

**CITY OF MANHATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
FEBRUARY 27, 2013**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 27<sup>th</sup> day of February, 2013, 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: Conaway, Gross, Ortmann, Paralusz, Chairperson Andreani  
Absent: None  
Staff Present: Eric Haaland, Associate Planner  
Esteban Danna, Associate Planner  
Richard Thompson, Community Development Director  
Rosemary Lackow, Recording Secretary

**2. APPROVAL OF MINUTES – February 13, 2013**

Commissioner Conaway requested that on Page 4, in the 3<sup>rd</sup> paragraph, the first sentence start “There being no further questions” and, in the 9<sup>th</sup> paragraph, “thers” should read “others”. Chairperson Andreani requested that, on page 2, in the list of persons speaking in support, the last name of “Janet” should be Watts.

A motion was MADE and SECONDED (Gross/Conaway) to **APPROVE** the minutes of February 13, 2013, as amended.

AYES: Conaway, Gross, Ortmann, Chairperson Andreani  
NOES: None  
ABSENT: None  
ABSTAIN: Paralusz

**3. AUDIENCE PARTICIPATION**

**Mark Lipps**, citizen, announced that on April 20 and 21, a green event, with food and free to the public, known as the “Sage Expo” will be held at the National Guard Armory. Go to [www.sageexpo.net](http://www.sageexpo.net) for further info.

**Viet Ngo**, candidate for city council and anti-corruption advocate, urged the public to vote on March 5 and requested that the Chairperson remove a campaign sign from the public right of way in front of her property. Chairperson Andreani clarified that the sign is on private property.

**Gerry O’Connor** thanked Commissioner Paralusz and Chairperson Andreani for pulling papers to run even though they decided not to run, and he urged the public to vote. Commissioner Paralusz and Chairperson Andreani thanked Mr. O’Connor.

#### 4. PUBLIC HEARING

02/27/13-2. Consideration of Amendments to Title 10 Planning and Zoning of the Manhattan Beach / Municipal Code (MBMC) and the City's Local Coastal Program to Revise Residential Regulations Regarding Minor Exceptions, Setbacks, Open Space, Maximum Lot Size, Required Alley Access, and Alternative Fuel Vehicle Charger Locations.

Chairperson Andreani announced the public hearing subjects. Community Development Director Thompson announced staff will present in a combined report.

##### **Proposed amendments related to Minor Exceptions, Setbacks, Open space, Max lot Size:**

Associate Planner Haaland made a power point presentation/staff report, noting that architects and homeowners were further engaged in this effort and other cities were contacted.

In response to questions from Commissioner Gross, Associate Planner Haaland stated that a limit on the upright posts that support overhead trellises could be established, and the code somewhat addresses this now (in the allowed projections). Associate Planner Haaland also responded that a 50% coverage standard for open space areas seems to allow some potential for maximization of BFA, although the staff analysis on this is simplified.

There being no further questions at this time, Associate Planner Haaland continued with graphics, photo illustrations, and summarizing the staff recommendation to require 50% of open space to be uncovered on top, with additional restrictions on side openness.

Associate Planner Haaland presented the proposal to include 7,000 square feet as the maximum lot area for the beach area districts previously omitted in error, and there were no further questions.

##### **Required alley access/alternative fuel vehicle garage charging stations:**

Associate Planner Danna made a power point presentation / staff report related to these topics, explaining the purpose for the first (alley access) is to extend this code to RS lots in the sand section Area Districts III and IV. Regarding traffic, staff found this was not a big concern because in these districts, the affected area is mainly used by local traffic and the amount of cars is not expected to increase just due to the code change. However, the code change will have a design impact, and, if it were to be applied in the RM and RH zones, tandem parking configurations would result in those zones. Associate Planner Danna noted the Staff recommendation: to limit to RS districts, and provide in the code as an exception with more restrictive criteria, addressing three issues: 1) compatibility with the surrounding neighborhood; 2) possible reduction in street parking spaces; and 3) suitability of the physical characteristics of the lot for access (e.g. is topography a significant factor?) Associate Planner Danna also discussed encroachment issues.

In response to questions from Commissioner Gross, Associate Planner Danna said he did not have photos illustrating multifamily zones, but he described and explained possible scenarios, including a 2-unit condo with its required guest parking space. With respect to the alternative fuel vehicle charging unit proposal, Associate Planner Danna explained the need to create flexibility as to where chargers can be located in areas of the garage but Staff is recommending only two areas where cars can be parked while a charging system is present: in the "wing" walls near the front garage entry and adjacent to the rear wall.

