

**MANHATTAN BEACH  
PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
JUNE 10, 2020  
(DRAFT)**

**A. CALL MEETING TO ORDER**

A Regular meeting of the Planning Commission of the City of Manhattan Beach, California was held virtually via Zoom on the 10<sup>th</sup> day of June, 2020, at the hour of 3:01 p.m. Chair Burkhalter called the meeting to order and announced the protocol for participating in the meeting.

**B. PLEDGE TO FLAG**

**C. ROLL CALL**

Present: Fournier, Morton, Thompson, Ungoco, Chairperson Burkhalter  
Absent: None  
Others Present: Carrie Tai, AICP, Director of Community Development  
Brendan Kearns, Assistant City Attorney  
Eric Haaland, Associate Planner  
Angelica Ochoa, Associate Planner  
Nhung Huynh, Participant Host  
Drew Teora, Agenda Host  
Rosemary Lackow, Recording Secretary (monitored meeting via livestream)

**D. REORGANIZATION OF THE COMMISSION**

**Director Tai** congratulated Chair Burkhalter and Vice Chair on their reappointment and explained that rotation of the Chair and Vice Chair is based on seniority, by seat number and at this time it is appropriate now for Vice Chair Morton to become Chair, and Commissioner Fournier, Vice Chair.

**Chair Burkhalter** called for a nomination for Chair; it was moved and seconded (Thompson/Fournier) that Vice Chair Morton be the new Chair.

Roll Call:  
Ayes: Fournier, Morton, Thompson, Ungoco, Chairperson Burkhalter.  
Noes: None  
Absent: None  
Abstain: None

**Director Tai** announced the motion passed 5-0 and Vice Chair Morton was seated as Chair.

**Chair Morton** thanked Commissioner Burkhalter for his leadership and service, and paid tribute, with the Commission joining, to former Commissioner Sandra Seville-Jones, noting that, but for her tragic passing, would be in line for the Chair.

**Chair Morton** called for a nomination for Vice Chair; it was moved and seconded (Burkhalter/Thompson) that Vice Chair Fournier be the new Vice Chair.

Roll Call:  
Ayes: Burkhalter, Thompson, Ungoco, Fournier, Chairperson Morton.  
Noes: None  
Absent: None  
Abstain: None

**Director Tai** announced the motion passed 5-0 and Commissioner Fournier was congratulated on becoming the Vice Chair.

**E. APPROVAL OF AGENDA**

It was moved and seconded (Fournier/Thompson) that the agenda be unchanged.

Roll Call:

Ayes: Burkhalter, Thompson, Ungoco, Vice Chair Fournier, Chairperson Morton.  
Noes: None  
Absent: None  
Abstain: None

**F. AUDIENCE PARTICIPATION – None**

**G. APPROVAL OF THE MINUTES**

6/10/20-1. Regular Meeting (rescheduled from April 22, 2020) – April 29, 2020

It was moved and seconded (Thompson/Burkhalter), to approve as presented.

Roll Call:

Ayes: Thompson, Ungoco, Burkhalter, Vice Chair Fournier, Chairperson Morton  
Noes: None  
Absent: None  
Abstain: None

**H. GENERAL BUSINESS**

6/10/20-2. Housing/Accessory Dwelling Unit Ordinance Study Session

**Chair Morton** announced the item and invited staff to make a presentation.

**Associate Planner Eric Haaland** summarized the staff report. He reviewed the following main points as a discussion framework, using a series of slides: 1) Background: new state laws require City to bring interim housing ordinances into compliance in both the local Zoning Ordinance and Coastal regulations by December 15, 2020; 2) Location of Area Districts within “inland” and “beach” areas, noting ADUs currently prohibited in beach Area Districts III/IV; 3) Significant changes to ADU regulations: increasing maximum size from 700 to 1,000 sq. ft, and permitting garage conversions without replacement parking on-site; 4) ADU adjustments needed include: clarifications pertaining to maximum accessory building area, parking in setbacks, remnant driveway curb cuts, clarification of “kitchen facilities”; and 5) Dwelling unit replacement issues, e.g. maintenance/improvement/replacement of nonconforming dwellings, vehicle access for multi-unit sites, constraints in replacing dwellings with ADU’s especially in beach area.

