

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
NOVEMBER 12, 2008**

The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 12th day of November, 2008, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

A. ROLL CALL

Present: Fasola, Paralusz, Powell, Seville-Jones and Chair Lesser
Absent: None
Staff Present: Richard Thompson, Community Development Director
Laurie Jester, Planning Manager
Michael Rocque, Assistant Planner
Recording Secretary: Sarah Boeschen

B. APPROVAL OF MINUTES – October 22, 2008

Commissioner Powell requested that page 10, paragraph 2, line 13 of the October 22 minutes be revised to read: “. . . neighborhood or create a detriment to the health safety or public welfare of the community.”

A motion was MADE and SECONDED (Paralusz/Powell) to approve the minutes of October 22, 2008, as amended.

AYES: Fasola, Paralusz, Powell, Seville-Jones and Chair Lesser
NOES: None.
ABSENT: None.
ABSTAIN: None.

C. AUDIENCE PARTICIPATION

None.

D. PUBLIC HEARINGS (CONTINUED)

Consideration of a Master Use Permit to Allow Conversion of an Existing Office to Restaurants or Other Commercial Uses and Allow a New Restaurant (Tin Roof Bistro) With a New Outdoor Dining Patio and On-Site Consumption of Alcohol at 3500 Sepulveda Boulevard, Hacienda/Haagen Building, Manhattan Village Shopping Center

Planning Manager Jester summarized the staff report. She said that a revised draft Resolution has been provided to the Commissioners. She indicated that the words “paid in full” should be deleted from Condition 11 on page 9 of the revised draft Resolution. She said that the applicant also has proposed a change to Condition 7. She commented that the subject parcel is separate from the Manhattan Village Shopping Center with separate ownership. She indicated that there is a private settlement agreement to bring the site under the existing Master Use Permit with the Mall. She indicated that the proposal is to clarify and confirm that the subject property is part of the Master Use Permit for the mall and to allow alcohol service for the proposed restaurant. She pointed out that the Mall does allow for beer and wine service, but

full alcohol service requires an amendment. She said that the proposal is for interior and exterior improvements to an existing building currently utilized for office use and would not include any additions. She indicated that the proposal is for a 4,250 square foot restaurant plus 800 square feet of outdoor courtyard dining. She indicated that the proposed hours would be from 11:00 a.m. to 11:00 p.m. She said that no entertainment is proposed.

Planning Manager Jester stated that staff received one comment with concerns regarding light spillover with the change of use and hours which can be mitigated with standard conditions. She commented that staff recommends that the Commission adopt the revised resolution with conditions. She said that the site would be subject to all of the conditions that are applicable to the existing Master Use Permit and sign program for the Mall. She said that Condition 7 requires a dedication for the Sepulveda Boulevard right-of-way for the bridge widening project. She said that the condition also includes that the applicant would pay a fair share cash contribution that would be assessed in the future when the mall is redeveloped. She commented that the applicant is also requesting to provide valet parking, and it would need to be determined that it would not impact circulation and access, and the fire lanes.

In response to a question from Chairman Lesser, Planning Manager Jester indicated that the Mall would still be below the amount of footage allowed for restaurant use by approximately 13,000 square feet if the application is approved. She commented that there is a condition that an updated list of the current tenants and square footage be provided as part of the plan check process.

Chairman Lesser asked if any further study needs to be done regarding the safety of pedestrians crossing the service road from the parking area to access the proposed restaurant.

Planning Manager Jester said that there are handicapped access ways marked across the service road. She indicated that the change in use would result in an increase in pedestrian traffic. She said that additional conditions regarding pedestrian safety could be added if it is felt appropriate by the Commission.

In response to a question from Chairman Lesser, Planning Manager Jester said that staff's understanding is that the applicant is agreeable to allowing the dedication for the future widening of Sepulveda Boulevard and a future cash payment for a fair share contribution as this condition has been discussed with the applicant for two years.

Commissioner Seville-Jones asked the reason for the applicant's fair share contribution to be included with the future EIR assessment for the Mall rather than with the subject application.

Planning Manager Jester said that staff felt it was reasonable to require the payment at the time of the future EIR. She indicated, however, that the Commission can change the wording of the condition if they feel it would be more appropriate for it to be provided sooner. She commented that staff does not anticipate that the Sepulveda Boulevard widening project would occur within the next year. She said that staff felt the dedication was an immediate need, whereas the cash contribution is a future consideration.

Director Thompson said that staff felt there was an equity issue. He commented that the purpose of the fair share contribution is because of the location of the property being adjacent to the bridge. He indicated that it was felt that if the subject property should be assessed at the same time as the Mall since it would be considered part of the same permit.

Commissioner Seville-Jones commented that she has a concern that the applicant would not be subject to the fair share contribution for the widening project if the Mall remains in its existing

configuration and an EIR for any expansion is not brought forward.

Director Thompson pointed out that it is difficult to determine the fair share for the applicant if the larger site for the Mall is not also assessed.

Planning Manager Jester said that staff felt that the restaurant complies with parking, as it is within the cap for the square footage permitted for restaurant use within the Mall. She said that staff also felt the proposed use would have less of an impact on the parking for the Mall since it would be located along the perimeter.

Commissioner Seville-Jones pointed out that the movie theater is also located at the perimeter of the main Mall and it has a large impact on the parking.

