

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
DECEMBER 9, 2015**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 9th day of December, 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: Bordokas, Conaway, Ortmann, Chairperson Hersman
Absent: Apostol
Staff Present: Mike Estrada, Assistant City Attorney
Marisa Lundstedt, Director of Community Development
Laurie Jester, Planning Manager
Jason Masters, Assistant Planner
Rosemary Lackow, Recording Secretary

2. AUDIENCE PARTICIPATION

Viet Ngo, advocate for anti-corruption, addressed the Chair, notifying Chair Hersman that he was investigating activity up to the federal level, while this was not personal, in connection with the activity related to the candidacy of Amy Howorth and David Lesser, regarding possible fraud in the last City Council election in which he was a candidate.

Mark Shoemaker, resident on Poinsettia, inquired regarding the Gelson's Market application and he was advised that this matter would be addressed under the Director's Items section of the agenda.

3. APPROVAL OF MINUTES – October 28, 2015

A motion was MADE and SECONDED (Ortman/Bordokas) to **APPROVE** the minutes of October 28, 2015 with no changes.

Roll Call:

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

4. PUBLIC HEARING

12/09/15-2. One Year Review of a Use Permit for Compliance with Conditions of Approval, Pursuant to Resolution No. 14-0063, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar – formerly Red Room)

Assistant Planner Jason Masters gave an oral staff report with aid of a Power Point presentation, noting that this is a required one-year review of the Use Permit for the business. He reviewed the location, setting and surrounding neighborhood, history of past use permits and issues, conditions and mitigations, and operation limitations. Mr. Masters concluded that staff has not received a substantial number of complaints and has not received any public input for this hearing.

PUBLIC INPUT

Chair Hersman opened the public hearing and invited public comments.

Arbro Lundy, representing the property owner noted that the business owner is very desirous of operating a business in compliance with the Use Permit, and is considering applying for an amendment to restore prior operating hours.

David Rohrbacher, owner of the business stated that he has been working diligently to comply with the Use Permit conditions.

Viet Ngo, long time resident of the City and daily downtown patroller, encouraged the Commission, after carefully checking compliance, to accommodate the owner. He has personally witnessed improvements.

The Chair closed the hearing and invited discussion by the Commission.

Director Lundstedt clarified the appropriate action is for the Commission to formally determine if the applicant is in compliance and, unless they find otherwise, no further action is needed. A brief discussion followed and it was unanimously agreed that the business is in substantial compliance, and no further action is deemed necessary, based on the lack of complaints and lack of any negative input from anyone for this hearing.

Assistant Planner clarified further that no more compliance hearings are mandated.

12/09/15-3. Consideration of Amendments to the Municipal Code and Local Coastal Program (LCP) prohibiting cultivation of medical marijuana and commercial medical marijuana activity in all zones in the City.

Assistant Planner Jason Masters gave a brief staff report, noting the background and summarizing the staff recommendation that the Commission conduct the public hearing, and subject to public input received, adopt the submitted draft Resolution, prohibiting cultivation of medical marijuana and commercial medical marijuana activity.

Mr. Masters responded to an inquiry from Commissioner Conaway, that he was not aware of what action, other neighboring cities are taking in this matter. Assistant City Attorney Estrada added that actions similar to what is proposed tonight are being taken by other cities for which his office provides legal service.

PUBLIC INPUT

Chair Hersman opened the public hearing and there being no one wishing to speak, closed the public hearing and invited discussion by the Commission.

COMMISSION DISCUSSION AND ACTION

Commissioner Bordokas led off discussion, expressing two basic concerns regarding ordinance Section B.3 She is: 1) not sure of the intent of the ordinance, or what is this a response to, for example, is it to preclude second hand marijuana smoke, or to avoid crime or something else; and, 2) she is uncomfortable in that this seems to be taking away a personal right, as granted by the State, from citizens with a medical need. With no dispensaries or deliveries allowed in town there will be very limited options for those with medical needs and also people with limited income or mobility. She feels growing a small amount for personal medical use is consistent with the State compassionate care act.

