

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**TO:** Planning Commission

**THROUGH:** Richard Thompson, Director of Community Development

**FROM:** Eric Haaland, Associate Planner

**DATE:** April 27, 2011

**SUBJECT:** Request for a One-Year Time Extension 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 Planning Commission **APPROVE** the requested one-year time extension.

**APPLICANT**

Dennis Cleland  
PO Box 969  
Manhattan Beach, CA 90266

**OWNER**

Lina Hu  
1620 Strand  
Manhattan Beach, CA 90266

**BACKGROUND**

On March 12, 2008, the Planning Commission adopted Resolution No. PC 08-04 (attached), approving a Use Permit for construction of a mixed use condominium building with 694 square feet of commercial space and 2 residential units. This approval was valid for a three-year period. Additional approvals for the project included a coastal development permit, and vesting tentative parcel map. The coastal permit follows the same timing restriction/extension as the use permit, and the parcel map has been automatically extended by the State of California, as is common during significant economic recession periods.

The applicant may request a twelve-month extension to the use permit prior to the expiration of project, and a maximum of two future extensions. On March 10, 2011, the applicant submitted a request for a one-year extension of the project approval.

**DISCUSSION**

The subject request is to extend the life of the Use Permit to construct the mixed use condominium building until July 17, 2011. Substantial construction or an additional extension request must occur prior to that date to maintain the existing project approval. The applicant has indicated a desire to implement the project, but due to time and economic constraints, construction could not be commenced prior to the use permit deadline.

In order to grant the extension, the Planning Commission must determine that the original project findings remain valid. The City Council approved the project in March 2008, based on the following findings:

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.

The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.

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.

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 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.

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.

Staff is not aware of any changes in requirements or circumstances since the project's approval that would invalidate these findings, and therefore recommends that the Planning Commission grant the requested extension.

The relevant minutes and staff reports (without attachments) to the Planning Commission and City Council from 2008, are attached for reference.

Attachments:

- A. Request for Time Extension
- B. Resolution No. PC 08-04
- C. Project rendering/slides
- D. 2008 Staff Reports

c: Dennis Cleland, Applicant  
Srouf & Associates, Applicant Rep.  
Lina Hu, Owner  
Studio 912, Architect

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March 9, 2011

CITY OF MANHATTAN BEACH

Attn: Laurie Jester, Acting Director of Community Development

1400 Highland Avenue

Manhattan Beach, CA 90266

SUBJECT: VTPM 69052 for property located at 3920 Highland Avenue

Dear Ms. Jester:

This correspondence is submitted on behalf of the owner of the subject property, Lina Hu. We are assisting the owner and the project engineer, Denn Engineers, with coordination of the Final Parcel Map as well as other aspects of the condominium project. Resolution No. PC 08-04 approving tentative parcel 63627 was adopted March 12, 2008. The owner still desires to build the approved project. Due to the current market conditions, Ms. Hu feels that it is economically unfeasible at this time. Owner is continuing to monitor the market conditions and exploring alternative financial structures that would allow us to move forward with the project. Due to this, the final map will not be recorded prior to the March 12, 2011 expiration date.

We hereby request that the City grant a one year extension of the tentative map which will allow Denn Engineers to proceed through recordation of the final map. I have attached a copy of Assembly Bill 333, which calls for an automatic extension. Please let me know the new expiration date.

I have also attached a check in the amount of \$2195 for the administrative fee for processing this request.

Thank you for your consideration.

Respectfully,



MARIA ISLAS

On behalf of Lina Hu

**ASSEMBLY BILL**

**No. 333**

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**Introduced by Assembly Member Fuentes**

February 18, 2009

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An act to add Section 66452.22 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 333, as introduced, Fuentes. Land use: subdivision maps: expiration dates.

(1) The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land. It generally requires a subdivider to submit, and have approved by, the city, county, or city and county in which the land is situated a tentative or vesting tentative map, which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, and standards. The act provides for the expiration of tentative or vesting tentative maps, after specified periods of time, and specifically extends by 12 months the expiration date of any tentative or vesting tentative map or parcel map for which a tentative or vesting tentative map has been approved that had not expired on January 1, 2011. This extension is in addition to any other extension of the expiration date provided for in specified provisions of the act. Any legislative, administrative, or other approval by any local agency, state agency, or other political subdivision of the state that pertains to a development project included in a map that is extended is to be extended by 12 months under specified conditions.

