

**CITY OF MANHATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF SPECIAL MEETING  
NOVEMBER 23, 2010**

A Special Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 23rd day of November, 2010, at the hour of 6:00 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**1. ROLL CALL**

Present: Andreani, Paralusz, Seville-Jones, Chairman Fasola  
Absent: Lesser  
Staff Present: Laurie Jester, Acting Director of Community Development  
Sarah Boeschen, Recording Secretary

**2. APPROVAL OF MINUTES – November 23, 2010**

Commissioner Andreani requested that the second paragraph under “Approval of Minutes” on page 1 of the November 10 minutes be corrected to read: “Commissioner Andreani commented that her recollection is that there was a consensus of the Commissioners to not hear issues that are not properly noticed . . .”

A motion was MADE and SECONDED (Paralusz/Andreani) to **APPROVE** the minutes of November 10, 2010, as amended.

AYES: Andreani, Paralusz, Seville-Jones, Chairman Fasola  
NOES: None  
ABSENT: Lesser  
ABSTAIN: None

**3. GENERAL CONSENT**

**11/10/10-3 Adoption of a Resolution Denying Two Appeals of the Director of Community Development’s Decision to Approve a Remodel Project for 3404 The Strand/3405 Ocean Drive**

Acting Director Jester said that the draft Resolution memorializes the action taken at the previous meeting, as the City Attorney recommended that the Commissioners confirm and document the facts, findings and the discussion that occurred at the last hearing.

Commissioner Seville-Jones asked whether the appellants received notice of this meeting.

Acting Director Jester said that a courtesy notice of this meeting was e-mailed to the appellants and the property owners.

Chairman Fasola indicated that although the item was not a public hearing or discussion item, since one of the appellants was the only person in the audience, if he wished to speak the Commission would allow that.

**Thornton Stone**, appellant; a resident of the 100 block of 35<sup>th</sup> Place, said that he does not believe that the decision of the Commission to deny the appeal is justified based on the facts that were presented at the last hearing. He indicated that it was unfortunate that some of the

Commissioners chose to chastise the appellants for raising the appeal and exercising their rights. He commented that it is important for the Commissioners to understand and listen when citizens come forward with concerns that have merit. He indicated that he feels 10.68.030 (e) has consistently been paraphrased incorrectly by staff. He commented that it would be preferable for staff to use the actual Code language rather than to paraphrase. He said that he has not seen the actual case law regarding a statute of limitations that applies to appealing the original approval of the property. He stated that the exact language is very important, and that he would like to see the language rather than assuming that the interpretation of the City Attorney is true. He commented that the financial impact to the neighboring residents is very substantial. He indicated that the paraphrasing of 10.68.030(e) by staff is not in accordance with the meaning of the actual Code language.

**Mr. Stone** commented that Commissioner Paralusz seemed to rely on the statements of Section 10.68.10 to provide an exception for the property owners and deny the appeal; however the language is regarding intent and does not create any requirements that provide an exception. He commented that the valuation of the construction of the subject property taken previously would have been over the 50 percent threshold. He stated that remaining under 50 percent valuation could only be achieved if the construction costs did not include the plumbing and electrical work for the garage. He said that the scope of work was the same when the new valuation was calculated for the project, and staff changed the valuation rates. He pointed out that the current application of valuation rates is arbitrary and subject to interpretation. He stated that the old method of applying valuation included only one fixed rate for remodels.

Commissioner Paralusz pointed out that this item is not scheduled as a public hearing at this meeting, and the public hearing for discussing the merits of the appeal was completed at the last hearing, and the hearing was closed.

Chairman Fasola said that **Mr. Stone** has raised some points; however, a more appropriate forum for his comments would be at an appeal before the City Council.

**Mr. Stone** said that he understands the feelings of the property owners; however, the Commission must protect the rights of the community.

Acting Director Jester said that the City Attorney reviewed the draft Resolution and felt that it was complete and accurate.

### **Commission Discussion**

Commissioner Seville-Jones pointed out that there was a very lengthy public hearing at the last meeting, and the Commission did carefully consider the arguments of the appellants. She said that the Commissioners took seriously the meaning of the applicable Code sections and the arguments that were made. She stated that the Commissioners also had extensive comments and questions on the arguments that were made. She indicated that she respects the ability of residents to bring the appeal and to appeal the decision of the Commission to the City Council. She indicated that the decision to deny the appeal was not a close call for her. She said, however, that **Mr. Stone** does have the right to appeal to the Council if he disagrees with the decision of the Commission. She commented that she feels the language of the Code sections are very clear with respect to the certainty that the City must give to residents as to what they are able to do with their property. She said that the Commissioners disagree with the appellants as to the rights that the Code grants to homeowners. She said that she does not feel there is any arbitrariness or capriciousness in the actions of the Community Development Director or the Commission. She said that the changes in the method of applying valuation were done completely separately from the project. She commented that there were also many

examples shown at the last hearing of the method used by staff in applying the valuation criteria for other projects. She indicated that the subject project fits within the criteria used by the Community Development Director in applying valuation. She said that she would support approving the draft Resolution as presented.

Commissioner Paralusz indicated that she echoes the comments of Commissioner Seville-Jones. She stated that the appellants fully have the right to raise the appeal and to appeal the decision of the Commissioners to the City Council. She indicated that she feels the Commissioners fully considered all of the arguments at the last meeting with comments from parties on both sides of the issue. She said that she also felt that the decision to deny the appeal was not a close call, and all of the Commissioners reached the same conclusion. She indicated that she would support approving the draft Resolution as presented.

Commissioner Andreani stated that she respects the right of the appellants to come before the Commission and to proceed with an appeal of the Commission's decision to the City Council. She commented that the Commissioners carefully considered both sides and made a thoughtful and concerned decision to deny the appeal. She indicated that she would support approving the draft Resolution.

Chairman Fasola said that he understands that the building will remain for many years in the future if it is remodeled. He commented, however, that structures that have been in place for several years tend to remain as they were built.

### **Action**

A motion was MADE and SECONDED (Seville-Jones/Paralusz) to **ADOPT** the draft Resolution denying two appeals of the Director of Community Development's decision to approve a remodel project for 3404 The Strand/3405 Ocean Drive

AYES: Andreani, Paralusz, Seville-Jones, Chairman Fasola  
NOES: None  
ABSENT: Lesser  
ABSTAIN: None

Acting Director Jester said that the item will be placed on the City Council's agenda for their meeting of December 21 either under the Consent Calendar if an appeal is not received or under General Business if an appeal is received. She indicated that an appeal must be received by December 8, 2010.

#### **4. AUDIENCE PARTICIPATION**

#### **5. DIRECTORS ITEMS**

#### **6. PLANNING COMMISSION ITEMS**

#### **7. TENTATIVE AGENDA December 8, 2010**

##### **A. Belamar Hotel – Use Permit Amendment/Parking Demand**

##### **B. Library Presentation**

#### **I. ADJOURNMENT**

The meeting was adjourned at 6:30 p.m. to Wednesday, December 8, 2010, in the City Council

Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN  
Recording Secretary

ATTEST:

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LAURIE JESTER  
Acting Community Development Director