

**CITY OF MAN HATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
MARCH 27, 2019  
(DRAFT)**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 27<sup>th</sup> day of March, 2019, at the hour of 6:04 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

Vice-Chair Burkhalter called the meeting to order.

**A. ROLL CALL**

Present: Fournier, Morton, Thompson, Vice-Chairperson Burkhalter  
Absent: None  
Others Present: Anne McIntosh, Community Development Director  
Michael Estrada, Assistant City Attorney  
Ted Faturos, Assistant Planner  
Rosemary Lackow, Recording Secretary

**B. REORGANIZATION OF THE COMMISSION** *(Taken after Approval of Agenda)*

Director McIntosh reviewed the process of filling a vacated Chair: based on seniority of date of appointment to the Commission, Vice Chair Burkhalter would assume the Chair and the seat of Vice Chair in turn would be assumed by Commissioner Morton, who is the Commissioner who was chronologically appointed after Commissioner Burkhalter.

It was moved and seconded (Thompson/Fournier) to approve Vice Chair Burkhalter as Chairperson and Commissioner Morton as Vice Chair.

**ROLL CALL:**

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

**C. APPROVAL OF AGENDA** *(Taken Before Reorganization)*

It was moved and seconded (Thompson/Fournier) to approve the agenda as submitted.

**ROLL CALL:**

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

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

**E. APPROVAL OF THE MINUTES**

03/27/19-1. Regular Meeting – January 23, 2019

It was moved and seconded (Thompson/Fournier) to approve the minutes as submitted. Commissioner Fournier noted that he would like to bring up an item that was discussed at the January meeting later – to be discussed under Planning Commission Items.

ROLL CALL:

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

**F. PUBLIC HEARING**

03/27/19-2. 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)

**Chair Burkhalter** announced the item and invited staff to give a report. **Assistant Planner Ted Faturos** provided a detailed report, covering the following topics: application background, scope of the governing 1984 use permit; neighborhood setting and nearby uses including commercial buildings and structures which will provide buffers; proposed physical changes including significant alterations both interior and exterior; applicants' request to maintain existing operational parameters and fully restore residential use at the second level; proposed conditions; and in conclusion, the staff recommendation – that the Commission conduct the public hearing, discuss, and adopt a Resolution, approving the project subject to conditions, or direct otherwise.

Assistant Planner Faturos and/or Director McIntosh responded to requests from the Commission for more information:

- **Second story residential use:** Based on city records, the residential use has existed since the early 1940's but over time was converted without permits to storage and office. It is not clear that residential use was fully abandoned. The applicants want to restore the upstairs to residential because conversion to commercial would be cost prohibitive. The application applies to the entire property, both floors, and the Commission has the authority to add any conditions they feel necessary to address impacts related to both the residential and commercial use. It is appropriate to add a reference to the residential use in the Resolution title.
- **Second story deck:** Staff is not recommending any special operating restrictions other than the second story deck cannot be used commercially or rented out for private events (condition 21). Staff believes that enforcement under existing controls such as the Noise Ordinance will be sufficient as the deck will be a private residential space, which compared to commercial open decks, is easier to enforce.
- **Prior entitlement status:** A Use Permit approved in 2003 (PC 03-24) has expired as it was never implemented.

PUBLIC INPUT

Chair Burkhalter opened the public hearing and invited the applicant to address the Commission.

**Ron Newman** and **Greg Newman**, applicants, stated: they own several successful restaurants and bring years of experience to this project; since purchasing over a year ago, they have continued the Shark's Cove operation with no complaints; the prior owner rented the upstairs residential area for private events and while they originally intended to maintain a sports bar they came to understand that a more upscale late-night establishment was needed in the City. They want to retain all rights for operation in the current use permit.

