

RESOLUTION NO. 6122

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT, ALCOHOL BEVERAGE LICENSE, VARIANCE FROM MAXIMUM ALLOWABLE BUILDING HEIGHT AND AN INITIAL STUDY AND NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACTS, FOR A PROPOSED RITE AID RETAIL PHARMACY AT 1100 MANHATTAN BEACH BOULEVARD

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted public hearings pursuant to applicable law on November 28, 2007 and December 12, 2007, to consider applications for a Use Permit; Alcohol Beverage License and Variance from maximum allowable building height, to allow construction of a 13,370 square foot Rite Aid pharmacy; for the property legally described as (Parcel 1), that portion of Lots 15, 16, 17 and 18, Block 2, Tract 142; (Parcel 2) a non-exclusive easement for ingress and egress over that portion of Lot 15, Block 2 of Tract 142, and (Parcel 3) that portion of Lots 9, 10, 11, 12, 15, 16, 17 and 18 in Block 2, Tract No. 142., at 1100 Manhattan Beach Boulevard in the City of Manhattan Beach.
- B. At the December 12, 2007 Planning Commission meeting, the Commission voted (3-1-0) to deny the subject applications.
- C. The applicant is RHL Design Group, Inc.
- D. On December 21, 2007, the applicant filed an appeal of the decision of the Planning Commission denying the subject request.
- E. The City Council conducted a public hearing and received public testimony on these matters on February 5, 2008.
- F. The proposed use is permitted in the CG (General Commercial) Zone subject to a Use Permit approval as the project exceeds 5,000 square feet of buildable floor area; is greater than 10,000 square feet of land area; requests an alcohol beverage license and a Variance is required to exceed the maximum allowable building height.
- G. An Initial Study was prepared in compliance with the provisions of the California Environmental Quality Act (CEQA). Based upon this study it was determined that the project is not an action involving any significant impacts upon the environment, and a Negative Declaration was prepared and is hereby adopted.
- H. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- I. The City Council made the following findings with respect to this application:
 1. The project consists of 13,370 square feet of retail area including 1,000 square feet of mezzanine storage/utility area.
 2. The project is located in Area District I and is zoned (CG) General Commercial. The use is permitted by the zoning code and is appropriate as conditioned for the general commercial area. The properties to the north, east and west are similarly zoned; the properties to the south are zoned (CG) General Commercial and Residential Medium Density. The property is located on the southeast corner of Manhattan Beach Boulevard and Sepulveda Boulevard.

3. The General Plan designation for the properties is General Commercial. The General Plan encourages commercial development such as this that provides for businesses which serve city residents.
4. The subject site is the combination of two parcels and as a result contains severe grade changes. These include: 12.37' of drop from the N/W corner to the S/W corner; 19.25' of drop from the N/W corner to the S/E corner, and 16.41' feet of drop from the N/E corner to the S/E corner.

Use Permit

1. The proposed project is located within the (CG) General Commercial district. The subject proposal would replace an existing 1,736 square foot gas station (Manhattan Beach Fuel) with three service bays and surface parking on the north end of the property, and a 8,638 square foot commercial retail/office/personal service building (Mr. D's Liquor Mart, General Office Uses, Peak Fitness) at the south end of the property. The proposed retail use is in accord with the objectives of this title, and the purpose of the district in which it is located since the project is a commercial zone consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for commercial retail uses for a full range of retail and service businesses. With the exception of the proposed building height, the subject proposal would be in compliance with all applicable regulations as detailed in the staff report.

2. The proposed retail use poses no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city as the site continues to operate as a commercial use. The new use is intended to provide a better variety of services to the community.

The proposed location of the use and the proposed conditions under which it will be operated or maintained is consistent with the General Plan, since the project site is classified as General Commercial which allows for a full range of retail and service businesses.

The General Plan of the City of Manhattan Beach poses certain goals and policies, which reflect the expectations and wishes of the City, with respect to land uses. Specifically, the project is consistent with the following Goals of the General Plan as summarized below:

Goal LU-1.2: Encourage the use of notches, open space, setbacks, landscaping, or other architectural details to reduce building bulk.

Goal LU-2.1: Encourage landscaping standards for commercial areas.

Goal LU-3.1: Encourage quality design in all new construction.

Goal LU-3.2: Encourage the use of Sepulveda Boulevard Corridor Guidelines.

Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

Goal LU-8.1: Ensure that applicable zoning regulations allow for commercial uses that serve a broad market area, including visitor-serving uses.

3. The proposed retail use will be in compliance with applicable provisions of the (CG) General Commercial zone.
4. The proposed change in use from a service station/retail store/fitness studio/office uses will not adversely impact nearby properties due to landscaping, screening, setbacks, and the site design and layout of the parking, access and circulation, loading and trash, as well as the conditions of approval. It is not anticipated that the proposed retail use

will exceed the capacity of public services and facilities. Minor comments from the Building Division, Fire Department, Police Department, Engineering and Public Works Department will be addressed during regular plan check.

J. The project shall be in compliance with following Sepulveda Corridor Design Guideline Goals:

- Establish standards for low-rise commercial arterial development such as retail/office uses.
- Site and building design should focus and relate to the street and create a more attractive, comfortable and interesting environment for the Boulevard.
- Visually less desirable elements such as large parking areas, parking structures, vehicle service areas, blank walls, storage areas, and trash areas should be hidden or made less prominent along Sepulveda Boulevard.
- The building design should take into consideration extreme noise, and odor generating activities near residential boundaries.
- Safe pedestrian access to buildings should be provided through parking lots, particularly from public sidewalks.
- Landscaping should enhance the property with the following: 1) install landscaping in areas that would otherwise be unused pavement, and 2) use landscape planters and other decorative treatments around buildings to avoid direct building-to-asphalt contact areas.
- Proposed signs and sign copy should be compatible with their related building(s) and not be crowded within their locations or backgrounds. Harsh plastic or illuminated backgrounds should be avoided.

Additionally, the project will satisfy the Sepulveda Corridor requirements for the following reasons:

- The proposed structure and it's location is designed to create minimal bulk and impact on the neighboring residential area to the southeast by providing adequate open space for light, air and fire safety through increased setbacks and innovative building design.
- The proposed project includes convenient off-street parking facility which is enhanced by an effective on-site traffic circulation system.
- The efficiently designed parking areas are comprised mostly of full size parking spaces (except 10-compact spaces which are 8.5-feet wide and 15-feet in length and located at the rear of the building), which provides ample parking and excellent vehicular flow that minimizes impact to the residential neighborhood to the southeast. Additionally the project does not propose any egress/ingress driveway on 11th Street which alleviates noise, traffic and circulation concerns to the residential neighborhood.

Variance

K. A variance from maximum allowable building height, MBMC Section 10.60.050, is approved based on the following facts and findings per MBMC Section 10.84.060 (B):

1. Because of special circumstances or conditions applicable to the subject property including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardship upon the owner of the property. The exceptional change in topography, shape and size of lot, height methodology which is based on the four-corner elevation of the property, and the Sepulveda Boulevard Guidelines, which recommends the placement of building towards the front of the property which is the highest elevation, poses strict constraints on meeting the maximum allowable building height.
2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare, since the height requirement would severely restrict the site from being developed with a commercial use with the building location at the front in conformance with the Sepulveda Boulevard Guidelines.

3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district, since the proposed building height will be in scale and compatible with the surrounding buildings.
- L. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- M. This Resolution upon its effectiveness constitutes the Use Permit, Variance and CEQA approvals and the for the subject project.

SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the subject Use Permit and Variance applications and Negative Declaration subject to the following conditions:

Site Preparation/Construction

1. The project shall be constructed and operated in substantial conformance with the submitted plans and project description submitted to, and approved by the Planning Commission on December 12, 2007. Any other substantial deviation from the approved plans must be reviewed and approved by the Planning Commission. Caltrans approval is required prior to the issuance of a building permit.
2. The façade of the southerly wall shall be redesigned to reduce the appearance of building mass subject to review and approved by the Planning Commission.
3. The project will provide 54 on-site parking spaces which includes; 3 disabled parking spaces, 10 compact spaces (8.5' x 15'), and 41 standard spaces.
4. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
5. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specification of the Public Works Department.
6. During construction of the site, the soil shall be watered in order to minimize the impacts of dust on the surrounding area.
7. The siting of construction related equipment (job site offices, trailers, materials, etc) shall be subject to the approval from the Director of Community Development prior to the issuance of any building permits.
8. A site landscaping plan utilizing drought tolerant native plants shall be submitted for review and approval concurrent with the building permit application. All plants shall be identified on the plan by the Latin and common names. Mature shade trees shall be incorporated into the plan. Landscaping shall be installed per the approved plans prior to building final.
9. A low pressure, low-flow or drip irrigation system shall be installed in the landscaped areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscape plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments and shall be installed per the approved plans prior to the building final.
10. A covered enclosure(s) with adequate capacity for both trash and recycling for all tenants shall be constructed for this site. This trash enclosure must be constructed with a

concrete, asphalt, or similar base and must have drainage to the sanitary sewer system. The enclosure is subject to specifications and approval of the Public Works Department, Community Development Department, and the City's waste contractor. A trash and recycling plan shall be required to be submitted to the Public Works Department.

