

# City of Manhattan Beach

1400 Highland Avenue  
Manhattan Beach, CA 90266



## Meeting Minutes - Draft

Tuesday, January 14, 2014

6:00 PM

Adjourned Regular Meeting

City Council Chambers

Manhattan Village Shopping Center Enhancement Project

### City Council

*Mayor Amy Howorth*

*Mayor Pro Tem Wayne Powell*

*Councilmember Mark Burton*

*Councilmember Tony D'Errico*

*Councilmember David J. Lesser*

**A. PLEDGE TO THE FLAG**

*Mr. Kyle King led the Pledge of Allegiance.*

**B. ROLL CALL**

**Present:** 5 - Mayor Howorth, Mayor Pro Tem Powell, Councilmember Burton, Councilmember D'Errico and Councilmember Lesser

**C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING**

*City Clerk Liza Tamura confirmed that the meeting was properly posted.*

**D. PUBLIC COMMENT ON NON-AGENDA ITEMS**

*Viet Ngo expressed his opinion regarding Councilmembers needing to resign from their City Council seats. He alleged misuse of power, intimidation of witnesses, and misappropriation of funds and receipt of kickbacks. Additionally, he alleged falsification of expense reports and commented on referring the matter to the FBI and Attorney General.*

*Gerry O'Connor indicated he disagrees with everything the previous speaker said. He welcomed new Mayor Howorth and provided a brief history of women Councilmembers and Mayors in the City. He commented on prior challenges with meeting management and stated this may be the Mayor who will resolve those challenges and for City Council to move towards better policy governance, collectively. He addressed process and stated that some of the answers may be already laid out and that it is a question of heeding already-defined procedures and processes. He presented Mayor Howorth with a copy of "Robert's Rules of Order".*

**E. GENERAL BUSINESS**

1. Consideration of Certification of a Final Environmental Impact Report and Approval of a Master Use Permit Amendment, Height Variance and Master Sign Program/Exception for the Manhattan Village Shopping Center Enhancement Project at 2600 through 3600 Sepulveda Boulevard and 1220 Rosecrans Avenue (Director of Community Development Thompson). **13-0444**
- DIRECT STAFF TO DRAFT RESOLUTIONS CERTIFYING THE EIR AND APPROVING THE PROJECT WITH REVISIONS AND CONDITIONS**

*Community Development Director Richard Thompson introduced the item noting there are a number of presentations to be made and noted the importance of City Council's discussion regarding the matter. He reviewed the process and subjects of discussion for this evening. He pointed out the attendance of various technical experts present and available to respond to City Council questions.*

*Planning Manager Laurie Jester presented a summary of recommendations and addressed the Phase 1 site plan, transfer of 20,000 square feet from Phase 1 to Phase 2, the importance of bridges for parking structures, Macy's consolidation, Cedar Way extension, Phase 3 site plan and other issues related to the project including RREEF's commitment, Fry's, 3500 Sepulveda LLC and the development plan. She reiterated recommendations and presented three options for actions by City Council and next steps.*

*Mayor Pro Tem Powell commented on the transfer of 20,000 square feet from Phase 1 to Phase 2 and asked how that is considered reducing the scale of the project.*

*Planning Manager Jester stated that if it is just transferring, that would not be reducing the scale but, that it provides an opportunity to better redesign the project to minimize the scale. The other option would be eliminating a specific number of square footage as desired by City Council. She added that staff recommends either transferring or eliminating square footage according to whatever City Council feels is appropriate.*

*Mayor Pro Tem Powell commented on reductions to the parking structure and asked whether that means reducing the height or reducing the square footage.*

*Planning Manager Jester reported that Phase 2 has extra parking (approximately eighty (80) or ninety (90) extra spaces) so that those can be eliminated while still meeting the parking ratio. She stated that staff is suggesting changes to the design of the structure so that instead of it being a three (3) story square box, it could look more like the south structure; lower and more spread out.*

*Mayor Pro Tem Powell referenced a section in the staff report regarding "late comments" from prior meetings and asked why these were not provided at this time.*

*Planning Manager Jester stated this relates specifically to CEQA and the EIR. City Council is not being asked to certify it tonight but rather to give staff direction so that the final version will be presented to City Council at a later meeting for certification. It must first be circulated for public review and then it will be certified.*

*Mayor Pro Tem Powell expressed concerns that the comments were to be presented previously and were not and, that three (3) months later, they are still not being presented.*

*Planning Manager Jester replied that staff is still in the process of reviewing and preparing that document and since City Council has not taken action on the project, it is not yet necessary to take action on the CEQA documentation yet.*

*Mayor Pro Tem Powell stated that he made one of the comments and it was not related to CEQA. Another critical comment was made by a member of the public and was in regards to the scale and scope of the project but was not included in the matrix. He asked why that has not been addressed by staff or the applicant.*

*Planning Manager Jester agreed that scale and scope do not apply to CEQA and stated that staff feels it has adequately addressed scale and scope by asking that City Council not approve Phase 3, transfer or eliminate 20,000 square feet from Phase 1 to Phase 2 and redesign the parking structure.*

*Councilmember D'Errico referenced the Macy's consolidation and asked regarding its importance to the overall project.*

*Planning Manager Jester responded that it is a very critical part of the project and stated that Mr. Kosmont may be able to address the matter further. She added that it would free up the existing Macy's Men Store for the opportunity to have other tenants occupy that area. Presently it is not fully utilized and needs to be upgraded, subsequent to Macy's reconsolidation..*

*Councilmember D'Errico referenced the northeast parking structure and asked if it is important to Macy's and the consolidation.*

*Planning Manager Jester stated that the parking structure is critical to Macy's and the consolidation as it provides parking immediately to Macy's expansion and the bridge connecting both.*

*Councilmember D'Errico referenced the south side of the property noting its importance as it generates a lot of trips. He asked whether it plays into the value proposition of Phases 1 and 2.*

*Planning Manager Jester reported that the shopping center acts as two separate centers and commented on the importance of integrating the site with pedestrian and bicycle access, landscaping and common design features. The two areas, however, offer different shopping experiences and although they have a relationship, they also act separately.*

*Councilmember D'Errico stated that in looking at the diagram, he sees less integration rather than more.*

*Planning Manager Jester stated that the site plan presented does not show all of the features that will integrate the site. She added that the Traffic Engineer will show all of the connections within this presentation.*

*Councilmember D'Errico requested staff's perspective regarding the far northwest side of the shopping center in terms of the value of the trips generated by Fry's to the overall mall.*

*Planning Manager Jester stated that in terms of traffic generation and parking standpoint, each individual Phase acts and works independently.*

*Councilmember D'Errico asked regarding impacts from a business-development and*

revenue-generating perspective.

