

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JUNE 10, 2015**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 10th day of June, 2015, at the hour of 6:30 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Apostol, Bordokas, Conaway, Hersman, Chairperson Ortmann
Absent: None
Staff Present: Marisa Lundstedt, Community Development Director
Mike Estrada, Assistant City Attorney
Laurie Jester, Planning Manager
Angelica Ochoa, Associate Planner
Rafael Garcia, Assistant Planner
Rosemary Lackow, Recording Secretary

Chair Ortmann introduced new Planning Commissioner George Apostol who made brief remarks, stating he is a 17-year resident, previously served on the Parking and Public Improvements Commission and is very pleased to be on the Commission.

2. AUDIENCE PARTICIPATION – None

3. APPROVAL OF MINUTES – May 13, 2015

A motion was MADE and SECONDED (Hersman/Conaway) to **APPROVE** the minutes of May 13, 2015, with the following requested changes:

Pg. 2: 2nd paragraph under public hearing item, 4th line down: change to read “~~have~~ has the potential...” (Conaway)

Pg. 4:

- Commission Discussion, 2nd bolded paragraph subtitle: change to read “Proposed ~~changed~~ changes regarding...” (Hersman)
- In the next paragraph, 4th line: change to read “that can be pursued...” (Conaway)
- Last paragraph on the page, 4th line change “congestions” to be singular. (Conaway)

Pg. 6:

- 2nd paragraph from bottom, 2nd line: delete “a” after “amendment” to read: “...as any other code amendment a.” (Hersman)
- Last paragraph revise the second sentence to read “Commissioner Conaway emphasized that he believes community buy-in is integral to a successful public policy which ~~can~~ might be attained with at least one community meeting.” (Conaway)

Pg. 7: (Hersman)

- Planning Commission Action, 4th paragraph, 3rd line change to read: “...procedures for quasi-~~judicial~~ judicial...”

- Director's Items, (a) change the second sentence to read: "If an individual Commissioner receives an email, that email would be referred to the Director, who will refer it to staff and then the Director will report ~~respond~~ back to the Commission."

AYES: Bordokas, Conaway, Hersman, Chairperson Ortman
 NOES: None
 ABSENT: None
 ABSTAIN: Apostol

Director Lundstedt clarified for the Chair that any requests he receives to call or meet to discuss a Planning matter should be forwarded to her.

4. PUBLIC HEARING

06/10/15-2. Amendments to Title 10 Planning and Zoning, Other Portions of the Manhattan Beach Municipal Code (MBMC), and the Local Coastal Program (LCP) Revising the Historic Preservation Provisions.
RECOMMENDATION: CONDUCT THE CONTINUED PUBLIC HEARING, DISCUSS AND ADOPT RESOLUTION RECOMMENDING APPROVAL TO CITY COUNCIL

Director Lundstedt noted that staff has a joint presentation covering the background, the proposed code, and public outreach. Associate Planner Angelica Ochoa, with aid of a Power Point presentation, explained the background and 12 key issues and the status of each issue. Associate Planner Ochoa also informed that: a letter has been received (distributed to the Commission) from the South Bay Association of Realtors; staff is suggesting 25% and 51% as the thresholds of owner agreement for historic districts; and, since the last meeting, the Manhattan Beach Cultural Heritage Conservancy (MBCHC) reconsidered its position and is now requesting that the ordinance not include a provision for a voluntary/honorary designation.

Planning Manager Jester presented the various code issues and changes made to the draft ordinance per direction/input from the Commission. Topics she covered included: conservation districts, requirements for owner consent, the provision for City Council override of an owner's consent, the staff suggestion for thresholds for forming historic districts (25% at initiation and 51% at final commitment), and she explained that the concerns raised by the Realtors' Association regarding owner consent. Planning Manager Jester also explained revisions for clarifications have been made to some definitions, economic hardship exemptions and CEQA appeals sections, with assistance from the City Attorney. Staff requests direction on the waiting time for a demolition permit application, whether the provision regarding voluntary/honorary designations should be removed, and the percentages for thresholds in forming historic districts. Planning Manager Jester concluded by stating that much of the language in the code is standard, and while staff has simplified some sections, it is important to have standard technical wording because the City Council directed that the ordinance be eligible for CLG certification.

