

**CITY OF MAN HATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
NOVEMBER 14, 2018**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 14th day of November, 2018, at the hour of 7:30 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

Chair Seville-Jones called the meeting to order.

A. ROLL CALL

Present: Burkhalter, Fournier, Morton, Thompson, Chairperson Seville-Jones
Absent: Morton
Others Present: Anne McIntosh, Community Development Director
Michael Estrada, Assistant City Attorney
Laurie Jester, Planning Manager
Eric Haaland, Associate Planner
Angelica Ochoa, Associate Planner
Rosemary Lackow, Recording Secretary

B. APPROVAL OF AGENDA

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

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

D. APPROVAL OF THE MINUTES

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

It was moved and seconded (Burkhalter/Fournier) to approve the minutes as submitted.

ROLL CALL:

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

E. PUBLIC HEARING

11/14/18-2. Consideration of Proposed Municipal Code Amendments for Citywide Regulations for Accessory Dwelling Units (ADU's) – Second Units on Lots With Single Family Residences

Community Development Director Anne McIntosh informed that state law mandates that cities adopt "Accessory Dwelling Unit" (ADU) or "second unit" ordinances to address a critical shortage of housing statewide. Action by the Commission tonight is timely because the City's Urgency ADU Ordinance, an interim measure that provides temporary compliance with State law, is set to expire soon.

Associate Planner Angelica Ochoa proceeded with the oral and PowerPoint staff report, covering: Staff Recommendation, (adopt a Resolution, recommending that the Council enact permanent ADU regulations); Background (Urgency Ordinances adopted in 2016 and extended); ADU building activity (7 ADU applications received, one under construction); and several proposed standards (location, setbacks, height, parking, guest

houses, landscaping, and required covenant). Ms. Ochoa explained: as proposed, there would be two sizes of ADUs: either attached to the main residence (maximum 700 square feet allowed) or detached (maximum 500 square feet); the detached type was reduced to 500 square feet from the Urgency Ordinance's 700 square-foot allowance at staff's suggestion; and the limit of 500 square feet would match the City's longstanding existing standard for guest houses (similar spaces to ADU's but without kitchens). However, the total accessory structure gross floor area allowed on the entire lot will not change at 900 square feet (500 + 400 square foot 2-car garage) or 12% of the total lot area, whichever is greater. Garages, pool houses, and covered patios also count toward the maximum 900 square feet.

Staff responded to questions from the Commission as follows:

