

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
MAY 14, 2014**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 14th day of May , 2014, at the hour of 6:30 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Andreani, Conaway, Ortmann, Paralusz, Chairperson Gross
Absent: None
Staff Present: Richard Thompson, Community Development Director
Laurie Jester, Planning Manager
Jason Masters, Assistant Planner
Angelica Ochoa, Assistant Planner
Eve Irvine, Police Chief
Joan Jenkins, City Prosecutor
Rosemary Lackow, Recording Secretary

2. AUDIENCE PARTICIPATION

Viet Ngo, anti-corruption advocate, stated that on March 12, 2014 he witnessed a conversation between Chairperson Gross and a person who participated in the 900 Club hearing and he believes this was a violation of the Brown Act and he suggested that Chairperson Gross abstain from voting on the 900 Club matter this evening. He further suggested that all Commissioners resign because he believes that they have violated either the Brown Act or due process.

3. APPROVAL OF MINUTES – April 23, 2014

The following changes were requested by the Commission:

Commissioner Conaway requested two revisions: 1) Page 2, second paragraph: “~~Commissioner~~ Chairperson Gross requested:..” and 2) on Page 2 General Business, first paragraph: “determine ~~if~~ if the CIP..”

Commissioner Gross requested two revisions:1) Page 7, 2nd full paragraph from top: “In response to questions.....for ~~existing~~ existing and...” and 2) Page 5, the first two paragraphs of testimony by Mr. Corbishley and then Mr. Behrens testimony on Page 7, appears to be an inconsistency between his and Mr. Behrens later testimony about reduction of dB from mitigation measures that he does not recall in the hearing. Director Thompson stated that he would review the hearing testimony and correct the minutes as needed.

A motion was MADE and SECONDED (Andreani/ Conaway) to **APPROVE** the minutes of April 23, 2014, as amended.

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

4. GENERAL BUSINESS

05/14/14-2. Consideration of Revocation and/or Modification to an Existing Use Permit, Resolution No. 5155, for an Existing Restaurant/Bar Located at 900 Manhattan Avenue (900 Club and Red Room)

Chairperson Gross announced the item and Commissioner Andreani announced she was recusing herself due to proximity of her property to the subject business and she then left the chambers.

Director Thompson introduced this item, explaining the subject of the hearing being a business item as the public hearing was closed at the previous meeting, but limited public testimony is typically allowed but with focus on the draft Resolution. He summarized the nature of the complaints historically for the site and stated he understands subject to further input, that no complaints have been received since the last meeting and stated that staff has prepared a draft Resolution that addresses neighborhood complaints. He also indicated that the City Prosecutor and Police Chief are present to provide input as needed and that they support the conditions in the draft Resolution with some minor changes that will be discussed at an appropriate time.

Assistant Planner Ochoa summarized the staff report with a power point presentation summarizing the past hearing, concerns and complaints from the neighbors, as well as support for the business. She noted that Staff has met with the business owner, the business owner's attorney, including the City noise consultant to inspect the noise measures already installed. Staff also met with the owner of the Red Room who has requested that his business be allowed to continue to have live entertainment. She explained that subsequently the Red Room owner's request was incorporated into the draft resolution. Ms. Ochoa went through all the conditions and concluded by stating the staff recommendation is to receive public input focused on the draft Resolution and to adopt the Resolution with any further changes.

Staff responded to questions from the Commission.

In response to questions from Commissioner Paralusz, Director Thompson stated, if the noise mitigation measures listed in condition 15 are not satisfied within 45 days, then staff would initiate a revocation hearing very soon after 45 days has passed and that this condition is not tied in any way to condition 20 which is a separate action required of the 900 Club. Staff also indicated that the sound curtains and some signage are the remaining mitigations that have not been yet implemented. Mr. Thompson also indicated that occupancy limits noted in condition 13 are established by the Building Official and Staff was unable to find official records of these limits in the past, so the limits noted are as currently established (32 for the Red Room and 91 for the 900 Club).

In response to Chairperson Gross, Director Thompson stated that he has been told that currently sound blankets have been hung by grommets, covering the front corner windows, when bands are playing and he has suggested that they be permanently hung on curtain rods and the current blankets being used seem to be working.