This bill would extend the applicable expiration date to 72 months, as specified, for any vesting tentative map, in addition to a tentative

map, generally, that has not expired as of the date adding these provisions and that will expire, as specified, before January 1, 2016. By adding to the procedures that officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 66452.22 is added to the Government  
2 Code, to read:

3 66452.22. (a) The expiration date of any tentative or vesting  
4 tentative subdivision map or parcel map for which a tentative or  
5 vesting tentative map, as the case may be, has been approved that  
6 has not expired on the date that the act that added Section 66452.21  
7 became effective and that will expire before January 1, 2016, shall  
8 be extended by 72 months.

9 (b) The extension provided by subdivision (a) shall be in  
10 addition to any extension of the expiration date provided for in  
11 Section 66452.6, 66452.11, 66452.13, or 66463.5.

12 (c) Any legislative, administrative, or other approval by any  
13 state agency that pertains to a development project included in a  
14 map that is extended pursuant to subdivision (a) shall be extended  
15 by 72 months if this approval has not expired on the date that the  
16 act that added Section 66452.21 became effective. This extension  
17 shall be in addition to any extension provided for in Section  
18 66452.13.

19 (d) For purposes of this section, the determination of whether  
20 a tentative subdivision map or parcel map expires before January  
21 1, 2016, shall count only those extensions of time pursuant to  
22 subdivision (e) of Section 66452.6 or subdivision (c) of Section  
23 66463.5 approved on or before the date that the act that added  
24 Section 66452.21 became effective and any additional time in  
25 connection with the filing of a final map pursuant to subdivision

1 (a) of Section 66452.6 for a map that was recorded on or before  
2 the date that the act that added Section 66452.21 became effective.  
3 The determination shall not include any development moratorium  
4 or litigation stay allowed or permitted by Section 66452.6 or  
5 66463.5.

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 a local agency or school district has the authority to levy service  
9 charges, fees, or assessments sufficient to pay for the program or  
10 level of service mandated by this act, within the meaning of Section  
11 17556 of the Government Code.

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**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 Plan;

**RESOLUTION NO. PC 08-04**

- 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 44<sup>th</sup> 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 40<sup>th</sup> 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.

**RESOLUTION NO. PC 08-04**

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.
30. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it

**RESOLUTION NO. PC 08-04**

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

  
\_\_\_\_\_  
**Sarah Boesch,**  
Recording Secretary

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**EXHIBIT C**  
**PC MTG 4-27-11**

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## Proposed

- 5,097 Square Foot 3-Story Building
- 694 Square Feet of Commercial Space & 2 Residential Units
- 3-Unit Condominium Subdivision

Community Development  
Department - March, 2008

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## Project Analysis

- Use Permit Required for Residential Use in Commercial Zone.
- Parcel Map for Condo Subdivision
- Coastal Development Permit
- Project Conforms to Applicable Requirements: Parking, Height, Setbacks, Open Space etc.

Community Development  
Department - March, 2008

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Agenda Item #: \_\_\_\_\_

# 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

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### **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 44<sup>th</sup> Street and Crest Drive and pedestrian access from Highland Avenue and 44<sup>th</sup> 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

## RESOLUTION NO. PC 08-04

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 44<sup>th</sup> 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 40<sup>th</sup> 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

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**RICHARD THOMPSON,**  
Secretary to the Planning Commission

**RESOLUTION NO. PC 08-04**

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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**

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Page 2

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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Page 3

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 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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 44<sup>th</sup> 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 40<sup>th</sup> Street driveway. Stairs for residents are provided in private garages, and all external pedestrian access will be taken from the Highland Avenue and 44<sup>th</sup> 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 44<sup>th</sup> 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



## RESOLUTION NO. PC 08-

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

## **RESOLUTION NO. PC 08-**

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 44<sup>th</sup> 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 40<sup>th</sup> 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.

## RESOLUTION NO. PC 08-

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.

**RESOLUTION NO. PC 08-**

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:**

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**RICHARD THOMPSON,**  
Secretary to the Planning Commission

**RESOLUTION NO. PC 08-**

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**Sarah Boeschen,**  
Recording Secretary

# 3920 Highland Ave.

Vicinity

