



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Aldinger and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner

DATE: April 1, 2008

SUBJECT: Consideration of a Use Permit, Coastal Development Permit, and Vesting Tentative Parcel Map 69052 for Proposed Construction of a Mixed Use Building with One Commercial Condominium Unit and Two Residential Condominium Units on the Property Located at 3920 Highland Avenue

RECOMMENDATION:

Staff recommends that the City Council receive and file the decision of the Planning Commission.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of March 12, 2008, **APPROVED** (5-0) a use permit to construct a mixed use condominium building with 694 square feet of commercial space and 2 residential units. The commercial space was approved for retail, food and beverage sales, and personal services uses.

The submitted plans show an existing mixed use site to be redeveloped with a single 3-story building with on-grade parking, to have 3 separate ownerships in a condominium subdivision. The site would take vehicle access from 44th Street and Crest Drive and pedestrian access from Highland Avenue and 44th Street. The proposed small commercial space occupies the front portion of the building and the residential units are located behind, observing residential setback and height requirements. The overall appearance of the project is modern style featuring extensive glass treatment, modulated rectangular shapes, and upper deck areas.

The project is in conformance with all of the City's requirements including height, floor area, setbacks, open space, and parking,

The Planning Commission was generally supportive of the project's mixed use concept and design. Some interest was expressed in the potential historic value of the site's existing commercial building, however, none has been identified, nor does the City have regulations

preventing replacement of older buildings. The Commission heard testimony from a neighboring duplex owner with concerns for construction damage and disruption, the size of the proposed structure; and loss of privacy. The Planning Commission felt there are current procedures and regulations in place to address construction issues; and while being substantially larger than the existing older building, would have appropriate height, setbacks, and open space typical of new development in the area.

The project is located within the CNE zone which is intended for local businesses and also allows for residential use. Small older mixed use developments are very common in this segment of the CNE zone. Many CNE sites are developed exclusively as residential, including the two abutting the subject site. Residential use occupies the majority of the proposed development, although the commercial portion is at the most prominent location facing Highland Avenue occupying that entire frontage. This appears to be a generally desirable mixed use design with a commercial/residential proportion consistent with recent mixed use projects in the city. The overall design concept appears consistent with the purpose of the North End Commercial district (MBMC 10.16.010) by providing small, local, and visitor serving commercial uses along Highland Avenue, and residential uses as found to be appropriate.

This project would include the first new commercial building in the CNE zone in many years. Similar proposals to this one are likely in the future for other under-developed area properties that have similar vehicle access options. Developers typically are most interested in residential development (some office as well) in these outer portions of the CNE zone, however, staff stresses the zoning and General Plan goals of neighborhood/visitor serving commercial use in each proposal. Since the residential use requires use permit approval, each of these projects will be reviewed on a case-by-case basis.

ALTERNATIVES:

The alternatives to the staff recommendation include:

1. **REMOVE** this item from the Consent Calendar, **APPEAL** the decision of the Planning Commission, and direct that a public hearing be scheduled.

Attachments:

Resolution No. PC 08-04
P.C. Minutes excerpt, dated 3/12/08
P.C. Staff Report, dated 3/12/08
Neighbor message
Plans (separate)

C: Dennis Cleland, Applicant
Srour & Associates, Applicant Rep.
Studio 912, Architect.

RESOLUTION NO. PC 08-04

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AND COASTAL DEVELOPMENT PERMIT FOR CONSTRUCTION OF A NEW MIXED USE BUILDING ON THE PROPERTY LOCATED AT 3920 HIGHLAND AVENUE (Cleland)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on March 12, 2008, received testimony, and considered an application for a use permit, coastal development permit, and vesting tentative parcel map 69052 for construction of a proposed 5,097 square foot mixed use building to include one commercial condominium unit and two residential condominium units on the property located at 3920 Highland Avenue in the City of Manhattan Beach.
- B. The existing legal description of the site is Lot 1, Block 9, Tract No. 4103.
- C. The applicant for the subject project is Dennis Cleland, the owner of the property.
- D. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a small infill development within an urbanized area.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The property is located within Area District IV and is zoned CNE, Commercial North End. The use is permitted by the zoning code and is appropriate as conditioned for the north end commercial area. The surrounding private land uses consist of CNE and City of El Segundo Industrial
- G. The General Plan designation for the property is North End Commercial. The General Plan encourages ground floor retail and service development such as this that provides for neighborhood-oriented businesses, which preserve the low-intensity, pedestrian-oriented character of commercial areas in the North End and El Porto; while recognizing the unique qualities of mixed-use development.
- H. Approval of the commercial and residential use project, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since the project is compatible with the surrounding neighborhood and is in compliance with all applicable regulations as detailed in the project staff report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. B. 1, 2, & 3, as follows:
 - The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program-Implementation

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- Plan;
- The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program-Implementation Plan;
 - The proposed structure is consistent with the 30' Coastal Zone residential height limit as required by the Local Coastal Program-Implementation Plan.
- L. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:
- Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along adjacent streets.
 - Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
- M. This Resolution, upon its effectiveness, constitutes the Use Permit and Coastal Development Permit for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit, Coastal Development Permit and Vesting Tentative Parcel Map 69052 application for a commercial and residential condominium building, subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. * The project shall be constructed and operated in substantial compliance with the submitted plans as approved by the Planning Commission on March 12, 2008. Any other substantial deviation from the approved plans must be reviewed and approved by the Planning Commission, except that the commercial parking aisle shall be modified to meet the two-foot end-extension requirement.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.
4. During building construction of the site, the soil shall be watered in order to minimize the impacts of dust on the surrounding area.
5. The siting of construction related equipment (job site offices, trailers, materials, etc.) shall be subject to the approval from the Director of Community Development prior to the issuance of any building permits.
6. A site landscaping plan utilizing drought tolerant native plants shall be submitted for review and approval concurrent with the building permit application. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area.