Planning Manager Jester reported that if and when Phase 3 is developed in the future, the revenue generated from it would replace the revenue being generated by Fry's.

Councilmember D'Errico referenced the preference for diversity in development relative to Phase 3 and asked regarding supporting evidence since Mr. Kosmont's report indicates that the best tenant for the area would be Fry's.

Planning Manager Jester stated she will ask Mr. Kosmont to address the issue in detail but added that in the short-term, keeping Fry's would be beneficial. In the long-term, it would not be because revenues are anticipated to decline and it is not anticipated that Fry's would be occupying that site in the long-term.

Councilmember Lesser commented on the transfer or elimination of 20,000 square feet helping with the design and asked how the design of the central plaza would impact the Village shops.

Planning Manager Jester noted the recommendation addresses concerns by City Council and the public regarding the scale of the project. She reported that the developer has not shown how that would work but indicated that there are opportunities to design the north deck to minimize visual impacts and have a better design.

Councilmember Burton listed key elements of each Phase, referenced the options for recommended actions and asked what would happen if City Council did nothing.

Planning Manager Jester stated that the third option recommended was to deny the project; that tabling the project would be another available option and that denying the project is an action.

Interim City Manager John Jalili added that if the project is denied, it will not return to the Planning Commission.

Senior Counsel Larry Weiner stated those are not the only options available but that City Council can develop another option that might involve approval with a different set of configurations or a different set of conditions.

Councilmember Burton asked regarding a construction timeline.

Planning Manager Jester stated that the developer would need to present that timeline but listed steps necessary before construction could begin including approval of resolutions and the plan-check process. She added that some elements may need to be reviewed by City Council, especially if there are project re-designs.

Councilmember Burton commented on the time the project has taken so far and asked why it has not progressed further.

Planning Manager Jester explained that staff has worked closely with the applicant and noted the many opportunities for review, various redesigns by the Planning Commission and obtaining public input.

Councilmember Burton referenced prior motions and directions to staff and indicated that they have not been followed.

Mayor Pro Tem Powell commented on staff's recommendation of a bond rather than a letter of credit, noted that is not included in the recommendations and asked if that is part of the recommendation.

Planning Manager Jester stated that is a recommendation previously made and that it still applies.

Larry Kosmont, Economic Consultant, noted that there is nothing that is changing faster than retail in terms of real estate types. He added that the growth in retail is in the high end of the market and emphasized the need to respond to shifts in shopping patterns. He suggested allowing the developer to make a presentation after which he will address City Council to review the decisions in the context of the recommendations presented.

Mark English, Applicant, provided a PowerPoint presentation addressing an overview of the site plan evolution and commented on the time the project has taken noting that every change made has a domino effect on other elements; requires another round of vetting and raises additional issues. He added that significant changes are neither easy nor fast. He provided background including prior considerations and discussions, site plan comparisons, details, renderings and simulations of the Village shops, City Council options, responses to the proposed staff revisions, analysis of staff proposals, existing core and non-core parking, parking ratios, Phase 2 parking, revision pitfalls, dangers of no action and summary comments. He added that the goal is to begin construction in 2015 but noted that the window of opportunity is shrinking.

Mayor Pro Tem Powell commented on the options available to City Council and changes made by the developer and asked if Macy's would have a problem reducing their square footage to 50,000 square feet.

Mr. English responded in the affirmative noting that Macy's has done a thorough study and has indicated they need 60,000 square feet.

Mayor Pro Tem Powell addressed massing issues as well as the volume and intensity of the project noting it relates to Phase 1 and Phase 2 rather than Phase 3.

Councilmember Burton commented on the property east of Cedar and listed the results of the completion of Phases 1 and 2 noting it will enhance the indoor mall. He reported that City Council is looking for a guarantee that Macy's will consolidate and asked regarding existing assurances that it will happen.

Mr. English reported that Macy's consolidation has been one of the developer's primary goals. He stated that his company believes it is vitally important and absolutely achievable. There is an "unknown" regarding the Macy's Men's store and therefore, there is presently no guarantee of the Macy's consolidation. He explained negotiations with Macy's, referenced a letter of intent and stated that once it has been signed, the developer would control when Macy's moves as incentives have been provided for them to do so.

Councilmember Lesser commented on the transfer or elimination of 20,000 square feet from Phase 1 to Phase 2 and asked regarding possible impacts to the Village shops.

Mr. English stated that the mall would feel "incomplete" and "lop-sided" and that the elimination or transfer of that amount of square footage would have a large impact on the entire center. He added that following staff's recommendations, although they

*present some good ideas, on every criteria, across the board, would be bad and do not work for the developer.*

*Councilmember Lesser stated he would like to understand the metrics being used and criteria for staff's recommendation regarding the 20,000 square feet. He expressed concerns with defining "sufficient scale" adding that a certain amount of square footage is needed, economically, but he would like to understand the benefits to the community in this regard.*

*Mr. English explained how retailers operate noting that they like to be together and that there is a synergy of shopping that his company is trying to create. He added that in order to achieve that, a certain critical mass is necessary and that there are currently challenges with the interior of the mall and how certain retailers cluster together. He stated that without a certain amount of retail space, it is difficult to attract quality retailers.*

*As someone who shops a lot, Mayor Howorth stated that she typically goes clothes shopping, first, and then she will go to a restaurant.*

*Councilmember D'Errico commented on the amount that Macy's pays per square foot compared to current rates in the downtown area. He asked how the level of traffic to the Macy's Men's store affects stores that are in close proximity to it.*

*Mr. English stated that an anchor store is critical to creating the traffic that supports the other retailers around it.*