In response to a question from Commissioner Seville-Jones, Director Thompson said that the Commission does not have discretion over the parking requirement with the subject application. He indicated that the determination for allowing the subject site to become a restaurant use has been negotiated between the property owners and the owners of the mall. He said that the issue has been clarified and the City Attorney is satisfied that the site is included with the mall. He indicated that the issue before the Commission is the alcohol license.

Commissioner Paralusz pointed out that section 1(L) on page 6 of the revised draft Resolution refers to a type 47 alcohol license, and 1(N) refers to a type 42 license.

Planning Manager Jester said that section 1(N) should also refer to a type 47 license.

Commissioner Fasola said that his main concern is regarding parking. He commented that it is almost impossible to find a parking space at the Mall during the Christmas season or during lunch hours. He indicated, however, that parking is not an issue before the Commission. He commented that the existing pole sign for the theater is useful for informing of the shows currently playing. He asked whether the pole sign is related to the project.

Planning Manager Jester said that there is a sign exception with the Master Use Permit for the mall approved in 2002 indicating that the theater sign needs to be removed. She said that the intent was that the sign be removed when the theaters leave the site. She indicated that staff's understanding is that the applicant would potentially like to modify the sign or have it be relocated. She said that staff wanted to acknowledge that the applicant would be under the existing sign exception for the Mall which would need to be amended if they were to choose to revise the sign. She stated that the project would not directly affect the sign, and the applicant would be required to apply for an exception if they wish to change it. She indicated that no changes are proposed to the sign with the current application.

Commissioner Powell commented that there was a letter in the packet from the applicant to the City dated August 7, 2007, which raised a question regarding whether the theater sign would be grandfathered in as part of the Master Use Permit for the Mall.

Planning Manager Jester indicated that the original proposal from the applicant was for the sign to become grandfathered in as part of the site incorporated into the Use Permit for the Mall. She said that staff was not able to agree to allow the sign to remain, as there was a sign exception which would have to be amended in order for the sign to remain. She stated that the dedication would impact the sign when the roadway is widened.

In response to a question from Commissioner Powell, Planning Manager Jester indicated that the City Attorney is satisfied that the language of the settlement agreement between the

applicant and the owner of the Mall addresses the City's issues with the use of the property in relationship to the Master Use Permit.

Mike Simms, representing the applicant, said that they are looking forward to opening the restaurant. He commented that the process could be delayed if Condition 11 is included as part of the draft Resolution as worded. He indicated that the wording of Condition 11 could be a potential delay to their opening the restaurant. He said that since there is an agreement between the City and property owner, he would prefer that the condition not delay obtaining a building permit for the subject restaurant. He commented that they intent to operate the business as a family restaurant.

In response to a question from Commissioner Fasola, Director Thompson said that there is a condition that requires the irrevocable offer to dedicate to happen at a particular time; however, it should not delay the issuance of a building permit. He said that there is already a draft document prepared which only needs to be finalized, signed and recorded.

In response to a question from Commissioner Powell, **Mr. Simms** said that the restaurant will employ approximately 80 people, with a maximum of approximately 20 working at any one time.

In response to a question from Commissioner Seville-Jones, **Mr. Simms** said that he would prefer to not be restricted to selling alcohol only until 11:00 p.m. He said that they would not serve until 2:00 a.m., but they would prefer to have flexibility to allow for later patrons or for events until midnight.

In response to a question from Commissioner Powell, **Mr. Simms** said that they would not have an objection to alcohol service beginning at 11:00 a.m.

Mark Neumann, the property owner, said that they have been working on the project for the past three years. He commented that the subject property is owned by a group of local families. He said that when they purchased the property they were told that the Master Use Permit for the Mall applies to their property and were then later told that it does not apply to their property. He stated that with the draft Resolution, their property would be incorporated into the Use Permit for the Mall only if the Mall is permitted to expand to the extent they wish. He said that he does not feel it is fair to force a property owner to give up their entitlements. He said that they previously agreed with staff to provide to the City for the dedication if they would be permitted to open their business. He indicated that after 2 ½ years they have lost a great amount of revenue in rent for the site.

Mr. Neumann said that they have had to provide soundproofing for the building because with the dedication, it would be located very close to Sepulveda Boulevard once the street is widened. He said that they have now lost a deal with Starbucks to locate on the site because of the delay. He commented that the widening of Sepulveda Boulevard would not be an advantage to their property but rather a disadvantage because they would be located only 3 feet from the roadway. He indicated that they were agreeable to making a dedication of the property with the conditions included in their letter of August 7, 2007, which are not included as part of the draft Resolution. He stated that they have been working with the City, but it has been a long process. He indicated that there is no nexus between granting an alcohol permit for the restaurant and determining that an existing entitlement applies to the property. He indicated that they are not pleased with being required to dedicate the land and also being asked to give up future rights in order to allow the Mall to expand. He stated that the conditions included in their August 7, 2007, letter should be included. He commented that they should not be forced to give up land and also to give the City an unspecified amount for a fair share

payment. He said that they are not opposed to the City acquiring the land; however, they would like for the condition regarding the dedication to be removed. He said that they would also request that consideration be given to soundproofing the building.

In response to a question from Commissioner Paralusz, **Mr. Neumann** indicated that a portion of the land that is to be dedicated is encumbered by a ground lease for the Theater sign. He said that the dedication cannot be made without informing the City that the dedication is subject to the rights, terms and conditions of an unrecorded ground lease between the property owners and RREEF. He commented that they also had a deal with the City to use part of the theater sign off of Sepulveda Boulevard to advertise their building, which should be included as part of the subject draft Resolution.