In response to a question as to what are other cities doing regarding car chargers, Associate Planner Danna stated that the SBCCOG (South Bay Cities Council of Governments) is studying PEV readiness, but Manhattan Beach is one of the first cities to allow this placement in garages. Staff believes any further allowance could hinder effectiveness of parking space.

Commissioner Paralusz commented that it is an important point that, if a garage is built to exceed the code minimum parking size, then an owner would have more space in which to locate a charger.

Associate Planner Danna gave the staff report on the charger location amendment. There were no questions at this time.

#### Questions and answers on all proposed code amendments (Commission/staff)

Regarding the 6% supplemental setback proposal, in response to a question and comment (s) from Commissioner Ortmann that this still seems a difficult and complex rule, Associate Planner Haaland responded that it takes a while to understand but the proposal is actually a simplification. In response to a question from Commissioner Conaway, who requested clarification regarding the same proposal, Associate Planner Haaland confirmed his understanding that under the staff proposal, a designer could have some flexibility, using the same concept as the front yard, but the ultimate design would still effectively provide bulk relief for the corner side yard. Commissioner Gross pointed out that the code text in paragraph 2 of Section 10.12.030(T) requires abutment and suggested adding the words: “and extends to corner”.

Regarding Open Space (Minimum Square-footage & Upper Level Maximum Percentage), in response to a question from Commissioner Conaway, Associate Planner Haaland explained the proportional (open space to living area) methodology and applicability to top vs. lower levels, and that this older methodology is proposed to be allowed again but would be relevant to a small number of multifamily projects. In response to a question from Commissioner Gross, Associate Planner Haaland stated that the proposed upper level percentage amendment for open space is not needed for single family development. The existing 50% limit is adequate, and would remain, for all single family. Community Development Director Thompson added that Staff is not suggesting more open space be required now, because the focus is on how open space works.

Discussion was held focusing on the issue of usable open space, and Associate Planner Haaland displayed photos of examples. The Commission voiced their concerns, as follows: Commissioner Gross, due to overall concern regarding bulk/volume, has concerns about how RS zoned or single family structures are addressing bulk with open space. Commissioner Conaway’s concern is the proportional issue and, wants clarification of his understanding that the proposal is intended to simplify and retain the existing amount in the code, but also this would fix an unintended consequence. Chairperson Andreani commented that she didn’t understand that they weren’t studying single family homes as well as multifamily.

Chairperson Andreani asked the Commission if they thought at the beginning of the Minor Exception ordinance, there should be a purpose statement, for encouraging preservation of older smaller homes while allowing flexibility, to which Commissioner Gross responded and it was agreed that this discussion would be more appropriate after public testimony is received.

In response to an inquiry from Commissioner Conaway, Associate Planner Haaland stated that the 7,000 square foot maximum site area for the beach area comes from the idea of allowing mergers of up to two 33.33 x 105 lots, the largest original subdivided lots commonly located in the beach area. He also clarified that the useable open space requirement, including the coverage/enclosure issue, being the main open space topic of discussion, is applicable to all development in multi-family zones, and to single family zones in Area District III. Single family zones in Area Districts I & II are subject to the supplemental setback, as a comparable bulk mitigation requirement.

Chairperson Andreani invited public testimony.

**Steve Dubakes**, resident and owner of a corner lot expressed concern regarding the supplemental sideyard setback issue. His main concern: if were to rebuild home, would his lot be treated different from an interior lot, or would he be able to achieve less BFA (buildable floor area) than an interior lot?

At the request of the Chairperson, Associate Planner Haaland responded that currently his lot is more impacted than an interior lot in terms of total supplemental setback area required, but under the new proposal, he would be on an equal footing.

**Gerry O'Connor**, resident and former Planning Commissioner, expressed a concern which he also sees as a recurring trend, that the proposed code reflects a delegation of responsibility. Mr. O'Connor cited the proposed code text on pages 2 and 3 of the staff report giving the Director of Community Development more responsibility in using judgment in making determinations on Minor Exceptions. While this may not be an issue with current Director, this could be an open door for future abuse or mistakes. He urged the Commission to take more time, and not recommend a code that uses vague standards or criteria unless it provides more review by the Commission.

In response to a question from Commissioner Ortmann regarding the prior speaker's comments, Community Development Director Thompson stated that, except for a few instances it's more difficult to apply discretion. Those cases where discretion has helped include where difficulties arise in addressing nonconformities when "over-demolition" occurs. Regarding the driveway access determination, Community Development Director Thompson stated he is comfortable with the proposed criteria. He also pointed out that staff determinations are appealable, if a homeowner is not satisfied with the Director's decision. Commissioner Gross reiterated that a purpose or intent statement in a code could help and the Commission can discuss after public input is heard.