In response to Commissioner Ortmann's inquiry about the business owners' reaction to the draft conditions, Director Thompson explained that staff developed a draft set of conditions but wasn't able to get feedback until just recently and he believes that areas of disagreement are minor but the Police Department has some recommendations that staff will address later. Assistant Planner Ochoa explained the difference between draft conditions 4 and 5, both which relate to access to and from the 900 Club and that 5 is specifically related to patrons only and 4 relates to non-patrons such as employees/owners and musicians. Ms. Ochoa also clarified that the intent is not to allow the back door to be physically kept open during certain hours, but rather that it be allowed to be opened and further it would be required to be actually in a closed position and a keypad is to be required to be removed.

In response to Commissioner Ortmann's question about condition 9 regarding special events, and that the owner is objecting to a reduction from 365 potential allowed days to 12, Planning Manager Jester noted that the 900 Club never applied for an Entertainment Permit and 365 events were never approved and Assistant Planner Ochoa explained that it is staff's intent that the Use Permit supersede an

Entertainment Permit for this project and an Entertainment Permit would not be needed as all conditions of an Entertainment Permit would be contained in the Use Permit, including a requirement for neighbor notification.

In response to Commissioner Conaway's question regarding the difference between 900 Club and Shade hotel's annual Entertainment Permit which gives a plan of all events a year in advance versus the way the 900 Club events are proposed to be regulated, (with a requirement for staff to be notified at least 7 days in advance), Director Thompson explained that the Commission can regulate 900 Club with either the Entertainment Permit or the Use Permit. The rationale for the Shade having its events controlled more specifically in the Entertainment Permit is that the hotel has far more prescribed and planned special events. It was thought that the Use Permit was more appropriate for the 900 Club because it would give more flexibility to the owner, because its events are not only fewer in numbers but are attended by far fewer people and are much less prescribed. The Shade entertainment permit requires notification because the attendance for events is over 100 but not for 900 Club because it is a Class I entertainment permit with less than 100 attendance per event. Mr. Thompson also noted that notification is typically not a requirement of an Entertainment Permit.

In response to Commissioners Conaway's question about a staff proposed change to condition 3, Director Thompson explained that the revised conditions (weekends and when amplified sound is present) are the times when historically problems have occurred.

Assistant Planner Ochoa confirmed with Chair Gross that the conditions deal strongly with problems that have historically arisen on the site after 10:00 p.m. and reflect the observation at the last meeting that the business has 2 different operations: daytime operation (before 10:00 pm) and nighttime operation (after 10:00 pm). Director Thompson confirmed that the occupancy numbers cited in the Resolution include input from the Fire Department.

Chairperson Gross noted that he wanted to verify through public input tonight that the noise mitigation measures already implemented have been working and that there have been no further complaints since the last public hearing in February. Because this is a General Business item and has as its subject the approval of the draft Resolution, all speakers are to speak to the Resolution and especially the conditions.

Chairperson Gross announced the public testimony would now be received. First, he addressed a comment made earlier by Mr. Ngo by explaining that the conversation Mr. Ngo heard was about a misunderstanding of the hearing **process** only, not a conversation about the hearing substance for the 900 Club case. As confirmed by the City Attorney, Ms. Libertucci, the neighborhood representative would be allowed to speak but with a limit of 15 minutes. Chairperson Gross asked for a show of hands of those **wishing** to speak and invited the public to speak for a 3-minute period each, reminding that, with the exception of Ms. Libertucci, to focus only on the draft Resolution. Chair Gross also noted that the owners and operators can have more than 3 minutes.

PUBLIC TESTIMONY

Roseanne Libertucci, Neighborhood Watch block captain, represents 33 people and submitted 15 total petitions and 14 letters and thanked the Commission for the opportunity to make a presentation. She displayed a timeline from 2011 to 2014, stating that during that period the applicant ignored City staff including the City Prosecutor, and it fell to the police to enforce the use permit. She only used a camera when she felt she had to prove what was happening. Ms. Libertucci also showed an enforcement summary of incidents, police reports, violations, and code enforcement filed cases.

Matt Gorman, attorney representing Ms. Libertucci, made a slide presentation and submitted a written detailed report, underscoring concerns. He displayed a slide "Summary of Problems" and presented a list of suggested draft conditions. Mr. Gorman suggested revisions to his main concerns with conditions, including 1) security guard; 2) hours of operation; 3) side door; 4) music entertainment; and 5) the provision for a one-page list of conditions to be incorporated into the resolution to aid enforcement. Mr. Gorman indicated that he represents Ms. Libertucci and her group.

