

**CITY OF MANHATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
NOVEMBER 13, 2013**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 13<sup>th</sup> day of November, 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: Andreani, Gross, Ortmann, Paralusz, Chairperson Conaway  
Absent: None  
Staff Present: Laurie Jester, Planning Manager  
Angelica Ochoa, Assistant Planner  
Rosemary Lackow, Recording Secretary,

**2. APPROVAL OF MINUTES – October 9, 2013**

Commissioner Gross requested on page 4, last line of paragraph 1 that “demotion” be struck and replaced with “demolition”.

A motion was MADE and SECONDED (Andreani/Paralusz) to **APPROVE** the minutes of October 9, 2013, as amended.

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

**3. AUDIENCE PARTICIPATION - None**

**4. PUBLIC HEARING**

11/13/13-2. Amendments to Title 10 Planning and Zoning of the Manhattan Beach Municipal Code (MBMC) and the City’s Local Coastal Program to Regulate Offices, Banks and Other Similar Uses in the Downtown and North End Commercial Districts.

Planning Manager Jester made introductory remarks, noting at its October 8<sup>th</sup> meeting the City Council directed staff to review the current commercial regulations applicable to offices, banks and other uses in the Downtown and North End commercial districts and that the recommendation to encourage a vibrant and sustainable Downtown that increases retail and sales tax revenue is also an objective in the City Council’s Strategic Plan.

Assistant Planner Angelica Ochoa gave a detailed report with a slide presentation, noting this matter arose from City Council concerns that there has been a marked increase in office uses, specifically for real estate and banks in Downtown, while retail uses have decreased and that this has impacted these areas. In addition concerns have been expressed by the Chamber of Commerce and Downtown Business Professional Association (DBPA). The Chamber has suggested that ground floors be preserved for sales tax generating businesses on Highland Avenue in the North End, and in Downtown, on Manhattan Beach Boulevard and Manhattan Avenue. The DBPA expressed concerns that ground floor retail is being replaced by non-sales tax

generating uses, such as offices. Both organizations expressed concern that large chain banks and real estate offices are edging out smaller retail businesses that cannot compete with the high rents and believe that this results in a loss of sales tax revenue and a decrease in the diversity of commercial uses. Assistant Planner Ochoa showed slides and highlighted public comments received (noting that hearing notices were sent to all property owners in both commercial districts), General Plan goals and policies, Downtown Design Guidelines and nonconforming regulations. She showed maps of specific parcel locations of first-story streetfront offices and banks in the Downtown and North End commercial districts that would become nonconforming uses if the proposal were approved.

Assistant Planner Ochoa emphasized that the proposal applies to all types of offices, and would restrict, as opposed to an outright ban, their locations by allowing these uses at the upper levels throughout the Downtown and North End, but prohibiting them on the ground floor streetfront on Highland Avenue, Manhattan Avenue, and Manhattan Beach Boulevard. Some other uses including animal boarding and animal hospitals and vehicle equipment repair and service stations, that use to be in the Downtown but are no longer there, would be prohibited. Assistant Planner Ochoa also explained the nonconforming use regulations, that any offices or banks if rendered a nonconforming uses, could continue provided the site is not vacant for more than a continuous six month period.

Staff responded to questions from Commissioner Paralusz as follows:

- 1) Regarding the legality of the proposal, Planning Manager Jester stated staff has conferred with the City Attorney who advises that the proposal is within the City's "police authority" to regulate land use, and the City, as well as all Cities in California, have historically prohibited some uses in certain locations. She is not aware of any prior similar zoning actions by the City that have been legally challenged. Regarding the proposed prohibition for animal hospitals, Assistant Planner Ochoa explained that currently there are no such uses in Downtown or the North End, and Planning Manager Jester elaborated that animal hospitals which typically have on premise boarding often have nuisance issues such as noise and odors, therefore it was thought that such would be inappropriate uses in such dense areas with nearby residences.
- 2) Regarding banks being confined to second stories and possibly encountering new requirements for disabled access (such as elevators) Planning Manager Jester responded that the issue of disabled access would equally apply to all types of businesses, and there is some flexibility when there are changes to existing buildings. In response to Commissioner's inquiry regarding locations of existing second floor banks, Commissioner Gross cited Union Bank in the Downtown.

