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RESOLUTION NO. 06-6482

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, SUSTAINING THE DECISION OF THE PLANNING COMMISSION TO MODIFY 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 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 CITY COUNCIL 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.

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 and 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.

1 **SECTION 3.** The Planning Commission conducted a duly noticed public hearing to
2 consider the revocation or amendment for the Precise Development Plan and Parking Plan on
3 April 18, 2006, at which testimony and evidence, both written and oral, was presented to and
4 considered by the Planning Commission, and the Planning Commission adopted Resolution 06-16
5 to amend the conditions of approval for the Precise Development Plan and Parking Plan.

6 **SECTION 4.** The owner of the Hermosa Pavilion, Gene Shook, filed an appeal of the
7 Planning Commission decision to amend the Precise Development Plan and Parking Plan.

8 **SECTION 5.** The City Council conducted a duly notice public hearing to review and
9 consider the appeal of the decision of the Planning Commission on July 11, 2006, at which the
10 record of the decision of the Planning Commission and testimony and evidence, both written
11 and oral, was presented to and considered by the City Council.

12 **SECTION 6.** Based on evidence received at the public hearing, and the record of decision
13 of the Planning Commission, the City Council makes the following findings:

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

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

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

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

6 a) Spillover parking into nearby public parking areas along both residential and
7 commercial streets is detrimental to the existing businesses and residences which have a long
8 established practice of using this on street parking.

9 b) The use of on-street parking across Pacific Coast Highway is forcing customers
10 and patrons of the Pavilion to cross P.C.H. which is a hazard to both the pedestrians crossing the
11 street and the vehicles traveling on P.C.H.

12 c) Another review of parking operations and spillover effects within 6 months, after
13 removal of the disparity in the cost of parking, will clearly show if the cost of parking is what is
14 causing this spillover parking.

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

19 a) The tandem assisted free parking would only be available for those willing to
20 park in level 2, which is not the most convenient location in the structure, and may not be more
21 convenient than nearby on-street parking.

22 b) The monthly parking passes are aimed only at frequent users, as it would not
23 make any sense for those parking 2-hours or less per visit who use the structure less than 20
24 times a month to spend \$20 for a monthly pass. So a typical gym patron that comes 2-4 times a
25 week would have no reason to purchase a pass.

26 c) The smoothie validation program provides for free validated parking for
27 customers purchasing a \$5 or \$6 smoothie. As such, its potential effect is limited, and instead of
28 addressing the cost disparity, it results in a substantial cost to park in the structure.

1 **SECTION 7.** Based on the foregoing, the City Council sustains the decision of the Planning
2 Commission and hereby modifies and amends the subject Precise Development Plan and Parking
3 Plan, subject to the following **Conditions of Approval**, which supersede and incorporate the
4 conditions of P.C. Resolution 03-45.

5 1. New Conditions

6 a) Two hour free validated parking shall be provided for patrons of the businesses
7 and offices within the Hermosa Pavilion.

8 b) Signs shall be prominently displayed at all entry locations and in all public
9 areas of the Hermosa Pavilion to promote the two-hour free validated parking program.

10 c) The effectiveness of the free validated parking program and the overall
11 efficiency of the use of the parking structure and off-site parking impacts shall be evaluated in six
12 months from the effective date of this Resolution. The owner shall provide the necessary parking
13 receipts, and parking intercept surveys and parking counts to demonstrate the effectiveness of this
14 program.

15 2. Original Conditions of Approval

16 a) The development and continued use of the property shall be in conformance
17 with submitted plans reviewed by the Planning Commission at their meeting of August 19, 2003.
18 Minor modifications to the plan shall be reviewed and may be approved by the Community
19 Development Director, including modifications to the allocation of uses if consistent with the
20 shared parking analysis.

21 b) To ensure compliance with the Parking Plan for shared parking the allocation
22 of uses within the building shall be substantially consistent or less than the following allocation:

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	<i><u>Allocation(in square feet)</u></i>
24 Health and Fitness Facility (including a 25 basketball court and pool)	46,500
26 Office	26,000
27 Retail	28,500
28 Restaurant	4,000
Total	105,000

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

3 3. A parking operation plan shall be submitted for approval by the Planning Division
4 prior to issuance of the building permit for the Health and Fitness Facility, ensuring maximum use
5 of parking structure consistent with the Shared Parking Analysis (prepared by Linscott, Law and
6 Greenspan, dated August 3, 2003), and to ensure efficient ingress and egress to and from the
7 structure. The parking structure shall be operated in accordance with said plan.

8 a) A minimum of 450 single use and 30 dual use (tandem) parking spaces shall be
9 available within the structure for employees and customers of all tenants within the building, and
10 all parking shall be available on a first come first serve basis (i.e. no assigned parking except that
11 tandem spaces may be assigned to employees).

