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RESOLUTION NO. 11-6776

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, TO SUSTAIN THE PLANNING COMMISSION APPROVAL OF A CONDITIONAL USE PERMIT AMENDMENT AND PARKING PLAN AMENDMENT TO EXPAND AN EXISTING RESTAURANT WITH ON-SALE BEER AND WINE (GU GU SUSHI & ROLL) AND TO ALLOW PARKING TO BE CALCULATED PURSUANT TO THE CONSOLIDATED OFF-STREET PARKING STANDARD, AT 1117 AND 1121 AVIATION BOULEVARD WITHIN THE SHOPPING CENTER AT THE NORTHEAST CORNER OF THE INTERSECTION OF PROSPECT AVENUE AND AVIATION BOULEVARD, LEGALLY DESCRIBED AS A PORTION OF LOT 7, BLOCK 88, SECOND ADDITION TO HERMOSA BEACH TRACT, CITY OF HERMOSA BEACH

SECTION 1. Pursuant to Hermosa Beach Municipal Code Section 2.52.040, on November 22, 2011 the City Council took jurisdiction of the Planning Commission's November 15, 2011 decision to approve Conditional Use Permit and Parking Plan Amendments 11-8 in connection with floor area expansion proposed by Gu Gu Sushi & Roll and calculation of parking under the shared (consolidated) standard for retail shopping centers. On December 13, 2011, the City Council held a duly noticed public hearing to consider said application at which time testimony and evidence, both oral and written, was presented to and considered by the Council.

SECTION 2. Based on the Staff Report, testimony, the record of the decision of the Planning Commission, and evidence received, both oral and written, the City Council makes the following factual findings:

1. An application was filed by Ki Yon Kim, Gu Gu Sushi & Roll, seeking a Conditional Use Permit Amendment to expand an existing restaurant with on-sale beer and wine by approximately 750 square feet and a Parking Plan Amendment to calculate parking pursuant to the consolidated parking standards for retail shopping centers.

2. The existing approximately 1,500 square foot restaurant with on-sale beer and wine at 1121 Aviation Blvd. is proposed to be expanded into the adjacent approximately 750 square foot tenant space at 1117 Aviation Blvd. The site is located within a shopping center at the northeast corner of Aviation Boulevard and Prospect Avenue that contains a variety of other businesses; the previous use of the subject space at 1117 Aviation Blvd. was retail.

1 3. The site is zoned C-3, General Commercial, allowing on-sale beer and wine in conjunction with
2 a restaurant use approval of a Conditional Use Permit.

3 4. The business operates under a Conditional Use Permit approved by Planning Commission
4 Resolution 04-17 and Parking Plan Amendment approved by Resolution 92-49. Approved hours are
5 7:00 a.m. to 10:00 p.m. on Sunday through Thursday, and 7:00 a.m. to 11:00 p.m. on Friday and
6 Saturday. The Department of Alcohol and Beverage Control license allows sales, service and
7 consumption from 6:00 a.m. to 2:00 a.m.

8 5. No material change to the floor plan of the existing space is proposed, and the existing
9 arrangement will be essentially mirrored within the adjacent space as shown in the project plans dated
10 November 3, 2011. The applicant proposes to increase total seating from 38 seats (14 at a counter) to 58
11 seats (22 at a counter). The existing restaurant and prospective tenant space each have one front door
12 and windows that are not operable; two emergency doors will be added to the facade.

13 6. Previously, a Parking Plan was approved in 1987 and amended in 1992 to allow a take-out
14 restaurant at 1117/1121 Aviation per PC Resolution 92-49 which allowed shared (consolidated) parking
15 calculated at the retail parking ratio of one space per 250 square feet per plans pursuant to H.B.M.C.
16 Section 17.44.220 which allows parking for all uses in a retail shopping center exceeding 10,000 square
17 feet in size to be shared.