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7. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
8. Backflow prevention valves shall be installed as required by the Department of Public Works, and the locations of any such valves or similar devices shall be subject to approval by the Community Development Department prior to issuance of building permits.
9. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department. New sidewalks shall be constructed along Highland Avenue and 44th Street as required by the Public Works Department.
10. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
11. Property line clean outs, mop sinks, erosion control, and other sewer and storm water items shall be installed and maintained as required by the Department of Public Works or Building Official. Oil clarifiers and other post construction water quality items may be required.
12. Security lighting for the site shall be provided in conformance with Municipal Code requirements and shall include glare prevention design.
13. A corner cut-off street dedication for street purposes at the southeast corner of Highland Avenue and 40th Street shall be completed as required by the City Engineer.
14. Plans shall incorporate sustainable building components into the building and site design as determined to be appropriate by the Public Works and Community Development Departments including, but not limited to: LEED (leadership in Energy and Environmental Design) and Build-it-Green components, permeable pavement, energy efficient plumbing mechanical and electrical systems, and storm water retention.

Condominium Conditions

15. A survey suitable for purposes of recordation shall be performed by a Civil Engineer or Land Surveyor licensed in the State of California, including permanent monumentation of all property corners and the establishment or certification of centerline ties at the intersections of:
 - a. Crest Drive with El Porto Street
 - b. Highland Avenue with El Porto Street
 - c. Crest Drive with 40th Street.
 - d. Highland Avenue with 40th Street
16. Each new condominium shall have separate water and sewer laterals as required by the Director of Public Works.
17. Vesting Tentative Parcel Map No. 69052 shall be approved for an initial period of 3 years with the option of future extensions. The final map shall be recorded prior to condominium occupancy.

Commercial Operational Restrictions

18. * The facility shall include 694 square feet of retail/personal services commercial space. Food & Beverage Sales use shall also be permitted between the hours of 6am to 10:30pm daily. Office and personal improvement uses shall be prohibited.

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19. The management of the facility shall police the property and all areas immediately adjacent to the businesses on the site during the hours of operation to keep it free of litter.
20. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
21. A covered trash and recycling enclosure(s), with adequate capacity shall be provided on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.
22. * The site shall allow reciprocal vehicle access with adjacent properties for any future City approved project upon which a similar reciprocal access condition is imposed. Such access shall be through the site's parking lot and driveway. The parking lot configuration shown on the subject plans shall be modified (at the expense of the subject property owner) at the time of implementation of the reciprocal access condition of the project.
23. * Parking for retail and condominium use shall be provided in conformance with the current Manhattan Beach Municipal Code. Parking spaces shall be marked and signed as required by the Community Development Department. Commercial parking spaces shall be available to employees and customers and shall not be labeled or otherwise restricted for use by any individuals. Gates or other obstructions to commercial or guest parking areas shall be prohibited. Future parking lot modifications for the purposes of providing reciprocal access to a neighboring commercial property, and any parking requirement modifications that are warranted, shall be subject to approval of the Planning Commission in association with its review of the neighboring project.
24. * All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated signs shall be prohibited. Commercial signs shall not be located upon or adjacent to residentially used portions of the building.
25. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
26. Any outside sound or amplification system or equipment is prohibited.

Procedural

27. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
28. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
29. *Assignment.* The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. a completed application and application fee as established by the City's Fee Resolution;
 - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. a copy of the original permit showing that it has not expired.

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- 30. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
- 31. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.
- 32. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
- 33. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
- 34. This Use Permit shall lapse three years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
- 35. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
- 36. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of March 12, 2008 and that said Resolution was adopted by the following vote:

**AYES: Bohner, Fasola, Powell,
 Seville-Jones, Chairman Lesser**

NOES:None

ABSTAIN: None

ABSENT: None

RICHARD THOMPSON,
Secretary to the Planning Commission

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Sarah Boeschen,
Recording Secretary

CITY OF MANHATTAN BEACH
[DRAFT]MINUTES OF THE REGULAR MEETING OF THE PLANNING
COMMISSION
MARCH 12, 2008

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on
2 Wednesday, March 12, 2008, at 6:35p.m. in the City Council Chambers, City Hall, 1400
3 Highland Avenue.

4
5 **ROLL CALL**

6
7 Chairman Lesser called the meeting to order.

8
9 Members Present: Bohner, Fasola, Powell, Seville-Jones, Chairman Lesser
10 Members Absent: None
11 Staff: Richard Thompson, Director of Community Development
12 Eric Haaland, Associate Planner
13 Sarah Boesch, Recording Secretary
14

15 **APPROVAL OF MINUTES** February 13, 2008

16
17 Commissioner Seville-Jones requested that page 2, line 16 of the February 13 minutes be revised
18 to read: "He commented that the total square footage based on the plans submitted to staff by the
19 applicant is 4,368 square feet."

20
21 Commissioner Seville-Jones requested that the word "issued" be corrected to "issues" on page 3,
22 line 4 of the minutes.

23
24 Commissioner Bohner requested that page 2, line 14 be revised to read: "He indicated that the
25 proposal is to add 723 square feet of living and storage area on the second level . . ."

26
27 A motion was MADE and SECONDED (Powell/Seville-Jones) to **APPROVE** the minutes of
28 February 13, 2008, as amended.