11. Commercial establishments are required, in accordance with Municipal Code 5.24.030 (C)(2) to have a sufficient refuse and recycling storage space to enclose a commercial lift container(s). The refuse storage space or facility must be screened from public view and be either constructed within the building structure or in a screened enclosure on private property.
12. Management of the retail use shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
13. The operator of the pharmacy shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
14. The property owner(s) shall be responsible for prohibiting employees from parking personal vehicles on the surrounding public streets. Owners and employees must park on-site while visiting the site.
15. Proposed monument signs on Manhattan Beach Boulevard and Sepulveda Boulevard shall not be located within the sight visibility triangles for either driveway.
16. All signs shall be in compliance with the Sign Code. A comprehensive sign program must be submitted to the Community Development Department for review and approval prior to the issuance of a building permit.
17. The applicant shall submit a lighting and photometric plan which shows the location of the proposed light pole and maximum foot candles to the Department of Community Development prior to the issuance of a building permit. These plans shall be in compliance with all provisions of the parking lot lighting regulations. Due the proximity of the proposed project to the residential properties to the southeast, the maximum pole heights shall not exceed 20 feet. Security lighting for the site shall be provided in conformance with Municipal Code requirements including glare prevention design.
18. The hours of operation for the proposed retail use shall be as follows:
7:00 a.m. – 10:00 p.m. Seven days a week
7:00 a.m. – 10:00 p.m. Alcohol Beverage sales
19. Deliveries shall be prohibited between the hours of 7:00 p.m. and 7:00 a.m.
20. All mechanical equipment visually on the building roof shall not be visible from the public right-of-way and visual screening shall be provided. Antenna dishes or similar items shall be restricted to the same requirements. The building roof shall have a gravel or comparable decorative treatment.
21. Plans shall incorporate sustainable building components into the building and site design. The plans may include, but not limited to LEED (Leadership in Energy and Environmental Design) and Built-it-Green components, permeable pavement, energy efficient plumbing, mechanical and electrical systems, and retention of storm water on the site. Plans shall require review and approval by the Community Development Department and Public Works Department.

Parking Related Conditions

22. Slopes and transitions for all vehicle ramps shall not exceed 15 percent grade and shall conform to City standards, subject to City review and approval. All ramps over 8 percent grade must include transition slopes at the beginning and end of the ramp and must meet

the required slope setbacks behind the property line. Show slopes and cross-sections on approved plans.

23. Parking stall cross-slope shall not exceed 5%.
24. All two-way driveways and approaches shall be as wide as the aisle it serves. Both driveway approaches for the project must be at least 25 feet wide and shall be constructed in alignment with parking aisles.
25. All raised landscaping planters along the property frontages shall begin or end perpendicular to the lower portion of the drive wings.
26. Doors shall not exit directly onto a vehicle aisle or street without a landing.
27. Provide unobstructed triangle of sight visibility (5' x 15') adjacent to each driveway and behind the ultimate property line when exiting the parking areas without wall, columns or landscaping over 36 inches high (MBMC 10.64.150). All planters next to both driveways must conform to this requirement.
28. Provide a 25' unobstructed triangle of sight visibility on the northeast corners of Sepulveda Boulevard at Manhattan Beach Boulevard and at 11th Street behind the ultimate property line extensions without walls, columns or landscaping over 36 inches high, tree trunks accepted.
29. All parking spaces adjacent to an obstruction, except columns, must be at least one foot wider than a standard space.
30. Provide and identify the commercial loading area on site plan and label with approved signage.
31. Any compact spaces shall be labeled with a sign and a stencil marking at the back of each space.
32. Both driveways shall be restricted to Right Turn In/Right Turn Out and posted with signs as directed by the City Traffic Engineer and Caltrans.
33. Vehicle access to the property along 11th Street shall be prohibited.
34. All outside site lighting shall be directed away from the public right-of-way and shall minimize spill-over onto the sidewalk and street. Shields and directional lighting shall be used where necessary.
35. Bicycle parking shall be provided at a rate of five percent (5% - 3 spaces) of all parking spaces (MBMC 10.64.80). Location shall be shown on the plans subject to Planning review and approval.
36. A retaining wall along the parking lot shall be constructed with a pedestrian barrier or railing at least 36" high to prevent falling over the retaining wall.
37. An 8-foot dedication shall be provided along the entire length of Sepulveda Boulevard for the future widening of the right-of-way for an additional left-hand turn pocket for traffic traveling west onto Manhattan Beach Boulevard. In addition, the project is required to provide an additional corner cut-off dedication to accommodate a disabled access ramp, pedestrian access area and existing /future street furniture at the corner of Sepulveda Boulevard and Manhattan Beach Boulevard and Sepulveda Boulevard and 11th Street.
38. A disabled access ramp must be installed on the public sidewalk, See City Standard Plan ST-9. Ramp must be shown on plans.

