

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
SEPTEMBER 23, 2015**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 23rd day of September, 2015, at the hour of 6:30 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Apostol, Bordokas, Conaway, Ortmann, Chairperson Hersman
Absent: None
Staff Present: Marisa Lundstedt, Community Development Director
Mike Estrada, Assistant City Attorney
Laurie Jester, Planning Manager
Angelica Ochoa, Associate Planner
Rafael Garcia, Assistant Planner
Debi Howell-Ardila, SWCA (City Historical consultant)

2. AUDIENCE PARTICIPATION

Kendra Davis, City Manager's office, invited the Planning Commission to participate in a Community Input Meeting on the City's Strategic Planning process on October 15, 6-9 pm at the Joslyn Center. She urged that the Commissioners provide comment on any categories they feel may be lacking. Ms. Davis also noted other opportunities for providing input are at noon on October 15, and at the downtown Farmer's Market on October 6 and 13 where the City will be staffing an information table.

3. APPROVAL OF MINUTES – August 12, 2015

A motion was MADE and SECONDED (Ortmann/Bordokas) to **APPROVE** the minutes of August 12, 2015 as submitted.

AYES: Apostol, Bordokas, Ortmann, Chairperson Hersman
NOES: None
ABSENT: None
ABSTAIN: Conaway

4. GENERAL BUSINESS

09/23/15-2. Amendments to Title 10 Planning and Zoning, other portions of the Manhattan Beach Municipal Code (MBMC), and the Local Coastal Program (LCP) revising the Historic Preservation provisions

Chairperson Hersman announced this item and invited staff to address the Commission. Assistant Planner Rafael Garcia summarized the background including past public hearings and key policy comments by the Commission, reviewing the process for demolition permits, the requirement for a Certificate of Appropriateness, and a waiting period which staff is recommending be 60 days maximum. Mr. Garcia estimated that, except for possible gaps if an applicant revises a submittal, the entire work moratorium process is estimated to take about one year.

Associate Planner Angelica Ochoa presented the remaining topics including 10.86.090 B, the provision allowing the City Council to approve an exceptional landmark without an owner's consent, and the staff recommendation regarding historic districts and owner signature thresholds. Ms. Ochoa emphasized that after researching other cities, and discussions with the City's consultant, the current recommendation is to maintain thresholds of owner signature of 25% at submittal, and 51% at final designation, as it was felt this was necessary to encourage a viable historic district. Staff also recommends establishing design guidelines for non-contributing properties within historic districts. Associate Planner Ochoa noted that providing a process for historic districts is consistent with obtaining CLG (Certified Local Government) status. Ms. Ochoa also noted staff recommended revisions to address formatting, code language and internal consistency issues and summarized comments received from the State Office of Historic Preservation. The State OHP endorsed the draft ordinance as a solid foundation for protecting historic resources and with included

provisions for historic districts, their office would support CLG status. OHP also recommended that, if a property in the City were to be a state or national landmark, then the decision to pursue local landmark status should be at the discretion of the property owner not an automatic designation.

Staff responded to questions from the Planning Commission.

Planning Manager Jester provided responses:

To Commissioner Conaway: with adoption of the new ordinance, the Municipal Code provision that established the MBCHC (Manhattan Beach Cultural Heritage Commission) in 2006 will be deleted. The role of implementing and managing the new ordinance will fall to the new Historic Preservation Commission, but the MBCHC will continue to be a valuable educational resource.

To Commissioner Ortmann: after a lot of discussion with the City Attorney and consultant as well as receiving input from the state, the recommendation currently is intended to achieve the goal of a balanced approach: to encourage the submittal of applications for historic districts, while at the same time, not being too restrictive. The proposal is to include both contributing and non-contributing properties in historic districts and both would be subject to guidelines, with those for non-contributors being less restrictive than those for contributing and the percentages of owner signatures 25% and 51% would count both contributing and noncontributing properties.

Director Lundstedt added that based on Council direction to attain CLG status, there has been a focus on adopting historic district regulations in the Ordinance. Staff has attempted to balance this with input from the Planning Commission and in forwarding the Resolution to City Council, staff will highlight all areas of Commission concerns including points of disagreement.

Planning Manager Jester responded:

To Commissioner Bordokas, with confirmation by Assistant City Attorney Estrada that the threshold of 51% of owner signatures consenting would be required prior to a final decision by the City Council.

To Commissioner Hersman, signatures of 25% of owners could conceivably hold up projects for others in the districts for up to about a year, but the 60-day waiting period was included to encourage only serious applications to come forward, as well as to allow an opportunity to educate those within the proposed district.

