

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
OCTOBER 26, 2011**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 26th day of October, 2011, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Andreani, Conaway, Gross, Seville-Jones, Chairperson Paralusz
Absent: None
Staff Present: Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner
Recording Secretary, Sarah Boeschen

2. APPROVAL OF MINUTES – October 12, 2011

A motion was MADE and SECONDED (Seville-Jones/Andreani) to **APPROVE** the minutes of September 28, 2011.

AYES: Andreani, Conaway, Gross, Seville-Jones
NOES: None
ABSENT: None
ABSTAIN: Chairperson Paralusz

3. AUDIENCE PARTICIPATION

4. BUSINESS ITEMS

10/26/11-2 Consideration of a Proposed Bank Use Replacing a Retail Use in a Commercial Development on the Property Located at 1130 North Sepulveda Boulevard

Associate Planner Haaland summarized the staff report. He indicated that the proposal does meet Code requirements. He commented that an email from Gary Osterhout in opposition to the proposal was received after the staff report was written and has been distributed to the Commissioners. He stated that the opposition expressed in the e-mail is because the proposal is not for retail use.

In response to a question from Commissioner Andreani, Associate Planner Haaland said that the entry tower as proposed for the bank is lower than the primary tower on the corner of Manhattan Beach Boulevard and Sepulveda Boulevard.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland indicated that he has no information on the amount of tax revenue that was generated by Blockbuster. He commented that the bank would probably not generate sales tax revenues for the City. He said that he is not certain how the property was marketed to potential tenants.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland indicated that two ATM machines that are shown in the plans would be located outside of the structure.

In response to a question from Commissioner Gross, Associate Planner Haaland stated that there is an existing sign program for the site. He commented that a sign would be permitted on the three faces of the structure.

In response to a question from Commissioner Andreani, Director Thompson indicated that marketing for tenants is done by the real estate agents for the private property owner and not by the City.

In response to a question from Chairperson Paralusz, Associate Planner Haaland commented that the site may have been vacant for approximately a year.

In response to a question from Chairperson Paralusz, Associate Planner Haaland pointed out that Wells Fargo, which is located across Manhattan Beach Boulevard from the subject site, was built as an entirely new project. He said that the sign program for the site may have been added since the original Use Permit was approved.

In response to a question from Commissioner Seville-Jones, **Jeff Liederman**, Stantec Architecture Inc., the project architect, stated that he is not certain the length of time that the subject property has been vacant.

In response to a question from Commissioner Seville-Jones, **Mr. Liederman** indicated that there would be an ATM machine located inside of the structure as well as two located outside of the structure. He indicated that the ATM machines located on the exterior of the building would provide easy access, and the one in the building would provide additional security.

In response to a question from Commissioner Gross, **Mr. Liederman** said that the ATM machines would operate 24 hours daily.

In response to a question from Commissioner Gross, **Mr. Liederman** stated that his understanding is that the existing Chase Bank locations downtown and at the corner of Marine Avenue would remain open in addition to the proposed bank.

In response to a question from Commissioner Conaway, **Mr. Liederman** said that they intend to meet the City's green building initiatives.

Commissioner Conaway said that he would encourage the applicant to meet the LEED silver standard which is requested by the City for projects.

In response to a question from Chairperson Paralusz, **Mr. Liederman** commented that he is not certain if there were previously signs on the site indicating that it was for rent. He said that Chase has a real estate representative who search areas for potential locations and contact the property owners or developers.

Commission Discussion

Commissioner Andreani said that she initially felt that it would be better for the subject property to be rented by a bank than to remain vacant. She indicated, however, that the current economy presents more of a policy question. She commented that the City currently does not get involved in the renting of properties, and she feels the City should be more involved in marketing.

Director Thompson commented that many cities have economic development staff that recruit businesses. He said that Manhattan Beach has plenty of real estate brokers who look for the right fit for the available sites. He indicated that the vacancy rate along Sepulveda Boulevard is very low. He commented that he does not feel an economic development department is necessary for the City.