Assistant Planner Rafael Garcia advised that notice of this hearing was sent to about 250 stakeholders on May 21 (architects, contractors, developers) and the only written comment was received today from the realtors. Mr. Garcia noted staff believes that the proposed ordinance is legally defensible, that property values typically increase within designated historic districts and he explained the Mills Act two-step process. Assistant Planner Garcia concluded with the Staff recommendation conduct the continued the public hearing, accept public input,

discuss and adopt the draft resolution.

Staff and the City's consultant responded to questions from the Commission as follows:

Property rights can be affected in a historical district, but how they are affected depends on whether a property is a "contributing resource" or not, because different criteria apply. If a property is located within a historic district, compliance with the ordinance is required, not voluntary.

Consultant Howell-Ardilla described the demolition permit process for a property within a historic district. When there is a pending application for a district, a hold, establishing a waiting period would be placed on a demolition permit filed for any property within the proposed district boundaries. The duration of the hold could be between 30 and 60 days but this is something that should be determined by the Commission. Additionally, any property on the inventory of possible landmarks would also be subject to a hold if a demolition permit is filed. Typically the timeline for the moratorium referred to in 10.86.170 would be in line with the time needed to hold a hearing on an application but an explicit time frame for a moratorium has not been determined and staff may want to review this point and discuss possible nuances with the City Attorney. The moratorium would also apply to a district while pending even if less than the 51% or approval threshold has not been reached because the idea is to allow a "time out" while the concept of a district is being considered.

Regarding the wait period for alterations vs. demolition: Consultant Howell-Ardilla advised that it is implicit in the proposed ordinance that the process for proposed alterations and demolition applies differently. For proposed alterations a wait period is required only for designated landmarks, but for proposed demolitions a wait period applies more broadly – not only to existing landmarks already on the City's Register but also to properties on the Historic Resource Inventory.

Planning Manager Jester explained the honorary/voluntary designations provision that has been prepared for inclusion in the draft Ordinance. The honorary designation would require review by the Historical Preservation Commission and allows for a recognition plaque on a house, but no real protection is afforded. Although to have the honorary program in the ordinance would not be in conflict with the proposed program, staff is aware that the LA Conservancy and the MBCHC have concerns with having both in the ordinance, as there may be confusion. Director Lundstedt confirmed that if this provision is not included in an adopted ordinance, the current voluntary program will sunset.

Consultant Howell-Ardilla explained that "eligible inventory" refers to the list of properties throughout the City that have been found by a professional historic survey, that appear to have characteristics, per the State Historic Register, that make them potentially eligible to be designated as landmarks. Having such an inventory is among the criteria needed to qualify for CLG status. If your property is on the inventory this does not mean you are a designated landmark but if you want to pull a demolition permit, you will be required to look at options to demolition. The inventory must be performed by a qualified professional, based on specific technical and comparative criteria after much research and after the inventory is completed it becomes an important planning tool.

Regarding disclosure that a property is on the inventory, Planning Manager Jester explained the inventory compilation process. Within six months after the Historic Preservation Commission is formed, that Commission is required to forward a plan to the City Council for the survey, then a consultant would be hired and would perform the survey. The overall process would take a good amount of time and staff anticipates that by the time the inventory is compiled, owners of properties would be aware that their property has been considered or is included in the inventory, however notes of a property's status would be placed in property files and this would

be disclosed in reports of building records if a property on the inventory list sells.

Regarding the CLG “Certified Local Government” program: Consultant Howell-Ardilla explained it is run by the State Office of Historic Preservation (OHP) and many of the provisions of the draft ordinance are, per direction of the City Council, included so that the City can qualify for CLG status. There are 66 GLGs in the state, and these cities are eligible for both technical and financial assistance in the form of grants between \$20,000 and \$40,000 to cover things like surveys and re-location costs of historic resources.