**Will Arviso**, beach area property owner, has gone through a lengthy planning process in the past with the City and asked the Commission whether the driveway access and open space proposed codes would negatively impact him in the event he tears his house down. Community Development Director Thompson responded that in that future situation, he would rely on the intent of the code and criteria. Regarding the driveway access, Community Development Director Thompson responded that he did not think his current street access would be taken away. Regarding open space, the issue narrowed down to how a change in the code affect a house currently under construction, Community Development Director Thompson responded that the proposed changes being relatively minor, will not have a significant effect on properties now under construction. Director Thompson also clarified that open space openness design regulations being considered will apply to single family homes.

**Carol Whalberg**, served on the past Mansionization Committee, doesn't feel the goals of bulk and volume control have been accomplished, pointing out there is no provision requiring building height to be staggered, design styles can result in boxy, built-out and bulky buildings and fireplace chimneys in particular can have big impacts. She suggested that the City look at other cities codes, such as Newport Beach, La Jolla, and Santa Barbara.

**Jim Fasola**, resident and former Planning Commissioner, spoke to the open space design issue and pointed out that it is technically difficult, and open space works differently in the beach area and inland districts where lots are larger and open space can be accomplished with setbacks. He thinks the proposed definition is much better and endorses the Staff proposal as a good solution. He distributed photos illustrating open space violations and urged the Commission to address the mansionization issue more broadly and to reflect the goals in the General Plan.

**Leta Madison**, citizen and owner of a 1930's home, wants to see support for families who want to improve older homes that they own. She recognizes the extent that can be torn down, or retained is affected by safety and parking conformity issues and it is hard to be fair to all.

**Joe Biancolli**, a 45 year resident and owner of an older home on a 25 foot wide lot, lost his view years ago, tried to recover it but was turned down due to rules. He may come back to City Hall to check into what he can do now.

Community Development Director Thompson described the changes in the codes that have occurred over recent years, noting there is much more encouragement to preserve older homes, which was corroborated by Commissioner Ortmann who encouraged residents to contact staff. Commissioner Gross noted his personal experience in remodeling his 1929 home, but there is an important caveat: the city will not do the design – homeowners need a professional for that.

**Viet Ngo**, stated that the Planning Commission and City Council must have good reasons for amending the law, and must follow General Plan elements. He was concerned that the public will have enough time to read and understand the proposed changes.

Chairperson Andreani addressed the prior speaker's concerns regarding notification, stating that much notification has already been done and will yet to be done as the amendment hearings are still not finished.

Seeing no persons wishing to speak further, Chairperson Andreani closed the public hearing and invited discussion by the Commission, suggesting a guideline that the Commissioners would address the issues individually, going issue by issue.

### **Purpose and Intent Statements**

Commissioner Paralusz started by speaking to the issue of purpose and intent statements for the proposed code changes. Commissioner Gross opined that the purpose and intent statement is needed and helpful for the ordinance to which Commissioner Conaway agreed should be done for all code items. The consensus of the Commission is that Staff should draft the wording with the caveat from Commissioner Gross that policy itself should not be in the purpose and intent statements because the Commission's action will be a recommendation for City Council which adopts policy. Commissioner Conaway emphasized that the purpose statements should be consistent with the General Plan.

### **Minor Exceptions and Over-demolition**

Commissioner Conaway cited city code research he did; reporting that Santa Monica uses 50% (versus Manhattan Beach's 10%) based on valuation, within a 5-year window, and has provisions to encourage recognition of historically significant buildings, as does Los Angeles which uses 25%. Newport Beach has a 50% limit, with a ten-year window, and this does not include the foundation. He concluded by stating he is not comfortable with the current latitude in the Manhattan Beach code and believes the City should quantify as much as possible (set a definite number and definitions).

Community Development Director Thompson responded that the current 10% threshold was intentional and followed City Council direction to save smaller nonconforming homes. When you see that percentage number reduced, this is a signal that Manhattan Beach is encouraging retention of smaller nonconforming homes and the challenge is to determine what amount of buildable floor area (BFA) is acceptable (e.g. below 70% of achievable or something else?) The key is in recognizing the trade-offs, and you can trade, for example, the ability to keep a nonconforming setback for a limit in the total amount of BFA you can have.

In response to a suggestion by Commissioner Gross that the Minor Exception intent statement included the idea that the demolition not result in the perception that the structure is a brand new home, Community Development Director Thompson stated that would not work, because being new looking is a tradeoff for the limitation in size. Commissioner Gross explained he is trying to address the issue of fairness.