Commissioner Seville-Jones indicated that there currently are two vacant properties at the subject intersection. She commented that she is disappointed that the applicant was not prepared to answer some of the Commission's questions regarding marketing and the time period that the property has been vacant. She indicated that she supports the project because the proposal is for a small portion of the lot which has a large amount of retail uses. She stated that the employees of the bank would spend money at Target and other nearby local businesses. She pointed out that there are other locations that retailers could choose to rent along Sepulveda Boulevard. She suggested requesting the input of the police for any future bank projects regarding the safety of ATM machines outside as opposed to inside of buildings. She commented that she agrees with Director Thompson that the City does not need an economic development staff. She said that the chamber of commerce in many cities also seek out businesses to locate in their cities. She indicated that she supports the project.

Commissioner Conaway indicated that the proposed bank is a logical use for the site, and he does not have any objections to the project. He stated that he is concerned with generating sales revenue, but the project includes only a small portion of the shopping center. He commented that he would be concerned with the City interfering with private property owners by participating in marketing. He stated that having the property leased by the bank is better than having an empty store front, and Chase Bank would be a marquee tenant for the center.

Commissioner Gross said that he also is in favor of the proposal. He indicated that tax sales revenue is very important to the City. He commented that there was an article in the Wall Street Journal which indicated that mall owners must include other uses besides retail, as retail stores and restaurants have been overbuilt over the last 20 years. He said that people have overspent at retail stores over the past several years, which was unsustainable. He indicated that the bank is a good alternative use to retail for the site.

Chairperson Paralusz stated that she is not in favor of the proposed change in use. She indicated that the Use Permit focuses on retail use. She commented that she is concerned that the site may not have been marketed at all for retail use. She said that she feels it is important for the City to encourage retail use. She stated that she would be concerned with establishing a concentration of banks similar to Manhattan Village. She indicated that she would rather see a retail use for the site that would help generate sales tax revenue for the City.

Commissioner Seville-Jones pointed out that the shopping center would still have a very small percentage of non-retail use with the project.

Chairperson Paralusz commented that she would feel more comfortable if the property owner were present at the hearing to answer some of the questions of the Commissioners. She indicated, however, that she is not certain that her vote would change with the input of the property owner. She said that she has a concern regarding security with customers using the ATM machines late at night. She indicated, however, that the machines at the Wells Fargo bank across the street operate 24 hours.

Commissioner Seville-Jones commented that she would be concerned with the City overregulating the type of use that a property owner can have on their property. She

commented that having the site remain vacant is an economic impact to the property owner. She said that she feels the City should not interfere with property rights to the extent possible.

In response to a comment from Chairperson Paralusz, Director Thompson pointed out that the Use Permit for the site does not prohibit commercial uses that are not retail. He indicated that the zoning along Sepulveda Boulevard is Commercial General which allows office uses as well as retail uses. He said that good planning principals dictate a mix of uses along the corridor which includes retail and office uses. He restated that the existing Use Permit for the site does not prohibit non-retail uses.

Chairperson Paralusz indicated that she is not able to vote in favor of the proposal without any information from the property owner to demonstrate that the proposed use is the only option for the site rather than a retail use. She said that there is a very low vacancy rate along Sepulveda Boulevard, and she would think that the chances would be fairly high that the subject site could be rented for a retail use.

Commissioner Gross suggested that the applicant consider helping with the cost of adding a pedestrian crossing across Manhattan Beach Boulevard at the traffic light down the street so that it is not necessary to walk to the corner to cross the street. He commented that adding a crossing would be a benefit to the bank, as it would provide a convenience for their customers. He indicated that two commissioners from the Parking and Public Improvements Commission have requested that a pedestrian crossing be added.