Roseanne Libertucci responded to inquiries from the Commission, and stated that the residents want a clear Resolution; that they prefer that the entertainment be regulated by an Entertainment Permit, which is believed to be a better tool through which the business can earn back privileges. Ms. Libertucci also responded that: regarding a securing guard, they believe that issues can arise on other days of the week besides Fridays and Saturdays; that since February 2, 2014, she has had a few minor issues but not any noise problems arising to the level of a complaint; that she has had a discussion with the owner of Red Door, and does not object to the conditions relating to his business but has not personally contacted the 900 Club.

Chair Gross invited the public to give input limited to 3 minutes and focused on the resolution and draft conditions.

Wayne Partridge, 3520 Strand, expressed concern with condition 20 – that he is not sure what this condition actually means and thinks that the effectiveness of the resolution should not be dependent on the acceptance by the applicant. Mr. Partridge objected to the closure of the public hearing and stated that he has read the draft Resolution version that was provided by staff late in the last week.

Don McPherson, 1014 1st Street and owner of property near 900 Club, submitted a red-lined copy of the draft Resolution with index with several wording changes to the draft conditions. He asked that the Commission consider each and all of his proposals.

Jeff Highman, 2208 Highland Avenue, spoke in support of the subject businesses and believes the conditions to limit live entertainment are overly restrictive. He favors: 2 or 3 live entertainment events allowed per month as reasonable; a security guard only on weekends without being required to be screened by the Police Department; and that the back door provide more access for patrons.

Chris Escalante, security guard for 900 Club, has since February worked the back door on weekends from 10 p.m. onward. He related a conversation he had with a person taking sound readings at the back door and reported that he was told that the readings indicated that normal conversation had a reading of 60 dB and that the readings outside the back door were lower than that and the loudest readings are sounds of cars passing by. He feels that 900 Club is getting the blame for noise from other businesses. He recalled that since February a live band played twice but neither band was very loud.

Olivia Stinson, resident, stated that she believes the reason there have been no recent complaints is because windows are more closed, it being winter, and she also believes that the some homes nearby are up for sale due to impacts from 900 Club.

Rick Buckley, 228 8th Street, supports the business and believes that some people were coaxed into signing the petition letters against 900 Club, and thinks there is a conflict between 2 block captains serving the neighborhood. He favors: re-evaluation of occupancies for up and downstairs areas, consistent sound attenuation up and downstairs; allowed access by employees to wine in a storage area; and generally, consistency with other businesses, and urged the Commission to be careful with conditions that might trigger noise violations.

Louis Giovannetti, owner of Red Room, stated his occupancy was 49 persons when he bought the business and the draft resolution represents a big reduction. He has used a security guard and has spoken to neighbors and it is his goal to help the process and fix problems but feels he has been an innocent bystander; agrees with neighbors regarding front door main access but wants flexibility to use the side door. He only disagrees with the staff drafted resolution regarding use of the side door, and prefers a 2:00 a.m. closing time. Mr. Giovannetti agrees to having a guard on the weekends, noting that he started out having a guard Wednesday through Saturdays but currently only needs a guard on Fridays and Saturdays. He noted that sharing a security guard with 900 Club wouldn't work because their needs are different. He stated that he is a member of the 900 LLC.

Denise Aradondo has lived across the street from 900 Club for over 8 years, is a block captain and supports the subject businesses but has called the police on 2 occasions. She corroborated that Red Door has had a security guard since that business opened and believes there isn't a serious noise problem, although there are other impacts such as public urination from patrons in the downtown area.

Viet Ngo, antic-corruption advocate stated Chairperson Gross should have recused himself and that Chairperson Gross does not have the authority to impose conditions on the subject business.

Chandra Shaw, recent past president of the Manhattan Beach Downtown Business and Professional Association, is a business owner and homeowner and supports 900 Club and expressed concern that the revocation process has not been fair in that it has favored the residents.

Commissioner Paralusz, through the Chair requested that time limits for speaking be enforced out of fairness, and Chairperson Gross reminded the audience that the focus should be on the conditions.

Development Director Thompson stated that all items including staff reports and attachments etc. are part of the record, have been available on the City website since Friday.

