

**CITY OF MAN HATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JANUARY 23, 2019
(DRAFT)**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 23rd day of January, 2019, at the hour of 6:00 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, Morton, Thompson, Chairperson Seville-Jones
Absent: Fournier
Others Present: Anne McIntosh, Community Development Director
Michael Estrada, Assistant City Attorney
Laurie Jester, Planning Manager
Eric Haaland, Associate Planner
Ernest Area, Urban Forester
Rosemary Lackow, Recording Secretary

B. APPROVAL OF AGENDA

It was moved and seconded (Thompson/Burkhalter) to approve the agenda with one change – to continue item 3 (Use Permit Amendment– 309 Manhattan Beach Blvd.) to the meeting of March 27, 2019.

ROLL CALL:

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

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

D. APPROVAL OF THE MINUTES

01/23/19-1. Regular Meeting – December 12, 2018

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

ROLL CALL:

AYES: Burkhalter, Thompson, Chair Seville-Jones (*Commissioner Morton abstaining from approving item due to absence*)
NOES: None
ABSENT: None
ABSTAIN: Fournier

E. PUBLIC HEARING

01/23/19-2. 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)

Commissioner Burkhalter, consistent with past hearings on this case, recused himself and left the chambers.

Director McIntosh gave a brief overview, noting hearing process so far and issues and that the applicant has made a good faith effort to revise the plan as directed by the Commission. The Director advised the Commission to review the revised plan as if it were brand new. She summarized the staff concern that as revised, the project still does not meet the objectives of the zone.

Before proceeding, **Commissioner Morton** confirmed that he was present at the original case hearing, and, though absent at the December meeting, has reviewed the entire record including reports and the televised recording and therefore he will participate in tonight's deliberations.

Associate Planner Eric Haaland gave a detailed report, touching on: code analysis, the Coastal Development Permit, history of the site, including an expired Use Permit, issues such as the mix of uses including a 200 sq. foot retail space, building design, changes in the plan (new 5-foot front setback, no patio, entry doors), interior plans including ramping from retail to artist studio, and second and third floor condo homes. Mr. Haaland concluded with the staff recommendation: conduct the public hearing, discuss the revisions and adopt a draft Resolution, approving the project subject to conditions, or direct otherwise.

Staff responded to questions from the Commission as follows:

- 1) Director McIntosh noted three staff concerns: a) the residential use may be too dominant over the commercial space; b) the artist studio use, while permitted may not be viable; and c) the design of the commercial space may not be appropriate. Mr. Haaland stated that staff believes condition #17 is intended to regulate the commercial uses, but acknowledged they (staff) have not had any experience with an artist studio use such as proposed. (Thompson).
- 2) The front door is not directly abutting Highland due to the interior floor being depressed below sidewalk level and the necessary ramping that results (Chair Seville-Jones).

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

PUBLIC INPUT

Michael Lee, project architect, summarized changes to the plan and acknowledged staff concern about the entry door location for the commercial space. He suggested he may be able to raise the interior floor so a ramp isn't needed for the retail area and provide a matching level for the door. He responded to additional Commissioners questions by stating: a) the applicant believes the artist studio to be viable and marketable, based on their research; b) the space can be either sold or leased; c) confirmed he would raise the floor elevation of the retail space to eliminate need of a ramp, and can relocate the retail space door to be facing Highland.

Chair Seville-Jones closed the public hearing and invited Commission discussion.

COMMISSION DISCUSSION

In response to the Chair, **Director McIntosh** stated that, in cases of mixed use, she could think of no way to condition the project to prevent the commercial space from remaining vacant for a significant time.

Chair Seville-Jones noted she has the most concern with the design of the commercial space but acknowledges the efforts that the applicant has made to address concerns.

Commissioner Thompson stated that he shares the staff's concerns about the project; suggested that the entire commercial space be "parked" at the same rate as the retail, which would decrease the size of the studio, and agrees with point made about the commercial space entry door, and likes the applicant's response on that item. He feels that 200 sq. foot retail space is too small- would like to see it be larger and possibly integrated into the artist space.

