

P.C. RESOLUTION NO. 16-2

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AND PARKING PLAN AMENDMENT TO EXPAND AN EXISTING 5,400 SQUARE FOOT EDUCATIONAL INSTITUTION (FUSION ACADEMY AND LEARNING CENTER) APPROXIMATELY 3,800 SQUARE FEET AT AN EXISTING MULTI-TENANT COMMERCIAL BUILDING WITH SHARED PARKING AT 1601 PACIFIC COAST HIGHWAY, AND DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

THIS RESOLUTION SUPERCEDES CONDITIONAL USE PERMIT AND PARKING PLAN AMENDMENT P.C. RESOLUTION 11-3.

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

Section 1. An application was filed by Fusion Academy and Learning Center seeking approval for an amendment to a Conditional Use Permit to allow an expansion of an existing approximately 5,400 square foot educational institution (suite 260) to an approximately 3,800 square foot adjacent vacant office space (suite 285) totaling approximately 9,200 square feet with a maximum of 65 students and 40 staff members on-site at any time on the second floor of the Hermosa Beach Pavilion at 1601 Pacific Coast Highway and a Parking Plan Amendment to allow shared parking utilizing the building's parking structure.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider Conditional Use Permit Amendment 15-12 and Parking Plan Amendment 15-9 on January 19, 2016, at which time the Staff Report, testimony and evidence, was presented to and considered by the Planning Commission.

Section 3. Based on the Staff Report, testimony and evidence received, both written and oral, the Planning Commission makes the following factual findings:

1. The site is zoned SPA-8 (Specific Plan Area No. 8) and a for-profit educational institution is a conditionally permitted use in the SPA-8 zone (Section 17.40.190).

2. Fusion Academy and Learning Center provides one-to-one tutoring for students that desire an alternative to the traditional semester system, typically due to their schedules, academic level or interests, or physical or social issues. The facility will have a maximum of 65 students and 40 staff members on-site at any time in grades 6 to 12. The hours of operation will be limited to 7:30 a.m. to 9:00 p.m. with classes meeting Monday through Thursday. The facility will be open on Friday for students who need extra support and on an as-needed basis Saturday and Sunday for both tutoring and class credit.

3. The existing facility was approved by Planning Commission in 2011 with 22 tutoring offices, plus administrative offices, homework café, and galley for staff use.

4. The additional tenant space will include 11 tutoring offices, two administrative offices, a teacher conference room, homework café (no food service), and 4 storage rooms on the mezzanine level.

5. The site at 1601 Pacific Coast Highway is governed by various entitlements for the building as a whole and for individual uses. The allocation of uses within the Hermosa Beach Pavilion set forth in the Parking Plan approved by Planning Commission Resolution 08-23 shall be maintained, and the proposed use shall be deemed equivalent to Office use (Condition of Approval 9 herein). Operative Parking Plans (City Council Resolutions 06-6482 and 06-6513) require the provision of two-hour free validated parking for

patrons of uses within Hermosa Pavilion parking structure, and signs prominently displayed to promote the parking validation program, and other programs to reduce impacts.

6. The parking study and parking plan completed by Minagar and Associates on May 26, 2015 and updated December 30, 2015 and January 5, 2016 indicates the parking structure has 497 spaces comprised of 452 standard stalls, 6 handicap accessible stalls, and 39 compact stalls.

7. Pursuant to H.B.M.C. Section 17.40.190, the use must be located on the second story of the building, and a minimum of one parking space for every seven (7) children is required subject to modification by the Planning Commission to reflect actual parking demand, together with adequate space for loading and unloading children.

Section 4. The project is Categorically Exempt from the California Environmental Quality Act per Guidelines, Section 15301, Class 1 (a) because the use expansion is located within an existing building requiring only minimum interior alterations, involving a use that will operate in a manner similar to the existing office use, the project is located in an urbanized area, and all necessary public services, access, parking and facilities are available.