Regarding the cost of administering the proposed code, Director Lundstedt stated that a supplemental budget request has been approved by the City Council for about \$250,000, of which about \$100,000 is a one-time cost for the initial survey. Ongoing costs will include services of a historic preservation consultant. The conduct of a resources inventory is critical not only to achieve CLG status but as a planning document that provides a foundation and baseline for the Historic Commission, staff and the public. The resources inventory would be used to review specific properties that come up for redevelopment and can be used by staff to provide education on existing resources.

Chairperson Ortmann opened the public hearing and invited public comment.

PUBLIC INPUT

Jane Guthrie, member of MBCHC and longtime resident, distributed a pamphlet regarding the current voluntary program, noting that three structures have already been demolished. The MBCHC has reconsidered its position and now would like the honorary designation removed from the Ordinance because they believe it is confusing and doesn’t actually preserve historic structures. The MBCHC would like to fold the honorary program into a program of walking tours of homes of historic interest.

Marcello Vavala, LA Conservancy, generally endorsed the draft ordinance and removal of Section 10.86.230 (Voluntary/Honorary Historical Designation of Landmarks) because he believes that having two programs sends a mixed message, and an honorary program, being non-regulatory, is not technically considered historic preservation. He believes the inventory is important to property owners to know their home is potentially an important cultural resource and to staff who can consult the inventory to comply with CEQA requirements in determining if any historic resources will be impacted when a nearby development is proposed.

Tony Choueke, believes that there has been a lot of new beautiful buildings being built in Manhattan Beach and he is concerned that having a historic designation would create obstacles to development and potentially could allow a few people to impose their desire upon many owners.

Jan Dennis, longtime resident and city historian commented that the MBCHC has estimated that out of a total of 14,000 houses in the city, about 190 might actually qualify as historic landmarks. The qualification of landmarks is a very careful process and the MBCHC has even turned down some owners who have applied for recognition. She believes that there will be very few historic districts. She urges that the City seriously consider this and think about this in a positive, not negative way. She distributed copies of her book to the Commissioners.

There being no other speakers, Chairperson Ortmann closed the public hearing.

PLANNING COMMISSION DISCUSSION

Commissioner Bordokas expressed concern about the characterization of the proposed ordinance as a voluntary program. The Chair echoed this concern but believes it is more of a case where the ordinance has not been fully articulated and explained. Commissioner Bordokas is concerned that the Ordinance will limit property rights both with regard to individual homes (as possible landmarks) and groups of homes (as possible districts). Commissioners Hersman, Conaway and Chair Ortmann agreed that the voluntary characterization (i.e. that owner consent is required) applies to individual landmarks, with the exception of the provision for City Council override in 10.86.110.B, but doesn't apply to the formation of districts, as 100% owner consent is not being recommended.

Discussion ensued about the voluntary nature of the proposed ordinance. Director Lundstedt confirmed that in the case of a district, there is a possible scenario that someone who wants to demolish their home, can be denied a demolition permit if a Certificate of Appropriateness and Economic Hardship are both denied and also in the very unusual case for an individual property where the City Council might invoke their right to deny a demolition permit against the wishes of a property owner (10.86.110.B).

Commissioner Hersman expressed concern that the ordinance would change property rights and minimally adds a lot of complexity to the status for homes on the Inventory of Historic Resources.

The Chair stated that he felt the Ordinance is too vague and needs wordsmithing.

Commissioner Conaway stated that the ordinance provides staff with a tool kit for historic preservation and he believes it is purposely vague because preserving historic resources is not a "one size fits all" situation. He believes that there are a lot of checks and balances, has opportunity for public input, will involve a long process and property owners will be closely involved.

Commissioner Bordokas suggested, and Commissioner Hersman agreed, that requiring 100% consent of owners for a proposed district should be considered. Commissioner Hersman believes that there might be more than a few potential historic districts. Chairperson Ortmann stated that it is good to have this conversation about acknowledging our heritage and we need to recognize there will be tradeoffs between some private property rights and public benefit.