12 b) The adequacy of parking supplies and the efficiency of the parking operation
13 program shall be monitored for six-months after occupancy of the Health and Fitness Facility, and
14 annually thereafter in the month of January, with a report submitted to the Community
15 Development Department by the applicant's traffic engineer certifying adequate on-site parking is
16 available. If supplies are found to be inadequate, the applicant shall provide valet assisted
17 parking, and a detailed valet assistance program shall be provided to the City for review by the
18 City's traffic engineer. If the City's traffic engineer finds the parking supply inadequate the
19 Planning Commission shall review the Parking Plan and may modify the Parking Plan to resolve
20 any parking inadequacy.

21 c) A lighting and security plan, including possible use of security personnel shall
22 be reviewed and approved by the Police Department to ensure that the parking structure is well lit
23 and safe for the patrons prior to issuance of building permits.

24 4. Architectural treatment including sign locations shall be as shown on building
25 elevations and site and floor plans. Any modification shall require approval by the Community
26 Development Director
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1 5. The project shall comply with the requirements of the Fire Department and the Public
2 Works Department.

3 6. Final building plans/construction drawings including site, elevation, floor plan,
4 sections, details, signage, landscaping and irrigation, submitted for building permit issuance shall
5 be reviewed for consistency with the plans approved by the Planning Commission and the
6 conditions of this resolution, and approved by the Community Development Director prior to the
7 issuance of any Building Permit.

8 a. The landscape plans shall include landscaping along Pacific Coast Highway
9 and street trees and shall be consistent with the original landscape plans approved for the Hermosa
10 Pavilion, subject to review and approval of the Community Development Director.

11 b. Project plans shall include insulation to attenuate potential noise problems with
12 surrounding residential uses.

13 7. All exterior lights shall be located and oriented in a manner to insure that neighboring
14 residential property and public right-of-way shall not be adversely effected.

15 8. Bicycle racks shall be provided in conveniently accessible locations to the satisfaction
16 of the Community Development Director

17 9. The project and operation of the businesses shall comply with all applicable
18 requirements of the Municipal Code.

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

21 **SECTION 8.** This grant shall not be effective for any purposes until the permittee and the
22 owners of the property involved have filed at the office of the Planning Division of the
23 Community Development Department their affidavits stating that they are aware of, and agree to
24 accept, all of the conditions of this grant.

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

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

4 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and
5 employees from any claim, action, or proceeding against the City or its agents, officers, or
6 employee to attack, set aside, void or annul this permit approval, which action is brought within
7 the applicable time period of the State Government Code. The City shall promptly notify the
8 permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If
9 the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City
10 fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend,
11 indemnify, or hold harmless the City.

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

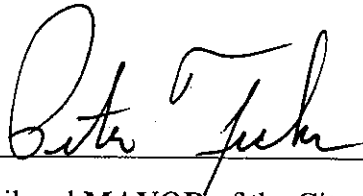
17 The subject property shall be developed, maintained and operated in full compliance with
18 the conditions of this grant and any law, statute, ordinance or other regulation applicable to any
19 development or activity on the subject property. Failure of the permittee to cease any
20 development or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

21 The Planning Commission may review this Precise Development Plan and Parking Plan
22 and may amend the subject conditions or impose any new conditions if deemed necessary to
23 mitigate detrimental effects on the neighborhood resulting from the subject use.

24 **SECTION 9.** Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge
25 to the decision of the Planning Commission, after a formal appeal to the City Council, must be
26 made within 90 days after the final decision by the City Council.

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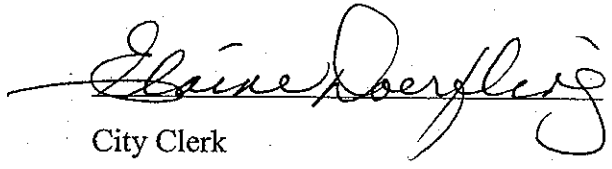
PASSED, APPROVED and ADOPTED this 11th day of July 2006.



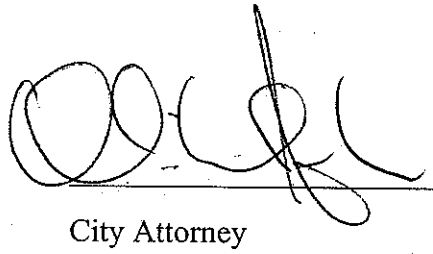
PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:



City Clerk



City Attorney

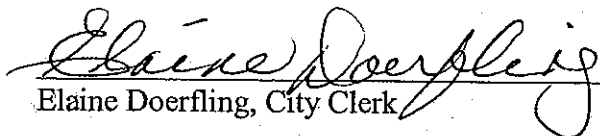
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF HERMOSA BEACH

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Resolution No. 06-6482 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a Regular Meeting of said Council at the regular place thereof on July 11, 2006.

The vote was as follows:

AYES: Bobko, Edgerton, Keegan, Reviczky, Mayor Tucker
NOES: None
ABSTAIN: None
ABSENT: None

Dated: July 25, 2006


Elaine Doerfling, City Clerk