Section 5. Based on the foregoing, the Planning Commission makes the following findings:

1. Pursuant to H.B.M.C. Sections 17.40.020 and 17.40.190, the proposed change in use to allow the expansion of a one-to-one tutoring facility will not impact residential or sensitive uses, will not cause significant noise impacts, services are available, parking will be adequate based on shared parking, and the use will generally be compatible with existing commercial uses and the surrounding as follows:

A. Distance from existing residential uses:

The proposed use expansion will be located within the Hermosa Beach Pavilion at 1601 Pacific Coast Highway. The existing Fusion Learning Academy is located within the Hermosa Beach Pavilion with a one-to-one tutoring, surrounded by commercial uses and zoning to the east and south, and R-3 zoning and multi-family residential uses to the north and west.

The proposed expansion will operate in a manner similar to professional offices and students may park in the parking structure or be dropped off within the parking structure and directly enter the building.

The existing facility was approved with two soundproofed tutor spaces for music instruction as part of the curriculum for students enrolled in the school. The noise control standards in Section 8.24.040 restrict commercial activities, band rehearsals, and similar noise producing activities that are plainly audible from a residential dwelling unit's property line between 10:00 p.m. and 8:00 a.m. Exterior noise environment is dominated by traffic on PCH. It is not anticipated that noise associated with the existing music instruction will impact other uses because the rooms are located within an enclosed tenant space within an enclosed sound-insulated building, existing hours for music instruction are to remain 8:00 a.m. to 9:00 p.m., music instruction is limited to individual students, a noisy environment is unlikely to be compatible with tutoring of other students, and should noise complaints or issues occur the Community Development Director shall review the complaint and may impose appropriate mitigations such as installation of additional soundproofing, etc.

B. The amount of existing or proposed off-street parking facilities, and its distance from the proposed use:

Parking is adequate for the use as set forth under 'Parking Plan'.

C. Location of and distance to churches, schools, hospitals and public playgrounds:

The location is within 300 feet of Valley School. The proposed use expansion is itself a sensitive use and will not impact other schools, churches, playgrounds, hospitals, etc. Fusion Learning Academy does not have a playground or outdoor area used for recreational activities. Students arrive on campus for classes. When students complete their classes and homework for the day, they leave.

D. The combination of uses proposed:

The Parking Plan indicates the uses include health and fitness facilities, medical and general offices, service uses, retail, and a snack shop use. Other uses that would not increase parking demands may also be considered. The proposed expansion of an educational institution/private school type use will function similar to office uses, with one-to-one instruction and staggered arrival and departure times, and are compatible with other uses in the building. Conditions are imposed to ensure that the existing music studio component does not impact other uses in the building. Uses such as the fitness center, and previously an auditorium use ('Kids Cabaret') and restaurant, have not resulted in noise impacts.

E. Precautions taken by the owner or operator of the proposed establishment to assure the compatibility of the use with surrounding uses:

The applicant has not proposed any specific conditions to address compatibility. However, the scale of the proposed use expansion with a maximum of 65 students and 40 staff members with independent schedules and one-to-one tutoring is not expected to exhibit the types of impacts that might otherwise occur at a school with large enrollments or classes. Noise and parking are addressed in items A, B and I.

F. The relationship of proposed business-generated traffic volume and size of streets serving the area:

The use is limited in scale and scheduling is varied. The hours of operation will be limited to 7:30 a.m. to 9:00 p.m. with classes meeting Monday through Thursday. The facility will be open on Friday for students who need extra support and on an as-need basis Saturday and Sunday for both tutoring and class credit. Due to Fusion's custom scheduling; the vehicle traffic is spread over the course of 13.5 hours. The use does not otherwise attract customers coming to the site. The Parking Study indicates that 16 additional parking spaces would be required at capacity similar to office use (3,791 sq.ft. tenant space parked at 1:250). The site is served by Pacific Coast Highway and 16th Street to Ardmore which are arterial/collector streets adequate for the use.

G. The proposed exterior signs and decor, and compatibility with existing establishments in the area:

The existing use and proposed use expansion will be located within an existing building so that the exterior will not be modified to accommodate the use. Signage shall conform to H.B.M.C. Chapter 17.50.