Staff responded to questions from Commissioner Andreani as follows:

- 1) Regarding Highland Avenue being omitted in a presentation slide as a street proposed for use limitations, Assistant Planner Ochoa explained the subject slide was stating the Chamber of Commerce's input which did not name Highland in the Downtown as a street to be affected, however staff included Highland Avenue Downtown for ground floor use restrictions in the draft Resolution to be consistent with the other major streets; Manhattan Avenue and Manhattan Beach Boulevard.
- 2) Regarding the use classification of "communication facilities" Ms. Ochoa gave examples, including broadcasting and recording studios and noted that the business "Dealer.com" is a general office use. Planning Manager Jester elaborated that the subject proposal applies to all types of professional offices not just real estate.
- 3) Ms. Ochoa cited the "Skechers building" on Manhattan Beach Boulevard as an example of a building that has offices below street grade. Chairperson Conaway indicated that in the Commercial North End there is a below street grade office suite at the northwest corner of Rosecrans and Highland Avenue.

- 4) Regarding the reasoning for restricting bank locations, which Commissioner Andreani stated typically provide on-site parking for customers and in her opinion are pedestrian friendly in the Downtown setting, Planning Manager Jester explained that in Downtown there is a rhythm created by 30 foot wide lots and storefronts, which creates an ambience that is interesting and attractive to pedestrians, and this environment can be interrupted by banks, which often have a longer length of wall that can be blank with no windows or interest for pedestrians along the street.

Commissioner Ortmann indicated that he generally agrees with the staff commentary in terms of purpose and the impact to the urban fabric, however he has concerns with the proposal.

Chair Conaway reminded that at this point staff is fielding questions from the Commissioners to clarify and further inform them regarding the proposal and opinions should be held until after the public hearing.

In response to an inquiry from Commissioner Ortmann regarding the proposal creating nonconforming uses from existing buildings that were built to be offices on the ground floor, Planning Manager Jester indicated that there have been several examples where buildings originally intended for office space have been adapted to retail and, in one case, a restaurant.

Staff responded to questions from Commissioner Gross as follows:

- 1) Regarding regulating offices and banks by a percentage of use, Planning Manager Jester stated that such a solution is possible, and is at the discretion of the Planning Commission however regulating uses by percentages has inherent challenges such as determining where to “draw the line”, and tracking square footage uses which fluctuate over time as building modifications are made.
- 2) Regarding limiting the proposal to a much smaller geographic area (smaller than a complete district), Planning Manager Jester stated such would be more typically accomplished with another method, such as a zoning overlay.
- 3) Planning Manager Jester stated that the staff report mentions rental rates only as a means to pass along an opinion in the community and is not intended to reflect a staff opinion.
- 4) Regarding interpreting General Plan Policy LU 6.2, which is to “Encourage a diverse mix of businesses that support the local tax base....” and whether offices and banks meet that criteria, Planning Manager Jester recited the policy and commented that there are concerns that offices and banks do not meet that criteria, but concluded that this would be a very good discussion to have and have community input.

Planning Manager Jester responded to the following inquiries from Chairperson Conaway:

- 1) The current code’s classification for veterinary offices (animal hospitals), by definition allows such offices to have up to 30 day boarding, but this definition could be amended and length of permitted stay decreased.
- 2) In investigating this matter, staff looked at a number of cities’ commercial land use regulations, but at the Planning Commission’s direction, staff can look at additional cities for more information.

In response to an inquiry from Commissioner Gross, Planning Manager Jester indicated that the cities already contacted were chosen not because they had a ban on certain commercial uses, but because they were mentioned in discussions with the Chamber of Commerce and DBPA. Ms. Jester reiterated that the proposal is not a ban but regulates where new banks and offices can be located: on upper floors for the main specific streets, on the ground floor for side streets, or on the ground floor of main streets if a continued nonconforming use.

Planning Manager Jester responded to Commissioner Andreani that staff can look into regulations

of additional cities including Laguna Beach, as directed by the Planning Commission.

In response to a question from Commissioner Paralusz regarding General Plan policies LU-7.4 and LU-9.2, Assistant Planner Ochoa clarified “service use” includes businesses such as shoe repair, dry cleaning, and hair/nail salons.

Planning Manager Jester responded to Commissioner Gross that, in Policy LU-7.4 “service/commercial” is intended to mean a service type of commercial businesses, not offices and there are other places in the General Plan that address professional offices.

## **PUBLIC HEARING**

Chairperson Conaway **OPENED** the public hearing, and invited the public to address the Commission.

Planning Commissioner Gross disclosed that he walked throughout the two commercial zones and listened to input from various persons.

After taking a hand count of those wishing to speak, Chairperson Conaway requested that input be limited to five minutes.

**Steve Murillo**, Downtown real estate business owner for 20 years at the corner of 12<sup>th</sup> and Highland is strongly opposed to the proposed code amendment, as he believes that it is discriminatory and believes his business provides a valuable service, enhances the Downtown vitality and pedestrian character because he has a lot of walk-ins during the day. He read a portion of a letter from his partner “Uni”, supporting his position and concluded by stating that he pays business license taxes based on commissions and asking that the City not limit free commerce.

