

**CITY OF MAN HATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
SEPTEMBER 26, 2018**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 26<sup>th</sup> day of September, 2018, at the hour of 6:01 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

Vice Chair Burkhalter assumed the Chair and called the meeting to order in the absence of Chair Seville-Jones.

**A. ROLL CALL**

Present: Fournier, Morton, Thompson, Vice Chair Burkhalter  
Absent: Chairperson Seville-Jones  
Others Present: Anne McIntosh, Community Development Director  
Michael Estrada, Assistant City Attorney  
Laurie Jester, Planning Manager  
Eric Haaland, Associate Planner  
Ted Faturos, Assistant Planner  
Angelica Ochoa, Associate Planner  
Drew Teora, Acting Recording Secretary  
Rosemary Lackow, Recording Secretary (remotely)

**B. APPROVAL OF AGENDA**

It was moved and seconded (Thompson/Fournier) to approve the agenda with no changes. No objections, it was so ordered by Vice Chair Burkhalter.

**C. AUDIENCE PARTICIPATION (3-minute limit) – None**

**D. APPROVAL OF THE MINUTES**

09/26/18-1. Regular Meeting – September 12, 2018

It was moved and seconded (Thompson/Fournier) to approve the minutes as submitted. No objections, it was so ordered by Vice Chair Burkhalter.

**E. PUBLIC HEARING**

09/26/18-2. Proposed Use Permit Amendment to Allow Full Alcohol Service at An Existing Restaurant (Simmzy's) that Currently Serves Beer and Wine at 229 Manhattan Beach Boulevard (Simms Restaurants/Simms)

**Assistant Planner Ted Faturos** provided the oral staff report with the aid of slides, covering: Background (location, nearby uses and current Use Permit); Scope of Use Permit amendment (change only to expand beer/wine service to “full alcohol” and eliminate conditions 15 and 16, which prohibit “happy hour” drink discounts); Zoning and Neighborhood Setting (Downtown Commercial with nearby residences); Staff Review (including by Police Department); and Findings and Recommendation (Approve with conditions). **Mr. Faturos** detailed the four findings in support of the positive recommendation, emphasizing that the

main issue was whether there would be potential impacts to the public health, safety and welfare or adverse impacts to nearby properties. He noted MBPD has reviewed and has no concerns or comments; the business has relatively early closing hours; the applicant owns and operates other downtown restaurants that have full alcohol service and has a proven track record of responsible alcohol service; and the location is in a commercial area surrounded by other commercial uses, with physical barriers (alley, parking structure and other commercial buildings) between it and residences.

**Vice Chair Burkhalter** invited the Commission to ask questions.

In response to an inquiry from **Commissioner Fournier**, Assistant Planner **Faturos** speculated that the conditions prohibiting “happy hour” service and drink specials were likely intended to limit impacts to nearby residents commonly associated with full alcohol use, e.g. noise and rowdy behavior; he cannot vouch that this has served as an effective condition.

**Mike Simms**, applicant, addressed the Commission and stated he owns other full alcohol service businesses in the beach area and five total in the City; has a clean record of no infractions with the State Department of Alcoholic Beverage Consumption; Simmzy’s is and will always be a food not bar focused operation; wants to offer “spirits” to low/no carb patrons as an alternative to beer/wine drinks; and as restricted in conditions 15 and 16, “happy hour” is “on demand” pricing where, prices can be lowered at off-times to attract patrons. **Mr. Simms** cited high-end restaurants in downtown that have happy hours and noted that there are 164 local residents who support his request.

#### PUBLIC INPUT

**Vice Chair Burkhalter** opened the public hearing, and invited public input noting that the applicant would be limited to 5 minutes and 3 minutes for all others.

**Robert Simcik**, past employee of Simmzy’s has known the owners over many years to be very responsible, noting that they have always been very vigilant operators who will not hesitate to cut alcohol service off from any patrons when necessary which he believes to be key to their success.

**Matt Williamson**, small business owner, has known the Simms family for many years and noted they are very active in the local community; concurs that the Simms success can be attributed to the fact that they always “do the right thing” in making decisions.