H. The number of similar establishments or uses within close proximity to the proposed establishment:

Impacts associated with school type facilities are typically related to size, student enrollment and age, program and hours, whether there is an outdoor component, parking characteristics, safety and management, among other factors. The proposed facility expansion, with limited size and enrollment (totaling approximately 9,200 square feet with a maximum of 65 students and 40 staff members on-site at any time) spread over a 13.5-hour day, with no outdoor component, may have impacts similar to office use. The existing Fusion Learning Academy facility is the only known for-profit school with tutoring services to be operating within commercial zones in the city. The existing facility has been in operation since 2011 and there have been no impacts with the existing operation and so impacts from expansion are not anticipated. Valley School is located about 300 feet west of the site. Due to fiscal issues affecting public school programs and class size, as well as time constraints on parental time and an observed increase in disabilities that affect learning in a traditional class setting, the establishment of additional tutoring facilities to accommodate students seeking an alternative to the traditional semester system, are anticipated in the future. Large tutoring

facilities/schools are limited by the standards in Section 17.40.190 and are subject to a Conditional Use Permit.

I. Noise, odor, dust and/or vibration that may be generated by the proposed use:

The existing facility was approved with two soundproofed tutor spaces for music instruction as part of the curriculum for students enrolled in the school. As noted under item A, noise is not expected to be significant because the use expansion is individualized one-to-one instruction, no additional music instruction is proposed and there will not be a playground or outdoor area. Conditions are imposed for the two existing soundproofed tutor spaces for music instruction should impacts occur.

J. Impact of the proposed use to the city's infrastructure, and/or services:

The use is similar to office use and will not require additional utilities, police services, or other services.

K. Will the establishment contribute to a concentration of similar outlets in the area:

Adverse impacts associated with this use that merits restricting a concentration of such uses has not been demonstrated. Further, no other similar use is known to exist in the vicinity.

L. Other considerations that, in the judgment of the planning commission, are necessary to assure compatibility with the surrounding uses, and the city as a whole:

The proposal generally complies with the proposed zoning standards in Section 17.40.190. The proposed location within the building (suite 285) is on the second floor and no special loading facilities/zones are required due to student ages, scale of use, and scheduling. However, the applicant is requesting to park the area of expansion using a general office parking ratio of 1:250, requiring 16 parking spaces, as opposed to the previously approved standard of 1 space per 7 students (with 70% of the 14 staff members parked for) which would require 15 parking spaces. The parking study reveals that the Hermosa Beach Pavilion provides an adequate supply of off-street parking spaces to accommodate the proposed Fusion Academy and Learning Center expansion, as well as the remaining future uses at full-occupancy.

2. Pursuant to H.B.M.C. Section 17.44.210, onsite shared parking will be adequate for the proposed use as follows:

A. The proposed facility will operate under varying, staggered schedules with hours of operation limited to 7:30 a.m. to 9:00 p.m. with classes meeting Monday through Thursday. The facility will be open on Friday for students who need extra support and on an as-need basis Saturday and Sunday for both tutoring and class credit. Overall vehicle trips will be spread out throughout the day. Students are expected to arrive for pre-scheduled tutoring sessions, and then leave once their individual classes and homework for the day are complete. Given the age group of the attendees, not all students enrolled will be drivers and some may be picked up or dropped off.

B. Planning Commission Resolution 08-23 indicates the Hermosa Pavilion parking structure has 496 spaces, comprised of 454 standard and 42 tandem spaces. The allocation of uses as determined by previous parking studies generated the requirement for 420 parking spaces at peak AM and PM hours (Walker Parking Consultants, 2008 and Linscott Law and Greenspan, 2006) leaving a surplus of 76 spaces. PC Resolution 08-23 approving a Parking Plan amendment for a wine storage business generated a peak demand of 10 spaces, leaving a surplus of 66 spaces.