**Mr. Haaland** emphasized that under the new state housing laws, dwelling units can no longer be demolished without being replaced on-site, and ADUs must have even less restrictions than previous years when ADUs and JADUs were first mandated. However, the law allows that ADUs can be restricted in areas where there is concern for fire safety; the City has determined that the beach area, due to narrow roadways and limited vehicle access, qualifies for such a prohibition. He noted exceptions such as allowing ADUs in all multi-family areas whereby common use areas (laundry/utility areas) are able to be converted to an ADU. He also noted the Commission had received a comment suggesting additional exceptions should be applied to the beach area. Using four charts, he demonstrated both for ADU and unit replacement regulations, the available options for both the inland and beach areas. Mr. Haaland pointed out that a JADU can qualify as a replacement unit in the beach area for a demolished primary unit, if it is designated to be “affordable”.

**Associate Planner Haaland** clarified for Commissioner Thompson that a “JADU” or “Junior Accessory Dwelling Unit” contains 500 square feet maximum and must be attached to the main building, and neither an ADU or JADU has an on-site parking requirement. In the case of new construction of a main residence and one or more ADUs, a garage would be required for the new main residence, but no parking would be required for the ADU’s. In the case of existing development, when a garage is converted to an ADU, there is a possibility that no on-site parking would be provided.

**Mr. Haaland** concluded with the recommendation that the Commission receive public input, discuss the information provided and direct staff, ultimately, to schedule a public hearing on proposed code amendments.

Chair Morton, building on the staff report, observed that, while the City has no control over the mandates that have come from Sacramento, he would encourage discussion to focus more on how the City can best use ADUs/JADUs to best address the restriction on reduction of density.

**Assistant City Attorney Brendan Kearns** opined that, although there has been litigation, it is still in early stages and the general rule at this time is that the city's discretion is very limited.

**Vice Chair Fournier** stated that this was consistent with the information he received at a recent conference - that to legally fight the mandates would be a waste of time and, potentially, even more restrictive laws may be enacted. He inquired as to the protocol for proceeding with this study session.

**Chair Morton** explained the main goal of tonight is to solicit public input, have a discussion about framing issues, and then to set an agenda for conducting more discussion perhaps in more detail. He would anticipate a motion to schedule another study session.

**Director Tai** announced that comments were emailed to the Planning Commission from: Rosanna Libertucci, Karynne Thim, Audrey Judson, Brigitte Pratt, Jeremy Shelton, Christa Lyon, and Brandon Straus.

**Associate Planner Haaland** indicated that no other comments were received by email or phone prior to the meeting.

**Commissioner Burkhalter** posed a number of questions to which staff responded as follows: 1) Are the current interim ordinances in substantial compliance with state law? **Assistant City Attorney Kearns** indicated that the City Attorney believes that the interim ADU ordinance is substantially consistent with state law. The replacement unit ordinance is separate but touches on JADUs - this is an area of law that is subject to interpretations and the City Attorney will be considering all public comments going forward. 2) When is the Housing Element Update due? **Director Tai** noted the due date is October, 2021; staff anticipates starting in late 2020. 3) Do ADUs/JADUS qualify as replacement units for a primary unit? **Assistant City Attorney Kearns** responded that the City Attorney's current position is, in general, ADUs and JADUs can be used to satisfy a requirement for replacement units for a primary unit and that would apply regardless of use by owner or as a rental unit. 4) What is the logic in finding that development of ADUs/JADUs would be an elevated fire/life safety issue in the beach area, if they are replacing existing units? **Director Tai** clarified that the fire safety finding, to support prohibiting ADU's was established prior to the legal requirement for replacement units and is based on the potential of adding all potential net new ADU's, not replacement units. 5) Noting that the development standards (e.g. height, setbacks) in the interim ordinance are identical to those in the state code and differ from the City's code - will staff address this in the permanent code? **Associate Planner Haaland** acknowledged that there are differences as noted in the accessory building/guest quarters standards for height and setbacks, but currently staff is not considering changing those; the 10-foot separation between habitation buildings would still apply. 6) Currently an ADU is a "nondiscretionary" application (no public hearing) but if one is proposed with a project (e.g. 3-units) that requires a use permit, shouldn't the entire project be looked at holistically and so, shouldn't the city be reviewing its thresholds for use permits in conjunction with possible ADU development? **Associate Planner Haaland** noted that the state law prohibits cities from bringing an ADU development into a discretionary process; **Director Tai** added she believes it reasonable to review existing processes perhaps as part of the Housing Element Update to see whether they reflect a need for amendment, given the changes in the regulatory environment or to be consistent with housing policies being adopted.