- **What is rationale behind setting a maximum ADU square footage of 500 for detached ADUs? (700 sf attached vs. 500 sf detached) (Thompson)** Staff explained that in December at the extension of the Urgency Ordinance, City Council approved increasing the size of ADUs to 700 square feet, but staff supports keeping 700 SF to encourage attached ADUs, but having a maximum of 500 for detached units in order to maintain the primary presence of the main residence and to mitigate potential neighbor impacts from the ADU (accessory structures commonly closer to property lines) and to mimic other standards applicable to "guest houses". Staff felt that this was a reasonable standard to maintain for an accessory, separate unit and pointed out that all new square footage for the ADU is counted towards total BFA and the standard of overall allowed total buildable floor area for all structures on a lot will not change.
- **On-site parking: how is this affected? (Thompson)** Staff explained that under state law, new parking is typically not required for an ADU anywhere in the City due to a State exemption (waiving parking if site is within a half-mile of a transit stop). A transit stop would be any bus stop such as a Metro or local bus system service. However, in cases where an existing parking garage space required for the existing main residence is converted to new ADU living space, that parking must be replaced on the site; however, flexibility is proposed in the form of the replacement parking. For example, the required replacement parking has less rigid location and design standards - e.g. does not always have to be enclosed, can utilize mechanical lifts, be in a conforming driveway within a side/rear yard, and can occupy half of a ten-foot building separation yard.
- **Clarification of proposed utility fee exemption: (Thompson)** Staff response: Per the chart in the staff report (page 5) in accordance with state requirements, new ADUs if there is already an existing residence, are not to be considered as "new residential uses" for the purpose of calculating water and sewer service fees.
- **Required Covenant (requiring owner occupancy) recorded and how to be enforced after adoption? (Thompson/Chair Seville-Jones):** Staff response: the required Covenant must be recorded, including cases where the owner for some reason is temporarily not living on the site. It is thought that enforcement, similar to experience with short-term rentals, would be triggered by complaint. Concern voiced by Chair Seville-Jones is about safeguarding or not infringing unduly upon an owner's property rights, after he/she makes a significant investment in establishing an ADU and, then, by some unforeseen situation, the owner may become unable to comply with the residency requirement. Commissioner Thompson noted that under the concept of "buyer beware" the covenant will be a condition on the property that typically would be brought to the attention of a new owner when purchasing the property and the City may also disclose during escrow whether or not there is a complaint on file.
- **When is the "drop dead" date to adopt ADU Ordinance? (Burkhalter):** Staff Response: If the City does not act tonight and adopt an Ordinance by December 19, 2018 (date that the Urgency Ordinance expires) then the City would lose its cover provided by the Urgency Ordinance which serves as an interim set of regulations for ADUs. After that date an applicant can request approval under the state regulations. Director McIntosh noted that staff is expecting to see more ADU applications.
- **Is the Urgency Ordinance in compliance with state law currently? (Fournier)** Staff response: Yes; it follows state law in a broader way than the proposed permanent ordinance. The state would act if in receipt of a complaint received from a property owner who was denied a permit to construct an ADU under state law.

- **Why are ADU's not allowed in the sand area under the proposed ordinance? (Fournier)** Staff response: Staff evaluated the sand area (AD III/IV) and decided to limit to Districts I and II because the sand area is much denser in terms of dwelling units per land area, lots are small, the area is impacted with visitors, there is aging infrastructure, and parking supply is extremely impacted as it exists; therefore, staff feels this can be defended to protect those neighborhoods from impacts from adding additional units, people and vehicles.
- **How is the building affected at the second story, over a detached garage? (Fournier):** Staff response: There is little change, in that prior to having an ADU ordinance, you could have a second story guest house, and at a comparable size, but with the ordinance, kitchens would now be allowed.
- **What is relevant about rear alley adjacency for a detached ADU? (Regulation G.2., page 6 of the Resolution)?** Staff response: This requirement relates to the standards of building height and setbacks and reflects the City's current rules for detached second story guest houses located to the rear of the lot over a garage. An ADU, detached in the rear yard, would be able to be higher (e.g., 22 feet vs. 15 feet) when an alley is present, if the unit is directly over a garage that takes access from the alley. The rationale for this relaxed requirement is that there is a public benefit for the garage to access the alley instead of at the front (e.g. conserving parking area and improved aesthetics), and the alley acts as a rear setback between the neighbor across the alley and the accessory building.

The Commission briefly discussed alley vs. non-alley setbacks, building height and appearance and size. Staff noted that setbacks and height relate to privacy (higher and closer buildings afford less) and relative size can have a relationship to appearance, i.e. whether the accessory building is complementary to the primary residence. Staff explained the regulatory relationships between height and roof pitch (currently in the code for one-story accessory buildings) and more flexibility is given with roof pitch. It was also clarified that only ADUs attached to the main residence are required to be "matching" in appearance in order to avoid an obvious "duplex" appearance.

PUBLIC INPUT

Chair Seville-Jones opened the public hearing and invited interested persons to address the Commission.

Dr. John Bulman stated that he had wanted to convert his 3-car garage to an ADU but still maintain required parking, but was told that he couldn't because in doing so his garage would become nonconforming for garage building separation and parking space width (by six inches). He feels that his effort has been obstructed because the solution suggested was to cut off six inches of the garage, which he thinks is very unreasonable.