**MaryAnn Varni**, long-term resident and patron of Simmzy’s, observed that the business is constantly working on their menus and adding new items. She supports the application generally in that the owners are a huge part of the community overall and downtown, are very responsible, the business is “food first” but an expanded drink menu will give flexibility to better pair alcohol with food, and thus the owners can better grow the business.

**Keron Magness**, resident since 2009, endorsed the Simms family as having a strong commitment to the safe and responsible consumption of alcohol and safety of children

Seeing no others wishing to speak, **Chair Burkhalter** closed the public hearing.

#### COMMISSION DISCUSSION /ACTION

**Commissioner Morton** stated his strong support and suggested striking conditions 15 and 16 as requested by the applicant.

**Commissioner Fournier** concurred and congratulated the Simms family for being outstanding businesses owners with such strong local support.

It was moved and seconded (Morton/Thompson) to **ADOPT** the draft Resolution, **APPROVING** with

subject to striking conditions 15 & 16 relating to “happy hour” and reduced price promotions.

ROLL CALL:

AYES: Fournier, Morton, Thompson, Vice Chair Burkhalter  
NOES: None  
ABSENT: Chair Seville-Jones  
ABSTAIN: None

**Director McIntosh** advised that this item will be on the next City Council agenda as an information item and at that time the City Council can call up the matter for their own consideration and may appeal the decision. Any other person can also appeal the Commission decision within a period ending 15 days from tonight.

09/26/18-3. Consideration of a Use Permit, Coastal Development Permit, and Vesting Tentative Parcel Map No. 82003 for Proposed Construction of a Mixed Use Building with One Commercial Condominium Unit and Two Residential Condominium Units at 3920 Highland Avenue (DIDI, LLC)

Vice Chair Burkhalter announced the item, then recused himself on the basis that he has had financial dealings with the project architect within the last calendar year (expiring December 31, 2018); he subsequently left the chambers.

**Commissioner Morton** assumed the Chair and invited staff to give a report.

**Associate Planner Eric Haaland** presented the staff report with the aid of slides, covering: Scope of Application (Parcel Map, Coastal Development Permit, Use Permit); Location and Setting (Commercial North End Highland, Non-Appealable portion of Coastal Zone, currently improved with commercial/residential uses); Zoning Requirements/Conformity, Project Details (replacement of 5 apartments with 2 residential condos, building and floor plan layout residential and commercial, on-site parking, open space etc.); Building Renderings; Public Input (including late comment from a neighbor with concerns regarding potential for view impact, and construction issues) and Recommendation (approve subject to conditions). Mr. Haaland also noted that the front patio will be commercially oriented, and not residential (condition #1), and sidewalk dedication is required as recommended by the City Traffic Engineer on Highland to accommodate ADA requirements (condition #10-r). Mr. Haaland also discussed the application of parking codes (9 spaces required/provided), emphasizing that retail square footage would be limited (condition #17).

**Commissioner Morton** invited the Commission to ask questions for any needed clarifications.

Responding to **Commissioner Fournier**, **Mr. Haaland** stated: 1) an earlier and similar project was approved at this site but was not built – it may have drawn similar neighbor concerns, but believes it was not built because of then unfavorable economic conditions; 2) the current project will come close to an adjoining property’s stairway which is a common construction condition in the beach area, and a primary concern of the neighbor is that her stairway may be damaged. Mr. Haaland suggested the Applicant might best respond to construction issues.

In response to **Commissioner Thompson**, **Mr. Haaland** clarified: A garage and one space to the rear is for the upper unit and the lower parking is designated for both the lower residential unit and the commercial space; enforcement of proper parking access will be by the site owner (HOA) with the aid of labeling and signs. Mr. Haaland confirmed that the project owner has a somewhat informal lease agreement, to use some parking spaces near the site, on the Chevron property east of Crest Drive, but that parking is not being counted towards the code requirement, and it is not known whether, in the future, this arrangement would be formalized to enable future intensification of uses on the site. In terms of measures needed to preclude converting the ground patio to commercial use, Mr. Haaland noted that so far staff is

looking at creating a planter area, but is open to other suggestions. **Commissioner Thompson** suggested moving the commercial area closer to Highland which would provide more of a commercial presence on the street level; Mr. Haaland suggested that this issue be raised with the applicant. Finally, Commissioner Thompson expressed concern that there would be a net loss of residential units and asked if this is addressed in the General Plan?