A motion was MADE and SECONDED (Andreani/Conaway) to **APPROVE** a proposed bank use replacing a retail use in a commercial development on the property located at 1130 North Sepulveda Boulevard

AYES: Andreani, Conaway, Gross, Seville-Jones
NOES: Chairperson Paralusz
ABSENT: None
ABSTAIN: None

Director Thompson explained the 15-day appeal period and indicated that the item will be placed on the City Council's Consent Calendar for their meeting of November 15, 2011.

10/26/11-3 Consideration of City Council 2011/2012 Work Plan Item for Potential Regulations for Mobile Food Trucks in the City of Manhattan Beach

Director Thompson pointed out that the issue for consideration by the Commission is potential regulations for food trucks on private property. He said that staff will take any comments from the public regarding the issue of food trucks parking on public property; however, the focus of the Commission is regarding regulations for private property. He said that an Ordinance will be brought back to the Commission at a future meeting. He stated that the City Council will also consider an Ordinance regulating food trucks on public streets.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland indicated that staff did not yet receive information from Burbank and Santa Monica regarding their recent activity pertaining to food trucks.

Commissioner Conaway said that the staff report states that the California Safety Code 114315 requires vehicles parked over one hour to have access to an approved restroom for employees within 200 feet. He asked how the condition is regulated.

In response to a question from Commissioner Conaway, Associate Planner Haaland indicated that the County Health Department would regulate the requirement for an approved restroom in association with food trucks. He commented that he has not seen examples of approved restrooms.

Commissioner Conaway said that the requirement for an approved restroom within 200 feet of food trucks is a critical issue that should be addressed further.

Commissioner Gross asked whether the City can place all of the requirements of a permanent restaurant on mobile food trucks such as for restrooms, parking, and areas for patrons to sit or stand.

In response to a question from Commissioner Gross, Director Thompson said that the City can be very restrictive in regulating food trucks on private property.

In response to a question from Commissioner Andreani, Associate Planner Haaland indicated that there have been comments from downtown business owners in opposition to food trucks. He commented that an e-mail was received from Michael Zislis in opposition to allowing food trucks in the City which has been provided to the Commissioners.

In response to a question from Commissioner Seville-Jones, Director Thompson indicated that the Health Department regulates food trucks.

In response to a question from Commissioner Gross, Director Thompson said that food trucks on private property can be restricted a great deal provided there is good reason. He indicated that food trucks can be regulated differently in different zones.

Commissioner Gross commented that it would seem that the trucks would be appropriate in the PD and IP zones where there are not many restaurants. He indicated that he would like for the City to be very restrictive of food trucks in areas where there are many restaurants.

Director Thompson stated that staff has received complaints regarding food trucks parking on public streets in the downtown area that compete with the local restaurants. He said that staff has not received complaints regarding the food truck in the parking lot for REI on Rosecrans Avenue. He commented that managers of shopping centers are sensitive to the needs of their tenants and want to ensure that food trucks would not interfere with their businesses. He said that staff is suggesting that a temporary use permit be added to the Code for food trucks on private property with certain standards.

In response to a question from Commissioner Conaway, Director Thompson indicated that food trucks do provide revenue to the City provided that they are charging sales tax for their food.

Commissioner Conaway commented that it is important to consider whether food truck generate sales tax revenues, as it would place them more on the same level as regular restaurants.

Chairperson Paralusz stated that she would like further information regarding the enforcement of the regulations of the Health Department regarding issues such as trash disposal and oil disposal. She indicated that she would also like further information regarding enforcement of collecting sales tax revenues for food trucks.

In response to a question from Chairperson Paralusz, Director Thompson said that food trucks would require proof of insurance to operate in the City. He indicated that the City may need to

adopt the County's letter grading standards for vehicles in order to have the Health Department grading be required for food trucks.