18 7. The updated parking calculation by Planning staff based on the applicant's updated summary of
19 tenant leases indicates 238 spaces would be required for the mix of uses in the shopping center based on
20 the required parking standards; however, the applicant's summary of tenant leases and use types
21 illustrates that 86% of the uses in the shopping center are 'retail' in nature and only 16% consist of
22 more intensive uses. Therefore, parking may be based on the consolidated retail standard. The square
23 footage of the shopping center (including Suzy's outdoor dining) has not changed since 2004, and so
24 total parking demand based on 47,800 square feet of floor area at the retail standard remains 191 spaces
25 which are provided in the parking lot.

26 8. On November 15, 2011, the Planning Commission adopted Planning Commission Resolution
27 11-19 approving amendments to the Conditional Use Permit (CUP 11-8) and Parking Plan (PARK 11-

1 8).

2 **SECTION 3.** Based on the foregoing factual findings the City Council affirms the following
3 findings pursuant to H.B.M.C. Section 17.44.020 finding that the use as conditioned will be compatible
4 with the surroundings and all impacts can be reduced to an insignificant level:

5 1. Distance from existing residential uses: The expansion constitutes an incremental increase in
6 intensity of use. The shopping center provides a commercial 'buffer' around the existing restaurant and
7 proposed expansion into the adjacent tenant space. While residential zoning and residences are located rear
8 of the site, at a higher elevation, doors to the establishment open to the front parking lot, thereby reducing
9 the potential for noise impacts. The potential for noise associated with customers leaving the site is also
10 mitigated by location adjacent to a busy arterial street, the generally early hours of the establishment,
11 limited increase in seating (20 seats), and other operational controls proposed to be incorporated into the
12 CUP. While Suzy's has exhibited some noise issues, they have been associated with live entertainment,
13 and live entertainment is not proposed for Gu Gu Sushi & Roll. Therefore, impacts to neighboring
14 residences are not anticipated.

15 2. Adequacy of off-street parking facilities and streets, and distance of parking from the proposed
16 use: Parking is adequate for the expansion per Section 17.44.220 which allows use of a consolidated retail
17 parking standard. Because parking is located onsite with direct and near access to an arterial (Aviation
18 Blvd.), people leaving the establishment can exit the site and area without traversing or impacting
19 residential neighborhoods or streets. Impacts associated with parking and circulation are not anticipated.

20 The pavement in the parking lot is significantly deteriorated, striping is not readily visible,
21 landscaping is not well maintained, and there was a significant amount of trash in the perimeter
22 landscaping when staff visited the site on November 2, 2011. The owner has resurfaced that portion of
23 the parking lot located within Redondo Beach in the last year and has added disabled parking signs
24 throughout the lot, and intends to resurface and restripe the remainder of the lot within 18 months.
25 Deferred maintenance can affect the number of cars that park in the lot, orderly circulation, pedestrian
26 access, tracking of debris onto the public streets, stormwater management, and potentially property
27 values in the area. Without a properly paved and striped lot as required under the Parking Plan, the City

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1 is unable to verify that the required 191 shared parking spaces are being provided, and patrons are more
2 likely to leave wider spaces between the cars thereby not providing the required 191 spaces on the site.
3 While the applicant is only one of multiple tenants using the parking lot, the Council finds that the use
4 of the shopping center since 1992 has been conditioned upon the provision of adequate parking
5 facilities, and these issues must be addressed prior to final inspection of Gu Gu Sushi & Roll so that
6 parking is safe and adequate in a time frame that is concurrent with the expansion of the use.
7 Conditions of the Parking Plan Amendment approved in 1992 are carried forward as part of this
8 approval, together with remediation requirements consistent with Municipal Code Section 17.44.160, to
9 provide a maintained, striped, surfaced and landscaped parking lot with a minimum of 191 striped
10 spaces, providing accessibility for the physically handicapped, and maintaining an appropriate mix of
11 uses, as indicated in Conditions 21 to 25.

12 3. Location of and distance to churches, schools, hospitals and public playgrounds: Expansion of
13 the subject business is not likely to affect the church located across Aviation Blvd., a busy arterial
14 street.