*Councilmember D'Errico noted the importance of the consolidation of Macy's. He commented on the private agreement with Macy's and asked for clarification as to Macy's available options.*

*Mr. English reported that his company elects to not exercise its option of consolidating Macy's; they would pay Macy's an allowance with which they would need to improve their Men's store. He added that there is no "out" for Macy's and there is a lot of compulsion for their consolidation.*

*Councilmember D'Errico commented on the traffic generated by Ralph's and CVS and asked regarding opportunities to leverage that traffic to benefit the rest of the shopping center.*

*Mr. English noted this is a hybrid shopping center and that while there are no perfect synergies between the various retailers; that does not mean that they cannot work together. He addressed efforts at improving circulation (vehicles, pedestrians and bicycles) for greater integration and access.*

*Councilmember D'Errico commented on the northwest corner and asked regarding integration of that site to the rest of the mall.*

*Mr. English noted there is little synergy between Fry's and the rest of the mall and stated that the lack of synergy will increase in the future. He stated that one of the primary objectives regarding the northwest corner is to develop something to further enhance the remainder of the shopping center. He added that there is also a physical separation so that changes would need to be made in terms of the shopping experience as well as physically connecting the sites through decking the culvert. He reported that the Fry's building was originally designed as an office building and stated that the reason it works for Fry's is because it sits on a busy corner, has tremendous visibility and has good access.*

*At 8:03 PM the City Council recessed and reconvened at 8:11 PM with all Councilmembers present.*

*The Mayor opened the floor for public comment.*

*Mayor Howorth reported that the Public Hearing has closed for the mall but that, as required by the Brown Act, public comments will be received. She noted there will be no new evidence introduced or considered and that the developer is responding to specific concerns raised by City Council in prior meetings.*

*Mark Neumann, 3500 Sepulveda LLC, stated he is confused as the Public Hearing was closed for public comment and there was no notice for public comment. He noted that the developer was allowed to present but that he was not informed that he would have the opportunity to speak. He stated that he would accept the terms of the settlement agreement that he signed with RREEF, same as well as the 2008 plans. He pointed out that the plans currently before City Council are vastly different than the 2008 plans. Mr. Neumann referenced a letter that he submitted to the City with concerns regarding the height of the parking deck. He stated that the current site plans are very misleading because they don't show parking on top of the buildings. He reported that his building has enhanced architectural features. He expressed concerns that the current plan is completely different than what was approved previously and what was approved by the Planning Commission. He noted that the EIR rejects building Phase 1 only and that the developer cannot guarantee that they will build Phases 2 and 3. He addressed agreements with Macy's, elimination of the theater and electric power failures. Additionally, he expressed concerns regarding being referred to as an applicant and resident in staff reports, opined that this meeting was not properly noticed and requested that City Council deny the project and have the developer start over.*

*In response to Mr. Neumann's question regarding why they are referred to as "applicant", Interim City Manager Jalili reported that it is because they signed the application as applicant.*

*Senior Counsel Larry Weiner stated that Mr. Neumann has not reported, prior to this evening that he was denied the opportunity to speak at the Planning Commission level. He further stated that there is no legal significance to his being referred to as an applicant or property owner, as long as he was given the opportunity to address the Planning Commission.*

*Mr. Neumann stated that he was given three (3) minutes to address the Planning Commission but that when he appealed the project, he became an applicant. He wondered why that is, noting that it does not make sense.*

*Mayor Howorth indicated that staff would have to look into the matter.*

*Cory Briggs, Attorney for 3500 Sepulveda, LLC, objected noting that the decision-makers are getting information at this time that will be used for the decision and that the public has not been allowed the opportunity to prepare to comment on this information. He stated that violates due process, fair hearing and public notice requirements. Additionally, he commented on gaps in the matrix and "late comments" regarding the EIR. He added that no one is responding to the comments and direction that City Council made previously and remain unanswered noting that is a big signal that the EIR is defective. He indicated that City Council should vote to*

grant the appeal and deny the project adding that if City Council does so, there is no need to certify the EIR. Mr. Briggs stated that the project lacks a Statement of Overriding Considerations as this project has significant, unavoidable impacts. He added that if the Statement is not adopted, the project cannot be approved. If City Council cannot make the findings to support the Statement, it cannot approve the project.

Senior Counsel Larry Weiner reported that State law requires that City Council entertain public comment at this time. Additionally, City Council will not consider any new evidence submitted. In terms of the developer responding to City Council questions, he stated he does not believe that is inconsistent with due process and reported that is a standard that is often followed in an administrative hearing process. He added that allowing the developer to respond to new staff recommendations is a requirement of due process.

Robert Bush spoke in opposition to the project and commented on the square footage of the proposed project and features/elements to which residents are opposed and which residents support. He expressed concerns with safety, security and increased crime and reported that he was in the mall when the electric power went out. Regarding this project, he stated that City Council should consider what is best for the residents and not what is best for the City. He commented on stores already in the surrounding areas and stated that if problems are not fixed with Southern California Edison, there will be increased negative impacts.

Michelle Murphy stated that she was unclear as to whether the public would have the opportunity to speak at the meeting. She commented about the need to change the shopping experience but stated that the plan does not seem to change anything. She expressed concerns regarding elimination of the theater and the need for changing the department-store model in relation to Macy's. Ms. Murphy indicated that City Council has a duty to preserve the town.

Esther Besbris commented on City Council's promise to maintain the small-town atmosphere of the City of Manhattan Beach. She did not know how the proposed project intends on doing so and urged Members to think about it when they make their decision.

Vicki Neumann suggested moving the issue of Cedar Way to Phase 1 to improve circulation and commented on Phase 3 noting that the northwest corner is the gateway to the City with much potential for the site. She added that it would be prudent to not do anything in Phases 1 and 2 that would prevent a future connection with the northwest corner in Phase 3. She addressed the importance of the Macy's consolidation and suggested requiring it during Phase 1.

Steve Packwood was unsure whether he would have an opportunity to speak during tonight's meeting and commented on the proposed density and massing. He referenced settlement agreements between the parties and noted that the City is not part of those agreements and therefore, has no bearing on the City. He requested assurances that the City will have no financial liabilities moving forward and wondered regarding the potential for future litigation.