Commissioner Morton stated he appreciates the applicant's position and motivation in having the most flexibility possible. He liked the patio space but acknowledges that it did not engage with the commercial character of the street.

The Chair asked as to how the findings, in meeting the objectives of the zone, can be met. **Commissioner Morton** noted the building is beautiful architecturally, but the question is how does it work as a use, engage with the street and blend with the mix of uses in the area. The Chair added she felt it was important as to how the building's aesthetic fits in with other commercial businesses nearby on Highland. **Chair Seville-Jones** inquired of staff as to if there were many other similarly small retail spaces that were successful along Highland; **Mr. Haaland** cited businesses in the vicinity of 13th Street and Highland that are small retail with about 400 sq. feet, double the proposal. **Commissioner Thompson** reiterated his concern about the proportion of studio to retail space.

In response to the Chair about a recommendation, Director McIntosh pointed to the draft Resolution of approval with draft findings and conditions. The Chair noted that the decision on this project will establish policy as to mixed use and the area's character in this commercial area. To approve she is looking for some engagement between the retail and the studio. Director McIntosh suggested that condition #17 could be revised.

Chair Seville-Jones RE-OPENED the public hearing and invited the applicant to address the Commission.

Michael Lee, architect, summarized by stating; he believes that, based on the current floor plan there will be flow between the retail and studio space; the space will not sit empty as the market will take care of this; the building will be a great addition to the neighborhood and he cannot provide any additional parking on site.

Tim Agee, applicant, noted that his existing commercial spaces in the area have always been occupied, and he is confident that the studio will be marketable and the space will not be vacant.

Chair Seville-Jones CLOSED the public hearing and invited discussion.

COMMISSION DISCUSSION

Commissioner Thompson stated he can approve the project if the studio space were reduced to 1,000 square feet and additional conditions relating to raising the floor of the commercial space and locating the second commercial door to abut Highland, were imposed.

Chair Seville-Jones noted she does not share the strong concern about the proportion of uses and is inclined to approve with added conditions as stated by Commissioner Thompson (door location and floor elevation raising) and with provision of a visual connection between the retail and studio spaces.

Commissioner Morton expressed that this is not a "perfect project" but believes that the applicant has worked with the code and has done his best to address concerns. He does not support reducing the studio space due to the expense, and respects the owner's right to build what he wants.

Chair Seville-Jones suggested that the findings include a statement that the project, by improving the physical building form, will enhance the aesthetics of the nearby area.

Commissioner Thompson inquired as to whether the Resolution can be recorded in the condo CC&R's to assist in the enforcement of its conditions. **Assistant City Attorney Estrada** noted that the covenant for the condo CC&R's can incorporate by reference, the UP and all conditions.

COMMISSION ACTION

It was moved and seconded (Morton/Seville-Jones) to adopt the draft Resolution, approving the project subject to incorporation into the Resolution of three new conditions/requirements: 1) the re-location of one door to the retail space to face Highland and 2) raising the floor plate of the retail space up to sidewalk level and 3) that the retail space shall be visible to the studio area.

ROLL CALL:

AYES: Morton, Chair Seville-Jones
NOES: Thompson
ABSENT: Fournier
ABSTAIN: Burkhalter (recused)

Commissioner Thompson stated that his vote of “no” was due to his concern regarding proportion of uses on the site (too lopsided: residential vs. commercial, and small size of retail).

Director McIntosh noted that the motion passed and project is approved. This decision will be submitted to the City Council for its meeting of February 5 as an information item. The decision can be appealed by the Council at its meeting or by any other interested party within 15 days from tonight.