In response to a question from Commissioner Seville-Jones, Director Thompson pointed out that the delay is a result of a challenge by the owner of the Mall regarding concerns with the applicant's property being included as part of the Master Use Permit. He also indicated that the parking for the subject property is completely on the Mall property.

Commissioner Fasola commented that although the dedication would be up to 3 feet from the subject building, Sepulveda Boulevard would not necessarily be built up to that point.

Director Thompson said that the dedication is to within 3 feet of the subject property; however the configuration of the roadway has not been finalized. He stated that they are requiring a dedication necessary to install the additional lane that would match up to the bridge.

In response to a question from Chairman Lesser, Director Thompson indicated that a dedication request is typically negotiated between the City and the property owner and also may be part of an approval for an entitlement. He said that such dedication can be included with entitlements, although it is unusual for one to be included as part of an approval for alcohol service. He stated that the applicant has always told staff that he is willing to provide the dedication, and he is surprised that the applicant now has an issue with including the dedication as part of the subject draft Resolution. He indicated that staff is suggesting that the dedication be included with the request for alcohol service given the history of the proposal.

Planning Manager Jester pointed out that the August 2007 dedication and agreement letter from the applicant was not finalized because it included a request that the City replace the existing theater sign along Sepulveda Boulevard. Staff was unable to agree to this because of the existing Sign Exception, and the applicant was fully aware of this.

In response to a question from Commissioner Seville-Jones, Director Thompson stated that the applicant would have the ability to open a restaurant without alcohol, without the draft Resolution being approved, as they have already entered into an agreement with the Mall to be included in their Master Use Permit.

In response to a question from Chairman Lesser, Director Thompson said that he does not believe that a dedication of land has ever been included as part of an application for alcohol service as with the subject proposal.

Chairman Lesser opened the public hearing.

Audience Participation

Beth Gordie, Latham & Watkins, representing RREEF, said that RREEF supports the

acknowledgement in the revised draft Resolution that the subject property is part of the Master Use Permit for the mall and that the applicant be permitted to have full service of alcohol. She stated that they are requesting a few modifications to the draft Resolution. She said that RREEF shares staff's concerns regarding safety and requests that the provisions included in Condition 13 regarding valet parking be struck. She commented that valet parking is a private matter that can be worked out between RREEF and the applicant. She said that RREEF has employees who address issues regarding parking on a daily basis who understand the parking demand. She indicated that they have a concern with the language in Condition 8 that outdoor area be included as square footage. She commented that this is a new condition in the subject draft Resolution that is not part of the Master Use Permit for the Mall. She indicated that her understanding is that the City typically does not include outdoor dining area as gross leasable area, and they are requesting that the language be stricken. She commented that they agree with the language in Condition 7 that the property owner shall also be required to be an applicant in the EIR and entitlement application for the mall. She indicated, however, that they have a concern with the language stating ". . .and sign any Master Use Permit Amendment or other entitlement applications that affect both parties as required by the Municipal Code." She indicated that RREEF is concerned with the requirement that the subject property owner sign the other entitlement applications that affect both parties. She said that Section 10.84 of the Code clearly sets forth the circumstances in which an entitlement must be signed by a property owner, and they feel that the Code should dictate when the applicant is required to sign any entitlements for the Mall.

In response to a question from Chairman Lesser, **Ms. Gordie** said that RREEF is remaining neutral regarding the issue of the dedication of land by the property owner to the City.

Commissioner Paralusz commented that the Commission only received the letter from RREEF with the suggested revisions as it was passed out at the meeting by **Ms. Gordie**, which does not allow a sufficient opportunity to review and consider the suggested changes. She commented that it could have been submitted at least a day before the meeting which would have allowed more time to review RREEF's concerns.

Ms. Gordie commented that they only received the staff report at the end of the day Friday and worked with staff and the property owner to address the issues. She said that after the holiday on Monday, they had a conference call on Tuesday to discuss the concerns with the parties which have been included in their proposed changes.

Director Thompson indicated that staff stands by its recommendations and the revised draft Resolution. He said that if the Commission would like for the staff to do further research, he would recommend that the item be tabled until a later time and renoticed.

Richard Rizika, representing the property owner, and a resident of the 800 block of 18th Street, said that Mike Simms has been attempting to open his restaurant in the community and has proven himself to be a good corporate citizen. He commented that it is a shame that the restaurant has been delayed. He indicated that it would seem that the issue of the dedication can be included as part of the future EIR for the expansion of the mall. He commented that there are issues regarding safety and soundproofing of the building with the expansion of Sepulveda Boulevard. He indicated that he has a concern with the requirement for a future financial impact with the fair share of the dedication that is uncertain as to the amount. He commented that the expansion will not be a benefit for the property owners through additional income or square footage. He indicated that the subject property was permitted to use the parking for the mall in common with the other users and tenants previously which would not change with the subject application. He said that safety regarding the adjacent access road is a preexisting condition that would not change as a result of the subject proposal.

Chairman Lesser closed the public hearing.