The applicants responded to questions from the Commission:

- **Upstairs space:** They learned it was cost prohibitive to upgrade the upstairs to office; they will likely combine the space into one residence with minimal alterations.
- **Full menu:** They oppose the draft requirement for "full food menu" at all times, noting after about 11:00 pm, few people have dinner after 11:00 pm and having a limited "late night menu" would be sufficient and will be consistent with the state ABC requirements.
- **Entertainment limits/hours:** Their request includes the ability to have entertainment in line with Sharks Cove's entitlement, seven days/week and they anticipate a typical band would have four musicians. A limit to acoustic only entertainment would be unreasonable; but they accept a condition that requires them to use "house system" for amplification. They feel a potential 1:00 a.m. closing is unreasonable because as such people will start leaving at midnight which would kill the business and in closing, they feel there is a desire in the community to have a "cool place" to go to and socialize late at night.

**Chair Burkhalter** invited the public to speak, and there being none then closed the public hearing and invited Commission discussion.

#### COMMISSION DISCUSSION

**Commissioner Fournier** suggested discussing the hours and the past practice of imposing earlier closing times vs. the current application and its circumstances. **Commissioner Thompson** emphasized that the issue of late hours is primarily one of equity for the downtown restaurants in that since 1995 no restaurant with alcohol service has been approved with a 2:00 a.m. closing. **Assistant City Attorney Estrada** clarified that the Commission has the authority to impose operating hours that are more restrictive than a current or past practice, or to change the prior approved hours, based on evidence that is presented, because the Use Permit process is discretionary in nature. **Chair Burkhalter** stated he believes approving later hours would set a precedent; **Director McIntosh** noted that Hennessey's, on the same side of MBB is the only other full liquor service restaurant in that same block that is allowed to stay open until 2:00 a.m.

**Commissioner Fournier** congratulated the applicant on a terrific job and he feels this project is needed. Regarding issues, he is comfortable with the residential use although it is an unusual aspect for a commercial use permit; feels that the sound/noise issue has been adequately addressed, recognizing this has been a consistent public comment/concern heard for restaurants and it is the Commission's duty to consider such. He also feels the food menu service issue has been addressed; as to hours, he suggested that the Commission might consider making an exception to the 1:00 a.m. closing on the basis that location is somewhat unique in that it does not back up to residences.

**Commissioner Morton** stated he supports the project on the bases that: he's comfortable with the residential use including the deck with proposed restrictions; the project including its design will be a very positive upgrade for Downtown, the later closing at 2:00 a.m. is warranted due to the site's location and buffering from residences by commercial structures, and, finally, he believes that the applicant has an option to revise the project such that it would not require a use permit and the current proposal is a superior project.

**Chair Burkhalter** suggested the 2 a.m. closing time could be allowed subject to passing a probationary period – if failing the probation because of problems, the business can be required to abide by an earlier closing time.

**Director McIntosh** advised that the City Council, when it approved an appeal of the 900 Club use permit, required a one-year review which is coming up very soon and suggested something similar could be done for Esperanza. As such an informational report will be placed on the consent portion of the Council agenda and will be received and filed unless pulled off for discussion. Director McIntosh noted that the Esperanza use permit decision tonight will similarly go to the City Council as an informational item "on consent".

**Chair Burkhalter** stated he felt it would be appropriate to add a similar type of additional review. **Director McIntosh** suggested such a stipulation could be added to condition 20; it was clarified that this would be one-year after Esperanza starts operation. **Director McIntosh** clarified that this matter could come back to the Commission as an administrative review report, under Commission Business, not a public hearing. At that time the Commission would have the option to receive and file the report or request more information and ultimately could direct that staff initiate a public hearing to review and amend/revoke the use permit.

**Commissioner Thompson** asked if there were to be any televisions in the restaurant, to which Mike Newman, responded two or three. **Commissioner Thompson** suggested that the conditions include a requirement that the planning staff review and approve the floor plan for the upper residential use prior to issuance of any permit for the commercial portion, and that all construction, both floors, be done concurrently.

The Commission subsequently reached consensus on the following amendments: 1) in the title, add a reference to the request for residential use (two units maximum); 2) add a condition requiring that the floor plan for the residential area be reviewed and approved by staff prior to issuance of a commercial permit and all construction to be concurrent; 3) amend food service condition by striking "full menu" specification, consistent with ABC requirements; 4) amend entertainment condition(s) to allow up to five musicians/vocalists, require that amplification shall be through the restaurant speaker system, no amplification equipment/speakers shall be brought into the restaurant, and the management shall control the speakers; and 5) add requirement that an informational report shall be submitted by staff to the Commission one year after commencing restaurant operation.