Mr. Lundy, attorney for the property owner of the subject project site, made three main points: 1) his client takes exception to side door restrictions and wants to make sure the back door is available especially to those who can't climb stairs. His client wants the back door shut after 10 pm, meaning it would be physically closed when someone isn't walking through it. 2) Regarding the security guard, he agrees with the staff proposal; 3) Regarding special events: he believes the staff proposal is a drastic reduction as proposed and favors 18 – 24 days allowed annually.

Chair Gross clarified with Mr. Lundy that he is requesting changes to the draft version of the Resolution as follows: 1) side door to be able to be used; 2) to have the back door available for use after 10 pm (already in the resolution); and 3) to have use of amplified music more than 12 times a year.

Robert Courtney, attorney for 900 Club has read the current resolution and made the following points: 1) believes that the measures recently taken have been effective including noise attenuating windows which cost \$25,000; .2) the only mitigation that is still pending is whether to replace blankets with sound curtains; 3) back door: he has ordered a new lock to go over the keypad on the back door but has found that this is a violation of the Fire Code and a key would be given to the City Police Department. 4) restricting the back door for seniors is a concern in that it is a straight shot to the street from the back door but he is ok with the way the resolution is currently written where access is allowed up to 10 p.m.. In all other respects he approves the proposed conditions. Chairperson Gross clarified that Mr. Courtney agrees with how the back door is to be handled.

Director Thompson clarified that, based on information from the Police Department, Staff recommends that the business keep the existing keypad and that the restaurant management confer with the Police Department monthly to ensure they have the current access code.

Chairperson Gross closed the public testimony portion and announced a 5-minute break at 9:50 p.m.

The Planning Commission reconvened at 9:55.

Eve Irvine, Police Chief, explained that a keypad is much easier to enforce than a traditional lock and key and the State ABC conditions require that the owner provide the keypad code to the City's Police Department (PD) and also recommends that once each month the business should confer with the PD who would keep a record of the meetings. Regarding the security guard, Chief Irvine noted that security guard screening by the PD is unheard of and the City does not have sufficient staffing to do screening for private businesses but recommended as an alternative that the Department of Community Development check that the guard is from a reputable professional security company.

PLANNING COMMISSION DISCUSSION

The Commission agreed to carefully go through the draft resolution submitted by staff, condition by condition. Chairperson Gross noted that the Commission has received and read all proposed alternatives.

Commissioner Paralusz thanked all hearing participants. She noted all information is in the public record and is accessible upon request or through the City website. Commissioner Paralusz also noted that this type of hearing is unusual for good reason: that when a case has a revocation it is because there are multiple and serious violations and complaints. Commissioner Paralusz also noted the Planning Commission has the obligation to balance the public and private interests with no special treatment and she takes offense at the suggestion that the process has been skewed.

Director Thompson stated that to his knowledge there have been no process problems with the hearing and reminded that at the February meeting it was clear that the public had the ability to view all material on file and he is comfortable that the process has been fair.

The Planning Commission then discussed the conditions.

1. (Hours of operation): Commissioner Conaway noted the site has a long history of land use conflicts and suggested that a last call for drinks 30 minutes before closing time be added to help the operator meet the actual closing time. Commissioner Paralusz and Chairperson Gross agreed that this will add clarity and this would be consistent with precedent set with Shade Hotel. It was also noted that this would not preclude already served drink glasses on tables with liquid in them.

2. No issues.

3. (Security guard) After brief discussion during which Police Chief Irvine gave input, the Commission agreed that this condition be reworded generally as follows: Management shall provide a third party security staff person who shall be licensed, certified and bonded within 30 days after the approval, ~~approved by the City~~ who shall be present from 9:30 pm to 1:30 am on Thursday, Friday and Saturday and whenever there is amplified sound, to ensure that operations comply with all conditions of approval, including but not limited to the following: noise, ~~sales and service of alcohol~~ use of the back door, litter, access, windows and doors being closed, and any other nuisances. ~~The security officer shall meet periodically with the Police Department.~~

The Commission also directed that Community Development and Police Department staff further discuss and refine the wording of condition 3 as needed regarding security guard screening and requirements such as certification, licenses or bonding.

4. (Back door) After discussion it was agreed that the keypad will remain, and the Commission further directed that staff revise the condition to capture their intent: no patrons can use the back door after 10:00 p.m.; that all activities like alcohol service and music end at 1:00 a.m.; that all cleanup and equipment removal, etc. be completed by 1:00 a.m., and that it be clear that at no time shall the back door physically be in an open position except briefly during those times when door passage is allowed.