Senior Counsel Weiner reported that if the project is approved, the applicant will be required to indemnify the City so that it will be covered in any future lawsuits. He confirmed that the settlement agreement was between the parties and not involving the City.

Unknown speaker reported he has collected over 1,300 signatures on a petition

against the proposal. He stated that City staff did a good job in terms of suggesting compromises and noted that a reduction of 20,000 square feet is only a 15% reduction of the project's square footage. He suggested taking a little square footage away from each building rather than removing a whole structure and felt that it needs to be an elimination/reduction in scale rather than a transfer. In addition he stated that if the developer were charged to design the mall within a smaller square footage cap, they could do so and expressed concerns with their unwillingness to compromise.

Marie Callmy commented on a seminar she recently attended and noted that shopping is not just retail, but that it is an entertainment experience as well. She stated there is a need to be progressive and understand what the needs of the community are now and what they will be in the future. Ms. Callmy expressed concerns with the proposed reduction in square footage stating that there must be enough space to attract tenants and encourage traffic flow through the entire mall area.

Mayor Howorth closed the public comment period.

Mayor Howorth stated that she believed she caused much of the confusion by allowing public comments and apologized to the public.

Larry Kosmont presented a summary of issues and staff recommendations including the size of the center, size of the parking structures, creating a better shopping experience and core questions. He disagreed with the elimination of square footage.

In response to Councilmember Lesser's inquiry regarding the possibility of obtaining critical mass with smaller square footage, Mr. Kosmont stated that in order to enhance the shopping experience and implement the necessary changes, more square footage would work better than less square footage. He added that the more extensive the retail, the better off the City will be and the higher the possibility of attracting quality tenants.

Mayor Pro Tem Powell commented on the goal of maximizing every square meter of real estate and asked regarding the need for more multi-level parking structures and higher buildable structures.

Mr. Kosmont stated that there is a handicap in the area relative to "dead soldiers" on the frontages that change the amount of square footage and land utilization and makes it harder to reestablish the center with the rest of the available square footage. He added that there are inherent limitations in the layout of the site which present substantial challenges.

Mayor Pro Tem Powell commented on the need to compete with stores from surrounding centers and also stated that they need to compliment each other.

Mr. Kosmont commented on the importance of having a strategic advantage to keep viable.

Mayor Pro Tem Powell addressed Fry's and their diminishing value over time. He noted the same can be said for Macy's and the Apple Store noting that brick and mortar is declining as more and more people are buying through the internet. He asked if that was factored into the financial projections.

Mr. Kosmont responded in the affirmative, explained the difficulty in projecting the viability of Fry's and commented on the importance of enhancing the shopping

experience.

Mayor Howorth pointed out that it is not City Council's job to figure out which retail will go into the mall.

In response to Councilmember Lesser's question regarding the issues that are expressly before City Council, Mr. Kosmont addressed the project proposed by RREEF and consideration of the changes proposed by staff.

Mr. Kosmont continued with his presentation addressing completion of Phase 2, negotiations with Macy's, the likelihood of Macy's consolidation, accelerating the Cedar Way connection, changes in retail amenities, existing conditions and restrictions and increasing shopper visits.

Councilmember D'Errico requested clarification regarding fiscal impacts and projected sales at the Manhattan Village Shopping Center, the definition of "doing nothing" and projected revenues for the City through the various options.

Mr. Kosmont reported that strategically, if City Council does not accept Phase 3, the 46,000 square feet of Fry's equals the 80,000 square foot replacement of Phase 3. He reiterated his concern with eliminating 20,000 square feet from the project.

Councilmember D'Errico noted a quote from a previous meeting that the reliance of the Macy's consolidation is pivotal to the health of the center, going forward.

Councilmember Burton commented on the amount of revenue reduction if nothing is done. Regarding the property east of Cedar, he noted the need for Macy's consolidation, an anchor tenant on the south, Cedar Way going out to Rosecrans and the northeast parking structure. He noted that it is an indoor mall as opposed to the other side of the center.

Councilmember Burton asked regarding the process of a CEQA litigation being filed.

Mr. Kosmont stated that the objective in CEQA litigation is not always to eliminate a project but is sometimes to change or delay it so that the project gets reconfigured in a way that is more acceptable to the challenger. He stated that it usually delays a project and that for developers, delays are costly.

Interim City Manager Jalili offered clarity to Councilmember Lesser's inquiry regarding what is presently before City Council. He stated that it is the Planning Commission version of the project, which is what the developer wants. He added staff recommendations noting that the developer is willing to go along with it, with the exception of the 20,000 square feet issue. He indicated that it would be helpful to review the history of the issue noting that staff was struggling with the parking structure issue about which the public expressed concerns. He added that Mr. English was asked to deal with that but was unable to do so. Therefore, staff proceeded with the recommendation as a means of reducing the scale of the northern parking structure. He believed that City Council has the option of maintaining the 20,000 square feet but having the developer scale back on the specific parking structure. He believed that staff should not be designing the project. He added that City Council also has the option of denying the project.

In response to Councilmember Lesser's inquiry, Interim City Manager Jalili reported that if City Council were to approve the project, it could add a condition that the revised site plan submitted by the developer should have a section regarding the design of the parking structure and would be reviewed depending on City Council's

direction.

Mayor Pro Tem Powell asked regarding the timing of the project should design changes be requested.

Mr. Kosmont reported this gets back to the Macy's issue and commented on impacts of delaying the project. He stated that City Council is getting to a shortened window of opportunity.

Mayor Howorth commented on increased competition for retailers and shoppers due to the mall across the street, the need for maintaining economic vitality for the City and the importance of the Sepulveda corridor and differences between it and the downtown area.

Councilmember Burton commented on the purpose of this meeting which was for City Council to have a full discussion, yet three (3) hours into the meeting, City Council has not had the opportunity to do so. He expressed interest in knowing what Council colleagues have to say. Additionally, he noted that clear direction was provided at a prior meeting and that none of the information requested has been provided in staff's report. He stressed that Manhattan Beach is a first-rate City and therefore, needs a first-rate mall and so far, the site plans that he has seen do not offer one. He noted the need for a vision first, after which concepts can be developed. He commented on the original mall and vision noting that it was intimate and had certain basics. He added that he is not in support of rushing this project and indicated the need for full discussion. He commented on CEQA litigation and stated that they have a good case adding that he is not impressed with the traffic study conducted and indicated that "backing into numbers" is a manipulation tactic in order to gain the maximum square footage. He addressed the traffic equivalency program, stressed the need for a legitimate traffic study, and noted there are many issues to consider and the need for time for City Council to address them all.

