

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
SEPTEMBER 13, 2017**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 13th day of September, 2017, at the hour of 6:00 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Burkhalter, Morton, Seville-Jones, Chairperson Apostol
Absent: Ortmann
Others Present: Anne McIntosh, Director of Community Development
Ted Fatuos, Assistant Planner
Jason Masters, Assistant Planner
Michael Estrada, Assistant City Attorney

2. AUDIENCE PARTICIPATION (3-minute limit) – None

3. APPROVAL OF THE MINUTES

09/13/17-1. Regular meeting – July 26, 2017

It was moved and seconded (Jones/Burkhalter) to approve the minutes of July 26, 2017 with no changes; there being no objections it was so ordered.

4. PUBLIC HEARING

09/13/17-2. Consideration of Amendments to the Municipal Code and Local Coastal Program (LCP) Related to Urgent Care Medical Uses

Chair Apostle announced the public hearing and invited staff to present the staff report.

Assistant Planner Ted Fatuos presented a summary report, covering: background and direction from Council; regulation of urgent care facilities; locations of existing urgent care facilities; neighborhood concerns (e.g. noise from ambulances, loitering by drug addicts, extended hours, parking and traffic); and policy options. Mr. Fatuos concluded with the Staff recommendation and Director McIntosh added that the City Council directed that urgent care facilities specifically be brought before the Commission for a focused discussion based on input from residents.

Staff responded to questions noting: 1) Staff is not aware of any complaints received from residents regarding the three currently operating urgent care facilities; 2) Staff sent an email to Exer Urgent Care which did not respond, and also called and left messages for the other existing urgent care businesses again, with no response. Staff also emailed notice to a number of interested parties but received no input; 3) The current code has no cap in operating hours for medical offices.

PUBLIC HEARING

Chair Apostol opened the public hearing.

Steve Packwood, resident, noted his background as a health care administrator with experience in setting up urgent care facilities, does not believe that such facilities are medical offices. He noted that Exer is advertising that they can provide up to 80% of the volume of services that can be obtained at an emergency room and he has observed a large number of parked cars at another Exer location. He believes that the City should redefine urgent care facilities in the code based on concerns such as parking problems and lack of security due to on-site pharmacies. Mr. Packwood noted he lives on Oak Avenue up the street from the Exer facility.

Nicole Barkopoulos, lives on Oak Avenue with her backyard adjoining Exer and understands that this hearing

is about urgent care facilities citywide. She objects to the fact that as currently in the code, public notification is not required for new urgent care facilities. She believes that urgent care facilities are not medical offices and are more intense, and conditional use permits should be required to ensure, by more careful vetting process, the security of nearby residents by looking carefully at safety, parking, lighting, and signage.

Director McIntosh advised that a Use Permit is required for all commercial buildings over 5,000 square feet.

Dr. Paul Barkopoulos, underscored concerns expressed by his wife, Nicole. He and neighbors have researched urgent care facilities and there is a strong concern that such uses, while providing additional medical services, are really more like small emergency rooms. Because they are designated medical offices and sign up under a physician's license, they can get around state regulations that would otherwise be imposed on an emergency care facility. He believes that a use permit should be required with traffic impact and parking demand analyses to be reviewed and overall, more oversight by the City.

DISCUSSION

Chair Apostol closed the public hearing and opened the floor for Commission discussion.

Commissioner Burkhalter noted that he was surprised to see that these urgent care medical uses are classified as offices and believes that they are closer to an emergency care; therefore it seems appropriate that a use permit would be required with specific guidelines.

Commissioner Seville-Jones stated that she appreciates the comments made by residents. She recognizes, however, that the state has the responsibility to decide what services can be given by an emergency room and urgent care facilities and doesn't quite see a need to classify urgent care the same as an emergency room. She believes the Commission's focus is to determine whether urgent care facilities should be classified differently from medical offices or pharmacies or other commercial uses permitted in the commercial zone and if so, whether a use permit or additional requirements should be imposed. She does not see empirical evidence to suggest the described impacts will occur and further while she understands that when businesses change over to a more intense use this is upsetting, doesn't believe that this, in and of itself, is a reason to require a use permit.

Commissioner Morton falls on the side that it is the state's responsibility to regulate the differences between emergency care and emergency rooms, believes there are distinct differences and it is telling that there are very few cities that regulate urgent care in a specific way. Although he understands that concerns arise due to intensification, he does not believe this issue merits the City getting out in front and creating more restrictive regulations at this time.

Chair Apostol commented that he believes all the residents comments are valid, and is somewhat on the fence because he also believes in principal that over-regulating and being overly-restrictive is not useful and perhaps additional research is needed. He requested clarification of the Council's direction.