5. (Patron access) After discussion about use of the 9th Street side door, the Commission agreed that this condition should be revised to allow patrons of Red Room to use the side door making it clear that except for allowed passage through the door, the door be required to be kept in a closed position when not in use.

6. and 9. (Music: background and/or amplified and Special Events) Chairperson Gross noted that conditions 6 and 9 should be considered concurrently. Director Thompson suggested that the Commission approach this by looking at the number of days for amplified sound and for special events and also consider whether the main regulation of special events be in the Conditional Use Permit or in the Entertainment Permit. After discussion it was agreed that the requirements for special events stay in the use permit; that the number of days allowed in condition 6 for days with amplified sound be increased from 12 to 18 and Condition No. 9 will also allow 6 special events. But if the special event includes amplified sound then they are included as part of the 18 days in Condition No. 6; that there be notification to the residents (as has been required for Shade) and that the reference to the security guard monitoring sales and service of alcohol be struck in condition 9. It was acknowledged that there is no limit of days for non-amplified music as long as meeting the total number of musicians. No change was made to accommodate the Red Room request for amplified music during certain hours.

7. (Non-amplified sound): No issues.
8. (Dancing): No issues.
9. (Special Events) See above for changes.
10. (Noise enforcement): Per the Community Development Director, it was agreed that reference to the Municipal Code and Penal Code be added, per the Police Department's request.
11. (On-site parking): No issues.
12. (Required fire exits): No issues.
13. (Posted occupancy): There was a brief discussion in which it was noted by Planning Manager Jester that staff researched this and there is no record of the maximum occupancy ever being established at 49. No changes were directed.
14. (Signs); No issues.
15. (Noise mitigations): The Commission directed that (e.) signage regarding the 9th Street Side Door be struck.
16. (Litter): After brief discussion in which it was established that is standard language and ties in with the security guard duties already in the resolution, the Commission agreed to make no changes.
17. (Staff inspections): The Planning Commission directed that this be revised with wording suggested by the Police Department and delete wording regarding the keypad if needed for consistency with other conditions.
18. (Future CUP review): No issues.
19. (Future hearing review): Chairperson Gross expressed concern that an additional hearing automatically required may not be needed, however the Commission agreed that this condition remain unchanged.
20. At the suggestion of Director Thompson, based on public input it was agreed that this condition is already covered in Section 14 of the Resolution, and therefore this condition should be struck in its entirety. Director Thompson explained in response to a concern from Commissioner Ortmann, that, should the applicant not implement this resolution in 45 days then the case would be required to return directly to the Planning Commission or if there is an ongoing problem with condition violations, again a revocation hearing would be scheduled.

At the request of Commissioner Conaway, the Commission revisited condition 16 and agreed, as requested by Commissioner Conaway to modify this condition with stronger language, as proposed in number 4 of attorney Matt Gorman's letter. Commissioner Ortmann agreed but expressed concern that the farther you get away from the subject business (to be policed for litter) the more possible it is that 900 Club may be blamed for behavior of patrons from other businesses. The Commission agreed to include the word "patrons" in the condition (of this project site).

Director Thompson asked for and received clarification that it is the Commission's intent that patrons can use the back door before 10 p.m. because the real problem occurs after 10:00 p.m. at which time the keypad will be disabled. The change was made in Condition No. 5 to allow patrons to use the back door before 10 p.m. and that the door must remain closed when not in use.

There being no further clarifications, a motion was MADE and SECONDED (Paralusz /Ortmann) to approve the modifications to the existing Use Permit (Resolution 5155) for the property located at 900 Manhattan Avenue (900 Club and Red Room)

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

Director Thompson announced that the motion has passed and this item will be scheduled on the City Council agenda as a “receive and file” item on June 3rd, unless prior appealed.

5. PUBLIC HEARINGS

05/14/14-3. Consideration of a Use Permit Amendment, Variances and Sign Exception Amendment to Construct an Addition to an Existing Two-Story Commercial Building and Other Site Improvements Located at 1500 North Sepulveda Boulevard (Manhattan Beach Toyota/Scion)

Commissioner Andreani joined the Commission in the chambers. Chairperson Gross announced the hearing. Commissioner Paralusz recused herself due to a financial interest.