15 4. The combination of uses proposed, concentration and number of similar establishments or uses
16 within close proximity to the proposed establishment: The shopping center currently contains two other
17 restaurants with on-sale beer and wine. No other on-sale establishments are located in the vicinity, with the
18 closest being in the shopping center at the intersection of Aviation and PCH. While the expansion would
19 create the potential for increased concentration of on-sale customers at the shopping center, under its
20 current CUP, Gu Gu Sushi must close by 10:00 p.m. daily and by 11:00 p.m. on Friday and Saturday, and
21 no change in hours is proposed.

22 Establishments that close by 10:00 p.m. and conform to standards in Section 17.26.060 are
23 allowed by right because impacts associated with such establishments tend to be minimal. The subject
24 business closes only one hour later, on weekend nights, and police problems have not been reported. The
25 three restaurants in the shopping center also have somewhat staggered closing times, between 10:00 p.m.
26 and 1:00 a.m. depending on the day of week, which helps reduce loitering or noise that could be otherwise
27 be associated with groups of people leaving businesses and or sites at the same time.

1 The shopping center contains a mix of other uses including retail, a dance and music academy,
2 fitness uses, and personal services, which cater to people of various age groups and maintain a variety of
3 business hours generally oriented to daytime and early evening use. Conflicts among the uses in the
4 shopping center have not been reported and expansion of the subject use should not cause a conflict due to
5 hours, relatively limited occupancy, and proposed conditions of approval controlling operations and design.

6 5. Precautions taken by the owner or operator of the proposed establishment to assure the
7 compatibility of the use with surrounding uses: No special precautions are noted.

8 6. Noise, odor, dust and/or vibration that may be generated by the proposed use: The relatively
9 early closing time and limited increase in seating reduces the potential for impacts from expansion of
10 the floor area. Standard conditions in Section 17.40.080 and the noise ordinance generally control noise
11 and disturbances. To reduce the potential for a sports bar atmosphere, a limitation on televisions and
12 similar devices and bar-height furniture is proposed. Outdoor or 'open air' dining would require a CUP
13 amendment.

14 7. Impact of the proposed use to the city's infrastructure, and/or services: The proposed, limited
15 expansion should not require increased police services given the hours of operation and conditions that
16 reduce the potential to operate as a sports bar.

17 8. Other considerations that, in the judgment of the City, are necessary to assure compatibility
18 with the surrounding uses, and the city as a whole: The proposed expansion does not conflict with the
19 City's informal 'no intensification' policy due to the geographical location well removed from the
20 downtown area, hours of operation, and other limitations. While the establishment currently operates
21 without problems, a larger establishment or a change in theme or management could result in changes to
22 intensity or character, with the potential for increased adverse behavior and impacts such as noise,
23 disturbances, partying in the parking lot, etc. Maintaining the current hours, limiting the ability for the
24 establishment to become a sports bar by limiting number of televisions and similar devices, and other
25 conditions should reduce the potential for impacts regardless whether management changes over time. The
26 applicant has also voluntarily agreed to a reduction in the ABC hours (currently 6:00 a.m. to 2:00 a.m.
27 daily) to coincide with the CUP, as a way to increase assurances that the use would not incrementally
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1 intensify, in exchange for the expansion in floor area. Reducing hours consistent with the CUP helps to
2 reduce the on-sale hours 'capacity' within the City. Although the Police Chief opposes intensification on
3 on-sale establishments in view of the City Council's policy of no intensification, the Police Chief does
4 not object to this limited expansion of floor area because the business owner has agreed to relinquish
5 and conform ABC license hours from 2 a.m. daily to 11:00 p.m., only on weekends.

6 **SECTION 4.** Based on the foregoing factual findings the City Council affirms the following
7 findings pursuant to H.B.M.C. Section 17.42.0220, finding that adequate parking will be provided for
8 the expanded use and all uses within the shopping center:

9 1. The parking demand resulting from change of use of a small portion of the shopping center
10 from retail to restaurant can be absorbed in the large parking facility that exists at the shopping center;

11 2. The shopping center will contain a minimum of 191 parking spaces with the minimum ratio
12 of 1 per 250 square feet of floor area as required by Section 17.44.220.