Director Lundstedt advised that, with or without this ordinance, there already is an existing layer of complexity in that under state environmental law, a nondiscretionary action such as a demolition permit can be subject to environmental review (CEQA) if an argument can be made that the property proposed to be demolished is of historic significance. Crafting a preservation ordinance is an art and there may be some "gray areas" intended to provide flexibility while other sections need to be precise and have technical terms. Parameters need to be established to make this ordinance work as a regulatory document and the ordinance language has been carefully vetted.

Regarding requiring 100% consent for forming districts, Consultant Howell-Ardilla explained that the main issue is in setting the boundaries, starting with identifying a cluster of buildings that share some uniform character. In looking carefully at the individual properties however, it's often found that some contribute to that uniform character, while others ("non-contributors") do not. However, the boundaries may include both types in order to have a unified collection that share a heritage and if you require 100% consent you may not achieve the desired critical mass to form that collection. One option is to create general design guidelines for the district that would apply to the non-contributors, to address, for example, massing and scale. Guidelines would not be proscriptive, requiring strict adherence to a set of architectural features, but would provide a framework. Common sense should be used in setting guideline parameters.

Assistant City Attorney Estrada pointed out that under 10.86.140 A. a non-contributing property within a historic district is not subject to the requirement for a Certificate of Appropriateness and he further clarified that paragraph B. (Waiting Permit for Demolition) does not belong in 10.86.150 (Certificate of Appropriateness) because the waiting period for a demolition permit applies to a broader category. Assistant City Attorney Estrada summarized that a Certificate of Appropriateness, which is the basic approval needed to proceed with a building project, is required only for designated landmarks or contributing properties within an established district. The waiting period for demolition applies to designated landmarks and properties that are listed on the inventory of eligible properties. The draft Ordinance should be amended in this regard.

Director Lundstedt illustrated with the example of a small beach cottage that is on the eligible inventory list, and if the owner files for a demolition permit, a hold would be placed on the permit for up to 60 days to enable a “time out”. The owner would not have his property rights taken away during that hold period, however the property would still, if evaluated and found to be eligible for landmark designation during the time out period, be subject to environmental review and could potentially be designated by the City Council per 10.86.110 although that is expected to be a very rare case. Director Lundstedt further advised that the Planning Commission can articulate its discomfort with the provision for a City Council override and staff can forward that to the City Council with the Commission’s recommendation.

Consultant Howell-Ardilla stated her opinion that a property owner could request to be taken off the eligible inventory list through a process similar to delisting a property from the landmarks list. However, an owner would need to provide proper evidence that the property does not qualify for landmark status. Conversely, properties can be added to the list again based on proper evidence. Such situations may come up during conduct of a periodic update of the eligible inventory list.

Commissioner Hersman commented that she sees a lot of internal inconsistency in the language of various sections and cited some examples. She stated that it should be clearer as to when the applicable percentage of owner consent threshold (such as 51%) is determined to be attained to form a district. Consultant Howell-Ardilla recommends that the threshold should not be required until late in the process, such as at the hearing before the City Council, to allow all research to be done and to give an opportunity for owners to more fully understand the issues as well as benefits and opportunities.

Discussion followed regarding whether the ordinance is too open-ended in some sections. Commissioner Bordokas expressed concern that once a moratorium is established for a district, it could last a very long time. Chairperson Ortmann suggested that some parameters can be set in the definitions and procedures.

Consultant Howell-Ardilla recommended that if the Commission desires to have more specificity to the Ordinance, the Commission might review State OHP Technical Bulletin 14.

Assistant City Attorney Estrada clarified that Section 10.86.240 (Historic Variances) simply clarifies that properties with landmarks and contributing resources in districts are still eligible to apply for variances.

Chairperson Ortmann asked how the Commission can best move forward.

Commissioner Hersman stated her top concerns about the language and format: 1) consistency throughout the regulations, including typos and word usage; 2) Sections 10.86.140 and 10.86.150 Certificate of Appropriateness – Requirements and Procedures) are confusing and not as well laid out as the procedures for designation (10.86.090); 3) findings or criteria need work; 4) inconsistency between 10.86.100 (Designation

Procedures – Historic Districts) and 10.86.090 (Designation procedures – Historic Landmarks) for example, in an application for a district not all the requirements, one through nine, such as owner signatures, are able to be provided at the time of application and perhaps this is not written properly.