Discussion

Commissioner Fasola indicated that he is in favor of approving the revised draft Resolution as proposed by staff. He said that he would support including the dedication language in Condition 7, and he would suggest that the item be tabled if any changes were proposed to the condition. He commented that any valet service for the proposed restaurant should be reviewed by the City. He commented that the outdoor patio would be substantial and should be counted as part of the square footage of the restaurant because there is an issue with parking. He commented that converting an office space to a restaurant is very difficult because of the increase in the intensity of the use. He commented, however, that there is some flexibility with the subject property being located within the Mall area. He said that he would like for the hours of operation to remain until 2:00 a.m. He commented that there is not a problem in the area, and later hours are the time when parking is not an issue. He pointed out that the theaters operate until 1:00 a.m. He commented that he feels the draft Resolution is fair as written.

Commissioner Paralusz said that she also is in favor of approving the revised draft Resolution as written. She said that she is in favor of clarifying the hours permitted for selling alcohol until midnight, as the applicant is agreeable and it is consistent with the other uses in the Mall. She stated that she is in favor of keeping the language for the dedication in the draft Resolution after weighing the costs and benefits to the owner and the public at large. She indicated that it is important to recognize that the City is asking for the dedication of the right-of-way. She said that she is concerned that the objections from RREEF were only presented at the very last minute before the meeting which demonstrates a lack of respect for the process, the applicant, the staff, and the Commissioners. She said that she cannot comment on issues without hearing staff's opinion and having an opportunity to consider them. She commented that she also feels the applicant's project should not be held up because of last minute objections by RREEF. She requested that page 3 section 10 of the revised draft Resolution be changed to read: "Therefore a Master Use Permit to allow a conversion of a portion of the existing office to restaurants or other commercial uses is not be required . . ." She requested "type 42" be changed to read "type 47" on page 7, paragraph N of the revised draft Resolution. She requested that the words "paid in full" be struck on page 9, paragraph 11.

Commissioner Seville-Jones indicated that she recognizes that the situation is complicated and involves three parties that have been trying to work through the situation over the past several years; however, the City has become trapped by the fact that the private parties have not been able to reach an agreement. She said that she does not have sufficient information regarding the dedication. She said that the owner objects to the dedication, and she is not certain whether there is a legal basis for the City to impose that the land to be dedicated to widen the street. She indicated that she is concerned that the property owner is requesting that the wording regarding the dedication be stricken, and she would like further information from the City Attorney regarding the legal basis for it to be required by the City. She stated that she also would like further information on the outdoor square footage being counted toward the restaurant use. She commented that she feels the comments from RREEF should be considered although they were received at the last minute. She indicated that staff is simply requesting that they have an opportunity to review any agreement between the private parties regarding valet parking. She said that permitted hours for alcohol service until 12:00 a.m. is consistent with the hours for other uses in the Mall, and she would not be in favor of allowing alcohol to be served until 2:00 a.m.

Commissioner Powell stated that the restaurant is a great proposal, and the Commission does

not want to hold up the project unreasonably. He said that the hours for alcohol service should be permitted from 11:00 a.m. to 11:00 p.m. in order to be consistent with the hours of the other operations in the Mall. He stated that the project meets the required findings as detailed in the draft Resolution, and he would support the proposal.

Chairman Lesser said that he is sympathetic to the lessee who simply would like to start his business and to the property owner who has been without rent while the issue has remained unresolved. He indicated, however, that he has concerns with language being changed without a sufficient opportunity for review, and he needs more information to consider the requests by RREEF. He said that he needs more input from staff regarding their position. He said that staff has made a cohesive point regarding the dedication; however he would want more information before it moves forward. He said that he also would like further information regarding the outdoor dining area being included toward restaurant use, as it would have implications for the future expansion of the Mall. He said that he would be sorry for the item to be delayed further because of the burden on the applicant. He stated that he supports the language in the revised draft Resolution as written regarding valet service. He indicated that he does see issues regarding public safety regarding traffic on the adjacent ring road, and he would want further information regarding the impact that the restaurant would have on parking. He indicated that any valet parking would be within the jurisdiction of the City, and he would not support removal of the condition. He indicated that he would also want further information on the removal of Condition 7. He said that he would support allowing the applicant to serve alcohol until midnight.

Commissioner Fasola said that tabling the item in order to review RREEF's requests brought at the last minute would penalize the applicant.

Chairman Lesser commented that he would like further information regarding the dedication. He said that the application was presented with a suggestion that the applicant had agreed to the language and the condition related to the dedication, and it now appears that the applicant is opposed.

Mr. Neumann indicated that they are not opposed to the City acquiring the land for the dedication; however, there are other means for the dedication rather than including it as part of a request for an alcohol permit. He indicated that he does not feel there is a nexus between the granting of an alcohol permit and a dedication of land. He commented that he does not feel it is fair for him to be required to give up a portion of his property and also be required to pay to improve the bridge. He requested that the requirement for the fair share payment be removed, as they are already paying for the road by dedicating a portion of their property which is very valuable. He pointed out that the General Plan requires a dedication of land with new construction or substantial renovation, and they are only proposing changing existing structures. He stated that it would not be fair for them to be required to pay an amount that has not yet been determined. He pointed out that Macy's also is a property owner as part of the Mall and will be involved with the future EIR for the Mall expansion.

Commissioner Seville-Jones said that she does not want for property owners to feel forced into an agreement as part of an application. She said that she feels strongly that the item should be tabled for a future meeting. She commented that the applicant has delayed the hearing a number of times, and she does not feel another delay would be too much to ask. She said that the Commission has given the applicant time on their agenda which they have not taken an opportunity to use.