C. During the January 18, 2011 Planning Commission hearing Fusion Learning Academy was approved to establish an educational institution in an approximately 5,400 square foot vacant office space on the second floor of the Hermosa Beach Pavilion while utilizing shared parking. Fusion Learning Academy submitted a parking study, prepared by Minagar & Associates on January 12, 2011, which found that the parking structure contained 491 stalls, out of which 454 were standard shared parking

spaces. The parking study also reviewed prior parking studies which extensively evaluated the impacts of all uses including the unique characteristics of 24-Hour Fitness with peak demand at 6:00 p.m. on weekdays. The applicant's parking study found peak demand to be 10:00 a.m. and a trend of increased utilization beginning around 5:00 p.m. to 7:00 p.m. The study concluded the use would require 24 parking spaces to accommodate staff needs and the required parking standard for students. The parking study completed by the applicant's traffic consultant, Minagar and Associates, on May 26, 2015 and updated December 30, 2015 and January 5, 2016 for the proposed expansion of Fusion Learning Academy into an approximately 3,800 square foot vacant office space found that during the peak weekday, a maximum of 402 of the 497 parking spaces were occupied during the peak hour (81% maximum utilization), leaving 95 vacant parking spaces remaining under the existing conditions. Peak parking activity was observed to occur on Tuesday at 7:00 p.m. and on Wednesday at 11:00 a.m. The parking study indicates the parking structure has 497 spaces comprised of 452 standard stalls, 6 handicap accessible stalls, and 39 compact stalls with the proposed educational institution expansion resulting in a peak demand of 16 spaces generating a total peak shared parking demand of 418 spaces, leaving a surplus of 79 spaces.

- D. Staff requested that the applicant submit a floor plan of the parking structure to confirm the number and type of existing parking spaces present. The recent parking study conducted on May 26, 2015 identified a surplus of 79 spaces whereas the parking study conducted in 2011, which did not include a floor plan of the parking structure, stated there was a surplus of 76 parking spaces. The parking structure floor plans confirm that there is a surplus of 79 parking spaces.
- E. Since the proposed use expansion intends to occupy space previously allocated to an office and is a unique use consisting of one-to-one tutoring, it is appropriate to compare projected parking demand with office demand. The City's parking standard for office use (one space per 250 square feet of floor area) is 16 spaces, which is one parking space more than the projected parking demand based on (one space per seven students with parking for 70% of staff members) for the proposed use. Parking demand for the proposed use will be spread over slightly more hours than office use. On this basis, it is logical to conclude the proposed use, with its unique characteristics of one-to-one tutoring, is equivalent to office use and is consistent with the allocation of uses in the PC Resolution 08-23 as indicated below and shared parking will be adequate for the proposed use.

Section 6. Based on the foregoing, the Planning Commission hereby approves Conditional Use Permit Amendment 15-12 and Parking Plan Amendment 15-9 (**WHICH SUPERSEDE THE CONDITIONS OF P.C. RESOLUTION 11-3**) subject to the following **Conditions of Approval**:

CONDITIONAL USE PERMIT:

1. **The details of the project application and supplemental materials are incorporated as Conditions of Approval unless modified herein. The floor plan shall be substantially consistent with the submitted site plan and floor plan approved by the Planning Commission on January 19, 2016. Minor modifications to the plans required for compliance with project conditions or codes may be approved by the Community Development Director provided that use is not changed, intensity of use is not increased, and the arrangement of space would not increase noise impacts.**
2. **The existing facility and use expansion shall be operated as a one-to-one tutoring center with a maximum of 65 students and 40 staff members on the site at any time. The hours of operation shall be limited to 7:30 a.m. to 9:00 p.m. with classes meeting Monday through Thursday. The facility will be open on Friday for students who need extra support and on an as-need basis Saturday and Sunday for both tutoring and class credit.**