29
30 AYES: Bohner, Fasola, Powell, Seville-Jones, Chairman Lesser
31 NOES: None
32 ABSENT: None
33 ABSTAIN: None
34

35 **AUDIENCE PARTICIPATION** None

36
37 **PUBLIC HEARINGS**

38
39 **06/0726.1** Consideration of a Use Permit, Coastal Development Permit, and Vesting
40 Tentative Parcel Map 69052 for Proposed Construction of a Mixed Use
41 Building at 3920 Highland Avenue

DRAFT

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1
2 Associate Planner Highland summarized the staff report. He indicated that the proposal is for a
3 5,000 square foot three-story building which would include 694 square feet of commercial space
4 on the lower level and two residential condominium units above. He indicated that the project
5 conforms to applicable requirements, including parking, height, setbacks, and open space. He
6 commented that staff believes residential use is consistent with the surrounding area. He
7 indicated that the adjacent low intensity commercial uses are unlikely to impact the occupants of
8 the proposed residential units. He said that retail use is desirable for the neighborhood oriented
9 CNE zone, particularly at the ground level. He indicated that staff is proposing to allow retail
10 and personal service uses for the proposed commercial space but not office use. He stated that
11 the Commission may wish to consider allowing a take-out only food use or convenience store
12 subject to certain hours. He commented that the proposed structure would be full height as
13 compared to the existing front structures on the site which are relatively small. He pointed out
14 that no street parking would be lost as a result of the proposal. He stated that a letter was
15 received from the adjacent neighbor that raised concerns regarding dust, noise and shoring
16 during construction; regarding the taller height of the proposed structure; and regarding loss of
17 privacy.

18
19 Chairman Lesser asked where in the Code the required finding on page 3 of the staff report is
20 located which states “The Planning Commission must determine that the proposed residential
21 units are not detrimental to the subject commercial area, and that the residential occupants of the
22 units would not be detrimentally affected by the surrounding commercial uses.”

23
24 Associate Planner Haaland indicated that the language referenced by Chairman Lesser is one of
25 the required use permit findings and that he will look up the specific Code section. He
26 commented that the language regarding the effect of the commercial area upon the residential
27 uses was added, and was not originally in the Code. He indicated that it was added when there
28 was a concern with the impacts to residential uses within commercial areas.

29
30 Chairman Lesser commented that he would like more information regarding the criteria that the
31 Commission should apply in interpreting the finding.

32
33 In response to a question from Chairman Lesser, Associate Planner Haaland indicated that any
34 structural engineer report regarding the soundness of a property or the impact to adjoining
35 properties during construction would be required as part of the plan check process. He stated
36 that he is not aware of a Planning Commission ever requesting soil or structural engineer reports.

37
38 In response to a question from Chairman Lesser, Associate Planner Haaland stated that staff is
39 not aware of any information regarding the historical significance of the existing structure on the
40 site. He said that there is a procedure in the City for designating buildings that have historic
41 value, which is a voluntary procedure to encourage the preservation of such buildings.

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1 Commissioner Powell commented that his recollection on a previous project was that a condition
2 was imposed that best practices be utilized for shoring to include drilling rather than pile driving.

3
4 Associate Planner Haaland indicated that he is not aware of such a condition being placed on a
5 project, although he is certain that less intrusive methods are encouraged by the Building
6 Division.

7
8 Director Thompson said that it would be best to assume that such a special condition regarding
9 shoring would not be necessary in this case. He commented that there generally is cooperation
10 in instances when development is proposed adjacent to other properties. He indicated that the
11 City has certain responsibilities to enforce regulations, and the developer has certain
12 responsibilities regarding the relationship of their project to the adjacent properties. He
13 indicated that staff has found that the relationships work without imposing special conditions.
14 He commented that if there is continued disagreement, there is also a mediation process.

15
16 In response to a question from Commissioner Powell, Associate Planner Haaland said that a sign
17 program is typically not necessary when only one commercial tenant space was included with
18 the project.

19
20 Commissioner Powell suggested that the term “El Porto” might be changed on page 1 section 1,
21 item G of the Resolution since the City Council has indicated a preference for “North Manhattan
22 Beach”, and Associate Planner Haaland responded that the finding language is quoted directly
23 from the General Plan.

24
25 Commissioner Fasola commented that the proposed parking area has a very steep slope of 15
26 percent which makes it difficult for vehicles to negotiate. He asked about the City requirement
27 for the maximum slope for driveways.

28
29 Associate Planner Haaland indicated that 15 percent is the maximum slope that is permitted for
30 driveways and the project will need to be designed to meet the maximum. He stated that the
31 Traffic Engineer reviews the parking to ensure the best flow of vehicles.

32
33 In response to questions from Commissioner Fasola, Associate Planner Haaland indicated that
34 there is not a landscaping requirement for the size of development that is proposed. He
35 commented that there is not a restriction against a commercial structure being built immediately
36 adjacent to a residential unit.

37
38 Commissioner Fasola commented that it would be very easy to later incorporate a second floor
39 with the very high ceiling height of the commercial space, which is a concern with the limited
40 amount of parking.

41
42 Associate Planner Haaland said that staff usually does not have a major concern with retail

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1 commercial structures illegally adding square footage because the space is very visible to the
2 public and such additions are uncommon.

3
4 In response to a question from Commissioner Seville-Jones, Associate Planner Haaland
5 commented that the sign for the commercial use is required to be located on the premises, but it
6 is not specifically required to be placed on the commercial portion of the structure.

7
8 Director Thompson stated that an appropriate condition could be included regarding the location
9 of the sign.

10
11 **Patrick Killen**, the project architect, said that they feel the development would fit in with the
12 neighborhood. He stated that the structure would have two residential condominium units and a
13 small commercial component in the front. He indicated that the intent is to have the ceiling of
14 the commercial unit be a tall vertical space so that it feels larger. He commented that there
15 would be an undivided glass window at the front which would not provide an opportunity to
16 incorporate a second story. He said that they designed the structure in order to require the least
17 amount of shoring possible. He indicated that the building has a series of articulations on the
18 north elevation in order to prevent having an unbroken massive wall of 25 feet. He commented
19 that their intent would be to keep the sign within the commercial component of the building. He
20 said that the applicant has a concern with limiting the commercial space to only a retail use. He
21 indicated that they would want a retail tenant at the location but are not sure of the interest and
22 are concerned that it would be vacant if they are not able to attract such a use. He indicated that
23 keeping a commercial frontage on Highland Avenue is appropriate.