Director Thompson introduced this item, explaining the staff recommendation. Assistant Planner Jason Masters gave the Staff report with assistance of a power point slide presentation, summarizing the project including building elevations, direction from the Planning Commission at its April 9, 2014 hearing, neighborhood meetings hosted by the applicant and issues discussed (lighting, air conditioners, landscaping, possible glare, height, signs, etc.) and additional information including a list of other height variances granted on Sepulveda Boulevard and the fact that the building height at the front portal area has been lowered about two feet. Mr. Masters went over the conditions that have been drafted and concluded by summarizing the staff recommendation.

Staff responded to questions from the Planning Commission.

Assistant Planner Masters confirmed that the amount of signage overall will be decreased.

In response to an inquiry from Commissioner Andreani, Mr. Masters showed that the Toyota portal is on the western side of the showroom building and will be about 11 feet in excess of the height limit and regarding signage the category of signs in subsection e, pertains only to temporary signs. This subsection is specified because part of the Sign Exception is the Temporary Sign Program, and subsection (e) pertains to Temporary Signs which are restricted in the Sign Exception. Toyota will need to submit a Temporary Sign Program that complies with the conditions of approval. Mr. Masters explained that at the rear of the building there will be no changes, and there are no window glazing or design aesthetic that will cause glare to residents to the east.

In response to a request from Commissioner Conaway’s Mr. Masters clarified the proposed elevation of the highest point of the building at the parapet will be at 167.10 but that a very small portion of a parapet at the front just behind the portal (168.91) will be a little higher but will be shielded by the portal.

Planning Manager Jester pointed out that the elevation of the portal is reflected on the final bullet in the power point (elevation 170.41) and the focus in working with the applicant was on shielding the air conditioning units.

In response to Chairperson Gross, Assistant Planner Masters explained that there are two different possible height limits (30-feet and 22-feet), depending on the roof pitch and whether subterranean parking is proposed. A 30-foot limit is applied if a pitched roof or if subterranean parking is involved. Mr. Masters confirmed Chairperson Gross’s understanding that if the 30-foot height limit were applied to Toyota, the project would nearly conform.

Chair Gross opened the public hearing and invited the applicant to address the Commission.

Brad Sperber, made a detailed presentation about his experience at Toyota and in the business, the background of the subject dealership and various business issues. **Mr. Sperber** went over the revisions they have made to address resident concerns, including reducing building height, re-location of air conditioning units to the rear. They still need a 10.91 foot height variance, based on applying the 22 foot limit. Regarding landscaping, they have proposed to double the amount of landscaping existing including 21 new trees within the rear of the property elevated above the dealership paved area. **Mr. Sperber** emphasized that they need to store their merchandise outside and they cannot park their inventory under trees as the cars would risk being damaged by trees. **Mr. Sperber** indicated that permeable asphalt is not viable due to the existing drainage pattern and the fact that the dealership is not remodeling the entire lot paved areas.

In response to Commissioner Andreani's concern about possible glare from lighting (based on emails received from neighbors), **Mr. Sperber** noted that LED light fixtures will be installed recessed in the service drive area and in other areas and they have commissioned a photometric study and will continue to address all lighting issues.

Commissioner Ortmann was pleased to see the additional landscaping being proposed but is still troubled about the lack of compliance with on-site landscaping and **Mr. Sperber** responded that the biggest challenge in complying has been the relative small size of the project site. There will be a 16-foot wide landscaping strip along Sepulveda.

In response to a question from Commissioner Conaway **Mr. Sperber** indicated that the intent is to have the project completed by the end of the year to meet Toyota's "Image 2" requirements.

The architect **Jack Lanphere** addressed the Commission explaining revisions and energy efficiency features. Everything will exceed the LEED silver level, using the Cal Green Code.

In response to Commissioner Andreani as to why permeable asphalt is out of the question, **Mr. Lanphere** noted that such material is not suitable in high traffic areas because it will break down. In response to Commissioner Andreani and possible use of features such as trellises, green walls or roof, **Mr. Lanphere** deferred to Mr. Sperber who indicated they would consider a suggestion of more plants along walls.

In response to Chairperson Gross, **Mr. Lanphere** indicated that areas that are being "disturbed" will be required to hold water in on-site in tanks and then release to permeable areas.