Ms. Raquel Bulman, 1550 6th Street, explained that she and her husband John are trying to create living quarters for her elderly mother and hopes that they can proceed and resolve code issues as soon as possible.

There being no one else wishing to speak, **Chair Seville-Jones** closed the public hearing and invited the Commission to conduct discussion.

COMMISSION DISCUSSION

Associate Planner **Eric Haaland** explained that he understands that the speakers want to convert parking space in their garage to living area for an ADU. He further explained that as proposed, there is no exemption to the setback and other parking standards for the replacement of garage parking, unless the transit-based parking exemption is foregone, and a parking space is provided for the ADU.

Discussion ensued as to how minor deviations from the setback, turning radius and other standards could be accommodated. One suggestion is to create a new category of a Minor Exception, applicable to ADU situations where there is a minor code deficiency due to existing conditions, as in this case. The suggested allowance could be 10% or other minor deficiency.

Discussion turned towards other proposed standards and regulations including: ADU size, appearance, owner occupancy and enforcement, height and architecture/design. Regarding the staff recommendation to limit the size of a detached ADU to 500 square feet, vs. 700 square feet for an attached ADU, Seville-Jones questioned

if 500 square feet was sufficient to house one or two people as this would be a full unit and would be attractive for an aging parent or caregiver plus an aging parent. **Commissioner Thompson** opined that 500 square feet strikes a desirable balance for the detached unit size and **Director McIntosh** clarified that staff, not a public or Council request, was the origin of the 500 square foot limit and the Commission could recommend a higher square footage. Regarding the workability and fairness of the covenant requiring owner residency, Commissioner Thompson suggested that enforcement be done on property transfer (absolutely important) and within (any) other two-year period under current ownership. **City Attorney Estrada** confirmed that the suggestion was legally workable and such is common for housing bound by affordability conditions in which a period of time is carved out for enforcement.

Regarding prohibition in the sand area, **Chair Seville-Jones** asked if there are possibly some opportunities for ADU production (e.g. sites with unusually large land area) in Area Districts II/IV.

Director McIntosh responded that this prohibition reflects the careful approach that staff is taking in protecting neighborhoods. The consensus of the Commission was that the sand area prohibition should remain in the Ordinance. **Commissioner Burkhalter** underscored his position by pointing out a bigger view, that adding more households can have significant impacts to a wide range of infrastructure such as schools, utilities, etc. and constitute a hardship for the City. **Director McIntosh** indicated that she does not believe that “hardship” as a threshold has been defined by the state; at this time, cities are to do as much as they can to encourage unit production and she feels that the City can make a fair argument that due to the density, lot configurations and overall beach area development, hardship measured in impacts will result if the number of households is permitted to be doubled.

Discussion focused on height and design/appearance. **Director McIntosh** opined that Staff should maintain an incentive for pitched roofs and feels the standard is fairly generous in allowing two-story accessory structures. **Commissioner Burkhalter** expressed concern about having a blanket rule prohibiting certain design. **Commissioner Fournier** stated he would like to see the appearance rule of the attached ADU also apply to the detached ADU. **Commissioner Thompson** noted that he believes the City prides itself on not requiring design review and believes that as such the issue of design will take care of itself; he is ok with removing the provision requiring an attached ADU to complement the main house and take away all vestige of architectural review.

Director McIntosh acknowledged that the “complementary appearance” is subjective, but staff works with applicants regarding their design currently; having this condition would support this more; on the other hand, if there is no concern for design, then perhaps this provision should be removed.

Commissioner Burkhalter stated he believes that there are a lot of design challenged houses in the City and **Commissioner Fournier** stated a preference for keeping the provision for only attached ADUs.

Commissioner Thompson acknowledged that staff did a great job, given strong state enforcement and believes the proposal strikes the right balance with size, parking and height. He suggested that a new provision be added to allow approval of a minor exception due to existing minor deviations in meeting the applicable standards.