In response to **Vice Chair Fournier**, **Director Tai** noted that although the Coastal Commission had concerns in years past regarding the City's regulations for ADUs, currently the Coastal Commission is very much in support of the furthering the state housing.

In response to **Commissioner Ungoco**, **Director Tai** clarified that local ordinance adoption, not Coastal Commission certification, must occur before the December 15 sunset of the interim ordinances and she anticipates scheduling a City Council public hearing and “first reading” in October around Halloween and “second reading” and adoption, no later than mid-November. As such, the new Ordinances would come into effect no later than December 15.

#### PUBLIC INPUT

**Chair Morton** invited public comments; the following persons addressed the Commission:

**Gifford Cast**, owns 224 35<sup>th</sup> Street, a triplex, is very concerned and feels the zoning for this property has been very unclear and he seeks clarification as to what he could rebuild (how many units, and types) in the event of a fire or earthquake.

**Chair Morton** suggested that it would be appropriate for Mr. Cast to contact the Planning Staff for guidance on his specific site as this is outside the scope of the Commission’s review tonight.

**Jane Sager**, real estate broker and owner of a beach area nonconforming walk street property, expressed concern that property values of legal nonconforming properties have declined rapidly along with property tax revenue; she urged the Commission to help the community to solve this problem, and find ways to create flexibility in the codes.

**Kevin Rosen**, echoed the prior speaker and he believes the City needs to account for the loss of value for multi-unit properties and find ways to incentivize redevelopment and remodeling, perhaps looking at how setbacks or affordability restrictions are applied or imposed.

**Matt Morris**, believes that the restrictions for replacement units has dramatic great impact to owners, and city tax revenues, especially in the beach area, and will potentially stop new development. He believes there should be more flexibility to allow especially the small JADUs in the beach area and has concerns as to why an affordability restriction should be applied to a property where the prior occupants were not low income.

**Robb Stroyke** echoed the prior speaker, adding his concern about impacts especially to older long-term owners on fixed income, whose properties’ values may also be impacted by an affordability requirement. He asked as to whether the city can modify the code to allow a duplex plus one or more ADU’s to replace an existing triplex.

**Director Tai** advised that specific zoning applicability questions should be addressed to staff, and she will provide the contact information after public testimony.

**Rosanna Libertucci** has a walk street property with an existing triplex and has concerns that the city zoning standards are restrictive to the point that they effectively prohibit rebuilding three units (especially the 10-foot setback between buildings). She urged the Commission to be reasonable and not force owners to have affordability deed restrictions, and to apply flexibility in the standards. She pointed to two addresses where she feels flexibility has been applied and there is both adequate parking as well as adequate development (217 32<sup>nd</sup> Street triplex and 410 Ocean Drive triplex).

**Brandon Straus**, Srour and Associates, believes the City’s existing ADU ordinance is not in compliance with state law in a few areas, as stated in correspondence he has submitted. Provisions that are out of compliance include a prohibition of ADU’s/JADUs in the beach area as well as an affordability requirement imposed on by-right JADUs in the beach area. He urged that the City not adopt an ADU ordinance that would restrict development beyond that required by the State.

There being no others wishing to speak, Chair Morton invited Commission discussion.

## COMMISSION DISCUSSION

**Commissioner Thompson** stated he feels certain issues need further review by staff next staff report, such as: 1) affordability; 2) density (how replacement of existing units is to be calculated or implemented for various housing types); and 3) parking and other development standards (e.g. 10-foot setback) that have been raised by the public.

**Vice Chair Fournier** stated he has understood for a few months after attending a planning conference, that the state mandates have great impact and while there is some interpretation involved, he feels the City has to be realistic about what it can and cannot do and yet try its best to mitigate the impact. He invites anyone to contact him for more information about the state's point of view.

**Commissioner Ungoco** stated he feels confident that the City will be able to develop permanent ordinances in a timely fashion but has concern about public participation and how that will be managed, especially if the process occurs within the holiday season.