**Director McIntosh** acknowledged that loss of housing units is a real concern that is likely to become more important in the near future. She doesn't think there is any language in place in the General Plan that addresses this, but in the future, for example, if the State were to start levying fines for unit loss, then the City could consider adopting impact fees or some way to offset the loss. In the past the city has been able to address this housing issue by including policies in the Housing Element. Now cities are being required by the State to report the actual number of units being lost, however, at this time, and with concurrence by Assistant City Attorney Estrada, no specific solution is needed to be included with this project.

## PUBLIC INPUT

**Commissioner Morton** opened the public hearing and invited the Applicant to address the Commission.

**Elizabeth Srour, representing** the Applicant, asked the Commission to consider: 1) The project site is in a unique area that has mixed uses including high density residential and commercial, but the most active commercial space is on the west side of Highland and the east side has more of a high density residential character; 2) While the concern of replacing housing is legitimate, in this case, the fact that there are many non-conforming residences built many years ago when El Porto was governed by less restrictive County standards should be taken into account. 3) This project could be an asset to the City, not only as a mixed use project but will provide onsite parking for both types of uses per code which will be enforced through recorded condominium documents (C, C, &R's etc); in addition there are four spaces adjoining the refinery that will be reserved and used by the project; and in all other respects the project meets the guidelines and requirements of the City, and will not create vehicular impacts to residences to the south (access being on 40<sup>th</sup> Street); 4) All concerns the neighbor expressed will be regulated through the Building and Safety Division, but the City does not have a view ordinance and therefore is not expected to address that concern. Any operational concerns related to the commercial space will be governed and mitigated by conditions of approval imposed in the Use Permit; 5) The project will create a subdivision of three ownership units: two for the condos and one unit of commercial space which can be broken down into multiple tenants per the code.

In response to **Commissioner Fournier, Ms. Srour** stated her understanding that the Chevron parking is a very established amenity in the El Porto area, and is a written, month to month lease that can be cancelled by either party in perpetuity.

**Michael Lee**, project architect, made the following points: 1) Neighbor view issue: Based on his observations at the site, he doesn't believe that the view will be impacted because of blockage already in place by the cleaners on the west side; 2) Regarding neighbor concerns: construction impacts are typical when building in the beach area and the applicant is aware of such issues and will replace and/or repair damages as needed; is confident that there will not be an issue with access to her property and stairwell; 3) Chevron leased parking: Four spaces have been in use for decades but cannot be counted by the City as part of the required parking. The applicant was not able to secure a 10-year lease term from Chevron (as required by the zoning regulations) but he would suggest future relaxing of the City lease term requirement as is shown in this case, this would open up the types of uses for the commercial space; 4) Highland level patio: Mr. Lee indicated that he felt creating a raised planter will comply with the staff concerns and a required bike rack can also be accommodated in this area. He believes that the project as designed will have a commercial presence on Highland and would not want to push the commercial use further out, but wants to retain flexibility for future tenants.; and lastly 5) Possible encroachments in the south side yard: A narrow setback, not required by zoning, is located on the south side which will accommodate mechanical systems (such as ductways for garage ventilation) and an elevator serving

commercial in the lower two levels.

**Bruce Ashmun**, nearby property on the same Highland east side block, supports the project as it will look great in the neighborhood and noted that he also has leased 4 parking spaces spots from Chevron for decades.

#### COMMISSION DISCUSSION / ACTION

Seeing no more speakers, **Commissioner Morton** closed the public hearing and invited Commission discussion.

**Commissioner Fournier** commended the design and fully supports the project in that it will be good for the neighborhood, follows a mixed use theme for the City that has been recently been discussed, and he is excited to see how it will enhance the neighborhood. He understands the concern of the neighbor but trusts all concerns will be addressed in that he knows the City protocol is excellent and staff has expertise for example in dealing with technical construction issues such as shoring.

**Commissioner Thompson** directed a couple questions to staff: 1) will the building elements (elevator, trash area, mechanical chase) that project into the south setback area comply with the zoning code – the concern being that the area served by the projections is not exclusively commercial in use; and 2) whether there is any relevance to this site of the moratorium in the City for office uses?