24
25 In response to a question from Chairman Lesser, **Mr. Killen** stated that they have attempted to
26 limit the shoring as much as possible in order to minimize the impact to the adjacent neighbor.
27 He commented that all of the decks would face on the north side of the building toward the street
28 and there are no exterior spaces proposed on the south side of the structure adjacent to the
29 neighbors. He indicated that they have included a wall at the back side of the parking garage to
30 reduce any noise to the neighbors.

31
32 In response to a question from Chairman Lesser, **Mr. Killen** said that they have considered a
33 convenience store for the commercial use. He said that they envisioned a shop that could sell
34 items for tourists as well as everyday items for residents. He commented that they were
35 discouraged from a coffee shop because of the amount of parking such a use would require. He
36 indicated that they are looking for a low impact commercial use.

37
38 In response to a question from Commissioner Seville-Jones, **Mr. Killen** said that they would like
39 to have some flexibility with the hours of operation for the commercial use but are not seeking to
40 operate during late hours. He indicated that for a convenience store they might suggest allowing
41 hours until 10:00 p.m.

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1 **Mr. Killen** commented that having a parking structure and parking district in the North End
2 might help to encourage developments that are done appropriately. He commented that the small
3 lots are difficult to develop.

4
5 In response to a comment from Commissioner Powell, **Mr. Killen** said that they would not use
6 reflective glass on the structure and would most likely use a grey tinted glass.

7
8 In response to a question from Chairman Lesser, **Mr. Killen** commented that the existing
9 building is 70 years old but does not have the architectural character or historical significance to
10 meet the criteria to be given historical status. He said that it is very difficult to incorporate the
11 existing wood structure into a new design.

12
13 Chairman Lesser opened the public hearing.

14
15 **Bob Holmes**, a resident of the 1300 block of The Strand, commented that there have been no
16 new commercial structures built in the North End since he came on the City Council in 1980. He
17 stated that the existing buildings on the site are falling apart and nonconforming for any
18 commercial use. He commented that the question is whether or not the North End should be
19 redeveloped, and the Commission can prevent the project from being built if they decide to
20 include too many restrictions. He indicated that he feels the project offers a benefit to the area.
21 He said that it is a creative solution to redevelopment. He pointed out that everyone has their
22 own ideas about what should be built on the site, but the applicant is the one with an economic
23 interest. He indicated that the City needs to encourage the owner to develop the property in the
24 manner that they wish. He commented that he feels the applicant should not be limited to the
25 type of use for the commercial portion of the building. He indicated that there are many people
26 who are sole practitioners that would be interested in having an office walking distance from
27 their home so that they would not need to drive to work. He stated that the applicant may find
28 that a convenience store would be successful.

29
30 **Mr. Holmes** commented that the property is a small lot that does not have the benefit of a
31 vehicle parking district, and there are handicapped parking requirements. He indicated that it is
32 good to encourage change instead of attempting to fix the existing structure. He pointed out that
33 if he were to lease the commercial space, he would want to have a sign as close to the business
34 as possible and not above on another portion of the building 50 or 60 feet away. He commented
35 that no neighbor is happy to have construction and shoring next to their property. He said that at
36 some point the two buildings to the south of the property will be rebuilt and be inconvenient to
37 the occupants of the subject building. He indicated that there are controls in place to limit the
38 impacts of construction to the neighbors. He commented that the ground in the area is sand, and
39 shoring can be done with less pounding than in other areas. He stated that the goal for the
40 North End was to promote and preserve commercial uses along Highland Avenue, and there has
41 been no new commercial businesses on Highland Avenue to serve the residents and visitors to
42 the City.

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1
2 **Dennis Cleland**, the applicant, said that his main concern is that it is not certain whether they
3 would be able to attract a retail tenant as required by Condition 18 of the draft Resolution. He
4 stated that the type of use that they would be able to attract would be dictated by the market, and
5 they may be overly restricted if they are only lease the space as retail. He requested that they
6 would also like to have the possibility of having an office use for the space.

7
8 In response to a question from Chairman Lesser, **Mr. Cleland** indicated that he would not be
9 opposed to hours for a retail use being restricted to 10:00 p.m.

10
11 **Linda Kaplan**, a resident of the 300 block of Knob Hill in Redondo Beach, the owner of the
12 property immediately south of the subject property, said that the area is historic. She commented
13 that the Beach Hut was on the subject property for many years. She stated that several
14 businesses have failed in the area. She stated that there are currently liquor stores and
15 convenience stores to the north and south of the subject property. She indicated that it would not
16 be possible for the proposed structure to be constructed without damaging her property. She
17 said that a structural engineer should examine the site before rather than after the project is
18 approved. She commented that property owners have rights as long as they do not interfere with
19 the rights of others. She indicated that she will not have any remedy if her property is damaged.
20 She stated that there is very little space between the stairs to her building and the existing
21 structure on the subject property that is proposed to be demolished. She commented that it
22 would not be possible for the shoring to occur without damaging the stairway, breaking
23 windows, and damaging the concrete on her property. She commented that the view of the
24 ocean from her property would be taken away if the proposed structure is built, which would
25 decrease her property value and rental income. She said that she does not feel it is justified to
26 eliminate her ocean view simply because the applicant wants higher ceilings that are only for
27 aesthetics.