13 3. Calculating parking requirements for the proposed use within a large shopping center at one
14 space per 250 square feet rather than cumulatively for each and every use will supply parking demand
15 under Section 17.44.220, Consolidated Off-Street Parking, as the shopping center contains a mix of
16 uses with varying peak parking demand times, and the proposed project results in only a small
17 percentage increase in the proportion of commercial space used for restaurant purposes, and the
18 resulting total percentage of there more intense uses is only approximately 16% of the facility. The
19 parking calculation was last updated in 2004, finding that although 233 spaces would be necessary
20 based on the required parking standards, the consolidated parking calculation reduced this total to 188
21 spaces, and 191 spaces to serve 47,800 square feet of floor area is provided in the parking facility. The
22 updated parking calculation summary in 2011 is based on the mix of leases supplied by the property
23 owner, indicates which the owner indicates includes approximate square footages; the square footage of
24 various tenant spaces and the shopping center in total and parking spaces has not changed since 2004,
25 and therefore the parking demand based on 47,800 square feet of floor area remains valid. In any case,
26 further parking at the site is demonstrated to be adequate for the mix of uses and parking demand
27 resulting from the subject change of use can be absorbed in the parking facility.

1 4. As stated under Section 4, CUP finding B, Conditions of the Parking Plan Amendment
2 approved in 1992 are carried forward, including provision of a minimum of 191 striped spaces,
3 providing accessibility for the physically handicapped, rehabilitating and maintaining landscaping, and
4 maintaining a mix of uses consistent with, or with lower parking demand than, uses in the attached
5 parking summary. The shopping center is in need of parking lot remediation and Conditions of
6 Approval 21 to 25 are proposed to ensure this is accomplished so that parking is adequate and impacts
7 are not increased.

8 **SECTION 5.** The project is Categorically Exempt from the California Environmental Quality
9 Act ("CEQA") per *Guidelines* 15303c because the square footage to be converted is only 750 square feet,
10 and all necessary public services and facilities are available and the surrounding area is not
11 environmentally sensitive.

12 **SECTION 6.** Based on the foregoing, the City Council hereby sustains the decision of the
13 Planning Commission and hereby approves Conditional Use Permit 11-8 Amendment and Parking Plan
14 11-8 Amendment subject to the following Conditions of Approval:

15 1. The project shall be substantially consistent with submitted plans reviewed by the Planning
16 Commission on November 15, 2011. Minor modifications to the plan shall be reviewed and may be
17 approved by the Community Development Director. Any substantial deviation to the floor plan or
18 seating arrangement or intensification of use shall be reviewed and approved by the Planning
19 Commission.

20 2. The hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m. Sunday through
21 Thursday, and between 7:00 a.m. and 11:00 p.m. on Friday and Saturday, at which time all customers
22 shall vacate the premises and the doors shall be locked.

23 3. The business shall be operated as a bona fide restaurant. The kitchen shall be equipped to
24 prepare food from its component ingredients whenever the restaurant is open and it shall offer a full-
25 service lunch and/or dinner menu; food service from the menu shall be available during all hours that
26 the establishment is open for business; a minimum or sixty-five (65) percent of the total gross sales,
27 computed monthly, shall result from the sale of prepared food.

1 4. This approval does not authorize outdoor or 'open air' dining. Live entertainment (including
2 amplified music, disc jockeys, live music whether acoustic or amplified, and live performances of all
3 kinds) and customer dancing is prohibited.

4 5. The maximum number of televisions, electronic, video or similar displays or screens or devices
5 shall be three (3).

6 6. The applicant voluntarily agrees to a reduction of hours for sales, service and consumption of
7 beer and wine set forth in its ABC license to 7:00 a.m. and 10:00 p.m. Sunday through Thursday, and
8 between 7:00 a.m. and 11:00 p.m. on Friday and Saturday consistent with the hours of operation set
9 forth in this Conditional Use Permit for the new expanded premises at 1117/1121 Aviation Blvd. The
10 City and applicant, as appropriate to the licensing process, shall petition the ABC for consistent hours.