Assistant City Attorney Estrada clarified that the ordinance: 1) does not prohibit personal use of marijuana for medical purposes; 2) per his interpretation, it is a "broad comprehensive scheme" that is sanctioned and provided for by enacted law; 3) will plug loopholes in existing City law and proactive action by the City is required by March 1, 2016 and that the state guidelines are not cast in stone and are the default for cities that do not adopt an ordinance by March 1; 4) delivery of medical marijuana and its transport through Manhattan Beach is not prohibited in this ordinance, although this was the case in the urgency ordinance.

Commissioner Bordokas added that, while she is not a fan of marijuana, she has done a lot of research, and

has found that many cities listed on a website as taking action are not prohibiting personal non-commercial cultivation only for personal medical use (but with qualifications). Why would Manhattan Beach do this?

Other Commissioners noted additional information would be helpful, such as what local neighboring cities are doing (Conaway); 2) what exceptions per AB 843 might be appropriate (Hersman). Commissioner Conaway suggested that perhaps due to longstanding Federal prohibition status, actually there are no rights that currently exist that would be taken away by the ordinance, and otherwise he doesn't see a problem with the proposal since personal use is not being affected. Chair Hersman shares Commissioner Bordokas' concerns, emphasizing that her concern is regarding individuals. However the Chair also questioned whether the current City ordinance addressing dispensaries already has taken some individual rights away, to which Mr. Estrada responded that arguably that is the case, but still there are potential loop holes to be fixed.

With the intent that the City Council publicly discuss the issues and concerns raised, a motion was made (Bordokas/Conaway) with friendly amendments made by the Chair, that the Commission adopt the proposed Resolution, with Section B. on page 3, to read as amended:

“3. To the extent that it is not already prohibited by subsections 1 and 2 above, cultivation of marijuana for commercial purposes is expressly prohibited in all zones and all specific plan areas in the City of Manhattan Beach. Only a qualified patient, primary caregiver or person with identification card may cultivate marijuana in the City.”

Roll-call vote:

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

5. DIRECTOR'S ITEMS

Director Lundstedt provided updates regarding the following items:

- a. Downtown Specific Plan: November 16, workshop #3 was held and a great deal of input was received from 80-100 attendees. Staff will be back in early spring to the Commission as some portions of a draft Specific Plan will be brought for public review.
- b. Mobility Plan: Recognized and thanked all Commissioners for participating on November 19th. A revised draft was presented, focusing on high level goals and policies. Expect to be back in spring with formal plan for adoption to Planning Commission and then City Council.
- c. Mansionization: a first meeting was held November 9 and staff is looking for guidance.
- d. Gelson's Market: Staff just received a resubmitted application package as the applicant has been taking months to refine their project. Interested parties can come in to the public counter and review the file and can submit a request for public information for specific information.
- e. Skechers Project: There is a commercial office project coming up with most of the development across the border in Hermosa Beach. The notification of property owners and the environmental review (an EIR) is taking into account the portion (33k square feet offices) in Manhattan Beach. The portion in Hermosa involves a campus of 133K square feet including offices and a design center over about 5 separate parcels, including a "skybridge" connecting the north and south sides of parcels on Duncan Avenue in Hermosa. Even if the Hermosa Beach portion were to fail to be approved, staff is advised that they will proceed with the portion in Manhattan Beach. The first "Scoping Meeting" was on November 18th and information is available through a dedicated project website.
- f. 2616/2620 Alma Avenue: The City Council has taken this project under review and the hearing is scheduled for next week, December 15th.
- g. Historic Preservation Ordinance: This item is scheduled before the City Council on January 5, 2016 and staff will be summarizing the Commission's concerns.
- h. Parkview Hotel site: The City Council directed staff to check out additional options and come back with a more robust RFP.
- i. Manhattan Village Shopping Center: The developer design team is still working with staff.

- j. Sepulveda Boulevard corridor: Council has directed that Staff look at the possibility of preparing a specific plan.

6. PLANNING COMMISSION ITEMS - No items

7. **TENTATIVE AGENDA** – the December 23rd meeting, being so close to the holidays, will be cancelled. The next Planning Commission meeting will be January 13.

8. ADJOURNMENT

The meeting was adjourned at 7:40 pm to Wednesday, January 13, 2016 to the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

MARISA LUNDSTEDT
Community Development Director