**Associate Planner Haaland** responded: 1) Staff is satisfied that the project complies with the code is that, while the building has both types of uses, the projections serve a commercial use and allowing the projection is consistent with staff interpretation and application of the code for prior approved mixed use projects; 2) the moratorium on office uses applies to downtown commercial, not to this CNE zoned site. A Use Permit is required Citywide if an office use totals more than 2,500 square feet.

**Director McIntosh** added that staff doesn't have the benefit of knowing what the tenant improvements will be at this point but will regulate whatever the uses are when identified. Some conditions get regulated when tenant improvement applications are submitted.

**Commissioner Thompson** noted his main concern is that the commercial portion of the building does not have sufficient presence on the street. He would like to see the applicant redesign to push the commercial to the street as the City has consistently wanted for our commercial businesses. He believes the neighbor's issues will be completely addressed during the construction process.

**Commissioner Morton** stated his support in that the building has a beautiful design and believes the construction process will take care of all of construction related neighbor issues. He is ready to approve as submitted and go forward.

**Commissioner Thompson** clarified that one concern with mixed use is that the residential portion looks amazing but the commercial portions seem to be tucked in and do not function well. **Commissioner Morton** noted the applicant's desire to maintain flexibility for future uses, at this point the City doesn't know who the tenant will be and what they will do to provide a commercial presence at the street front.

**Commissioner Thompson** emphasized that his concern is about the building design and how it presents to the Highland commercial frontage.

**Commissioner Morton** inquired of staff - if the design were to be changed as suggested, would the building fall out of compliance with the code, e.g. parking?

**Director McIntosh** responded and Commissioner Thompson confirmed, that his suggestion of a possible re-design would involve moving, the entire commercial footprint at ground level forward perhaps including the bathroom space. Parking demand would remain the same as there would be no net gain of

floor area. **Director McIntosh** stated that, depending on the tenant, the patio could add ambiance but, on the other hand, it could end up as dead space, which is undesirable, but she agrees that as currently designed, the patio does not add much interest to the street.

**Commissioner Fournier** suggested, from a business standpoint, the future commercial tenant might not be a type that either wants or needs to be a storefront that faces the street and pulls pedestrians going by from Highland.

**Commissioner Morton REOPENED** the public hearing to enable the Applicant to provide more information.

**Tim Agee**, property owner, responded to **Commissioner Fournier**, that he has a wide variety of tenant types in mind. Some examples would be yoga studios, salons and other neighborhood oriented small businesses, similar to 4103 Highland across the street which he also owns. He understands the desire for the commercial space to be appealing, but he thinks this can be accomplished by signage and overall design.

**Commissioner Morton CLOSED** the public hearing and the Commission resumed discussion.

**Director McIntosh** indicated that the uses that can be accommodated are general office and personal services and the patio cannot be used by any of these uses because that would expand the parking requirement.

Discussion followed on the patio; **Commissioner Thompson** being concerned that it will become a large unappealing “dead space”, and **Commissioner Morton** stating that the patio may be desirable to a future tenant as a buffer from the street. **Commissioner Thompson** clarified that a buffer or patio setback about 4 or 5 feet would be reasonable, but 20-feet as currently designed would be a waste of space.

**Commissioner Morton REOPENED** the public hearing to enable the Commission to receive input from architect Lee.

**Michael Lee** named several types of uses contemplated such as a dress shop, professional offices, juice bar, etc. and reemphasized his belief that somehow the Chevron parking spaces should be allowed to be counted towards required parking. He believes that public gathering space would be a positive feature at the building front and gave examples (new Yellow Vase at northwest corner of Highland/Marine and a place in Venice).

**Commissioner Morton CLOSED** the public hearing and the Commission resumed discussion.

**Commissioner Thompson** indicated that he would be agreeable to a 5-foot setback from the street as this would also eliminate enforcement problems as well as being more useful and appealing. **Commissioner Fournier** asked whether there would be any other unintended compliance issues that should be considered if the Commission were to require this change to a five-foot setback as a condition.

**Director McIntosh** clarified that ANY direct use of a sizeable patio by the tenants would require staff to count the patio as use square footage which requires more parking, which is not provided for in the plan. It could count as usable space if some other space is eliminated in the building to make up for the gain of the patio.