Chairman Lesser said that he agrees with the comments of Commissioner Seville-Jones and feels that he would need further information regarding the nexus between the granting of an

alcohol permit and a dedication of land.

Commissioner Fasola pointed out that the City of Los Angeles does require dedications as well as payments for improvements for change of uses. He also pointed out that the restaurant would be an intensification of use from office space.

In response to a question from Commissioner Paralusz, Director Thompson indicated that staff would be willing to remove the requirement in the draft Resolution for payment of the fair share contribution, as it will be addressed when the EIR for the Mall expansion is brought forward. He said that staff is not willing to change its position on the dedication and feels it is necessary to clarify that it is the appropriate action.

Commissioner Fasola asked the reason it is felt that all of the restaurants in the Mall should close at the same time and that one should not be permitted to remain open later.

Commissioner Paralusz said that she would prefer to provide for consistency with restaurant hours since the subject property is located in the same parcel as the other restaurants in the Mall. She indicated that she would want to prevent other restaurants from using the subject proposal as a precedent for requesting later hours. She said that she is more comfortable with applying the standard that is currently in place for the other restaurants in the Mall.

Commissioner Seville-Jones said that she also is more comfortable with limiting the operation of the restaurant to midnight. She said that she also would not want for the subject proposal to set a precedent for other restaurants in the Mall that might also request to remain open until 2:00 a.m.

Commissioner Paralusz said that if the purpose of the restaurant remaining open later is to serve more alcohol, she has a concern with encouraging people to drink until 1:00 a.m. or 2:00 a.m.

Director Thompson pointed out that the Master Use Permit allows for hours of operation between 6:00 a.m. and 2:00 a.m., and the proposal is only regarding the hours permitted for alcohol service.

Commissioner Powell said that he would like to see consistency for the subject restaurant with the hours of alcohol service with the other restaurants in the mall. He indicated that he also has a concern with people who are drinking at late hours exiting the restaurant and driving on Sepulveda Boulevard.

Commissioner Seville-Jones indicated that she does not think the Commission should make a decision where an applicant feels they are being forced to make concessions. She said that she would support the item being continued.

Mr. Neumann said that they would be comfortable with the elimination of the requirement in the draft Resolution for a fair share contribution. He commented that the dedication needs to include that the property is subject to an unrecorded ground lease.

Director Thompson said that he is not aware of an unrecorded ground lease for the property, and he is certain that evidence would have been brought forward previously if such a lease were an issue. He said that the issue will be addressed if the language in the condition cannot be implemented. He commented that issues regarding the theater sign will be addressed with the sign exception.

Action

A motion was MADE and SECONDED (Fasola/Paralusz) to **APPROVE** the revised draft Resolution for a Master Use Permit to Allow Conversion of an Existing Office to Restaurants or Other Commercial Uses and Allow a New Restaurant (Tin Roof Bistro) With a New Outdoor Dining Patio and On-Site Consumption of Alcohol at 3500 Sepulveda Boulevard, Hacienda/Haagen Building, Manhattan Village Shopping Center with the deletion of the wording regarding the requirement for a fair share contribution in Condition 11; with the change of the words “applicant” to “property owner” in the last sentence of Condition 11; with a limit of the hours permitted for alcohol service between 11:00 a.m. and 12:00 a.m.; with a revision to page 3 section 10 of the revised draft Resolution to read: “Therefore a Master Use Permit to allow a conversion of a portion of the existing office to restaurants or other commercial uses is not be required . . .” ; with the changing of “type 42” to “type 47” on page 7, paragraph N; and with the removal of the words “paid in full” on the fifth sentence of paragraph 11 on page 9.

AYES: Fasola, Paralusz, Powell, and Chair Lesser
NOES: Seville-Jones
ABSENT: None.
ABSTAIN: None.

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

At 8:30 p.m., a 10 minute recess was taken.

E. PUBLIC HEARINGS (NEW)

1. Consideration of a Comprehensive Update to the City’s General Plan Housing Element

Assistant Planner Rocque commented that the City’s Housing Element is one of seven mandated elements that must be included in the City’s Local Plan and functions as the City’s long range plan for housing. He indicated that the purpose of the Housing Element is to ensure that cities assist in implementing a state wide housing goal and that local governments adequately plan to meet the housing needs of all economic segments of the community. He indicated that the law acknowledges that in order for private markets to adequately address housing needs and demand that cities must attain land use plans and regulatory systems that provide opportunities for and do not restrain housing development. He commented that State law requires that cities update their Housing Element every five years, and the most recent update to the City’s Housing Element was 2003. He indicated that the City Council authorized a contract with Sandra Genis to prepare the updated Housing Element. He stated that staff will make the appropriate changes as suggested by the Commission and forward the document to the City Council for their review and approval. He said that once approval is received from the City Council, the Housing Element will be sent to the State Department of Housing and Community Development for their review. He commented that there was difficulty with the servers in attempting to post the draft Housing Element on line, and it was not uploaded to the City’s website until Monday November 10. He said that a copy was made available at the City library on Friday, November 7.