11 7. The business shall provide adequate staffing, management and supervisory techniques to
12 prevent loitering, unruliness, and boisterous activities of the patrons outside the business and in the
13 parking areas.

14 8. Noise emanating from the property shall be within the limitations prescribed by the City's noise
15 ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial
16 establishments. Should noise problems occur, the business shall be operated with the doors and
17 windows closed.

18 9. The Police Chief may determine that a continuing police problem exists, and may authorize the
19 presence of a police approved doorman and/or security personnel to eliminate the problem, and then
20 shall submit a report to the Planning Commission, which will automatically initiate a review of this
21 Conditional Use Permit by the Planning Commission.

22 10. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained
23 free of graffiti at all times.

24 11. The applicant shall submit a detailed seating and occupancy plan prepared by a licensed design
25 professional, approved by the Community Development Department and Fire Department in substantial
26 compliance with the plan approved by the Planning Commission on November 15, 2011, prior to final
27 occupancy of the modified restaurant, and the maximum occupant load shall be posted.

1 12. Any significant changes to the interior layout which is not in substantial compliance with the
2 approved plan or that would alter the primary function of the business as a restaurant shall be subject to
3 review and approval by the Planning Commission. Seating shall be limited to 58 persons, and in no
4 case shall the counter-height counter be converted to a bar-height counter.

5 13. The establishment, including kitchen equipment, shall comply with Chapter 8.56.

6 14. The practice of washing and rinsing restaurant floor mats, equipment, tables, etc., or discharge
7 of any liquids, other than stormwater, onto the public right-of-way, into the parking lot drain or
8 stormdrains, is strictly prohibited. Discharge of liquids or wash water shall be limited to the sanitary
9 sewer.

10 A manager who is aware of the conditions of this conditional use permit shall be on the premises
11 during business hours. The conditional use permit shall be maintained on the premise in a location
12 where employees can easily read the conditions.

13 15. The restaurant with on-sale beer and wine may be subject to a periodic review process
14 established by the City to verify conformance with the Conditions of Approval.

15 16. The establishment shall not adversely affect the welfare of the residents, and/or commercial
16 establishments nearby.

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

19 18. Approval of the Conditional Use Permit amendment is contingent on approval of the Parking
20 Plan amendment.

21 19. The mix of uses (retail/restaurant/service) of the lease spaces within the shopping center shall
22 not be intensified in terms of parking demand without approval of a Parking Plan amendment.

23 20. A minimum of 191 parking spaces shall be maintained in the parking lot. The number of
24 spaces may be reduced for the purpose of compliance with the current standards for provision of
25 disabled spaces and associated loading zones, and to provide bicycle parking. A plan shall be
26 submitted to the Community Development Department for review and approval prior to issuance of a
27 Certificate of Final Occupancy demonstrating spaces and dimensions.

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1 21. All parking spaces in the parking lot, including disabled spaces and their loading areas, shall be
2 properly striped with appropriate signs posted before final inspection of Gu Gu Sushi & Roll.

3 22. The requirement to maintain the parking lot is material to all tenants and uses in the shopping
4 center. The pavement shall be properly maintained in accordance with H.B.M.C. Section 17.44.160,
5 Chapter 8.44 and all other requirements of law, before final inspection of Gu Gu Sushi & Roll. There
6 shall be no final inspection and the expansion area cannot be occupied until the condition is complied
7 with.

8 23. The parking lot and landscaping shall be maintained free of trash and debris. Appropriate solid
9 waste containment receptacles shall be provided and maintained in accordance with H.B.M.C. Chapter
10 8.12.

11 24. Existing landscaping located around the perimeter of the parking lot to the east and south shall
12 be well-maintained. The landscaping shall be cleared of trash and rehabilitated prior to issuance of the
13 Certificate of Final Occupancy.

14 A. Landscaping in poor condition shall be replaced with live plants. An automatic
15 landscaping irrigation system shall be provided and maintained.

16 B. Prior to installation of new landscaping, a landscape plan indicating size, species and
17 quantity of plants shall be submitted to the Community Development Department for review and
18 approval. All new or replacement landscaping shall comply with Municipal Code Chapter 8.60.070.