**Discussion** focused on the concerns expressed by **Commissioner Thompson**. **Commissioner Morton** acknowledged the points made but stated he would like to see the plan accommodating some amount of outdoor space which he feels is very desirable. **Commissioner Thompson** stated he is agreeable with requiring a 5-foot setback enforced in plan check, and **Commissioners Morton** and **Fournier** indicated they are ok with approving the plan as submitted.

**Commissioner Fournier** suggested that all parties: staff, architect, owner get together and talk about the implication of a five, instead of 20-foot set back patio at the front, even though he would be inclined to approve the proposed plan. **Commissioner Morton** stated he would not be opposed to a month continuance to enable the applicant to fully evaluate suggestions that would address the issues raised. **Commissioner Thompson** indicated he would support such a motion.

#### COMMISSION ACTION

It was subsequently moved and seconded (Thompson/Fournier) to **REOPEN THE PUBLIC HEARING**, and **CONTINUE** the item to **OCTOBER 24, and DIRECTED STAFF** to meet with applicant and evaluate possible solutions or changes to address the Commissions concerns regarding the street level building and patio design.

#### ROLL CALL:

AYES: Fournier, Thompson, Morton  
NOES: None  
ABSENT: Seville-Jones  
ABSTAIN: Burkhalter (recused)

**Director McIntosh** stated for the record that the author of the neighbor letter submitted to the Commission is Linda Kaplan.

#### **Vice Chair Burkhalter returned to the chambers and resumed the chair (7:22 PM).**

09/26/18-4. Recommendation to the City Council for Designation of 2820 Highland Avenue as a Historic Landmark

**Director McIntosh** made opening remarks including the background of the Historic Preservation regulations, emphasizing that the overall goal was to create the opportunity for homeowners to voluntarily apply for historic status for their homes and obtain all qualifying benefits. She noted that as the implementation of the Ordinance followed its course, the Council made some adjustments. The Planning Commission was established as the recommending body for landmark status and instead of having to wait for the City to commission a citywide survey, individual owners now may consult with a historic consultant to determine historic value and eligibility for landmark status.

**Associate Planner Angelica Ochoa** made a presentation with the aid of slides, covering topics in detail: Background (Preservation Ordinance and Mills Act Program adoption in 2018); the Historic Preservation Designation Process; Historic Landmark Criteria; and, lastly, the details for the subject case at 2820 Highland (setting, zoning/use, construction history, Spanish Colonial architectural style and characteristics). She concluded by stating the Staff recommendation, to conduct the public hearing, receive input and adopt the submitted draft Resolution, recommending that the City Council approve the applicant's request for landmark status of the home at 2820 Highland Avenue.

In response to **Commissioner Thompson**, **Director McIntosh** explained that the City does not have a specific process for removing a property from the registry of historic landmarks. After designation, the building is subject to and protected under CEQA as a cultural resource. The designation and Mills Act benefit runs with the property and future owners are subject to processing a Certificate of Appropriateness for alterations. The landmark status should be disclosed to prospective buyers. There is a process for declaring economic hardship where an owner might be able to show that the landmark isn't economically viable due to restrictions imposed but it seems unlikely that such would be applicable to this site.

**Director McIntosh** and **Ms. Ochoa** clarified to **Vice Chair Burkhalter**, that while this case is the first application for City designation there are two properties in the City (3004 The Strand and 113 12<sup>th</sup> Street) that are on the state register but which do not have Mills Act tax relief and these need to be designated on the City's register in order to participate in the Mill's Act Program.

**Juliette Arroyo**, Historic Resource Consultant, stated she will present the historic designation application for 2820 Highland and provide general information regarding historic preservation.

**Commissioner Thompson** asked Ms. Arroyo whether a designated property can be “de-listed” from a Historic Registry if the owner no longer desires the landmark status. **Director McIntosh** provided further clarification that a landmark can undergo a process of designation removal if it can be shown that the building’s designation was made by mistake or is based on erroneous information. **Commissioners Thompson and Morton**, further asked whether an owner could by design allow a historically designated property to deteriorate to the point where it lost value and no longer met the criteria for a landmark. **Director McIntosh** emphasized that once designated, a property is protected under CEQA and, further clarified that even if neglected the fact remains that the property is a historic resource for the City.