Chairperson Ortmann believes that there is sufficient clarity on how minor changes to a historic structure are to be handled, but is not clear on major changes.

Director Lundstedt clarified that the applicant would be expected to bear the cost of a qualified professional to evaluate a proposed historic district and stated that staff would be agreeable to sitting down with Commissioner Hersman and going over her detailed code language and format issues.

Commissioner Apostol stated his general perspective, acknowledging that the work by staff and the consultant has been outstanding. His general main concern is that the ordinance should have a good balance between safeguarding property rights and achieving a public benefit in line with the General Plan goals. Section 10.86.110.B. in particular is troubling and he would like it removed but short of that he thinks it should have more strict parameters and he is also concerned about districts as has been discussed. Before tonight he had thought the honorary program was great but believes the points made tonight are well taken.

Discussion refocused on the thresholds of consent for historic districts. Commissioner Bordokas stated her belief that a higher threshold above 25% is needed at the application phase. She understands there has to be some teeth – she would like to see 50% for submittal and 100% for final formation. Commissioner Conaway gave the opinion that the 25% application threshold for owner consent needs to stay that low in order to encourage districts, and raising the second threshold for approval from 51% to 100% doesn't feel right, observing that no other cities have done that. Regarding the moratorium length, applicable to pending applications for a district, perhaps there should be a time limit so that an undue burden is not created due to it being too open-ended; more thought is needed on this, but this could be studied as separate from the districts.

Commissioner Bordokas suggested that the moratorium has a relationship to the 25% filing threshold because it starts when an application is filed. Commissioner Conaway stated that he feels strongly that historic districts be supported as they would be a great tool for potentially preserving a small geographic area. He suggested that more research might be done on that amount of time a consultant can actually accomplish the research that is needed to evaluate a district - e.g. is 30 days enough time? Chairperson Ortmann gave a general observation, having lived in and renovated homes in a couple of historic districts, that he believes as a practical matter the ordinance is workable but perhaps it needs to be better articulated.

Commissioner Apostol stated his opinion that historic district properties may increase in value and it depends on various factors. He has seen where historic districts due to their uniqueness have increased in value. His goal personally is that while he endorses preserving older charming buildings, he does not want to impose his personal belief on property owners. He also believes that public education and promotion of the benefits of preservation are good goals.

The Chair suggested that staff sit down with Commissioner Hersman to go over her detailed concerns with language and format of the Ordinance. In summary, the following general direction was provided by the Commission on major issues:

- 10.86.090 and 10.86.100 (Designation procedures Historic Landmarks and Historic Districts) – review for inconsistency with language and format.
- 10.86.110.B (Owner consent - City Council override on owner consent) – staff to explore possible

additional findings or criteria, while keeping the provision as directed by City Council.

- 10.86.230 (Voluntary Honorary Designation) – the consensus was to remove.
- 10.86.170 (Work Moratorium) – seems very open-ended and impacts when a district application is filed and pending: staff to research further.
- 10.86.140 and 10.86.150 (Certificate of Appropriateness) – review for language consistency and format and for 10.86.150.B. - need more staff input on waiting time for a demolition permit, possibly 45 days as a middle ground, but can the time frame be extended in a way other than by a specific number of days? Remove paragraph B. from 10.86.150 per Assistant City Attorney.
- 10.86.100 (Historic Districts) thresholds – Commission majority supports the provision for historic districts but is divided on the thresholds especially, or final buy-in, with the majority supporting between 50% and 100%. Ties into work moratorium time frame.

The public hearing was closed and a new public hearing will be noticed at a future date to be determined.

6. DIRECTOR'S ITEMS - None

7. PLANNING COMMISSION ITEMS

Chairperson Ortmann advised he won't be at the next meeting on June 24, 2015.

8. TENTATIVE AGENDA – June 24, 2015

Director Lundstedt noted that the Bristol Farms Use Permit for alcohol service is on the agenda.

9. ADJOURNMENT

The meeting was adjourned at 9:50 pm to Wednesday, June 24, 2015 in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

MARISA LUNDSTEDT
Community Development Director