Mayor Pro Tem Powell agreed with Councilmember Burton's comments and stated that it comes down to a matter of scale and quality of life. He indicated that the larger the scale, the more issues that are raised and took exception to the developer needing to maximize its profits or that the City needs to maximize its tax revenues. He added that larger projects create larger impacts on City services and stressed the need for having a viable City balancing businesses and residents. The mall was never intended to be a regional draw and was created to serve the community. He believed that the project can be scaled down, that the parking structures are too large and that Phase 3 could be approved at a later date. He commented on conceptual designs for Phase 1 and 2 and stated he would like to see specificity, Macy's consolidation, Phase 1 and 2 tied together and Cedar Way addressed in Phase 1. He added that staff's recommendations are not unreasonable and that it could become a great project that can be done expeditiously. Additionally, he stated that the developer has heard the concerns of the community and that the one major component that was supposed to be addressed has not been. He stated that the project needs to be scaled down and that the north parking structure needs to be addressed.

Councilmember D'Errico agreed with Mayor Pro Tem Powell's comments and indicated that the definition of "regional" is in the eye of the beholder; that no area will survive on just the draw of the City. He referenced the October 8, 2013, City Council meeting where Mr. Kosmont summarized the issues of resident concerns noting that the primary issues are design, layout and density and reiterated comments from Mayor Pro Tem Powell and Councilmember Lesser. He added that part of the problem is that the parking structures are in the middle of where public space is

wanted and that separate retail clusters do not relate to one another. He indicated that the concerns listed previously have not been addressed.

Councilmember Burton agreed that the mall needs to be enhanced, expanded and refreshed as soon as possible.

In response to his question regarding an undeveloped piece of property owned by the developer and related property rights, Senior Counsel Wiener stated that a property owner with an undeveloped piece of property needs to be given the opportunity to realize an economic return on that property but that in this case, the property owner has a developed piece of property with existing entitlements that provide an opportunity for the owner to realize a reasonable return. He clarified that if City Council were to approve any proposal, the recommendation at this time would be for staff to return with documents to accomplish that and at the time of approval, City Council would need to certify the EIR in order to move forward with any approval. He listed options available for City Council relative to the appeal and noted that if City Council wants to send the project back to the Planning Commission, it would not need to certify the EIR at this time. Additionally, regarding the amendments to the master use permit, Senior Counsel Wiener stated that none of the applications could be approved without certifying the EIR and listed options available to City Council including returning the matter to the Planning Commission for further input.

Councilmember Lesser referenced goals LU8 and LU8.2 of the General Plan relative to supporting regional commercial districts and their revitalization and upgrade. He commented on the evolution of this project and stated that while City Council has a broad discretion; it also has a limited role because it is up to the applicant to develop a project that is economically viable. The project has come a long way and Councilmember Lesser indicated that it is closer to one that he could support but also recognized the various challenges involved. Regarding the proposed plan, he stated that it addresses the Macy's issue and their commitment seems closer. He commented on the possibility of having Apple as a tenant adding that it would be a shame to lose them and that there has been no discussion in that regard. In terms of the Village space, he believed it is in the developer's interest and that the project now encompasses more of a pedestrian-friendly space. He addressed parking problems and stated that he is pleased that there will be more structures to accommodate more cars, easier. He stated that he is pleased that Phase 3 is not presently under discussion as Fry's is still a considerable revenue generator for the City. The outstanding issue remains scale but he expressed concerns regarding the recommendation to eliminate or transfer 20,000 square feet and how that was determined. He stated that he is frustrated that the staff report did not explain it nor did it address the previous concerns expressed by City Council adding that he would like to give staff the opportunity to do so. He stated that although the project may not be his "ideal", he is more supportive of the project than before and stressed that it will be a significant revenue source for the City.

Councilmember Burton stated that if the project is not approved, the competition will be lost and there may be a threat of CEQA litigation which will delay everything.

**A motion was made by Councilmember Burton, seconded by Councilmember D'Errico to direct the City Manager and Traffic Engineer to immediately begin a traffic impact study for the areas located west and south of the Manhattan Village Shopping Center commonly known as Oak Avenue and Cedar Way residential areas.**

**Councilmember Burton added that the study would be funded by the City.**

*Prior to the vote City Council discussion continued.*

*Mayor Howorth stated that she does not believe the direction would be acceptable under the Brown Act because there was no notice to the public that City Council would be discussing that.*

*Senior Counsel Wiener stated that the issue of whether or not there will be traffic impacts from this project that may be cumulative to the traffic impacts currently being experienced by the neighborhood is sufficiently related to the project to act on the motion at this time.*

*Councilmember Burton referenced a presentation by the Traffic Engineer which is part of the record and one of the reasons he made the motion.*

*Councilmember Lesser reported that the traffic study originated because the EIR did not indicate that mitigating measures were required on Oak Avenue. He noted that the Traffic Engineer has indicated that his studies have shown that there is no impact on Oak Avenue but that many felt, anecdotally, that the City was overdue for a traffic study in the area. He added that this was something that the developer was going to "throw in" to address neighbor concerns. The challenge is that it will take time and he noted that ultimately there had been an opportunity for the developer to pay for it.*

*Brief discussion followed regarding who would conduct the traffic study and it was noted that it has not been determined.*

*Mayor Howorth stated that she wanted a traffic study to be done but will not support the motion because there had been an offer by the developer to do it.*

*Councilmember Lesser stated he would like to understand what the information will accomplish, particularly since the EIR is not requiring a traffic study.*

*Councilmember Burton explained that the Traffic Engineer's presentation recommended a traffic study for both Cedar Way and Oak Avenue, and noted that it is an important process which should be started. He stated he would be willing to withdraw the motion if the matter can be scheduled for an upcoming agenda, perhaps in February.*