**Director Tai** responded that staff has noted all input received today and will incorporate comments and more information into a report to be provided to the Commission for a follow-up discussion; public notification both the Commission and City Council public hearings will include publishing of a notice in the local newspaper 10 days prior to a hearing as well as posting of the agenda.

**Director Tai** announced that those viewers who have property specific questions may contact the City Planning Staff at 310-802-5520 or email at: [planning@citymb.info](mailto:planning@citymb.info). Staff Planners who can help with questions are Eric Haaland, Angelica Ochoa and Ted Faturos, and Planning Secretary Drew Teora will assist as well.

**Commissioner Burkhalter** suggested another study session would be helpful with clear direction, a sort of "road map" as to what is and isn't within the purview of the City and what issues should be focused on, in adopting permanent ordinances.

**Chair Morton** stated he also supports another public study session prior to holding a hearing, to provide a clear framework of issues and with information about options in the types of units (townhomes, ADUs, JADU's) that could be developed within the purview of the City.

**Commissioner Fournier** stated he believes it is very important for the city to show Sacramento it is being diligent in moving forward to adopt permanent ordinances.

**Commissioner Thompson** stated he would like to see more structured information that would address what other similar cities (e.g. Hermosa Beach) are doing, as well as clear explanation as to the City's authority in looking at various options.

**Director Tai** explained that the housing training session, tentatively scheduled for June 17<sup>th</sup>, is more of a primer/update on a number of other housing laws (e.g. regarding infill and multi-family housing) and is not directly relevant to the ADU and replacement unit ordinances that are being considered in this meeting.

**Commissioner Thompson** clarified for Director Tai that he is concerned about the time frame and believes that having very structured information such as a survey/comparison of what other cities are doing to change their zoning to meet the new laws as well as identification of what specific code sections will need to be amended, will be of great assistance.

**Chair Morton** added that he feels it is important to identify a variety of options, including JADU's and townhome developments and to what degree the City wants to encourage them or a combination of such unit types.

## COMMISSION ACTION

**Chair Morton** asked for a motion; it was subsequently moved and seconded (Thompson/Fournier) that Staff schedule a second, follow-up study session on this subject, with additional information

provided such as a summary of specific code sections that would be amended and information from other cities, as discussed, with the anticipation that a public hearing on this matter would be scheduled thereafter to consider a draft ordinance.

**Roll Call:**

Ayes: Thompson, Ungoco, Burkhalter, Vice Chair Fournier, Chairperson Morton  
Noes: None  
Absent: None  
Abstain: None

**Director Tai** noted that the motion has passed; Staff has direction to schedule a follow-up study session, with provision of more structured information regarding specific code amendments.

**I. DIRECTOR’S ITEMS**

**Director Tai** reported the following:

1. Update of previous Commission projects: On May 4<sup>th</sup> the Council approved the Manhattan Post project (Manhattan Avenue); all conditions prior imposed by the Commission were adopted. The City Council received and filed the Commission’s approvals dated April 29, 2020 for: Four-unit condo project, 617 Aviation Way; two Master Use Permits for commercial development, 1100/1120 Sepulveda Boulevard; and a Sign Exception for Manhattan Village Center Shopping Center.
2. Manhattan Village Shopping Center: Regarding construction - north parking deck re-bar is being installed. Operationally, as of June 15 retail will, starting with eight stores, open back up to the public.
3. Housing Laws training tentatively on June 17, 2020: this will be a training session, not a formal public meeting.

**J. PLANNING COMMISSION ITEMS**

Commissioner Burkhalter highly recommended the KCET series “The Life-Sized City” aired Wednesday nights on KCET.

**K. TENTATIVE AGENDA – June 24, 2020.**

Director Tai confirmed the Commission will consider a Use Permit for a Mixed-Use development (residential/ hotel) at 325 12<sup>th</sup> Place and that the next study session for ADU’s will be in July.

**L. ADJOURNMENT TO** – The meeting was adjourned 5:02 p.m. to Wednesday, June 24, 2020 at 6:00 P.M. via Zoom/virtual format.

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ROSEMARY LACKOW  
Recording Secretary

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GERRY MORTON  
Chairperson

ATTEST:

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Carrie Tai  
Community Development Director