28
29 **Mr. Killen** stated that his firm has been involved with similar projects for many years. He
30 commented that the City does have a process for predemolition where an inspector evaluates
31 what should be done in order to ensure that damage is not done to adjacent properties. He
32 indicated that they probably would request permission from **Ms. Kaplan** to support the staircase
33 of her property during construction because it is not in good condition, and they may ultimately
34 replace it if necessary. He said that they would not leave an unsafe condition for any adjacent
35 neighbor or prevent anyone from having access to their property. He commented that the
36 shoring would be relatively nominal, and he does not believe that damage would occur from the
37 vibration. He indicated that most of the shoring contractors in the area are very conscientious
38 and video the adjacent properties to document any existing damage so there is no question of the
39 existing condition prior to construction.

40
41 Director Thompson indicated that the City has procedures in place including regulations that
42 respect the rights of the owners of both the subject and adjacent properties. He stated that the

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1 contractors who will work on the project are local and have experience building in close
2 proximity to adjacent structures.

3
4 Chairman Lesser closed the public hearing.

5
6 Commissioner Bohner said that the proposal would be a great addition and is needed in the
7 North End. He said that there has not been any recent commercial development in the area, and
8 a mixed use project would serve the community. He indicated that a retail store would be
9 utilized by the residents. He said that the project is relatively small, and he does not feel there
10 would be an issue with parking. He commented that hours until 10:00 p.m. for the commercial
11 use would be appropriate. He stated that there is a procedure in place to ensure that the project is
12 constructed safely to protect the neighbors. He indicated that the developer also has an interest
13 in protecting the adjacent neighbor's property to maintain his reputation. He commented that he
14 would support removing the restriction for office use.

15
16 In response to a question from Chairman Lesser, Associate Planner Haaland said that finding 4
17 under "Use Permit Findings" states: "The proposed use will not adversely impact nor be
18 adversely be impacted by nearby properties." He stated that the intent of that language is for
19 mixed commercial and residential areas.

20
21 Director Thompson said that the condition is unique because it directs the Commission to
22 consider the impacts that would be caused by surrounding uses to the project rather than only the
23 impacts that the project would cause to adjacent uses.

24
25 In response to a question from Commissioner Bohner, Director Thompson said that staff feels
26 the project should include some type of neighborhood serving business. He indicated that staff
27 has a concern that an office use would close off the building from the community, and they
28 would like for the project to include a neighborhood serving use. He said that staff would
29 suggest that if the Commission is interested in broadening the condition to include a type of
30 office use that is public oriented.

31
32 Commissioner Seville-Jones said that she likes the project and supports mixed use. She
33 commented that she feels there is the ability to create a vibrant area in the North End that extends
34 beyond Rosecrans Avenue, and she feels the project would add to the area. She said that she
35 would support hours of the commercial use until 10:00 p.m. She indicated that she would not be
36 in favor of removing the restriction for office use, and the applicant can always come back in the
37 future and ask for the restriction to be removed if they have difficulty finding a retail tenant. She
38 indicated that it is her hope that the applicant can find a tenant who will add to the vibrancy of
39 the area. She commented that she recognizes the concern that placing too many restrictions on
40 the project can prevent it from being built. She indicated, however, that she would support the
41 project as proposed and would support hours of operation for the commercial use until 10:00
42 p.m. She said that she would like for the signage to be restricted to the area of the building with

1 the commercial space. She stated that she also feels the applicant has taken care in considering
2 and articulating a response to the concerns of the neighbor. She pointed out that there are
3 protections in place for residents when construction occurs adjacent to their property. She
4 commented that she is sympathetic to the adjacent neighbor that a portion of the view of her
5 property will be lost; however, the City does not have a view ordinance. She said that she
6 respects the concerns of the neighbor, and she feels they will be addressed over the course of the
7 project.

8
9 Commissioner Powell said that his experience is that shoring that uses drilling is much less
10 intrusive than using an impact hammer. He indicated that he is certain that an appropriate
11 shoring contractor will be used for the project and that damage can be kept to a minimum. He
12 commented that he supports mixed use as well as improving the nature of the North End, and he
13 believes it is a good project. He indicated that he feels the design is aesthetically pleasing and it
14 meets all of the requirements in order to grant the Use Permit and Coastal Development Permit
15 including density, buildable floor area, height, setbacks, parking, vehicle access, and open space.
16 He indicated that the proposal is for a low intensity commercial use and would be compatible
17 with the surrounding neighborhood. He commented that the proposal would replace a 70-year-
18 old structure that does not have historical significance and would be an improvement to the area.
19 He stated that the two condominium units would also promote local home ownership. He said
20 that he would support the proposal.

21
22 Commissioner Fasola stated that he sympathizes with the concerns of the neighbor. He indicated
23 that although the project does meet the requirements of the Code, **Ms. Kaplan** will be faced with
24 a giant wall on the north side of her property. He indicated that the lots in the El Porto area are
25 basically half lots, and the subject lot is the one that extends from street to street. He indicated
26 that the project does conform to Code requirements. He stated that the project would be an
27 improvement to the existing structure which is 70 years old. He commented that he feels the
28 project is attractive; however, he is surprised that there is no requirement for landscaping on
29 such a lot. He indicated that he would be opposed to changing the language of Condition 18, and
30 he feels an office use would be inappropriate. He indicated that the subject site is one of very
31 few opportunities with street frontage where a community serving use could be located. He
32 indicated that he does have a concern that an additional floor could be incorporated into the
33 commercial portion of the development. He said that he would support the project as proposed.

34
35 Chairman Lesser indicated that he also supports the project. He stated that he supports mixed
36 use and its benefits to the North End. He commented that he appreciates applicants working
37 with staff. He said that he also would support retaining the language of Condition 18. He
38 indicated that he would like for the applicant to at least initially attempt to find a retail tenant for
39 the commercial space that would fill a need in the community, and they can come back in the
40 future if they have a problem finding such a tenant. He said that he feels the findings for
41 granting the Use Permit can be made. He indicated that the proposed use will not adversely
42 impact nor be adversely be impacted by nearby properties because the existing structure on the

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1 site is mixed use. He stated that he would prefer that the proposed structure not be so large, and
2 he empathizes with the concerns of the adjoining neighbor. He stated, however, that a structure
3 could be built with a maximum BFA of 6,292 square feet and the proposal is for 5,097 square
4 feet. He commented that historical preservation is not necessarily appropriate in this case, but he
5 wishes that the question be asked more often before older structures are torn down. He said that
6 he would like for there to be more incentives for property owners to consider retaining and
7 preserving older structures. He said that he feels the concerns of the adjoining neighbor
8 regarding construction have been addressed by the architect who has experience working with
9 this type of development, and there are procedures of the City for addressing damage which
10 could result from construction.