Commissioner Burkhalter joined the Commission

01/23/19-3. Proposed Use Permit Amendment to Allow a Major Remodel of an Existing Restaurant with Full Liquor Service and Live Entertainment at 309 Manhattan Beach Boulevard (Newman)

(see Agenda Item D. – Public hearing continued to March 27, 2019)

01/23/19-4. Zoning Code Amendment to the Tree Preservation Regulations (Section 10.52.120 of the Zoning Code) and Related Code Sections (City of Manhattan Beach)

Community Development **Director Anne McIntosh** gave a brief background and introduced **Urban Forester Ernest Area**, Public Works Department. **Mr. Area** gave the staff report on proposed changes to the Zoning Ordinance pertaining to Tree Preservation, aided with a PowerPoint slide presentation. His presentation covered the history of the Tree Preservation regulations; maps of Area Districts I/II where the regulations are applicable on private property; specific proposed amendments, including ANSI standards for tree pruning and tree replacements which are proposed to be clarified in the code.

Mr. Area distributed a late received email (Osterhout) and responded to questions from the Commission: 1) specifications will be developed from the ANSI standards; 2) pruning activity, will be included in specifications (as an accepted standard to be conducted only during winter or not during bird nesting season) but has not been incorporated into the ordinance due to enforcement challenges, but staff will educate with public outreach, including tree contractors; and 3) the recommendation for canopy is that maximum of 25% can be removed annually during the growing season though he personally advocates for 10%.

Discussion focused on why some areas are not protected. **Planning Manager Laurie Jester** explained the Tree Protection regulations are limited to private property front setbacks and the streetside on corner yards based on direction from City Council. And Area Districts III and IV (beach area) is not included due to limited front setbacks and relatively small side and rear yard requirements, as well as view considerations (e.g. in walk-street encroachment areas, vegetation is limited to 42-inches). **Manager Jester** emphasized that all trees within the public right of way or on public land, including parks, rights of way, trails and parkways, are protected throughout the City and **Mr. Area** described how public trees are handled, public education, and noted that he has just completed upgrading the standards for public tree care and protection.

Staff addressed additional Commission inquiries: **Director McIntosh** noted that this amendment is staff-initiated, as part of the Public Works Work Plan and while initiated by the Council, their input has not yet been received on the Ordinance. **Mr. Area** reported on the balance of the Tree Canopy Restoration Fund, noting that \$32k has been authorized for a couple of projects and this money comes from fines and permit fees which will continue to be a funding source. **Mr. Area** also noted that the ordinance gives him the discretion of deciding to plant a smaller, vs. larger replacement tree when one is removed which can be warranted, taking into account many things, such as utility locations, underground and overhead, etc. **Mr. Area** has reviewed the email received and, regarding public outreach - much more can be done, and the tree trimming permit requirement is being enforced. **Planning Manager Jester** noted that staff could tweak the ordinance for more flexibility in cases of “the building vs. the tree” taking priority- including hardscape situations, instead of mandatory language (“shall”) the code intent could be expressed. Regarding how to address removal and replacement of trees dying, Mr. Area stated there is no standard in the profession.

Discussion focused on whether the proposed changes go “far enough” in achieving city goals. **Forester Ernest Area** emphasized, in response to **Commissioner Burkhalter**, that staff’s goal is to beef up the current regulations. With respect to changing to a “critical roots” metric, he acknowledged inherent difficulty and stated that while several cities have done this, staff is recommending maintaining the dripline as guide at this time. **Chair Seville-Jones** suggested at this time, taking the step of prohibiting tree trimming during certain seasons (coinciding with avoiding bird nesting) instead of relying on public outreach.

Director McIntosh summarized the Commission's options. They can either recommend approval based on additional standards (to be articulated) and incorporated into the draft Resolution, or they can recommend approval with no additional standards, i.e. no changes to the draft resolution, with Commission comments forwarded to the Council in the staff report.

The Commission discussed that it would be beneficial to add more protection in the draft Resolution. **Urban Forester Ernest Area** stated that having a seasonal trimming prohibition would aid enforcement, but he believes that there will be significant public pushback. **Commissioner Burkhalter** pointed out that adding a seasonal prohibition in the Ordinance will send a clear signal about tree protection and he doesn't see a rational reason not to do this.