Commissioner Paralusz commented that she is not comfortable with regulating fairness and putting this in an intent statement.

Commissioner Gross endorsed the idea of excluding foundations from the valuation calculation to which Community Development Director Thompson responded that at one time the policy was to bring all homes up to code and get rid of nonconformity, but the current policy is to preserve smaller homes by means of a trade-off. Commissioner Gross confirmed that over-demolition is an important issue, to which Community Development Director Thompson responded affirmative, but the important thing is to have a conversation of what is being traded off, not just demolition per se.

Commissioner Paralusz concurred with members of the public regarding concern with the degree of discretion being extended to the Community Development Director and stated that a balance needs to be struck between rigidity and discretion with lack of clarity. She would like to see more info from other cities. Regarding the staff recommendation: she is comfortable with a percentage and recognizes that a minimum of the existing structure to be maintained is needed, but she is just not sure if 10% is the right number.

Community Development Director Thompson suggested staff can improve clarity; for example the word "substantial" can have many interpretations and this can be fixed.

Commissioner Ortmann noted that he sees where Staff wants to go and agrees, but the caveat is to not lose the bigger picture and the Commission needs to come back to address how "mansions" impacts are to be affected and fixed.

Commissioner Gross pointed out that since this Minor Exception issue is to address the intent of keeping more of the smaller homes, he advised that when Staff researches other cities it should be examined as to which policy is being advanced.

Chairperson Andreani stated that the code should have specifics so it doesn't breed uncertainty and over-demolition is a real concern with her citing 3405 The Strand where height was nonconforming and the home was entirely gutted. She suggested clarifying first the percentage and then deal with legal nonconforming, noting she would like to see a percentage between 40-50%. Chairperson Andreani requested that Staff consider other communities beyond the South Bay but with experience in dealing with saving older homes.

Commissioner Paralusz added that in looking at other city codes, it would be appropriate to ask how long they have been in place and whether that has been sufficient time to test effectiveness.

Commissioner Ortmann expressed his appreciation for Staff input.

Community Development Director Thompson noted that Manhattan Beach is on the cutting edge with this issue, compared to many other cities. Commissioner Gross suggested that a 40-50 % minimum would most likely force a tear down.

Community Development Director Thompson iterated that a purpose statement should clearly state what the policy is trying to achieve.

Commissioner Paralusz further urged that when staff looks at other regulations, they look at coastal communities, but as far away as back east or places where there are many much older homes.

**Supplemental Setbacks:**

Community Development Director Thompson stated that if the Commission is comfortable, Staff will come back with 6%, but he wants to add how the setback will be added to the side.

Commissioner Conaway questioned dropping down to 6% since there is testimony that the bulk/volume regulations are not working well. Perhaps we should keep it simple, keep 8% total, and require the additional 2% in the corner side yard.

Commissioner Paralusz noted that she heard that currently corner lots are being penalized compared to interior lots and suggested considering increasing the percentage for interior lots to be fair. Commissioner Conaway wondered if there is more input to be gotten from other corner lot owners. Community Development Director Thompson responded perhaps it needs to be simplified and asked if the additional 2% really has an effect.

Chairperson Andreani stated her agreement with Commissioner Conaway – she doesn't like the "bookend" approach.

Commissioner Gross questioned whether there is a consensus for 6% for the corner lots and also wondered if increased to 8%, does  $\frac{3}{4}$  of that amount not need to be in the front yard?

Commissioner Paralusz reiterated that there should be a set minimum supplemental yard for the corner side, to which Chairperson Andreani responded that the Commission should look to Staff as to how the percentage would be applied on properties.

Community Development Director Thompson stated his understanding that Staff will keep the 8% in the code and draft language to address the Commission's issues.

Chairperson Andreani suggested that a minimum amount of softscape be provided in the supplemental setback area. Brief discussion ensued in which Commissioner Ortmann endorsed this concept and Commissioner Conaway recalled that the City's green code partially addresses this. Community Development Director Thompson noted that irrigation water can undermine foundations in some places to which Chairperson Andreani responded that the type of irrigation (drip versus sprinklers) can address this problem.

**Open Space (design):**

In response to a question from Commissioner Paralusz regarding smaller units, Community Development Director Thompson affirmed that the current open space requirement is practically unreasonable. Regarding the issues of the effectiveness of usable open spaces, Commissioner Paralusz likes the Hermosa ordinance which has maximum coverage of 50% and a minimum of two sides open and would consider the elimination of posts and generally would like to see open space as open as possible.