11
12 Commissioner Fasola commented that he would question whether the hours for a retail use
13 should be limited, and he would think that operating at later hours should be encouraged.

14
15 Commissioner Bohner said that he feels some restriction should be placed on the hours.

16
17 Commissioner Seville-Jones said that she feels there should be a restriction on the hours because
18 there are adjacent residences that front Highland Avenue that could be impacted by the noise of a
19 commercial use.

20
21 Director Thompson pointed out that the applicant does not have an objection to restricting the
22 hours at 10:30 p.m., which would be staff's recommendation. He said that staff would suggest
23 adding food and beverage service to the permitted type of commercial use.

24
25 Commissioner Powell indicated that he believes there should be some restriction on the
26 permitted hours for the commercial use, and the applicant was agreeable to limiting hours of
27 operation at 10:30 p.m. He said that he also feels opening hours should also be established.

28
29 Associate Planner Haaland said that the unregulated hours of operation specified in the Code for
30 a food and beverage use are between 6:00 a.m and 10:30 p.m.

31
32 A motion was MADE and SECONDED (Bohner/Powell) to **APPROVE** a Use Permit, Coastal
33 Development Permit, and Vesting Tentative Parcel Map 69052 for proposed construction of a
34 mixed use building at 3920 Highland Avenue with the addition of language to allow for a food
35 and beverage sales use with permitted hours of operation between 6:00 a.m. and 10:30 p.m.
36 seven days a week.

37
38 AYES: Bohner, Fasola, Powell, Seville-Jones, Chairman Lesser

39 NOES: None

40 ABSENT: None

41 ABSTAIN: None

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1 Director Thompson explained the 15-day appeal period and stated that the item will be placed on
2 the City Council's Consent Calendar for their meeting of April 1, 2008.

3
4 **DIRECTOR'S ITEMS**

5
6 Director Thompson said that the Mansionization Ordinance has been adopted and will go into
7 effect on March 21, 2008.

8
9 **PLANNING COMMISSION ITEMS**

10
11 Commissioner Powell indicated that he attended the Ninth General Assembly of the South Bay
12 Cities Council of Governments with Director Thompson. He commented that the subject was
13 preparing for the impact as the baby boom population ages. He said that it was well represented
14 for 16 cities, and it was an informative conference.

15
16 Commissioner Seville-Jones commented that there are a number of internally illuminated signs
17 in the downtown area that she feels are not particularly attractive. She said that such signs may
18 be appropriate in some areas, but she suggested that some areas of the City in which they should
19 be restricted possibly be specified in the Code. She also suggested amending the Sign Code to
20 require signs in mixed use projects to be placed within the commercial component of the
21 development.

22
23 Director Thompson commented that the City may wish to adopt a mixed use ordinance at some
24 point in the future.

25
26 In response to a question from Chairman Lesser, Director Thompson said that the City has done
27 a lot of work on bike paths, and there is language in the General Plan regarding bike routes. He
28 indicated that the City prepared recommendations regarding bike routes to be included in the
29 regional plan, and the City has not received any more input regarding their incorporation with
30 adjacent cities.

31
32 **TENTATIVE AGENDA: March 26, 2008**

33
34 **ADJOURNMENT**

35
36 The meeting of the Planning Commission was **ADJOURNED** at 8:30 p.m. in the City Council
37 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, March 28, 2008, at 6:35 p.m. in the
38 same chambers.

39
40
41 _____
42 RICHARD THOMPSON
Secretary to the Planning Commission

41 _____
SARAH BOESCHEN
Recording Secretary

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Eric Haaland, Associate Planner

DATE: March 12, 2008

SUBJECT: Consideration of a Use Permit, Coastal Development Permit, and Vesting Tentative Parcel Map 69052 for Proposed Construction of a Mixed Use Building with One Commercial Condominium Unit and Two Residential Condominium Units on the Property Located at 3920 Highland Avenue (Cleland)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **ADOPT** the attached resolution approving the project subject to certain conditions.

APPLICANT

Dennis Cleland
PO Box 969
Manhattan Beach, CA 90266

BACKGROUND

The subject site presently consists of a commercially zoned corner lot with a two-tenant commercial building, and 5 apartment units. The project is proposed to include a single 3-story building with on-grade parking, 1 commercial unit and 2 residential units. A vesting tentative parcel map is proposed to subdivide the property into separate ownership of each of those units. Section 10.16.020 of the city's zoning code requires use permit approval for the proposed residential use in a commercial zone.