## COMMISSION ACTION

It was subsequently moved and seconded (Morton/Fournier) that the Commission **ADOPT** a Resolution **APPROVING** a Use Permit Amendment to Allow a Major Remodel of an Existing Restaurant with Full Liquor Service and Live Entertainment at 309 Manhattan Beach Boulevard (Esperanza/Newman) subject to five changes to the Resolution, as discussed.

### ROLL CALL:

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

Director McIntosh announced the motion passed.

## G. DIRECTOR'S ITEMS

Director McIntosh reported:

### 1. Update on previous Commission projects:

- Mixed use project in the north end of Highland: was received/filed by the City Council; plans not yet submitted.
- Sunrise Senior Assisted Living Housing project at "Goat Hill": City is preparing EIR, after it is circulated and prior to project hearing, Director will likely schedule a field trip to another of the applicant's facilities; would be a special Commission meeting with public notification.
- Ordinance to allow hotels to be 40 feet tall on large Sepulveda sites was approved by the City Council and will be in effect in about a week (just a couple of sites where there is talk about building a hotel).

### 2. Discussion of upcoming conferences and training for Commissioners

Director McIntosh called attention to a handout of conferences that she encourages the Commissioners to consider attending, suggesting that all attend at least one, and one or two Commissioners might consider attending together. Each Commissioner will be required to provide a report at a meeting following the conference. Chair Burkhalter stated he had a conflict for the fall APA conference.

## H. PLANNING COMMISSION ITEMS

**Commissioner Fournier** requested clarification about the overall approach to the Tree Ordinance amendments which was discussed by the Commission at its January meeting. In reviewing, he had a perception that new policy was being created whereby all residents have full responsibility for trees, if within the protected areas, for the entire life of the tree. He is concerned there are significant financial implications as a result. Discussion followed; **Commissioner Thompson** explained that the recommendations of the Commission did not create new policy but rather related more to fine-tuning replacement tree specifications and **Chair Burkhalter** added that the overall number of trees that have protection status has not changed. **Director McIntosh** added that issue of replacement tree specs most often comes up during construction when the price of the tree work is minimal compared to hard construction costs and the City is very flexible and works extensively with residents and contractors to identify all possible options. **Commissioner Fournier** suggested that perhaps some outreach and education might be beneficial with these changes to the tree ordinance. **Director McIntosh** suggested that the Urban Forrester can meet with the Commissioners and noted the Ordinance will be going to the City Council in April or May.

**Commissioner Thompson** requested clarification on the process for appointing a new Planning Commissioner. **Director McIntosh** explained the annual city-wide Commission appointments are coming up soon (interviews in April/May, appointments in June) and the Council can opt to either appoint someone from the current list of applicants or wait for new applicants. The seat would be vacant for as much as two months.

**Commissioner Morton** expressed his appreciation for the seven years of service given by former Planning Commission Chair Sandra Seville-Jones and called for a moment of silence in her honor. **Commissioner Fournier** added that, in attending memorials in her honor, many others, like himself, seemed to be unaware of her full legacy and extent of her tremendous accomplishments and responsibilities. The lesson he feels is to, in the moment take the time to get to know one another.

**I. TENTATIVE AGENDA** – April 10, 2019

Director McIntosh informed of the following items for the next Planning Commission meeting and also that the annual Work Plan will likely be scheduled for May.

1. 516 N Sepulveda Boulevard - Use Permit proposed to be a shared work space (former Mr. Pockets)
2. 205 Rosecrans Place - Coastal Development Permit Appeal (Single Family Residence new or major remodel, neighbor appealing)

**J. ADJOURNMENT** - The meeting was adjourned at 7:33 p.m. in memory of Planning Commission Chair Sandra Seville-Jones, to Wednesday, April 10, 2019 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue.

---

ROSEMARY LACKOW  
Recording Secretary

---

BENJAMIN BURKHALTER  
Chairperson

ATTEST:

---

ANNE MCINTOSH  
Community Development Director