*Councilmember Burton withdrew the motion.*

**A motion was made by Councilmember Burton, seconded by Councilmember D'Errico to direct the City Manager and Traffic Engineer to immediately begin a traffic impact study for the areas located west and south of the Manhattan Village Shopping Center commonly known as Oak Avenue and Cedar Way residential areas.**

**Councilmember Burton added that the study would be funded by the City.**

**Afte some discussion Councilmember Burton withdrew his motion**

*Councilmember D'Errico stated he would like to make a motion but wanted to explain it. He expressed support for getting a reconditioned, first-class mall as Manhattan Beach is a first-class city and deserves a first-class mall. He presented a summary of discussions encapsulated in six important bullet points including that the Macy's consolidation is pivotal. He added that for him, any chance of that not happening is not enough. He noted the need for an "enlivened" south end of the mall, parking structures north of Macy's and their phasing, extension of Cedar Way exiting on Rosecrans, refreshed interior and exterior of the existing indoor mall and retention of the small, hometown character.*

*Councilmember Burton added that the concept is to expedite the process and that the proposed guarantees the consolidation of Macy's and avoids potential CEQA litigation. He believed that once the parking structures are built, Macy's would have no incentive to go into consolidation and further explained the concept he and Councilmember D'Errico developed.*

*Councilmember D'Errico stressed that upon completion of Phase 1 he believed that Macy's would not move and indicated he does not want to take that risk.*

*Mayor Howorth reported that three (3) years ago, Macy's was unwilling to enter into any discussions in this regard but that now, they have bought into the concept. She acknowledged there is never a guarantee and stated there is none with Councilmember D'Errico and Burton's proposal.*

*Councilmember D'Errico explained that it does, as it is determined before moving forward with the project.*

*Councilmember Burton added that the "put" option would be exercised sooner than later.*

*Mayor Pro Tem Powell commented on possible anchor stores and asked why Macy's would not want to consolidate considering what they would be getting through the process. He commented positively on the parking structure and the fact that it would be partially subterranean but expressed concerns including increased costs.*

*Councilmember Lesser asked whether City Council is prepared with the developer doing nothing on the project. He stated he would like detailed discussion including what is under City Council's jurisdiction; whether the proposal is viable and to better understand the EIR implications.*

*Interim City Manager Jalili noted these are great ideas and improvements but stated there are some process questions. He indicated that this approach would work if the City were the owner-developer or selecting a developer where the vision could be specified as a requirement. Presently, there is a single developer and if the developer does not like the proposed plan, it would be useless to present it to the Planning Commission. He suggested allowing the developer to respond to see if he would consider the proposed plan.*

*Councilmember D'Errico stated that the proposal is the vision that was set years ago and is not different than what the developer has proposed other than the order in which things get done.*

*Discussion followed regarding other potential tenants and their vision.*

*Mayor Howorth stressed that City Councilmembers are not developers and stated that the proposed is not the best plan she has seen, either.*

*Councilmember Burton noted that it is a great idea but acknowledged that City Council will not agree to it. He commented on the existing "flawed" parking study and explained how it is so.*

*Councilmember Lesser stated he wants to hear from Mr. Kosmont and get a reality check on what has been proposed as well as the process.*

**A motion was made by Councilmember Burton, seconded by Councilmember D'Errico to grant the appeal of the Planning Commission's decision to certify the EIR and remand the matter back to the Planning Commission; direct the Planning Commission staff to conduct a new traffic study as soon as possible and no later than six (6) months, and direct that the traffic study use the same twenty-five (25) intersections as were used in the traffic study for The Point; remove the traffic equivalency program from the traffic study and include Fry's Electronics in the traffic study. He further moved to remand the application for the Master Use Permit Amendment height variance and Master Sign Program exception for the Manhattan Village Shopping Center and direct the Planning Commission staff to develop and consider a plan to enhance the Manhattan Village Shopping Center as soon as possible, but no later than nine (9) months that includes the following elements: consolidation of Macy's by increasing Macy's north by 60,000 or 50,000 feet, right size the space for the second department store by increasing Macy's Men store by 30,000 or 50,000 feet, designing and building a parking structure north of the consolidated Macy's to provide second-level access to the consolidated Macy's, and extend Cedar Way north to Rosecrans. Direct the Planning Commission to develop a plan to build an outdoor mall east of Cedar within eighteen (18) months; that has a pedestrian theme and fully integrates the Fry's Electronics location in the outdoor mall; that the outdoor mall should complement the indoor mall.**

*Prio to the vote City Council discussion continued*

*Mayor Howorth noted that she strongly, disagrees.*

*Mr. Kosmont acknowledged that Macy's is a critical factor and noted the need to remember that there are three existing property owners. He stated that City Council can direct the Planning Commission to consider a revised traffic study but does not believe that the City can compel Macy's to consider a revised configuration of the mall or ask the developer to do the same. He noted the need to obtain a response from Macy's and the developer as to whether they will consider that process. He added that there aren't too many major anchors left and the chances that they would pay increased rent after enhancement of the mall would probably be non-existent. Typically, they would want free rent and tenant improvements and he noted that Macy's would have the option of vetoing any major tenant coming into the mall.*

*Councilmember Burton stated that the initial steps that are being proposed are nothing different than has been committed to already in Phases 1 and 2. He indicated that he has difficulty understanding why it wouldn't be accepted but that is why he suggested sending the matter back to the Planning Commission which would also eliminate threats of CEQA lawsuits.*

*Mr. Kosmont reiterated the need to find out how Macy's and the developer feel about the issue.*

*Mayor Howorth agreed noting that it would eliminate waste of time.*

*Mr. English stated this is not something the developer would do. He reported that the releasing plan for the Macy's Men's store is not to place a new anchor there and that has never been the intent. Additionally, that is not something that Macy's would agree to easily. He added that there is a strong trade area to the north (Santa Monica) which is full of high-rate anchors as well as to the south. He commented on the investment to achieve the Macy's consolidation and the increased investment needed to place a new anchor. He stated that they have a vision for the mall and that the Village shops, Macy's consolidation and the northwest corner are critical in fulfilling that vision. He stated that the proposed plan would guarantee that the Macy's consolidation does not happen.*