OPEN PUBLIC HEARING

John DeFrance, nearby resident stated that although Toyota has reached out to neighbors he is not sure that the applicant has provided sufficient information.

Paul Mullin, 1405 Magnolia, suggested some wording in the resolution in two conditions: condition 1, he would like to see a requirement that construction containers and similar items be located to the site front to mitigate impacts to neighbors to the rear. And to condition 21 he would like to see an added requirement that the landscaping plan provide for ongoing maintenance of the "easement area" at the rear. And lastly Mr. Mullin noted he appreciates the outreach to the neighbors and that the dealership listened to and addressed concerns about operational impacts.

Kim Robinson, 1504 Magnolia, per her submitted letter, still has some issues in that she doesn't believe that the building height has been lowered enough. She objects to banner pole signs and with respect to trees proposed in the back "easement area": this is a nominal increase only in landscaping.

Gus Cardenas, Magnolia Avenue resident believes that the dealership is doing a great job in fixing existing problems but is unsure if lighting will be resolved adequately and doesn't believe the reduction in height will make a big difference. He urged the Commission to push for compliance with as many things as possible.

Jim O'Callaghan, Manhattan Beach Chamber of Commerce applauded Manhattan Toyota for upgrading the dealership and urged that the project be supported as this business means a lot for the City financially.

Chairperson Gross invited the applicant to address the Commission.

Brad Sperber again addressed the Commission making the following points: sectional drawings of the building will be completed after the use permit is approved; his sound engineer has advised to perform a noise study after the building is built; the plan for the rear “easement area” is to install an irrigation system on a timer and maintain convenient access for maintenance; the building will have a rigid frame which makes it hard to manipulate ceiling heights within but they have lowered the height by 5 feet which is the maximum they can reduce height and still comply with Toyota guidelines and they have hired a contractor who is very experienced in building close to residential and will work hard at minimizing construction impacts and explained the rationale for moving the air conditioning units to above the parts department

Mr. Sperber stated in response to Chairperson Gross that he agrees to conditions requiring the dealership to maintain the landscaping in the rear “easement area” and to restrict construction operations at the front of the site near Sepulveda.

Sean Sowers, contractor addressed the Commission, stating he endorses a condition requiring all construction staging to be at the front, but noted there will be some activity at the rear when they install required landscaping improvements.

Chairperson Gross closed the public hearing.

COMMISSION DISCUSSION

Conaway thanked all participants including the dealership for conducting neighborhood meetings. While he fully supports that the dealership is getting “refreshed” and that the height has been reduced and air handling units relocated, he still has issues. In general he doesn’t believe that Toyota is living up to its reputation of being “cutting edge” and he is having difficulty with the findings. Regarding the height variance, he is not sure that everything possible has been done but acknowledges that it may be impossible to get two commercial stories in the applicable 22-foot height envelope. He believes the requirement for a pitched roof to enable the 30-foot standard may be outdated and suggested judging the merit of the variance based on a 30-foot limit. Regarding landscaping, he believes more landscaping can and should be done and more creative solutions exist such as green trellises or using a green roof. He has no issues regarding signage.

Commissioner Andreani concurred but is still troubled by the height, in that the tall portal will bring the building “bulk” closer to Sepulveda and she feels like the City is being held hostage by the Toyota corporate standards. It is also troubling that the landscaping still falls short of the City’s requirements and she is hopeful that creative solutions such as green walls and roofs, will meet the City’s landscaping standards. She is fine with the signage and likes that inflatables are prohibited and banners are limited but still allowed. She is also eager for the project to progress.

Commissioner Ortmann hasn’t yet felt that Toyota has exhausted opportunities to bring landscaping closer to the code but is satisfied regarding the height variance and doesn’t have any substantive issues with the signage. Commissioner Ortmann acknowledged that this is a challenging site, and the dealership is appropriately concerned with losing revenue opportunities while attempting to meet codes. However Commissioner Ortmann believes more can be done and the dealership is close to having an approvable project. He commended the applicant on its neighborhood outreach and civic engagement.

Chairperson Gross noted his concern that balance be applied to this case, that on one hand he believes that the dealership should be encouraged to comply but and on the other hand he believes the compact site size is a compelling condition that makes it difficult to comply with the codes for height and landscaping. He polled the Commission, finding there is satisfaction regarding signage but dissatisfaction regarding landscaping. He believes that the amount of landscaping that would have to be further installed (6,920 square feet) to meet the code creates an excessive burden on this type of business when comparing the percentages of the site that they are using to sell cars with the amount of the site that is still needed to comply with landscaping.