**Kelly Stroman**, DBPA Executive Director, addressed the following: 1) the DBPA’s goal is not to ban or discriminate but to encourage a healthy balance of uses that promotes the vitality of the Downtown; 2) she has talked to a lot of cities including Laguna Beach and Corona del Mar and there are a lot of ways cities have regulated this and some city actions have been legally challenged and upheld and some cities are in the process of proposing similar ordinances (Malibu); 3) their focus is on certain major streets, where it is believed that retail should be maintained on the ground floor. The concern is that more retail may be converted to offices, swinging the balance too far away from a retail environment.

**Lynne White**, Chair of the Board of Directors, Manhattan Beach Chamber of Commerce, read a letter from Jim O’Callaghan representing the Chamber, strongly encouraging a review of Downtown uses and stating the concern that rising rents discourage regular retail uses by reducing profit margin, and encouraging changes in zoning to encourage sales tax revenue for the City.

**David Kissinger**, South Bay Association of Realtors, believes that this proposal is in effect a ban. He believes real estate offices should be seen as a legitimate foot-traffic generating store front business and to banish them to the second floor is unreasonable. By eliminating such legitimate uses on ground floors will upset, rather than create balance and he urged that this proposal not continue beyond tonight. Instead, he recommends that the City take a step back, and work with the community for a long-term strategy that involves the real estate community.

**Chandra Shaw**, DBPA President and Downtown business owner, believes that this is sounding

like it is about Downtown vs. banks and real estate businesses which is far from the goal. The DPBA, which includes all of the Downtown real estate businesses wants to encourage a balance of uses, encourages activities to have a vibrant Downtown. The DPBA does not want to create a monopoly of certain existing uses by restricting them - the context of this issue is to strategically plan for the commercial areas and make the regulations fair for everyone.

**Kris D'Errico**, DBPA Boardmember, and long-time Downtown resident and business owner, understands the local Downtown environment, believes the issue is: What do we want our Downtown to look Like? If not proactive it may not look in the future like what we want. She believes that office spaces often create “dead zones”, isolating and impacting retail space. She cited several shops: gift shop, furniture shop, beauty salon, cupcake shop, cafe, and art gallery that have been replaced by real estate offices and exhorted the community to get together and decide what they truly want.

**Sheri Fejeran, President of the South Bay Association of Realtors**, has a real estate office in Downtown noted that her office is very involved in the community and suggested that the City have a focus group or form a committee, including representatives from the City Council, Planning Commission and community, including real estate professionals, to discuss what is needed.

**Tony Choueke**, property owner wants the City to be as attractive as possible and he suggested that the City allow offices to change to retail without providing more parking, and Planning Manager Jester corrected that in the Downtown area, this type of conversion already can occur without adding parking.

**Mr. (name unknown)**, member of the South Bay Association of Realtors, stated that there are trends in real estate that are cyclical and cautioned that the City make a new strict rule that would be hard to undo.

**Robert Schumann**, long time Manhattan Beach realtor, questioned whether, if not including banks, the amount of offices Downtown is significant but it seems there is a strong majority of retail uses perhaps 75% or more. He is deeply concerned as a property rights advocate that a zoning change may, in effect, result in an inverse condemnation to commercial owners and that many issues being discussed are really subjective in nature.

**Petros Benekos**, owner of the Downtown restaurant Petros, suggested that decision makers visit the restaurants and shops to interact and talk to the business owners and hear what works and what doesn't work Downtown so it can be figured out what needs to be fixed. He feels there are many issues such as parking meter regulations with too short of a time frame, that greatly affect the businesses.

**Larry Wolfe**, co-owner of Shorewood Realtors, has a Downtown real estate office and is concerned that this proposal would be selective zoning. He supports the arguments against the proposal, and appreciates the Planning Commission's consideration.

**Dr. Lester Silverman**, Downtown optometrist, wants to see a balance and a vision for Downtown; he recognizes that quaint commercial places often have regulations, and everyone needs to work together instead of in an adversarial way.

**Jon Tolkin**, developer of Metlox site, and a number of Downtown commercial developments in California, stated that it is important to maintain a balance Downtown, as stated in the General Plan, the ground floor should be retail but there could be real estate offices. Uses should also provide for both day and night time activities, with a lively and attractive

environment. He believes that forming a group can be helpful to look into some management solutions can be done and parking options should be addressed too.

**Jon Tolkin**, added that not all locations in a commercial district can support ground floor retail such as on the edge of the district abutting residential.