PROJECT OVERVIEW

LOCATION

Location	3920 Highland Ave. at the southeast corner of Highland & 40 th St. (See Vicinity Map).
Legal Description	Lot 1, Block 9, Tract No. 4103.
Area District	IV

LAND USE

General Plan Zoning	North End Commercial CNE, Commercial North End	
Land Use	Existing 650 sq. ft. commercial space	Proposed 694 sq. ft. commercial space & 2 residential units totaling 5,097 sq. ft.
Neighboring Zoning/Land Uses	North (across 40 th St) South East West	CNE/Apartments. CNE/Apartments El Segundo/Refinery CNE/Laundry & apartments

PROJECT DETAILS

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	4,195 sq. ft. (35'x120')	2,700 sq. ft. min
Residential Density:	1 unit / 2,097 sq. ft. lot area	1 unit /850 sq. ft. lot area max.
Building Floor Area:	5,097 sq. ft.	6,292 sq. ft. max
Height	30 ft.	30 ft. max.
Setbacks		
Commercial	Varies: 0 – 5 ft.	None
Residential		
Front	5 ft.	5 ft.
Rear	5/2 ft.	5/2 ft.
North side	1 ft.	1 ft.
West side	3.5 ft.	3.5 ft.
Parking:	9 spaces	9 Spaces
Vehicle Access	1 - 40 th St. driveway 1 – Crest Dr. driveway	N/A

DISCUSSION

The submitted plans show an existing mixed use site to be redeveloped with a 3-story mixed use building with a commercial space in front and residential units above and behind, which would be owned separately in a condominium subdivision. The site would contain a 5,097 square foot building including one Highland Avenue level commercial space, 2 residential units, and on-grade parking. Pedestrian access would primarily be taken from Highland Avenue, and driveway access would be taken from 44th Street and Crest Drive.

The proposed mixed use building would generally replace the existing 1 and 2-story buildings on the property with substantially increased floor area. All parking related to this building would be contained within/under the building. Three commercial parking spaces, and 6 residential spaces would be located in the street-level garage and unenclosed paved areas behind the commercial tenant space. The project would not result in any lost street parking since one driveway is located at the rear alley, and the other replaces the site's existing 40th Street driveway. Stairs for residents are provided in private garages, and all external pedestrian access will be taken from the Highland Avenue and 44th Street public sidewalks. The Highland Avenue building frontage includes ground level commercial space, commercial entries, and upper levels of residential space and outdoor deck area. The 44th Street frontage includes a large commercial window, ground level parking, small planters, stairs, and upper level residential space/decks. The proposed Crest Drive elevation includes alley level residential parking and one story of residential space above.

The project conforms to the city's requirements for use, height, floor area, setbacks, parking, and open space. The commercial portion of the project is subject to the CNE regulations. The residential units are subject to the RH (residential) development standards except that the overall project floor area ratio for the mixed use site must conform to the more restrictive CNE requirement. The project issues that warrant discussion include residential use, retail use, and project design.

Residential Use:

The CNE zone allows for residential use in those commercial areas, subject to use permit approval. The Planning Commission must determine that the proposed residential units are not detrimental to the subject commercial area, and that the residential occupants of the units would not be detrimentally affected by the surrounding commercial uses. Residential use occupies the majority of the development, although the commercial portion is at the most prominent location facing Highland Avenue. The commercial space occupies the entire ground level Highland frontage which is desirable to enhance the commercial character and viability of the area. The proposed amount of commercial area, while small, roughly matches the existing amount, which has previously found to be appropriate in some mixed use projects. The overall design concept appears consistent with the purpose of the North End Commercial district (MBMC 10.16.010) by providing small, local, and visitor serving commercial uses along Highland Avenue, and residential

uses as found to be appropriate.

Staff also believes that the proposed condominium occupants would not be detrimentally affected by the uses in the commercial area, since nearby commercial will be of relatively low intensity, and residential uses also occupy most surrounding properties.

Retail Use:

No tenant is currently identified for the proposed commercial space, but adequate parking is provided for retail use. Previous commercial uses on the site have primarily been restaurant and office use. The city is generally interested in retail uses for ground floor commercial space fronting on Highland Avenue to serve residents and visitors, provide a continuous interesting commercial corridor, and preserve tax revenue sources. The proposed resolution includes a condition prohibiting office and similar uses in the commercial space.

Project Design:

The project design is in conformance with all applicable regulations including the 1.5 floor area ratio (6,292 sq. ft. max.) of the CNE zone. Beach area RH districts permit floor area ratios up to 1.7. The overall appearance of the project is modern style featuring extensive glass treatment, modulated rectangular shapes, and upper deck areas. The proposed building has 4 total levels but does not exceed 3 stories at any location and is only 2 stories at the rear. This stepped configuration is a result of the site's significant rise in slope toward the rear. The site's slope also results in increased side setbacks at the upper level where wall heights would exceed the 25-foot limit for a lot of this width.

The submitted plan has an end-of-drive-aisle extension along the south property line with less than the 2-foot depth required by code in order to allow the planter along the north property line to be slightly wider than it would be otherwise. Staff has included a condition in the proposed resolution requiring compliance with that vehicle maneuvering requirement.

The project plans do not provide any sign information. A standard condition prohibiting pole signs is recommended as well as a condition prohibiting internally illuminated signs that has been recently applied in the beach area.

An additional design related requirement imposed by the attached resolution includes potential driveway sharing with a future neighboring project. It is relatively common to condition commercial projects to cooperate with future neighboring projects in maximizing driveway and general circulation efficiency.

Public Input:

A public notice for the project was mailed to property owners within 500 feet of the site and published in the Beach Reporter newspaper. Staff has received a few verbal inquiries

and no written responses to the project hearing notice

ENVIRONMENTAL DETERMINATION

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a small infill development within an urbanized area.

CONCLUSION

Staff recommends that the Planning Commission accept public hearing testimony, discuss the project issues, and adopt the attached resolution approving the project subject to certain conditions.

Attachments:

- A. Resolution No. PC 08-
- B. Vicinity Map
- C. Applicant description
Plans (separate)

c: Dennis Cleland, Applicant
Srouer & Associates, Applicant Rep.
Studio 912, Architect.