COMMISSION ACTION

There being no further discussion, a motion was made by **Commissioner Thompson** to adopt the Resolution recommending Adoption of an ADU ordinance, with three changes: 1) that a minor exception be added to allow exception to the standards for existing conditions with minor code deviation; 2) that the owner occupancy covenant provision be modified to specify that enforcement be checked at all property transfers and for any other two-year period; and 3) that the provision requiring complementary appearance between the attached ADU and main residence be eliminated.

Commissioner Thompson clarified that his motion maintains the provision that detached ADUs be limited to 500 square feet and attached ADUs, to 700 square feet because he thinks that staff’s choice of 500 square feet is good to be consistent with the existing guest house regulations and some unintended adverse effects that have not been considered might result if the number is raised.

Director McIntosh iterated that keeping 500 square feet for a detached ADU has the benefit in that, with ADU and guest house rules being consistent, an owner could easily change a use from guest house to ADU

and back again to guest house. Staff believes the intent is to keep both types of accessory uses about the same size.

Commissioner Fournier asked whether in providing for a legal kitchen, however, should an ADU be allowed to be a little larger than a guest house. **Commissioner Thompson** commented that he believes that 500 square feet was sufficient and the difference of 200 square feet is more than needed to add a kitchen.

The pending motion died for lack of a second.

It was subsequently moved and seconded alternatively (Chair Seville-Jones/Fournier) to adopt the draft Resolution recommending adoption of the proposed ADU ordinance, with four changes: 1) that a minor exception be added to allow exception to the standards for existing conditions with minor code deviation, and 2) that the owner occupancy covenant provision be modified to specify that enforcement be checked at all property transfers and for a two-year period at any other time; 3) to eliminate the provision requiring complementary appearance between the attached ADU and main residence; and 4) that the square footage limit for a detached ADU be increased from 500 to 700 feet (and 1,100 square feet gross area from 900 square feet).

Discussion followed. **Commissioner Burkhalter** commented that while 700 square feet is more generous, he feels 500 square feet would work; **Commissioner Thompson** believes a lot of units will be added over garages and will match the footprint of the 2-car garage which is about 400 square feet. **Chair Seville-Jones** stated she felt that there may be some larger lots where a larger detached accessory structure could be built and having 700 square feet would give more flexibility in designing a comfortable living space.

ROLL CALL:

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

Motion passed 3-1-1-0. **Chair Seville-Jones** noted that the vote was close to a consensus and asked that in forwarding the hearing record to the Council, to please point out that the one “no” vote was objecting to only one part of the ordinance related to the 500 vs. 700 square foot maximum for the detached ADU.

Chair Seville-Jones called for a break at 8:55 p.m.

The Commission was seated at 9:00 p.m. and Chair Seville-Jones announced the next order of business.

F. GENERAL BUSINESS

11/14/18-3 Consideration of a Substantial Change to Approved Site Development Permit Plans for Fire Department Check Valve Location for Eleven Residential Apartment Units at 1213 Tennyson Street (Van Zanten)

Associate Planner Haaland gave the staff report with slide show informing this case is a requested change in location of a Fire Department required check valve assembly/fire connection (FDC) for a residential multi-family project approved by the Commission in October 2017. The owner proposes to move the location of the valve assembly and hose connection to the front of the project, facing Tennyson while the approved location was towards the rear of the building. Staff has requested Commission review and determine if the proposed revision is appropriate in accordance with the procedure in the Planning Commission Resolution conditions of approval. Mr. Haaland pointed out that while the FDC is required to be at a prominent location facing a street, the valve assembly is not and it is costlier to run long lengths of piping for the valve assembly if away from the FDC and street. Staff believes that either location is acceptable to MBFD.