Commissioners Ortmann disagreed that the landscaping is an extreme burden and Commissioner Andreani agreed, stating her belief that 6,100 square feet could be easily added in the form of a green roof. Commissioner Conaway emphasized that he has concern that granting such a large variance for landscaping would create an undesirable precedent and there is a lot of asphalt that can be used to move cars around,. Chairperson Gross stated his opinion that limiting the asphalt area too much would also be a hardship.

In response to a suggestion from Director Thompson the Commission discussed their concerns in approving the project. Director Thompson explained that the height variance is not necessarily precedent setting because each site presents unique conditions and further the dealership is also a very unique.

The Commission proceeded to discuss details of the project and how resident issues have been addressed and Director Thompson indicated that staff will work with the contractor to make sure staging can be done at the front. Director Thompson pointed out four condition revisions in a staff presented “errata sheet” (14, 15, 16, and 18) and noted that in these revisions, noisy auto service work is either prohibited (body/fender repair) or not allowed on Sundays and that the presentation of the applicant can be incorporated by reference in the adopted Resolution. There was brief discussion about a sound study and it was noted that the Commission majority believes that an acoustics study should be performed while the project is being designed, to advise on potential impacts.

The Commission came to a consensus to approve the height variance, after it was discussed that the project comes to within a foot or two of the limit if a 30-foot standard is applied with a gabled roof structure, and glass design elements at the front although challenging in meeting the height, are only in one location at the front and would exceed the 30-foot limit only by about 15 inches.

Regarding landscaping, Commissioners Ortmann, Conaway and Andreani reiterated their concerns in approving the project as currently proposed and that not all opportunities have been explored. Commissioner Conaway stated that he believes that flexibility in applying the code is possible but does not believe the finding for undue hardship can be made as proposed. It was discussed that the Commission can approve the height variance, but not approve the landscaping variance and as such, the applicant would be obligated to comply with the code on landscaping.

A five minute break was called at 12:25 am and at 12:30 a.m. Chairperson Gross reconvened the Commission.

Director Thompson reported that, the applicant has indicated he will commit to complying with the landscaping code but cannot comply with the 22 foot height limit or adjust height any lower, and as proposed, the project would be 18 inches over a 30-foot code standard.

There was brief discussion and the Commission agreed to incorporate the “errata sheet” revisions proposed by Staff to conditions 14, 15, 16 and 18 with two further amendments: that the applicant shall be responsible for maintaining the landscaping within the rear “easement area” and that all construction staging shall be conducted towards the front of the site (will be in condition 4) with the exception of where increased landscaping will be installed in the rear.

Commissioner Conaway pointed out that on page 5 of 12 of the Resolution, item (d), and on Condition No. 20, there is an inconsistency between the Resolution and the staff report about the amount of signage. Assistant Planner Masters noted that the correct number is in the staff report at 996 maximum overall signage square footage and the resolution will be corrected.

A motion was **MADE** and **SECONDED** (Conaway/Andreani) to **APPROVE** the Use Permit Amendment as amended, building height Variance and Sign Exception but to **DENY** the landscaping variance subject to amended conditions including construction staging, maintenance and hours of operation and incorporating materials presented in the hearing by the applicant.

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

Director Thompson announced that the motion has passed and this item will be scheduled on the City Council agenda as a “receive and file” item on June 3, 2014 unless prior appealed.

Commissioner Paralusz returned to the Chambers and joined Commissioner Andreani in thanking everyone for participating. Chairperson Gross commended the applicant and Magnolia neighbors for their hard work and advised the dealership to continue their communication with neighbors.

6. DIRECTOR’S ITEMS – none to report.

7. PLANNING COMMISSION ITEMS

Director Thompson advised that the award of certificate of appreciation to Commissioner Paralusz will be continued to June 11. Commissioner Paralusz expressed that it has been a complete privilege to serve the City for six years for two terms, and this service was her most rewarding civic experience.

Chair Gross commended fellow commissioners for their work tonight.

8. TENTATIVE AGENDA – May 28, 2014
a. Shade Hotel.

9. ADJOURNMENT

The meeting was adjourned at 12:45 a.m. to Wednesday, May 14, 2014, in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director