Public Input

Harold Rothman, a resident of Hermosa Beach, the owner of Manhattan Beach Creamery, said that he sees the benefit of having food trucks in industrial areas. He indicated, however, that they have had a problem with a food truck that parked in front of their business. He commented that he is concerned with future policies regarding food trucks. He indicated that it is the responsibility of the City Council to act as the common owner and protect the downtown businesses.

In response to a question from Chairperson Paralusz, **Mr. Rothman** commented that it is the discretion of the property owner whether or not they would choose to allow food trucks in parking lots of privately owned shopping centers.

Jason Alder, representing the Manhattan Beach Creamery, said that they make most of their money in the summer. He indicated that it is difficult for their business to compete with a mobile business that can leave for another location when business is slower after the summer. He commented that having food trucks in the downtown area is different than in the REI shopping center where they are not directly competing with the adjacent businesses for food sales. He indicated that the operators of the food trucks do not have roots and do not help in the community. He stated that he does not feel the trucks fit in with the City.

Robert Escowitz, representing Manhattan Pizzeria, stated that a couple of food trucks were in the downtown area for the entire summer. He indicated that the trucks were parked at parking meters on Fridays and Saturdays throughout the summer and took business away from local restaurants. He indicated that the trucks were given tickets by the police, but the operators were willing to pay the ticket. He said that the trucks would remain until 2:00 a.m. He pointed out that the pizzeria pays rent and tax revenue to the City. He commented that patrons of the food trucks would put their trash in the public trash cans. He said that the awnings from trucks blocked the sidewalk and left little room left to walk past. He indicated that food trucks should be permitted in industrial areas and not in the downtown area where there is a concentration of restaurants.

Chairperson Paralusz closed the public hearing.

Commission Discussion

Commissioner Conaway said that he would like further information as to whether it is necessary to allow food trucks somewhere within the City as part of a first amendment right as with tattoo studios.

Director Thompson pointed out that food trucks must be allowed on public streets with appropriate restrictions. He indicated that further restrictions can be placed on food trucks depending on the area and the traffic conditions. He indicated that staff would consider the downtown area and North End as sensitive areas. He indicated that he is not certain that the City would want to entirely restrict food trucks from private property.

Commissioner Conaway indicated that there does not seem to be an objection to allowing food trucks in industrial areas.

Commissioner Gross stated that he would want food trucks to be restricted in areas where there is a density of restaurants.

Commissioner Conaway suggested that food trucks be allowed on private property for certain districts and restricted in the downtown area. He indicated that he would like for the Ordinance to allow food trucks in certain zones.

Commissioner Gross pointed out that there are portions of the Sepulveda Corridor where there is a concentration of restaurants and other portions where there is not. He indicated that it is not fair for restaurants that are in business all year to have to compete with food trucks that are only in the area during the busy season. He commented that it is up to the City Council to enact a policy as to whether the City should continue to encourage the existing restaurants and not create an obstacle for their success.

Commissioner Andreani stated that she would not support allowing food trucks in the downtown area and the North End. She said that the streets and sidewalks do not have sufficient space to allow for food trucks, and she has seen people have to walk into the street to go around them. She indicated that she would support establishing a temporary use permit process to allow food trucks on private property. She commented that she would support adding language in the findings and purpose section of the Ordinance to explain the reason for the rules and regulations such as was included in Santa Monica. She also suggested that definitions be included in the Ordinance for Manhattan Beach as was done in Santa Monica, Redondo Beach, and El Segundo. She stated that she feels the fees for violations should be high. She commented that the permits should also include hours of operation and responsibility for cleaning up any trash that is generated. She commented that she likes the idea of requiring the letter grade rating by the County for food trucks. She said that there should also be a noise limit imposed for food trucks. She indicated that she feels food trucks should not be permitted to provide samples to customers.