In the proposed location the entire feature would be screened by a berm to be constructed behind a 2.7-foot high wall. He clarified that a portion would be visible but most of it would be hidden. The reasons submitted by the owner for the change are: 1) Bacteria growth could result due to water held in the pipes for long lengths of time; 2) the added pipe length could compromise the water pressure for the fire sprinkler system for the building; 3) installation in the building sideyard would be difficult; and 4) installation in the sideyard would inhibit access for MBFD. The Staff recommendation is to deny the proposed relocation.

Chair Seville-Jones opened the discussion by stating she is struggling with the Staff recommendation and doesn't understand the relevance of the slides of downtown commercial fire assemblies to this request.

Associate Planner Haaland explained there is a difference of residential vs. commercial, so there is an assumed higher level of aesthetic and the commercial slides are provided to show ways that the fire connection has been screened for aesthetic purposes, while still meeting the fire code. The Library example shows how the FDC and check valves can be successfully separated by hundreds of feet.

Chair Seville-Jones opened the floor to public input with a suggested speaking limit of three minutes.

James Van Zanten, property owner, stated: the issue arose during plan check of the detailed fire protection system plans and while the building itself was under construction. His fire system/general contractors brought the problem to his attention and an alternative solution that he feels is reasonable was devised. He understands the Planning Division's issue is the undesirable visibility of the entire assembly, and believes that the landscaping, berm and wall extension will adequately serve as a screen and address the aesthetics issue. He believes that the MBFD prefers the new location in that it would be as close to the tap as possible. In addition, he believes that the original location has inferior access as in the event of an emergency call, one would have to go through a private gate to shut off the water to the valve. Time could be lost hunting for the valve affecting both MBFD and other agencies in a mutual aid scenario.

Other speakers for the applicant included:

Mack Brancato, Fire protection system contractor

Lindsay Forgeron, Van Zanten Group (Development Director)

Mr. Brancato stated that he had personally spoken to the Fire Department and there is a concern that there is potential that bacteria formed in the pipes may get into the city water main. **Ms. Forgeron** pointed out that there is a condo project next door that has a similar FCD location.

Director McIntosh noted that the solution of this case may be in balancing the project aesthetics with a more efficient fire protection system.

Commission Discussion /Action

Commissioner Thompson stated he supports the owner's request. **Commissioner Burkhalter** questioned the plan review and permitting process and was concerned as to how this problem got to this point. **Commissioner Fournier** stated he supports the request, because first and foremost, there is a safety issue which is more important than aesthetics.

Chair Seville-Jones indicated her support for the owner's request, but hopes the City Fire Department and Community Development planners can get together more. She would like the planning staff to understand the technical fire issues more for future applications. In viewing the slides of other project, she liked and would encourage solutions as the case Downtown, where a hinged door screens the connection and assembly.

It was moved/seconded (Burkhalter/Fournier) that the Commission APPROVE the applicant's request as presented in the staff report.

ROLL CALL:

AYES: Burkhalter, Fournier, Thompson, Chair Seville-Jones

NOES: None

ABSENT: Morton

ABSTAIN: None

Motion passed 4-0-1-0.

G. DIRECTOR'S ITEMS

Director McIntosh reported on projects:

- Gelson's, located at 707 N. Sepulveda Boulevard, had its grand opening today.
- Manhattan Village Macy's will reopen after January 1st.
- Sepulveda Initiatives will be brought back to the Commission after three reviews by the City Council because the Council still has questions, especially regarding building height.
- 3920 Highland Avenue project status: Staff met with applicant, no revised plans yet.

H. PLANNING COMMISSION ITEMS – None

I. TENTATIVE AGENDA – November 28, 2018

Director McIntosh reported that there are no agenda items currently and this meeting will likely be cancelled.

H. ADJOURNMENT - The meeting was adjourned at 9:36 p.m. to Wednesday, November 28, 2018 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue (unless cancelled).

ROSEMARY LACKOW
Recording Secretary

SANDRA SEVILLE-JONES
Chairperson

ATTEST:

ANNE MCINTOSH
Community Development Director