Resolutions to sustain the Planning Commission decisions
2. Correspondence from 24-Hour Fitness
3. Traffic Engineers comments on parking study
4. Revised parking study

b95/cd/cc/pdp1605cont

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, and 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, May 28, and June 11, 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 to increase the allocation of square footage for the health and fitness club and to modify the façade of the building. 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	68,300
Retail and Restaurant	<u>46,180 SF</u>	Office	25,380
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 total 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 June 4, 2002) to demonstrate that the parking will be sufficient for the proposed mix of uses as revised. 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 other similar operations in Santa Monica and Orange County), 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. Further, since the shared parking analysis demonstrates that peak parking demand is accommodated with the parking supply and the trip generation analysis indicates that traffic impacts are not increased to a level of significance, the proposed revisions to the plan are not material and do not require any further environmental review.

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

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

	<u>Allocation(in square feet)</u>
Health and Fitness Facility (with executive amenities: a basketball court, pool, racquet courts, executive locker rooms, juice bar, tanning facilities and a “kids club”)	68,000
Office	25,380
Retail	15,050
Total	108,430

The approval of the Parking Plan is for an “executive” style Health and Fitness Facility, as reviewed by the City Council, and any change in this type of facility or the allocation as set forth above, 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 June 4, 2002), 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 shall be assigned to employees).

- b) The applicant shall certify the adequacy of parking supplies and the efficiency of the parking operation program 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 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 for review by the City's traffic engineer. If the engineer finds the parking supply inadequate the Planning Commission shall review the Parking Plan and may modify the Parking Plan to resolve the parking inadequacy.**
 - 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 (indicating property lines, surveyed corner point elevations, finished roof heights, and 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 City Council 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.**
- 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, it 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**

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

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

2. The applicant also desires to enclose open deck areas located on the southern and western 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.

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

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

1. There are exceptional circumstances relating to the property due to the combination of site conditions and the open deck design on the upper floor of the building. The lot is exceptional in that it is severely sloping with an average slope differential of 21.15', as measured from the corner point elevations, which is more excessive than any other commercial lot in the vicinity and zone. The building is constructed to its near maximum height of 45', although it is stepped down 12 feet from the highest point of the roof at the rear of the property. The original building construction includes substantial portions of open deck on the upper level, which compromises the utility of the building, as it was originally designed for open patio seating. Consequently, the severely sloping site and the existing design of the building are unique and exceptional and should be considered relative to the reuse and development of the property.

2. The Variance is necessary for the enjoyment of a substantial property right possessed by other properties in the vicinity because the property owner is seeking to retrofit the building for reuse and a viable purpose. The retro-fit requires enclosing the upper level open deck. Strict application of the height limit would, in this instance, severely restrict full reuse of the existing building, since the upper deck could not be enclosed. This would deny the owner the opportunity for full use of the property and deny a substantial property right possessed by others in the vicinity and zone.

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

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

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

- 1. The project shall be consistent with submitted plans. Any minor modifications to the plan shall be reviewed and may be approved by the Community Development Director.**
- 2. The Variance is specifically limited to the situation and circumstances that result relative to the proposed expansion and remodeling of the existing structure and is not applicable to the development of new structures or any future expansion.**

Section 10. 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, Parking Plan and Variance 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.

RESOLUTION NO. 02-

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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:

2. 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 total 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.

3. 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.

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

1. The development and continued use of the property shall be in conformance with submitted plans reviewed by the City Council at their meeting of May 28, 2002. Modifications to the plan shall be reviewed and may be approved by the Community Development Director.

2. To ensure compliance with the Parking Plan for shared parking the allocation of uses within the building shall be substantially consistent with the following allocation:

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

Any 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 January 23, 2002 and revised May 22, 2002), and to ensure efficient ingress and egress to and from the structure. The parking structure shall be operated in accordance with said plan.

d) 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 shall be assigned to employees).

e) The applicant shall certify the adequacy of parking supplies and the efficiency of the parking operation program 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 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.

- f) 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.**
- 7. Final building plans/construction drawings including site, elevation, floor plan, roof plan (indicating property lines, surveyed corner point elevations, finished roof heights, and 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 City Council and the conditions of this resolution, and approved by the Community Development Director prior to the issuance of any Building Permit.**
 - c. 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.**
 - d. 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**
- 11. The project and operation of the businesses shall comply with all applicable requirements of the Municipal Code.**
- 12. 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.**
- 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**

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

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

2. The applicant also desires to enclose open deck areas located on the southern and western 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.

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

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

5. There are exceptional circumstances relating to the property due to the combination of site conditions and the open deck design on the upper floor of the building. The lot is exceptional in that it is severely sloping with an average slope differential of 21.15’, as measured from the corner point elevations, which is more excessive than any other commercial lot in the vicinity and zone. The building is constructed to its near maximum height of 45’, although it is stepped down 12 feet from the highest point of the roof at the rear of the property. The original building construction includes substantial portions of open deck on the upper level, which compromises the utility of the building, as it was originally designed for open patio seating. Consequently, the severely sloping site and the existing design of the building are unique and exceptional and should be considered relative to the reuse and development of the property.

6. The Variance is necessary for the enjoyment of a substantial property right possessed by other properties in the vicinity because the property owner is seeking to retrofit the building for reuse and a viable purpose. The retro-fit requires enclosing the upper level open deck. Strict application of the height limit would, in this instance, severely restrict full reuse of the existing building, since the upper deck could not be enclosed. This would deny the owner the opportunity for full use of the property and deny a substantial property right possessed by others in the vicinity and zone.

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

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

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

- 1. The project shall be consistent with submitted plans. Any minor modifications to the plan shall be reviewed and may be approved by the Community Development Director.**
- 3. The Variance is specifically limited to the situation and circumstances that result relative to the proposed expansion and remodeling of the existing**