Sandra Genis, Planning Resources, indicated that the Housing Element is a State mandated element of the City’s General Plan. She stated that an important part of the Housing Element is identifying potential sites for additional housing, which are very limited in a city such as

Manhattan Beach. She commented that specific housing needs groups that are identified housing include the elderly, people with disabilities, large families, people in need of emergency shelter, and households overpaying for housing. She indicated that very low income households have an income of \$30,000 or less; low income households have an income between \$30,000 and \$48,000; moderate income households have an income between \$48,000 and \$72,000; and upper income households have an income over \$72,000. She indicated that there is an assigned need based on the income groups which is initially determined for the region by the State Department of Housing and Community Development and it is then determined by the Southern California Association of Governments (SCAG) to assign portions of the need to each of the communities within the region. She indicated that Manhattan Beach has been assigned a projected need of 895 units with 350 in the upper income group, 160 in the moderate income group, 149 in low income group, and 296 in the very low income group.

Ms. Genis stated that the main components of the housing program include housing preservation; housing production; housing affordability; and energy conservation. She said that existing housing is preserved through code enforcement; utilizing the design overlay district to ensure that neighborhood character and quality are preserved; refraining from lot mergers; retaining and improving non conforming dwellings; regulating condominium conversions which can result in the loss of rental housing; and potentially utilizing Community Development Block Grant (CBDG) funds for home improvement loans. She indicated that producing additional housing units can potentially be done through residential infill; continuing to promote mixed use dwellings; revising the mixed use standards; implementing an affordable housing incentive program; allowing for second family units; allowing manufactured housing on single family lots; and providing for permit streamlining.

Ms. Genis commented that the affordable housing incentive program requires a portion of the homes that are provided to be affordable. She pointed out that Manhattan Beach is part of the Los Angeles County Housing Authority which provides housing affordability programs and includes the home ownership program and American dream down payment initiative. She said that there is a green building program in the City. She commented that promoting mixed use saves energy by reducing the need for vehicular transportation.

In response to a question from Chairman Lesser, Director Thompson indicated that a copy of the Housing Element was available to the public at the library. He indicated that it was available on the City's website on Monday.

In response to a question from Chairman Lesser, **Ms. Genis** indicated that the Planning Commission must make a recommendation regarding any revisions to the General Plan under State law. She indicated that she would appreciate any input from the Commission regarding potential sites in the City where additional housing could be provided. She indicated that the role of the Commission is to help to develop a Housing Element that conforms to the State requirements. She commented that many of the goals in the proposed document have been taken from the existing Housing Element and Land Use Element or from programs that are currently in place.

Regarding item V on page 4 of the Environmental Check List included with the staff report, Commissioner Powell commented that the City currently has only a recognition program for culturally significant landmarks and does nothing to preserve historic structures. He asked whether it is an objective, goal, or policy.

Director Thompson commented that CEQUA requires the City to evaluate the items included in the Environmental Check List, and staff feels the Housing Element would result in no impact in the areas included in the checklist.

In response to a comment from Commissioner Powel, Assistant Planner Rocque said that the word “regulation” can be changed in item V which states: “The City has a local Culturally Significant Landmarks regulation that is voluntary and any new housing will be reviewed to ensure conformance with those requirements.”

Commissioner Powell commented that the indication in the Environmental Check List that the recommendations would have a less than significant impact from seismic ground shaking and no impact from a tsunami is in conflict with the Hazard Mitigation Plan approved by the City Council which states that a tsunami would have an impact. He said that he has a concern regarding the inconsistency with the hazard mitigation plan. He said that he would think that the impacts from seismic shaking and a tsunami should be consistent.

Ms. Genis pointed out that some of the language for the document was taken from the City’s Safety Element.

Commissioner Powell asked whether a public workshop is supposed to be held to receive public input.

Ms. Genis said that the City is only required to allow the public an opportunity to provide comments. She said that a study session could be scheduled.

Commissioner Powell indicated that the data included in the Housing Element is broken down by eight census tracts, of which there is a summary of on page 5. He requested that the tables in the report include the area district or area name in the heading rather than the census tract number.

Commissioner Powell commented that there is an error on table 32 on page 28 of the document, as the numbers in the column labeled “units needed” do not add up to the total of 895. He indicated that it appears the number should be changed from 350 to 290 on the second to the last sentence on page 27, which would appear to also be the correct number to place in the lower right column of table 32.

Commissioner Fasola commented that it would be very difficult for residents to have parking located up to 1000 feet away for residences in the downtown area as suggested in the document. He indicated that there are many instances of apartment buildings in the Sand Section being torn down and changed to homes or condominium units. He commented that the percentage of residents in the area between 19 and 24 has shrunk to 3 percent as shown on table 6 on page 9 of the document, which demonstrates that young people are priced out of living in Manhattan Beach. He suggested that rather than the lots being rebuilt with 2 three bedroom condominiums with three stories and three parking spaces which is the current development trend, the lots should be allowed to include up to 6 one bedroom units with one parking space each. He said that such units would sell for closer to \$500,000.00 rather than \$2,000,000.00 and would be affordable to a larger number of people. He indicated that he would suggest that staff consider changing the parking requirement for condominiums. He commented that the development pattern along The Strand used include homes with smaller rental units which added to the vitality along the beach, as the occupants would often be outside on the patios. He indicated that the area is currently developed with giant homes where the owners do not live full time. He suggested incentives for building homes along The Strand that include a smaller rental unit.

In response to a question from Commissioner Paralusz, **Ms. Genis** indicated that the State could impose penalties for non compliance with the loss of state grants and funding for local

projects with the next cycle of the Housing Element. She indicated that the City is supposed to provide an annual report on the implementation of the goals in the Housing Element.

In response to a question from Commissioner Seville-Jones, **Ms. Genis** indicated that all of the programs that were suggested in the previous Housing Element have not been completed; however, the City has not acted in contradiction to those programs.