Chair Seville-Jones opened the public hearing; and seeing no one wishing to speak, closed the hearing.

COMMISSION DISCUSSION

Discussion focused on possible changes in the draft resolution. **Chair Seville Jones** summarized the changes the Commission may want to add to the Ordinance, first, that in the Purposes Section, language could be added to address the balance issue (owner right to build vs. tree protection) and, second, a prohibition for trimming (emergencies excepted) within the season of bird nesting, consistent with the City's existing standard enforced with private contractors for trees on public land or right of ways. **Planning Manager Jester** suggested that instead of specifically adding new standards, the pruning seasonal limitations could be incorporated by reference in the standards which would give some flexibility as it would allow administrative modifications.

COMMISSION ACTION

It was subsequently moved and seconded (Thompson/Burkhalter) that the Commission Adopt the Draft Resolution, recommending changes to the City's Tree Protection regulations, with the addition of: an intent statement in the Purposes Section, and a seasonal prohibition for trimming, consistent with that applied to private contractors for public trees.

ROLL CALL:

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

Motion passed 4-0-1-0.

Director McIntosh notified that the Commission recommendation is tentatively scheduled to be reviewed by the City Council at its meeting of March 6th.

F. DIRECTOR'S ITEMS

Director McIntosh reported:

1. Update on previous Commission projects:

Two major groundbreakings have already occurred in January including the 300 Sepulveda Skechers building, and the south deck for Manhattan Village Shopping Center. Also, additional infrastructure improvements for the Center will be completed with this phase (roads, widening near Olive Garden, etc.) and Urban Plates restaurant and Macy's are open now. Other matters: In Downtown, the sheeting has come off of the Skechers store on Manhattan Avenue and, two meetings ago, the Council approved the guidelines for applications for outdoor dining in Downtown, and also recently considered but did not make a decision, on a proposed short-term rental ordinance.

2. Commissioner Attendance at Planning Conferences: There is a budget for Commission conferences which support the work of the Commission. The funding assumes a number of conferences with two Commissioners attending each. Director McIntosh cited a number of planning conferences that are scheduled in 2019. She suggested that the Commission discuss the protocol they would like to follow and mentioned some options. The Chair suggested that seniority could be the main consideration, but that the

seniority level could roll from conference to conference through the year. Commissioner Thompson stated in his experience, all the Commissioners would not attend many if any, conferences, but he felt it important that at least one Commissioner attend the most important meetings, and report back.

It was decided that, at the next meeting, Director McIntosh would provide a list of and information regarding upcoming conferences as well as the budget. At that time, the Commissioners can advise as to which conferences each wants to attend.

G. PLANNING COMMISSION ITEMS

Commissioner Thompson suggested that the Commission start a discussion regarding mixed use as applicable to the areas of the town where it is allowed; staff will place this topic on the next agenda with relevant information. **Chair Seville-Jones** stated that she felt that the north end should have special consideration due to its unique character.

Commissioner Burkhalter made four points about mixed use relevant to the Highland project on the agenda tonight that he thought would be worthy of consideration in a discussion of mixed use policies and codes: 1) the code should better define the ratios permitted of the uses; 2) in the coastal area, with mixed use, because residential is so desirable, it's probable that future projects, like tonight's will result in a net loss of more "affordable" units and this may become a very important policy issue; 3) in his experience, he has seen where, in an economic downturn, retail became un-viable and was replaced by artist studios, however this led to a sort of "zombie zone" where artists covered street front windows and the character of the area was significantly impacted; and 4) in the case tonight, basement area was exempted from being counted for parking and as BFA, and he feels this should be reviewed.

H. TENTATIVE AGENDA – February 13

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

I. ADJOURNMENT - The meeting was adjourned at 8:06 p.m. to Wednesday, February 13, 2019 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