19 25. This approval of a Conditional Use Permit incorporates conditions from and supersedes
20 Planning Commission Resolution 04-17, which hereafter shall be void and of no further force and
21 effect.

22 26. This approval of a Parking Plan incorporates conditions from and supersedes Planning
23 Commission Resolution 92-49, which hereafter shall be void and of no further force and effect.

24 27. The project shall maintain in conformance with all other applicable City of Hermosa Beach and
25 regulatory agency requirements and standards, including but not limited to: California Department of
26 Alcoholic Beverage Control, Los Angeles County Health Department, California Disabled Access
27 Standards (Government Code Title 24), and Los Angeles County National Pollutant Discharge
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1 Elimination System Permit (NPDES).

2 28. The subject property shall be developed, maintained and operated in full compliance with the
3 conditions of this grant and any law, statute, ordinance or other regulation hereafter adopted that is
4 applicable to any development or activity on the subject property. Failure of the permittee to cease any
5 development or activity not in full compliance shall be a violation of these conditions.

6 29. The Planning Commission may review this Conditional Use Permit and/or Parking Plan and
7 may amend the subject conditions or impose any new conditions if deemed necessary to mitigate
8 detrimental effects on the neighborhood resulting from the subject use.

9 30. Approval of this permit shall expire twenty-four (24) months from the date of approval by the
10 Planning Commission, unless significant construction or improvements or the use authorized hereby
11 has commenced. One or more extensions of time may be requested. No extension shall be considered
12 unless requested, in writing to the Community Development Director including the reason therefore, at
13 least 60 days prior to the expiration date. No additional notice of expiration will be provided.

14 **SECTION 7.** This grant shall not be effective for any purposes until the permittee and the
15 owners of the property involved have filed at the office of the Planning Division of the Community
16 Development Department their affidavits stating that they are aware of, and agree to accept, all of the
17 conditions of this grant.

18 The Conditional Use Permit and Parking Plan Amendments shall be recorded, and proof of
19 recordation shall be submitted to the Community Development Department prior to the issuance of a
20 building permit.

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

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

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

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

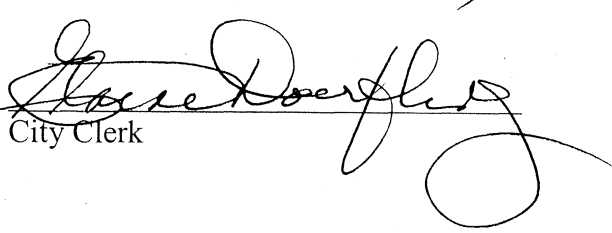
12 **SECTION 8.** Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to
13 the decision City Council must be made within 90 days after the final decision by the City Council.

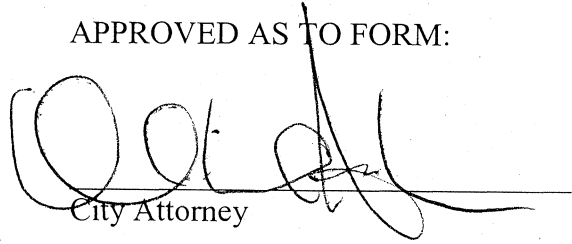
14 **PASSED, APPROVED AND ADOPTED** this 13th day of December 2011.

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

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20 ATTEST:

APPROVED AS TO FORM:

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23 City Clerk


City Attorney

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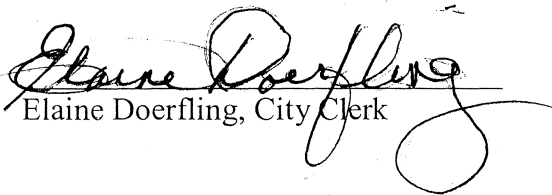
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF HERMOSA BEACH

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Resolution No. 11-6776 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 December 13, 2011.

The vote was as follows:

AYES: Bobko, DiVirgilio, Duclos, Tucker, Mayor Fishman
NOES: None
ABSTAIN: None
ABSENT: None

Dated: January 10, 2012


Elaine Doerfling, City Clerk