Commissioner Bordokas commented that she felt that the Commission lost on the issue of required signatures for districts and that her thinking was that while the initial submittal requirement is low at 25%, perhaps the threshold at the time of designation would be raised to as much as 100% - the idea being that the 25% would encourage a good amount of community discussion and education in the early stages.

Planning Manager Jester responded:

To Commissioner Bordokas, the survey upon which the inventory would be based would be performed by a qualified professional, and the City would, after issuing an RFP, select the most qualified candidate. The Historic Preservation Commission would be responsible for the compilation, maintenance and updating of the Inventory. Ms. Jester cautioned the Commission in making too close of a comparison with the Redondo Beach ordinance which staff understands as being relatively dated, from the 1980s. It is typical for a Historic Preservation Commission to establish a grading scale when doing an inventory and the Manhattan Beach Historic Preservation Commission would have the authority to determine how to apply such a scale and CLG status is not required for property owners to enter into Mills Act agreements. Commissioner Bordokas requested that staff check into whether the Redondo Beach Ordinance requires 100% of owner signatures to form a historic district.

City consultant Howell-Ardila responded that a moratorium period is needed to protect historic resources; the city could add a clause that would allow properties affected by a moratorium to make repairs or improvements that comply with the Department of the Interior standards; and to ensure that time frame are not unnecessarily lengthy, the city could add a step whereby a submitted application could be checked and vetted, using a set of standard criteria.

There being no further questions of staff, Chairperson Hersman invited public input.

PUBLIC INPUT

Marcello Vavala, Los Angeles Conservancy, supports the draft ordinance as written, noting that the City is at an important crossroad in that, based on LA County Assessor records, since 1980 37% of the city parcels have been substantially improved or rebuilt and only 2.9 % of very old structures (pre 1920s) still exist. The ordinance should reflect best practices, as well as the General Plan goals as he feels this ordinance does. He

noted that Glendale and Burbank have similar (25%/51%) owner signature thresholds (Burbank most recently added historic districts) and he believes these have worked very well and has brought the community together. He stated that many cities do not have two tiers of thresholds as has been proposed for Manhattan Beach. He cautioned that if the percentage is raised higher as Beverly Hills recently has done (75%) this might be a challenge to attaining CLG status. He encouraged the City to retain the provision of the City Council override which can safeguard a very exceptional resource.

In response to Commissioner Ortmann, **Mr. Vavala** explained that cities that do not have a two tier threshold will allow an applicant or group with no minimum percentage to submit an application for a historic district landmark designation, and if they look serious, the city will start the evaluation process. This is not the case in the proposed Manhattan Beach ordinance in that for historic districts, there is a specific minimum percentage of owner consent from the start.

Jane Guthrie, Manhattan Beach Conservancy, made two main points: first, she believes that 25% is a pretty high bar to set at the very beginning (for submitting a district) and therefore is a good measure of a serious application, and secondly, historic districts can evolve over time to more than the old beach bungalows, and she hopes that this ordinance will have a long life. She noted that her group has a new website: mbconservancy.com and she invited everyone to visit the website.

There being no more persons wishing to speak, Chair Hersman noted the next step is for the Commission to discuss the proposed ordinance.

PLANNING COMMISSION DISCUSSION

Commissioner Apostol stated that generally he supports the ordinance but has concerns, his main concern being the provision in 10.86.090 which gives the City Council the authority to approve a landmark without owner consent in exceptional situations. He prefers this be struck completely but if this is not done, then he'd like to see some additional hurdles included before the City Council can act in a way that could take away an owner's property rights. His other concerns are: regarding the work moratorium, that property owners could be held up and prevented from making needed improvements while an application for a district is being processed and, secondly, that the ordinance may create an administrative burden for staff as he envisions property owners regularly coming to the City to request a written clearance for their property as not being affected by the ordinance. Perhaps his first concern can be alleviated by adding a provision that would exempt some types of improvements from a work moratorium, as suggested by the City's consultant.

Commissioner Conaway stated that he generally supports the ordinance and believes adopting an ordinance is critical for the community and in line with the General Plan. He'd like to see the ordinance be set up for as much success as possible with respect to historic districts, and he believes that the safeguarding of property rights must be balanced with the greater good of the community. He believes that it is important to have a longer view, in that the ordinance can serve as a useful tool for many years. Commissioner Conaway does not share the same degree of concern as Commissioner Apostol regarding giving the City Council the power to designate in 10.86.090 without owner buy-in because he believes such situations will be very rare, and the City Council will fully engage the community in public discussions in such cases. He is also not convinced that the ordinance would place a large administrative burden on staff because he expects that staff would develop a way to handle such requests if they arise in a routine fashion.