3. Music instruction within the two existing soundproofed tutoring spaces shall be limited to students enrolled in the educational program. The spaces shall not be otherwise utilized for private lessons. Sound levels generated by the use shall not be plainly audible within other tenant spaces or external to the building. Should noise complaints/issues occur, the Community Development Director shall review any complaint and may require the applicant to install acoustic features to maximize soundproofing to achieve a STC (sound transmission class) rating of at least 58, and undertake noise monitoring or conduct an acoustical study to determine and institute appropriate mitigations.
4. The project shall comply with the requirements of the Noise Control Ordinance in Chapter 8.24; where its provisions conflict with this approval, the most restrictive provisions shall apply.
5. The business shall provide adequate management and supervision to ensure that student loitering or unruly behavior or disruption to others in the building does not occur.
6. All signs shall comply with Chapter 17.50 of the H.B.M.C. Sign permits shall be obtained from the Community Development Department.
7. The business shall abide by the Parking Plan and parking management program required by the City of Hermosa Beach governing the building. Literature shall be provided to students and staff directing them to utilize the parking structure rather than on-street parking.
8. The operation of the business shall comply with all applicable requirements of the Building, Fire and Public Works Department, and the Municipal Code. 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.

PARKING PLAN AMENDMENT:

9. The tutoring use with its unique characteristics of one-to-one tutoring shall be operated in this manner and is deemed to have parking demand equivalent to Office use. The allocation of uses within the Hermosa Beach Pavilion set forth in the Parking Plan approved by Planning Commission Resolution 08-23 shall be maintained as follows:

<u>Use</u>	<u>Allocation (sq. ft.)</u>
Health and Fitness Facility (inc. basketball court + pool)	46,000
Office	20,400
Day Spa	13,000
Retail (Including wine shop)	9,600
Restaurant (including food related sales)	8,000
Auditorium	3,000
Storage	5,500
Wine storage	<u>10,100</u>
Total	115,600

Any material change to the allocation that increases parking demand requires a Parking Plan amendment.

10. The use shall be subject to and bound by all other restrictions pertaining to the building and parking structure and parking management program applicable to use in the building generally.

The use and management of parking at the Hermosa Beach Pavilion shall continue to be subject to the programs set forth in City Council Resolutions 06-6482 and 06-6513, and Planning Commission Resolution 08-23, in addition to the specific approvals set forth in resolutions applied to various tenant spaces.

- 11. All parking shall be shared among all uses within the Hermosa Beach Pavilion and shall be available within the structure for employees and customers of all tenants in the building. All parking shall be available on a first come, first served basis (i.e., no assigned or reserved spaces for any person, tenant space or use, except that tandem spaces may be assigned to employees). Employees of Suites 260 and 285 shall be required to park in lower levels of the parking structure.**
- 12. A minimum of two-hour free parking within the Hermosa Beach Pavilion parking structure shall be provided for employees and students of the business.**

GENERAL:

- 13. The Conditional Use Permit Amendment and Parking Plan Amendment shall not be effective unless and until the tenant space and its use conform to all codes, and Conditions of Approval have been complied with. Approval of these permits shall expire twenty-four (24) months from the date of approval by the Planning Commission, unless significant construction or improvements or the use authorized hereby has commenced. One or more extensions of time may be requested. No extension shall be considered unless requested, in writing to the Community Development Director including the reason therefore, at least 60 days prior to the expiration date. No additional notice of expiration will be provided.**

Section 7. 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 Parking Plan Amendment and Conditional Use Permit Amendment shall be recorded, and proof of recordation shall be submitted to the Community Development Department prior to the issuance of a building permit.

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.

To the extent permitted by law, Permittee shall defend, indemnify and hold harmless the City of Hermosa Beach, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void any permit or approval for this project authorized by the City, including (without limitation) reimbursing the City its actual attorneys fees and costs in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

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 Parking Plan Amendment and Conditional Use Permit Amendment 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 8. 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:	Comms.Allen,Flaherty,Saemann,Vice Chair Hoffman
	NOES:	None
	ABSTAIN:	None
	ABSENT:	None

CERTIFICATION

I hereby certify the foregoing Resolution P.C. No. 16-2 is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at its regular meeting of January 19, 2016.



Pete Hoffman, Vice Chair



Ken Robertson, Secretary

January 19, 2016

Date