Commissioner Seville-Jones said that before a vote is taken regarding the document, she wants to know whether it is felt that the goals that are suggested for the City are actually achievable. She asked if other possibilities were considered for adding housing such as changing the zoning of the mall to allow some mixed use.

Ms. Genis commented that there was a parcel within the Manhattan Village that is currently used for overflow parking which they considered for mixed use. She said that there was some concern of losing a portion of the economic base of the mall.

Commissioner Seville-Jones commented that she would like further guidance regarding the trade-offs and considerations in arriving at the proposed plan. She commented that she would also like more information regarding the advancement of this plan from the previous Housing Element.

Commissioner Paralusz suggested that an additional study session could be helpful and worth the time. She said that she is not certain that she has all of the information necessary to approve the document.

Chairman Lesser commented that there are malls in other cities which have included mixed use with commercial businesses and residential units. He suggested whether such an option for mixed use should be explored for Manhattan Village, although it may not necessarily result in housing that is affordable. He commented that the draft Housing Element also mentions adding to senior villas located to the east of Manhattan Village where there is a City-owned parking lot, which is a possibility he would like to have explored in more detail.

Ms. Genis pointed out that public agencies that are disposing of property must offer it to other public agencies, and priorities for such land are given to public recreation and affordable housing.

Chairman Lesser opened the public hearing.

Audience Participation

Gary Osterhout, a resident of the 500 block of 31st Street, commented that the California Housing Element law often is in conflict with local politics by asking cities to plan for the needs of the wider region and not only current residents. He stated that the law represents a mismatch of goals and policy tools by addressing the problem of overall housing underproduction with a process oriented approach developed to prod cities and counties into planning for their share of affordable units. He said that using a fair share planning approach as a tool to encourage overall housing production places an unrealistic burden on a fairly fragile policy. He pointed out that nearly four cities in ten and a quarter of counties are out of compliance with the law, and a large majority of jurisdictions in the state have been non compliant at some point. He commented that the draft document is an opportunity for Manhattan Beach as well as other similar cities to educate State leaders that the current requirements are not working and there are other means to provide affordable housing. He indicated that the law is constantly being changed as far as penalties and enforcement. He said

that the public needs to be made aware of the requirements and the detrimental effects that are going to occur by going through the process. He commented that the public hearing for the Housing Element was placed as the second agenda item, and the draft document was not properly posted on the City's website. He also pointed out that a workshop or study session regarding the Housing Element also has not been held, and none of the Commissioners have previously been through the process of evaluating a Housing Element. He commented that the Housing and Community Development website indicates that local governments must make a diligent effort to achieve the public participation of all economic segments of society in order to assist in the development of the Housing Element, identify key community housing concerns, and brainstorm possible solutions. He suggested that there are many possible methods of engaging public participation including establishing an ongoing Housing Element task force, using websites, holding community meetings or events, and conducting surveys. He pointed out that there was no mention on the City's website home page that there was going to be a very important hearing regarding the Housing Element. He said that the public is supposed to be engaged and feel that they are a large part of the process. He indicated that the City needs input from the community.

Mr. Osterhout commented that the description of the Tree Section needs to be changed on pages 2 and 5 of the document from east of Bell Avenue and northwest to Valley Drive to East of Grand View Avenue. He commented that if the school district ever parted with the property, Grand View School could be zoned for single family if it were included as part of the Tree Section rather than the Sand Section. He indicated that he would like more specificity with maps or specific addresses regarding underdeveloped parcels in the Beach Area between 23rd Street and 35th Street which could accommodate 34 dwelling units as specified on page 36. He said that he would also like more specificity regarding the multi-family area along Manhattan Beach Boulevard near Meadows School. He indicated that the downtown parking situation for residences needs to be considered as indicated on page 49. He stated that the specific number of additional infill units that could be accommodated on existing residential sites should be identified as indicated on page 35.

Mr. Osterhout commented that the number of units that need to be developed is based on an estimate of the Department of Finance and an arbitrary estimate of the City. He indicated that it appears the number of additional units that could be provided through commercial area conversion has been doubled in the calculation on page 35 and page 62, and 640 units throughout the commercial area is an extremely high number. He commented that the document is very difficult to read and includes a lot of unnecessary statistics. He stated that the statistics could be placed toward the end of the document. He stated that the narrative information could be better indexed and more precisely identified with the four or five requirements of a Housing Element. He indicated that Government Code Section 65580(a) has been misquoted in the introduction of the document. He said that the Staff report also has inaccurately quoted 65581(c). He stated that SCAG's forecasting for small incremental growth on page 26 is not consistent with growth that has occurred in the City in recent decades. He said that other strategies need to be discussed such as in lieu fees, zero loss policies, housing assistance for City employees, and basic cottage configurations. He said that alternative sites for housing need to be presented with reasoning as to whether or not they may be viable.