Director McIntosh clarified City Council direction in terms of policy and timing. The sole specific direction from Council is to submit an ordinance creating a new definition for "urgent care." Beyond this the Commission could consider, with no specific mandate, whether specific performance measures should be adopted to apply to the definition and, lastly what the level of review for "urgent care" should be (e.g. should a use permit be required?). Further clarifications were provided: currently staff recommends to not require a use permit; the Council has not requested that the Commission act before it addresses the extension of the Interim Zoning Ordinance (IZO) on health care uses; a new definition with a subset of standards could be adopted that would regulate this use without a use permit; refining the code that regulates urgent care, may also address whether changes in use are considered an "intensification" that could trigger a use permit requirement; and currently the code is silent on whether urgent care is a subset of the medical office use classification.

Chair Apostol initiated discussion on guidance: that Staff should research and come back with a definition and possible operating guidelines, and also look into how to categorize and distinguish the urgent care use from medical offices. He agrees with public input that urgent care is different from medical offices but the question is: what are the important differences?

Commissioner Seville-Jones suggested an approach that urgent care be distinguished from but regulated at the same level as medical offices. She cautioned, however, that deciding performance standards (e.g. limits

in operating hours and distance of front doors to residences) can be tricky especially as many residential uses along Sepulveda adjoin commercial, and that could be setting an undesirable precedent of singling out businesses.

Commissioners Morton and Chair Apostol agreed with Commissioner Seville-Jones comments on exercising caution. Chair Apostol acknowledged public input suggesting that operating hours for urgent care should in fact, be extended longer so as to accommodate the need for medical care that can arise at all hours.

Director McIntosh noted Staff would propose a definition that clarifies the differences between urgent care and medical offices. Staff has provided a definition provided by the American Academy of Urgent Care Medicine but has found that there is no clear definition in the state regulations. She further noted that there has been a rise in new technology allowing more patients to be seen in urgent care, and that some distinctions between the two uses may be only a matter of difference in business practices which should be taken into account.

The Commission discussed and it was agreed that more information is needed including: 1) Pasadena's regulations; 2) which services can be provided in a traditional doctor's office vs. which need an ER at a hospital; 3) what role, if any, do office hours, and/or having certain types of equipment play; and 4) info as to parking demand for urgent care uses, and whether more is required compared to traditional medical offices.

ACTION

It was moved and seconded (Apostol/Seville-Jones) to REOPEN and CONTINUE THE PUBLIC HEARING to October 11th. It was clarified that the continuance is to enable the staff to research and provide more information and that there will be an opportunity for additional public comment at the continued hearing.

Roll Call:

AYES: Burkhalter, Morton, Seville-Jones, Chairperson Apostol
NOES: None
ABSENT: Ortmann
ABSTAIN: None

Commissioner Morton encouraged Staff to reach out to the owners/operators of existing urgent care facilities.

09/13/17-3. Consideration of Amendments to the Municipal Code and Local Coastal Program (LCP) to Prohibit All Commercial Cannabis Activity in All Zones in the City, and to Allow Limited Cannabis Cultivation Consistent with State Law.

Chair Apostol invited Staff to make a presentation.

Director McIntosh informed on January 1, 2018 there will be a new state law in effect for cannabis cultivation. The ordinance presented tonight protects the City's right to continue its current prohibitions.

Assistant Planner Jason Masters provided a report covering: legal background, state licensing including the recent passage of SB 94, concerns and issues, studies, the City's authority and existing regulations. He went over in detail the proposed ordinance, its enforcement (infraction or misdemeanor), exemption under CEQA, public notification and the Staff recommendation.

Staff responded to questions: the language "commercial transfer of cannabis" is taken out of state law, and simply means cannabis that is sold and not being given away; the difference in the proposed code is it reflects a comprehensive law, addressing both medical marijuana and all commercial cannabis activities; and that greenhouses are explicitly addressed in the definition of a "fully enclosed and secure structure".

Chair Apostol invited public comment, seeing none, called for a motion.

It was moved and seconded (Burkhalter/Morton) to ADOPT the draft Resolution with no change RECOMMENDING amendments to the Municipal Code/Local Coastal Program relative to cannabis activity and cultivation citywide.

Roll Call:

AYES: Burkhalter, Morton, Seville-Jones, Chairperson Apostol

NOES: None

ABSENT: Ortmann

ABSTAIN: None

5. DIRECTOR'S ITEMS

Director McIntosh announced:

- November 8th Planning Commission meeting will likely be cancelled as the City Council meeting date has been moved to this date due to conflict of regular meeting with Election Day.
- September 26th, 6:00 – 8:00 PM, all interested parties are encouraged to attend a Community Telecom Workshop at the Police and Fire Facility Conference Room. A link on the City's website provides more details.

6. PLANNING COMMISSION ITEMS – None

7. TENTATIVE AGENDA – September 27, 2017 – no new information.

8. ADJOURNMENT

The meeting was adjourned at 7:30 P.M. to Wednesday, September 27, 2017 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

ANNE MCINTOSH
Community Development Director