*In response to Councilmember D'Errico's inquiry, Mr. English reported that the Village shops are a vital part of strengthening the interior mall. There is an unmet need for outdoor retail space and the developer's ability to release the Macy's Men's store to multiple tenants will be extremely difficult if there is not a deck that provides a pedestrian pathway to the second level.*

*Councilmember D'Errico reported that the proposed plan does not change the opportunity to create a pedestrian experience. He stated that he does not see a "winner" currently but that it could be with the proposed plan.*

*Councilmember Lesser raised relevant process issues noting that with the proposed motion, City Council would be substituting a very different project than what the Planning Commission approved. Regarding the substitution of a substantially different design, he stated that this is unlike Metlox where the City owned the property underneath it and had more direct control over what it could be in terms of square footage, design and process. The present property is owned privately, by three sets of owners that have control over the matter. He stated there is a need to defer to others, with instructions but that the present motion is not the proper response. He indicated that the proper response would be to direct staff to respond*

*to the concerns previously expressed by City Council.*

*Councilmember Burton acknowledged the challenges faced by the developer and stated what the proposed plan is doing is taking the elements of Phases 1 and 2 and reprioritizing them. He stated that the proposal is not unreasonable and that it would be better for the developer in that it would get the project done without the threat of CEQA litigation. He reviewed comments from the Planning Commission and noted that their vote was not unanimous. He reported that Mr. Kosmont stated that a "win" for the City would be to accelerate Macy's consolidation. He expressed concerns that moving forward; only Phase 1 would be built and Macy's would never move.*

*Mayor Howorth noted that the proposal is different as it relates to the parking structure. She added that the consolidation of Macy's was the number 1 goal which has been worked on for several years and that it is Councilmember Burton's supposition that it will not happen. She reported that there is nothing about the plan that guarantees it either, that it is not the City's property or its investment and that consideration needs to be given as to what is best for the community.*

*Mayor Howorth called for the motion.*

**A motion was made by Councilmember Burton, seconded by Councilmember D'Errico to grant the appeal of the Planning Commission's decision to certify the EIR and remand the matter back to the Planning Commission; direct the Planning Commission staff to conduct a new traffic study as soon as possible and no later than six (6) months, and direct that the traffic study use the same twenty-five (25) intersections as were used in the traffic study for The Point; remove the traffic equivalency program from the traffic study and include Fry's Electronics in the traffic study. He further moved to remand the application for the Master Use Permit Amendment height variance and Master Sign Program exception for the Manhattan Village Shopping Center and direct the Planning Commission staff to develop and consider a plan to enhance the Manhattan Village Shopping Center as soon as possible, but no later than nine (9) months that includes the following elements: consolidation of Macy's by increasing Macy's north by 60,000 or 50,000 feet, right size the space for the second department store by increasing Macy's Men store by 30,000 or 50,000 feet, designing and building a parking structure north of the consolidated Macy's to provide second-level access to the consolidated Macy's, and extend Cedar Way north to Rosecrans. Direct the Planning Commission to develop a plan to build an outdoor mall east of Cedar within eighteen (18) months; that has a pedestrian theme and fully integrates the Fry's Electronics location in the outdoor mall; that the outdoor mall should complement the indoor mall. The motion failed by the following vote:**

**Aye:** 2 - Burton and D'Errico

**Nay:** 3 - Howorth, Powell and Lesser

At 11:20 PM the City Council recessed and reconvened at 11:25 PM with all Councilmembers present.

Traffic Engineer Pat Gibson reported that he did the EIR for this project and that he has extensive experience doing this. He stated that he does not write flawed traffic reports or flawed traffic reports that need to be updated. He listed projects on which he is currently working and reported that the traffic report is not flawed and is not inadequate. He added that the traffic report was reviewed by three traffic engineers including one from El Segundo Plaza and Mr. Neuman's traffic engineer. He reported that there were numerous comments received regarding the traffic report and that each of those comments was responded to within the EIR and not one was justified or meaningful. He stated that the study did include the Fry's store in Phases 1 and 2 and considered a replacement of Fry's in Phase 3. Traffic Engineer Gibson reported that sixteen (16) intersections were studied for a 133,000 square-foot development and compared it to the El Segundo Plaza study. He added that they studied six (6) times more intersections per development than the El Segundo Plaza study and generated 176 peak hour trips at the end of Phase 2. The El Segundo development generated 2,500 to 3,000 peak hour trips. He stated that it is not a fair comparison. The Manhattan Beach study found that this project could sustain 89,000 square feet of space without a significant impact if Fry's stayed in place. He took exception to the claim that the traffic study is flawed and that it needs to be done again. He stressed that the study does not need to be redone for any technical reasons at all. In terms of equivalency programs, internal circulation, phasing and Cedar Way, he stated he had a presentation that he was prepared to give tonight but at this late hour he did not believe that City Council would like to see it. He expressed willingness to talk about it at City Council's discretion.

**A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser to approve Phases 1 and 2 only and tying them together so that both have to be done; require 10,000 square feet to be eliminated to make up for the fact that after Planning Commission approval, Macy's increased by 10,000 square feet; redesign and reduce the size of the Phase 1 north parking structure similar to the Phase 1 south parking structure; require Macy's to consolidate prior to issuing permits for Phase 2 noting that approval is contingent upon Macy's providing a commitment letter that they will, in fact, consolidate; Cedar Way must connect to Rosecrans Avenue with Phase 2; negotiate in good faith with Fry's to try to keep Fry's; a bond and not a letter of credit should be issued to require all of the site amendments (traffic-related items); the clock tower, the water features, landscaping and hardscaping, the town plaza and all of the architectural details seen in the renderings are a requirement that they be in the project and that there be an Oak Avenue traffic study and that the developer do it for a cost not to exceed \$20,000.**

**Mayor Howorth requested a friendly amendment regarding the architectural features noting that she does not want to require specificity.**

**Mayor Pro Tem Powell stated it would be in concept only.**

**Mayor Howorth stated she does not want to specify reduction of the parking structure but would prefer to require a redesign.**

**Mayor Pro Tem Powell agreed.**

*Prior to the vote City Council discussion continued.*

*Interim City Manager Jalili agreed with not wanting specificity and suggested that architectural elements be demonstrated.*