Chairperson Conaway asked that staff address speaker **Schumann's** questions regarding the number of office uses in the Downtown and the North End. Assistant Planner Ochoa stated that in Downtown, there are a total of 131 businesses of which 45 are offices, and of these 16 front on the 3 main streets (Highland, Manhattan Avenue, Manhattan Beach Boulevard) and of these 45, 2 are on side streets and 27 are located on the second floor. In the North End, there are a total of 85 businesses of which 19 are offices, and 7 of the 19 front on Highland Avenue and Rosecrans Avenue, 1 is on a side street and 11 are located on the second floor. Planning Manager Jester summarized that under the proposal, of 131 businesses in Downtown, 16 are affected and in the North End, 7 would be affected out of a total 85 businesses and these would become nonconforming.

In response to a question from Commissioner Gross regarding whether realtors are members of the Chamber of Commerce and DBPA, speaker **Lynne White** indicated that there are several realtors that are members of the Manhattan Beach Chamber of Commerce and speaker **Dr. Silverman** indicated that all businesses in Downtown by being in the BID, are automatically members of the DBPA.

Chairperson Conaway closed the Public hearing.

#### COMMISSION DISCUSSION

Commissioner Paralusz thanked everyone who has participated, and staff. The main issue brought forth is: what do we want these two business districts to look like? As a Planning Commissioner her responsibility is to implement the General Plan, and balance the public need and interest with private property interests. She does not support the current proposal and absolute approach whereby the first floor would be reserved for retail and service uses while excluding other uses. On the other hand, she does not agree with an approach of free rein for property owners and does not want to see the market create an office park Downtown. Perhaps after getting more information from other communities and after having a focus group, a more fair compromise may be to explore regulating uses on a percentage basis and leaving the ground floor uses open to market competition. Commissioner Paralusz further noted that, by her rough calculations, currently about 25% of the 85 North End businesses are offices and about 28% of Downtown businesses/addresses are offices. She is unsure of what percentage is appropriate, but for example, 50% would certainly be too high, and at some point dead zones of isolated retail could be created.

Commissioner Ortmann noted that he came into the hearing feeling more supportive of the proposal, but now he personally feels a need to reframe the conversation and perhaps the issue for him is more about urban form than function. He is wondering if staff has thought about some sort of a form-based zoning process, although he recognizes such would be a lot more effort for staff. He thinks it would be a good thing for people to get together and discuss this openly and a process can be developed that is inclusive, and he likes the idea of communicating with the existing business owners and he likes the attitudes of the speakers tonight.

Commissioner Gross stated that he has walked all of the streets in both of the commercial areas being discussed and noticed there is one relatively small geographic area in Downtown, Highland Avenue from Manhattan Beach Boulevard to 15<sup>th</sup> Street, which has become out of balance, with

little retail, that may have been the impetus for this issue coming forward, but otherwise he thinks the rest of Downtown seems to be in balance. The North End, he noticed has little retail and speculates that this area is still transitioning from “El Porto” to Manhattan Beach. He doesn’t readily see a solution for the noted section of Highland Downtown, but he, like Commissioner Paralusz has difficulty with the proposed code amendment. He proposes that the City Council establish one or two committees to study both commercial areas to include perhaps two representatives from the City Council and two from the Planning Commission as well as representatives from both business areas, and perhaps the subject should include other related topics as suggested tonight.

Commissioner Paralusz stated her opinion that the Downtown situation on Highland described as being out of balance, should be viewed as an example of what they are trying to avoid in other parts of Downtown, and agreed that a Committee would be a good idea but believes, although it is up to the Council, that having two committees would be too unwieldy.

Commissioner Andreani thanked all hearing participants and thinks a good community dialogue has started tonight. She came to the meeting tonight believing that there is a proliferation of real estate offices that detracts from the vibrancy of the area and tax revenues. She does not believe that a ban on real estate offices and banks is being proposed, but also feels more statistics and information are needed before taking a strong step with zoning as proposed. How bad is the problem? She would like to know, for example, how many tax dollars are being generated today compared to what they were in the past, recognizing that retail has been added at Metlox and at the corner of 13<sup>th</sup> and Highland, but has decreased elsewhere in Downtown. She knows the Planning Commission cannot assign property rights and realizes that they need to seek a balance using the General Plan as a guide. While she does not think the General Plan needs amendment, going forward, however, a clear goal is needed and cautions against getting bogged down in too much analysis. In terms of the need to sustain vitality Downtown she was most impressed with comments from speaker Kris D’Errico and believes the issue of vibrancy is an important discussion as well as parking which might include looking into whether the relaxation of parking standards has kept visitors away from Downtown. She believes that this should be looked at perhaps in a focus group, and then this issue could come back to the Planning Commission which can then prepare a more agreeable plan for City Council consideration.