Discussion ensued regarding the issue of supporting posts on decks. Commissioner Conaway suggested that perhaps the code should just state curtains or similar items not be allowed. Commissioner Gross would like to see no posts as they have a visual impact; perhaps decks can cover another deck if they have open railings and the uppermost deck does not have a solid roof, and some amount of open trellis cantilevers on a minimum of sides. Commissioner Conaway noted that that he does not like the idea of eliminating posts.

Community Development Director Thompson suggested that Staff could work on this with the Commission input. Commissioner Gross suggested that intent is visually trying to break up a boxy building appearance. Chairperson Andreani suggested parameters of a maximum of two sides open, open rails and maximum 50% coverage. Commissioner Gross added that another parameter would be to apply a percentage required at building levels.

Chairperson Andreani reopened the hearing to allow more input on this issue.

**Jim Fasola** recalled input in the Mansionization Committee meetings from architect and former Planning Commissioner Grant Kirkpatrick, who had recommended that, because this issue is too complex, to just allow a maximum of 50% of open space at the top level, to give a chance to see through the house and give more open-ness to the building overall.

**Will Arviso**, suggested that to effectively address bulk, the City should pass an ordinance that would require condos to be separate buildings and advised that the rules not discriminate against corner lots.

Chairperson Andreani closed the public hearing.

Commissioner Gross reminded that this is a balance between private property rights and community good. What the last speaker suggested would take away rights and articulation of a building can be effective in breaking the appearance of bulk. Commissioner Ortmann asked the question: are we interested in incrementally dealing with this, or addressing the bigger picture?

Community Development Director Thompson reminded that the direction was that the solutions should not cut significantly into property rights.



**Alley Access:**

Community Development Director Thompson stated that Staff will come back with an intent statement, with the intent that eventually development should move towards garage access from the alleys; the question is, how far should the intent statement go?

In response to this question, Commissioner Paralusz stated the street should be homogenous, to match a general design. Commissioner Conaway stated that this may not be so simple, many streets have some variety but he supports the amendment because he believes the street/front access undermines values. He would like to strike the compatibility criterium in both Q. and F. of the recommended language on page 8 of staff report, due to vagueness. Commissioner Paralusz stated support for also eliminating “in limited situations” from the same sections.

**Alternative Fuel Vehicle Charger Locations:**

In response to a question from Commissioner Paralusz, Community Development Director Thompson encouraged the Commission to make a recommendation instead of waiting for the SBCCOG. Commissioner Gross suggested that in a purpose statement, it should say the garage should still be able to be used as parking spaces. Chairperson Andreani stated that this item also deserves a lot of public notice.

Community Development Director Thompson stated the Commission should have bulk volume discussion, and have a consensus as to what it really wants to achieve, and Staff is willing to have that philosophical discussion. Commissioner Paralusz emphasized that the Commission should not forget the Council’s direction, and not overstep its bounds – but this would be a good conversation to have.

In response to an inquiry from Chairperson Andreani Associate Planner Haaland responded that a “through lot”, where the lot rear is adjacent to a street, might be determined to have two front yards and no rear yard.

Commissioner Paralusz clarified her statement that she didn’t mean to go to Council, bulk volume in broader terms would be a good topic for a joint Commission/Council meeting.

It was agreed that the public hearing would be continued on the subject code amendments; and it was so ordered.

**5. DIRECTOR’S ITEMS**

Community Development Director Thompson announced that the Chevron coker drums are on the move again tonight starting at 10 p.m.

**6. PLANNING COMMISSION ITEMS**

Commissioner Paralusz reminded that the City’s election is next Tuesday, March 5, and, for good government, it is important to vote.

Commissioner Gross reported on the SBCCOG General Assembly that he attended February 22<sup>nd</sup>. The subject was unintended consequences of reduced revenue and he was reminded how lucky the city of Manhattan Beach is, that we have exercised fiscal discipline over decades.

**7. TENTATIVE AGENDA**

Community Development Director Thompson stated that at the March 13 meeting the Housing Element Code Amendments and Manhattan Village Shopping Center Enhancement Project hearings are tentatively scheduled. It was agreed that, unless some urgency arose, the order of items on the agenda would be the Mansionization Code Amendments, Manhattan Village, and Housing Element Code Amendments. It was suggested that the mansionization hearing would only have presentations and the hearing would be continued, and it was noted that Manhattan Village would also be heard in April.

**8. ADJOURNMENT**

The meeting was adjourned at 10:00 p.m. to Wednesday, March 13, 2013, in the City Council Chambers, City Hall, 1400 Highland Avenue

ROSEMARY LACKOW  
Recording Secretary

ATTEST:

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RICHARD THOMPSON  
Community Development Director