*Councilmember Lesser accepted the friendly amendments.*

*In response to an inquiry from Mayor Howorth, Director of Community Development Thompson stated that staff took good notes and is comfortable with the motion which is consistent with staff's recommendations. He reported that if it is approved, staff will prepare final resolutions which will be presented to City Council for approval in April.*

*Senior Counsel Weiner clarified that it is not an approval at this time but that staff will return with the documents to approve the project as set forth in those documents and it is anticipated that would be in April.*

*Community Development Director Thompson added that a resolution will be presented to certify the EIR and all the conditions of approval at that meeting.*

*Interim City Manager Jalili noted that at the Planning Commission meeting, the Macy's plan included 60,000 square feet.*

*In response to Councilmember Burton's inquiry, Senior Counsel Weiner indicated that final action will be taken when the resolutions are presented to City Council. He added that the motion is to direct staff to prepare approval documents including resolutions certifying the EIR and approving the various applications before City Council at this time. At that time, if City Council approves the resolutions, then that would be the time for approval of the project. He added that if City Council finds that the documents have not properly captured the motion, then City Council could make adjustments at that time.*

*Councilmember Burton noted additional requirements as stated in the report and Mayor Pro Tem Powell stated that they would be included.*

*In response to Mayor Pro Tem Powell's inquiry, Senior Counsel Weiner reported that the EIR does not approve a project configuration but rather analyzes the project as it was proposed. He added that he does not believe that anything in the motion would require a revision to the EIR as none of the changes would seem to add any impacts beyond what was already analyzed in the EIR.*

*Mr. Kosmont requested clarity regarding tying Phases 1 and 2.*

*Mayor Pro Tem Powell indicated he does not want to see a situation where only Phase 1 is developed, the property is flipped and Phase 2 never comes to pass.*

*Councilmember Burton asked if that can be done, legally.*

*Senior Counsel Weiner indicated that is something that will need to be figured out between now and April in terms of how it can be achieved. He reported that he has some ideas but that the matter will require working with staff and the applicant.*

*In response to Councilmember D'Errico's request, Mayor Howorth reiterated the motion.*

*Councilmember Burton offered a friendly amendment that RREEF exercise the "put"*

agreement upon approval of the project. He added that he is looking for assurance that Macy's will consolidate. Additionally, he offered a friendly amendment to require that Cedar Way be connected to Rosecrans Avenue in Phase 1.

Traffic Engineer Gibson listed challenges with having Cedar Way connected to Rosecrans in Phase 1 including the fact that it will require taking a "big chunk" out of the Fry's parking lot and they have lease-hold rights that would prevent that from occurring. He added that making that improvement in Phase 1 would be very difficult.

Senior Counsel Weiner reported that he does not want to establish an expectation for the documents that cannot be met and that he does not know enough about the put agreement to be able to assure City Council that RREEF will meet that objective.

Discussion followed regarding the importance of tying Phases 1 and 2 together.

Councilmember D'Errico commented on attempts at accomplishing a guarantee and requested input from staff regarding the matter.

Senior Counsel Weiner suggested there are options for "putting teeth" to the requirements but that is something that will need to be worked out with staff and the applicant because each option has practical implications. He understands that City Council wants to ensure that Phase 1 moves forward and that the Macy's relocation moves forward as well, recognizing that nothing is truly guaranteed.

Councilmember D'Errico stated he wants to ensure that the "teeth" put into the agreement do not have an adverse effect of hindering and hurting the City.

Interim City Manager Jalili stated that direction can be given to staff to explore those options.

Mayor Pro Tem Powell added to the motion that all of the other conditions that were imposed and previously approved by the Planning Commission be included in the resolution.

Councilmember Lesser accepted that amendment.

Councilmember Burton stated he will not support the motion at this time as he would like more time to consider it and see it in writing.

Councilmember D'Errico concurred.

**A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser to approve Phases 1 and 2 only and tying them together so that both have to be done; require 10,000 square feet to be eliminated to make up for the fact that after Planning Commission approval, Macy's increased by 10,000 square feet; redesign and reduce the size of the Phase 1 north parking structure similar to the Phase 1 south parking structure; require Macy's to consolidate prior to issuing permits for Phase 2 noting that approval is contingent upon Macy's providing a commitment letter that they will, in fact, consolidate; Cedar Way must connect to Rosecrans Avenue with Phase 2; negotiate in good faith with Fry's to try to keep Fry's; a bond and not a letter of credit should be issued to require all of the site amendments (traffic-related items); the clock tower, the water features, landscaping and hardscaping, the town plaza and all of the architectural details seen in the renderings are a requirement that they be in the project and that there be an Oak Avenue traffic study and that the developer do it for a cost not to exceed \$20,000.**

**Mayor Howorth requested a friendly amendment regarding the architectural**

features noting that she does not want to require specificity.

Mayor Pro Tem Powell stated it would be in concept and agreed that he did not intend to require same.

Mayor Howorth stated she does not want to specify reduction of the parking structure but would prefer to require a redesign.

Mayor Pro Tem Powell agreed.

Interim City Manager Jalili agreed with not wanting specificity and suggested that architectural elements be demonstrated.

Councilmember Lesser accepted the friendly amendments.

Mayor Pro Tem Powell added to the motion that all of the other conditions that were imposed and previously approved by the Planning Commission be included in the resolution.

Councilmember Lesser accepted that amendment.

The motion carried by the following vote:

**Aye:** 3 - Howorth, Powell and Lesser

**Nay:** 2 - Burton and D'Errico

*Mayor Howorth noted this is a big decision and hoped that the project can go forward as it is vital to the community to do it well and right and create a partnership and create a good experience for the community. She thanked Councilmembers and staff for their work as well as the developer and residents who spoke.*

## **F. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS**

*None.*

## **G. ADJOURNMENT**

*At 11:57 PM, the January 14, 2014, City Council Adjourned Regular Meeting was adjourned to the 5:00 PM, Adjourned Regular City Council Closed Session meeting of January 21, 2014, in the City Council Chambers.*

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**Vida Barone**  
**Recording Secretary**

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**Amy Howorth**  
**Mayor**

**ATTEST:**

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**Liza Tamura**  
**City Clerk**