Commissioner Ortmann stated a follow-up concern about banks that, unlike real estate offices which he now believes contribute to a desirable diversity of uses, such uses, because they require significant parking, present a more suburban type of form and detract from the Downtown ambiance.

Commissioner Gross stated follow-up comments regarding banks that, on one hand they can be convenient and walkable, on the other hand, believes it’s the big banks, because they have financial resources that affect rents. He believes there is no easy answer and favors a committee, rather than a focus group to deal with this because of complicated issues and he recognizes such will not be a fast process.

Commissioner Paralusz stated regarding the banks, her opinion is that if there were to be a stricter ban or zoning action, the City should look at these large chain bank uses which have a large amount of capital and could proliferate Downtown. She doesn’t think the Commission should go through the draft Resolution at this point.

Chairperson Conway stated that the discussion has been very interesting and thanked all participants including his fellow Commissioners for their perspectives and vision, and many very good points were made and often pointed to bigger issues. He counted at least 7 of 14 speakers talked about a need or desire to have a Strategic Plan and this could be part of the

recommendation, that we look at this more broadly. He understands that retail is a very competitive environment and thinks the suggestion to survey the various business owners was good. He took a count and was surprised to find that there is a relatively small amount of offices currently occupying ground floor storefronts (9% to 11% between Downtown and The North End) that would be affected by the proposed code. If more research is to be done, he would be interested in knowing how Manhattan Beach rates as a “bedroom community” or how many residents work outside of town. He observed that if you have offices mixed with retail it’s good because the employees shop near their work. He is interested in finding a way to create community that supports a range of activities: to work, live, and play (retail), and it appears to him that to support this, more offices may be needed. Regarding banks and real estate offices, he doesn’t believe these uses exclude being pedestrian friendly. In conclusion, he is not in support of the proposal as currently drafted, but supports this being looked at by a bigger committee to which Commissioner Paralusz concurred.

Chairperson Conaway asked staff as to if any further information was needed and there was a brief discussion by the Commission as to moving forward. Commissioner Andreani asked if it would be appropriate for the Planning Commission to make specific suggestions to the City Council such as a focus group, or survey. Commissioner Gross commented that he felt that the input from the business community was to have a personal dialogue with decision makers. Chairperson Conaway suggested that the way to move forward would be at the City Council’s discretion but generally summarized the Planning Commission’s recommendations: to gather more information and have additional outreach including possibly forming a working group.

Planning Manager Jester stated that she heard great discussion regarding the General Plan, and the desire to maintain an appropriate balance of uses in Downtown and the Commercial North End areas. The suggestions such as forming a broadly scoped Committee or proceeding with a Strategic Plan or some form of visioning process are far beyond the scope of the current staff direction from the City Council, and we do not have financial or staff resources. Planning Manager Jester advised that she would discuss options for proceeding with the Community Development Director and City Manager. At some future time staff would bring the project back to the Planning Commission with additional information, and if the hearing is reopened, the public would be re-notified.

## **6. DIRECTOR’S ITEMS**

No items to report.

## **7. PLANNING COMMISSION ITEMS**

Commissioner Paralusz noted that the annual Downtown Pier Lighting and Holiday Open House will be held November 20<sup>th</sup> from 6:30 pm to 9:30 pm.

Commissioner Paralusz asked about the status of the Manhattan Village hearing. Planning Manager Jester reported that at the November 12<sup>th</sup> meeting, the City Council closed the public hearing and continued its consideration to a special meeting, dedicated to the Mall project, on January 14, 2014. The Council did not direct staff to send the project back to the Planning Commission. Ms. Jester noted that even though the hearing is closed, the public can still submit input on the project to the City Council.

Commissioner Andreani also encouraged the public to attend the pier lighting and Downtown open house and noted that the “Mansionization” code amendments are scheduled for action by the City Council next Tuesday (November 19) and these address changes to minor exceptions,



open space, setbacks, maximum lot size and alley access. Planning Manager Jester explained that under direction from Council, staff met with architects and developers for additional input on open space and incorporated that input into the proposed Ordinance.

Commissioner Ortmann asked whether the Commission will be meeting on November 27 and Planning Manager stated that most likely the meeting will be cancelled.

**8. TENTATIVE AGENDA - November 27, 2013**

No tentative agenda.

**9. ADJOURNMENT**

The meeting was adjourned at 9:00 pm. to Wednesday, November 27, 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