**Ms. Arroyo** responded to an inquiry from **Commissioner Fournier’s** that the delisting process is the same followed to get onto the historic designation list, however there needs to be a compelling reason shown that the building no longer meets the criteria for the status for example, if damaged extensively in a fire. The intent is to maintain the property in its historic state and the City would not want the property’s status to be changed, again without strong reason. **Director McIntosh** addressed further inquiry by Commissioner Thompson as to whether a property can be de-listed if an owner no longer consents, by citing case law for the City of Sierra Madre. In that case the City attempted to de-list its entire registry, but this was met with strong opposition under CEQA. The process to de-list once declared historic and placed on a registry is not easy.

**Consultant Juliette Arroyo** proceeded with a detailed report with the aid of slides, of the analysis supporting the Staff recommendation to grant landmark status to the subject property. She found that the building at 2820 Highland is significant in that it is a worthy example of the Spanish Colonial Revival Style in Manhattan Beach and is eligible for designation.

#### PUBLIC INPUT

**Vice Chair Burkhalter** opened the public hearing and invited public input.

**Annette Mejia Pickens**, owner since 2012, feels very honored to live in historic old home; she does not plan on selling the property as long as she is alive, and noted that the building has been well maintained, exterior and interior since its construction in 1932. She wants the building to be an important landmark for the City of Manhattan Beach in that this has significant emotional meaning to her and her family.

**Jan Dennis**, resident for 58 years, has authored a book on the history of architecture in Manhattan Beach and assisting in putting together the first Historic Designation Ordinance in Manhattan Beach. She thinks the City would be so proud to designate and protect a home like this. She spoke at length but emphasized that many original Manhattan Beach homes have been lost to demolition and with these losses, also lost is a lot to be known about local life and history. After watching the changes and growth in the City, both good and bad, she believes passionately that it is very important to preserve significant architecture of a community.

**Neil Boyer**, resident, strongly supports this application, believes this building is a strong landmark candidate and a good example of the Spanish Colonial Revival architectural style. He believes it is very important to conserve buildings that reflect the early days of Manhattan Beach and this style and age of building is “going quick”. He appreciates the work of the Commission and encourages their support for this application.

Seeing no other speakers, Vice Chair Burkhalter closed the public hearing.

#### COMMISSION DISCUSSION



**Commissioners Thompson, Fournier, Morton and Burkhalter** in turn, commended Jan Dennis for all she has done to initiate and promote Historic Preservation, recognized the importance of the program, and agreed it is an honor to be able to act on the first application. Each Commissioner expressed support for the subject application in that it meets all applicable criteria. It was expressed that those who voluntarily pursue designation deserve to be rewarded in that the process is long and difficult and if successful, places significant restrictions on their property.

COMMISSION ACTION

It was moved and seconded (Thompson/Morton) to adopt the draft resolution, recommending that the City Council **Designate** the subject property a **Historic Landmark**.

ROLL CALL:

AYES: Burkhalter, Fournier, Thompson, Morton

NOES: None

ABSENT: Seville-Jones

ABSTAIN: None

**Director McIntosh** informed the Commission that Jane Guthrie, President of the Manhattan Beach Conservancy, intends to hold an open house on some older homes and the Commission will be informed if this is arranged. A brief discussion followed concerning whether the City could provide incentives for owners to apply for landmark status. Director McIntosh responded that the historic building code is an existing incentive and some buildings if situated in an unusual way, with nonconformities, may be suitable for variances.

**F. GENERAL BUSINESS** - None

**G. DIRECTOR'S ITEMS**

Director McIntosh noted that the condominiums approved by the Commission at the last meeting was forwarded to the City Council, and to date no appeal has been filed.

**H. PLANNING COMMISSION ITEMS** - None

**I. TENTATIVE AGENDA** – October 10, 2018: There are no agenda items currently and this meeting will likely be cancelled.

**J. ADJOURNMENT** - The meeting was adjourned at **8:00 P.M.** to Wednesday, October 10, 2018 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue.

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ROSEMARY LACKOW  
Recording Secretary

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SANDRA SEVILLE-JONES  
Chairperson

ATTEST:

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ANNE MCINTOSH  
Community Development Director