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39. The developer shall provide a fair-share contribution towards the construction of the right-of-way to accommodate an additional left-hand turn pocket for traffic traveling northbound Sepulveda Boulevard to westbound Manhattan Beach Boulevard.

Public Works Requirements

- 40. This is a SUSMP project and an Operating and Maintenance Agreement Form regarding on-site storm water pollution BMP's and mitigation devices must be completed and submitted to the City before a building or grading permit is issued.
- 41. Required mop sinks must be installed and shown on the plumbing plans.
- 42. Commercial enterprises must comply with the National Pollution Discharge Elimination System (NPDES) clean water requirements. Discharge of mop water, floor mat washing, and trash can cleaning and washing out trash enclosures into the street or storm drain system is prohibited (MBMC Section 5.84.060, 5.84.090).
- 43. The sidewalk must be replaced from the north property line on Manhattan Beach Boulevard to the south property line on Sepulveda Boulevard and shown on the plans.
- 44. Weekly sweeping will be required for all parking areas.
- 45. Before the utility pole located at the south corner of the lot on Sepulveda Boulevard can be relocated, approval from the Parking and Public Improvement Commission and City Council and a building permit must be obtained.
- 46. Plan holder must have the plans rechecked and stamped for approval by the Public Works Department before the building permit is issued.

Building Division

- 47. Project shall comply with all Disabled Access regulations.
- 48. All work shall comply with all current California Building Codes which includes: California Electrical Code, Mechanical Code, Plumbing Code and Fire Code, at the time of submittal.

Procedural

- 49. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
- 50. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
- 51. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBCM Section 10.100.030 have expired.
- 52. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
- 53. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
- 54. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the

litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

SECTION 4. This resolution shall take effect immediately. The City Clerk shall make this resolution readily available for public inspection within thirty (30) days of the date this resolution is adopted.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and thenceforth and thereafter the same shall be in full force and effect.

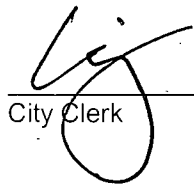
PASSED, APPROVED and ADOPTED this 5th day of February, 2008.

Ayes:	Cohen, Tell, Montgomery and Mayor Aldinger.
Noes:	Ward.
Absent:	None.
Abstain:	None.



Mayor, City of Manhattan Beach, California

ATTEST:



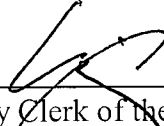
City Clerk

1 STATE OF CALIFORNIA)
2)
3 COUNTY OF LOS ANGELES) SS.
4)
5 CITY OF MANHATTAN BEACH)

6 I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do
7 hereby certify that the whole number of members of the City Council of said City is five; that
8 the foregoing resolution, being Resolution No. 6122 duly and regularly introduced before and
9 adopted by the City Council of said City at a regular meeting of said Council, duly and
10 regularly held on the 5th day of February, 2008 and that the same was so passed and adopted by
11 the following vote, to wit:

12 Ayes: Cohen, Tell, Montgomery and Mayor Aldinger.
13 Noes: Ward.
14 Absent: None.
15 Abstain: None.

16 IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the
17 official seal of said City this 14th day of February, 2008.

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20 City Clerk of the City of
21 Manhattan Beach, California

22 (SEAL)
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