Commissioner Seville-Jones stated that she would also support establishing a temporary use permit process for allowing food trucks on private property. She said that she would want to limit the number of times that a particular food truck is allowed to park in the community. She indicated that she does not feel that food trucks are appropriate in residential areas, the North End, or downtown areas. She indicated that she feels there is self regulation for privately owned shopping centers, as there is limited space and the owners would not want to hurt the business of any of their tenants. She said that she would not want to restrict the rights of private property owners to have food trucks within zones that are appropriate. She commented that she also feels that the fees for the temporary use permits should be high. She said that she would hope that the issue of collecting sales tax from food trucks is addressed. She indicated that it is not fair for food trucks to compete with local restaurants that pay a great deal of rent when the trucks can park in front of the restaurants for the cost of a parking meter. She said that having the trucks on the streets is a burden to the local businesses.

Chairperson Paralusz indicated that she is concerned with the safety issue of food trucks blocking access, as the sidewalks in the City are small. She stated that she would not support allowing food trucks on private property near residential areas. She said that she generally supports the right of private property owners to open up their property to food trucks within reasonable limits. She commented, however, that food trucks should not be allowed in the North End and downtown area because those areas are very congested and do not have much space. She suggested that food trucks be permitted in areas such as in the REI parking lot and Bristol Farms parking lot along Rosecrans Avenue. She stated that she would not support allowing food trucks in the Manhattan Village parking lot, as there are many restaurants that

are part of the shopping center. She commented that food trucks may be welcomed by employees of Northrop Grumman along Aviation Boulevard.

Chairperson Paralusz indicated that she would want to ensure that the City strictly enforces the Use Permit and County health regulations for food trucks, particularly regarding access to restrooms, disposal of trash and grease, and amplified noise. She said that she would want to require that the County health letter grades be prominently displayed as is required for restaurants in the City. She commented that requiring the letter grade would provide an incentive for the truck owners to remain in compliance with County health standards in order to receive a high mark. She suggested that staff contact the Chamber of Commerce to ask for their input regarding food truck regulations.

Commissioner Gross indicated that he is particularly concerned with the density of restaurants in the CG zone. He suggested that food trucks be required to park a certain distance from restaurants and that a minimum distance be required between food trucks.

Commissioner Andreani commented that she would not want to interfere with the rights of private property owners but would want to be sure that the parking requirements for the shopping centers are recognized.

Director Thompson commented that staff plans to bring more information to the Commission regarding the item at their meeting of December 14, 2011.

5. DIRECTORS ITEMS

Director Thompson stated that the Environmental Impact Report is being prepared for the Manhattan Village mall project. He commented that the report has taken a long time to complete because many changes have been made to the project. He said that staff advised the applicant against their request to contact the Planning Commissioners individually to provide briefings regarding the project. He indicated that staff is suggesting that a community forum be held once the applicant is ready to publish the Environmental Impact report.

6. PLANNING COMMISSION ITEMS

Commissioner Seville-Jones commented that the Commissioners received an e-mail from **Nate Hubbard** regarding violations of the operating hours for the Shade Hotel. She asked whether staff has information regarding enforcement that has been taken for any violations.

Director Thompson indicated that the Police Department is aware of the concerns expressed by **Mr. Hubbard** regarding the hotel. He said that staff is working with the Police Department to ensure that the current Use Permit is being enforced. He commented that the Use Permit that was granted last year allows the hotel to remain open until midnight; however, that entitlement is not allowed until the improvements are completed that were agreed to by **Mike Zislis**. He indicated that the entitlement is not yet permitted, as the improvements have not been completed. He indicated that **Mr. Zislis** is having problems with providing fire access with enclosing the entry way and balcony areas. He said that the requirement for closing at 11:00 p.m. during the week will be enforced.

In response to a question from Chairperson Paralusz, Director Thompson said that the bicycle plan will come before the City Council at their meeting of November 15, 2011.

7. TENTATIVE AGENDA November 9, 2011

a. Chalk Preschool

8. ADJOURNMENT

The meeting was adjourned at 8:15 p.m. to Wednesday, November 14, 2011, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director