RESOLUTION NO. PC 08-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AND COASTAL DEVELOPMENT PERMIT FOR CONSTRUCTION OF A NEW MIXED USE BUILDING ON THE PROPERTY LOCATED AT 3920 MANHATTAN BEACH BOULEVARD (Cleland)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on March 12, 2008, received testimony, and considered an application for a use permit, coastal development permit, and vesting tentative parcel map 69052 for construction of a proposed 5,097 square foot mixed use building to include one commercial condominium unit and two residential condominium units on the property located at 3920 Highland Avenue in the City of Manhattan Beach.
- B. The existing legal description of the site is Lot 1, Block 9, Tract No. 4103.
- C. The applicant for the subject project is Dennis Cleland, the owner of the property.
- D. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a small infill development within an urbanized area.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The property is located within Area District IV and is zoned CNE, Commercial North End. The use is permitted by the zoning code and is appropriate as conditioned for the north end commercial area. The surrounding private land uses consist of CNE and City of El Segundo Industrial
- G. The General Plan designation for the property is North End Commercial. The General Plan encourages ground floor retail and service development such as this that provides for neighborhood-oriented businesses, which preserve the low-intensity, pedestrian-oriented character of commercial areas in the North End and El Porto; while recognizing the unique qualities of mixed-use development.
- H. Approval of the commercial and residential use project, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since the project is compatible with the surrounding neighborhood and is in compliance with all applicable regulations as detailed in the project staff report.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- J. The project will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities.
- K. The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. B. 1, 2, & 3, as follows:
 - The proposed structure is consistent with the building scale in the coastal zone neighborhood

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and complies with the applicable standards of the Local Coastal Program-Implementation Plan;

- The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program-Implementation Plan;
- The proposed structure is consistent with the 30' Coastal Zone residential height limit as required by the Local Coastal Program-Implementation Plan.

L. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:

- Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along adjacent streets.
- Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

M. This Resolution, upon its effectiveness, constitutes the Use Permit and Coastal Development Permit for the subject project.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit, Coastal Development Permit and Vesting Tentative Parcel Map 69052 application for a commercial and residential condominium building, subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. * The project shall be constructed and operated in substantial compliance with the submitted plans as approved by the Planning Commission on March 12, 2008. Any other substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.
4. During building construction of the site, the soil shall be watered in order to minimize the impacts of dust on the surrounding area.
5. The siting of construction related equipment (job site offices, trailers, materials, etc.) shall be subject to the approval from the Director of Community Development prior to the issuance of any building permits.
6. A site landscaping plan utilizing drought tolerant native plants shall be submitted for review and approval concurrent with the building permit application. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western

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Garden Book contains a list and description of drought tolerant plants suitable for this area.

7. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
8. Backflow prevention valves shall be installed as required by the Department of Public Works, and the locations of any such valves or similar devices shall be subject to approval by the Community Development Department prior to issuance of building permits.
9. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department. New sidewalks shall be constructed along Highland Avenue and 44th Street as required by the Public Works Department.
10. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
11. Property line clean outs, mop sinks, erosion control, and other sewer and storm water items shall be installed and maintained as required by the Department of Public Works or Building Official. Oil clarifiers and other post construction water quality items may be required.
12. Security lighting for the site shall be provided in conformance with Municipal Code requirements and shall include glare prevention design.
13. A corner cut-off street dedication for street purposes at the southeast corner of Highland Avenue and 40th Street shall be completed as required by the City Engineer.
14. Plans shall incorporate sustainable building components into the building and site design as determined to be appropriate by the Public Works and Community Development Departments including, but not limited to: LEED (leadership in Energy and Environmental Design) and Build-it-Green components, permeable pavement, energy efficient plumbing mechanical and electrical systems, and storm water retention.

Condominium Conditions

15. A survey suitable for purposes of recordation shall be performed by a Civil Engineer or Land Surveyor licensed in the State of California, including permanent monumentation of all property corners and the establishment or certification of centerline ties at the intersections of:
 - a. Crest Drive with El Porto Street
 - b. Highland Avenue with El Porto Street
 - c. Crest Drive with 40th Street.
 - d. Highland Avenue with 40th Street
16. Each new condominium shall have separate water and sewer laterals as required by the Director of Public Works.
17. Vesting Tentative Parcel Map No. 69052 shall be approved for an initial period of 3 years with the option of future extensions. The final map shall be recorded prior to condominium occupancy.

Commercial Operational Restrictions

18. * The facility shall include 694 square feet of retail/personal services commercial space. Office and personal improvement uses shall be prohibited.

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19. The management of the facility shall police the property and all areas immediately adjacent to the businesses on the site during the hours of operation to keep it free of litter.
20. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
21. A covered trash and recycling enclosure(s), with adequate capacity shall be provided on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department.
22. * The site shall allow reciprocal vehicle access with adjacent properties for any future City approved project upon which a similar reciprocal access condition is imposed. Such access shall be through the site's parking lot and driveway. The parking lot configuration shown on the subject plans shall be modified (at the expense of the subject property owner) at the time of implementation of the reciprocal access condition of the project.
23. * Parking for retail and condominium use shall be provided in conformance with the current Manhattan Beach Municipal Code. Parking spaces shall be marked and signed as required by the Community Development Department. Commercial parking spaces shall be available to employees and customers and shall not be labeled or otherwise restricted for use by any individuals. Gates or other obstructions to commercial or guest parking areas shall be prohibited. Future parking lot modifications for the purposes of providing reciprocal access to a neighboring commercial property, and any parking requirement modifications that are warranted, shall be subject to approval of the Planning Commission in association with its review of the neighboring project.
24. * All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated signs shall be prohibited.
25. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
26. Any outside sound or amplification system or equipment is prohibited.

Procedural

27. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
28. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
29. *Assignment.* The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. a completed application and application fee as established by the City's Fee Resolution;
 - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. a copy of the original permit showing that it has not expired.

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30. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
31. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.
32. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
33. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
34. This Use Permit shall lapse three years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
35. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
36. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of March 12, 2008 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

RESOLUTION NO. PC 08-

Sarah Boeschen,
Recording Secretary

3920 Highland Ave.

Vicinity