Gerry O'Connor, a resident of the 500 block of Harkness Street, said that he recognizes that the Housing Element is a mandate from the State that is not easily achievable. He commented that he is perplexed by a plan being put forward in order to reach a goal that in fact the City recognizes cannot be reached and has no intention of meeting. He said that it needs to be specified that the goals are unrealistic, and he feels that it is dishonest to suggest that the City has the ability or intention of executing the plan. He commented that the City is already largely built out and has a housing value that is very difficult to change significantly. He indicated that

the City should indicate that implementing the plan for 895 new units is a problem and arrive at a figure which is felt can be realistic. He commented that the due date for the Housing Element to be submitted was July 1, 2008. He said that the definition of the project schedule included in the original January staff report specified that public participation should occur in the first and second months of the project as well as in the fourth and fifth month. He commented that soliciting public support would increase the strength of a message that is sent to SCAG that their goal is unrealistic. He indicated that the public needs to be more engaged and more aware of the challenge presented to the City. He commented that he has difficulty believing that there would be no detrimental environmental impact if 895 new units are built as indicated in the CEQUA negative declaration. He indicated that the previous Housing Element should be the base line for moving forward with the new document.

Chairman Lesser closed the public hearing.

Discussion

Director Thompson indicated that the City was very involved in the allocation of the Regional Housing Needs Assessment (RHNA) numbers from the beginning, and different approaches have been tried during each cycle to indicate that the numbers are unrealistic. He said that he has attended the meetings and attempted to make the argument that such a large number of new units would not be appropriate for Manhattan Beach; however, there are certain equations that are used by the State over which the individual cities have no control.

In response to a question from Chairman Lesser, Director Thompson indicated that a public workshop can be held if it is the desire of the Commission, which could be held in a more informal setting.

Commissioner Fasola commented that he agrees with the comments of **Mr. O'Connor** that the City should not submit a report indicating that 895 additional units will be provided if the goal is not realistic.

Director Thompson pointed out that the report is stating the actions the City can take to reach the goals set by SCAG; however, the issue is the resources that the City has available in order for it to be implemented. He indicated that there are higher priorities in the City's work plan. He pointed out that the City becomes a target for litigation if they do not forward the Housing Element.

Commissioner Fasola commented that the City would be better off stating that it is not realistic and setting forth a goal that they feel can be met.

Director Thompson indicated that he supports the suggestion of having all of the options identified and then brainstorming as to whether or not they are feasible. He indicated that informed decisions could then be made regarding the options that should or should not be included in the document.

Commissioner Paralusz indicated that community members with certain expertise that may be able to help in developing alternative solutions could be asked to provide input.

Commissioner Powell pointed out that the document is part of the City's General Plan, and it is imperative that at least one public meeting is held that is well noticed and which specifies the proposals. He stated that the document suggests that the City be built out further, which is in contrast to the goals of the General Plan to maintain the City's small town atmosphere and unique neighborhoods. He commented that there is a suggestion on page 35 that the parking

structure on Rosecrans Avenue and Highland Avenue be changed to accommodate two units, and he would question whether it would be beneficial to lose such a large amount of downtown parking to accommodate two units.

Commissioner Seville-Jones said that a public workshop would help to gain credibility that the City has considered alternatives for reaching the goals. She said that she would like to see the preservation of trees and landscaping addressed further in the document. She said that she would also like for in-lieu fees and for the preservation of historically significant structures to be addressed further. She said that she would also like further consideration given to building units on other large parcels within the City.

Chairman Lesser said that he would like to see the previous Housing Element, and he agrees that the new document should start with the previous document as a base. He commented that the rationale for arriving at the goals has not been fully explained, and he would like further information regarding how they were chosen. He said that he also would like further information as to why certain options for including housing were included and others were not.

Commissioner Paralusz thanked staff and **Ms. Genis** for their work in drafting the Housing Element. She indicated that the criticism that has been expressed is constructive and will make for a better document.

Commissioner Powell commented that the State is requiring that the City increase density and bulk; however, the indication of the Coastal Commission is that the City needs to control bulk and density. He said that he also does not believe the indication of the negative declaration that adding a large number of units would have no detrimental environmental impact.

Director Thompson pointed out that CEQUA will be evaluated every time a project is proposed for additional units to determine the environmental impact. He said that the negative declaration for the Housing Element is regarding the impact of the overall policies that are included and not specific projects.

Commissioner Powell commented that an increase in overall density in general will result in an increase in traffic and pollution.

Commissioner Seville-Jones commented that holding a hearing at the Police Fire Facility does not allow the meeting to be broadcast over cable which would not allow it to reach as large of an audience. She said that she would prefer for a study session to be held in the Council chambers.

Chairman Lesser said that he likes the idea of encouraging larger public participation by allowing people to watch proceedings on the cable channel; however, a more informal setting allows a better opportunity for dialogue.

In response to a comment from Commissioner Powell, Director Thompson said that he would suggest that the meeting be held at the Police Fire Facility. He pointed out that the Council chambers is the only room that is set up for a camera to film and broadcast the proceedings.

Director Thompson said that a workshop will be scheduled to take place at the Police Fire Facility most likely in January.

Action

A motion was MADE and SECONDED (Fasola/Powell) to **TABLE** consideration of a Comprehensive Update to the City's General Plan Housing Element to a date uncertain.

AYES: Fasola, Paralusz, Powell, Seville-Jones and Chair Lesser
NOES: None.
ABSENT: None.
ABSTAIN: None.

F. BUSINESS ITEMS

None.

G. DIRECTORS ITEMS

None.

H. PLANNING COMMISSION ITEMS

Commissioner Powell commented that an exercise for earthquake preparedness is scheduled for Thursday November 24.

I. TENTATIVE AGENDA (November 26, 2008)

J. ADJOURNMENT

The meeting was adjourned at 10:30 p.m. to Wednesday, November 26, 2008 in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director