Commissioner Ortmann stated that generally he agrees with Commissioner Conaway, but areas where he is still uncomfortable are first, the potential financial impact to property owners specifically due to the work moratorium and, secondly, the percentages of 25% and 51%, in that he's not sure these are the right numbers. He's not sure that 25% would establish a serious commitment to engage in the process and 51% seems low.

Commissioner Bordokas expressed discomfort with including noncontributing properties within a district and would like to discuss whether these properties should be removed altogether from being a part of an historic district. Having researched the historic preservation process in Redondo Beach, she found that only a few of properties were graded an "A" grading in their inventory actually wound up as being designated and taking advantage of Mills Act tax incentives. She questioned the City's goal in enabling the formation of historic districts and whether it is practical given that the value of properties in the City being based more on land as opposed to the structure. She believes caution should be taken in stating that having a property landmarked will increase property value, again, because so much of value in the City is in the land. In conclusion, although she supports this effort, she is very uncomfortable with the Resolution as currently drafted, and is strongly concerned there may be significant impacts to property rights.

Chairperson Hersman echoed Commissioner Bordokas' concern about property right being potentially threatened for owners of older homes that potentially could have some historic significance in the community.

Commissioner Ortmann expressed his opinion that for an individual property, it would be a very rare and exceptional case and only with the community engaged for the City Council to designate a property without owner consent. Commissioner Ortmann clarified that he also feels that it would be a very rare circumstance for a historic district as well to be formed that would include properties when the affected property owners do not consent.

Commissioner Conaway made two points: that being designated “historic” and being “modern” are not mutually exclusive – there are plenty of examples where an older home has also been upgraded to function with all modern amenities. Secondly, he believes that having a historic ordinance provides the city with a tool to manage its cultural resources well into the future, and, while we are speaking today about saving beach cottages, in the future this could be something else altogether.

Discussion focused next on the overarching goal of adopting an ordinance and possible ways to alleviate concern regarding property rights impacts, such as having some kind of opt-out clause.

Chairperson Hersman noted that achieving CLG status seems to be a very important part of this discussion and wondered whether this should be driving the ordinance.

Commissioner Conaway stated that he believes the main goal of the ordinance is not primarily CLG status, but to have an ordinance that would give the City a tool and incentives to maintain older homes that are culturally significant and, when a resource property is threatened with demolition, to provide a time-out and give some time to enable meaningful discussion about options to demolition.

Commissioner Bordokas expressed concern that so much time and money would be spent implementing an Ordinance if potentially there is not a lot of gain in saving quality structures.

Commissioner Ortmann responded that he believes it’s important to have an Ordinance in place so that the City will have a ready tool to manage its cultural resources, and even if some very significant property is only once in a long while brought into the discussion and able to be saved – this seems worthwhile for the greater good of the community.

Discussion focused on a suggestion by Commissioner Bordokas to delete some provisions applicable to historical districts and allow noncontributing properties to opt-out at the beginning of the formation of a district, or require 100% of all contributing properties to participate.

Director Lundstedt clarified that it would be known after the survey was completed by the Historic Preservation Commission, whether a property would have “contributing” characteristics for a historic district. Commissioner Apostol stated he believes that property owners should have the ability to opt-in even after an initial opt-out, before final decision is made by the City Council. Discussion ensued as to how the percentages needed to form a district would be calculated with a flexible opt-in feature and it was suggested that this would be something that staff should research to see if there might be unintended consequences.

Director Lundstedt stated that, while staff can research this aspect, she believes that an opt-out clause as being discussed may significantly undermine the intent of the ordinance to encourage conservation districts and cautioned that unintended effects might also result from that approach. She suggested that one option would be for the Commission to recommend that historic districts be deleted altogether.

Commissioner Apostol questioned of staff whether it would be better to leave the historic district in the ordinance even with the right to opt-out, as this way there might be more potential for a historic district provision being included. Planning Manager Jester responded that, in her opinion, it would be more clear cut for the Commission to pull out the districts, and staff would explain the Commission’s concerns to the City Council which ultimately would make a decision.

Discussion focused on forming a recommendation regarding historic districts. Commissioner Apostol stated his preference to keep the districts in but include an opt-out clause. Chair Hersman questioned the effect that taking out the districts might have on CLG status.

Director Lundstedt advised that she believes the priority of the City Council is to adopt a historic preservation ordinance, not necessarily that the City achieve CLG status. She drew attention to the late attachment to the staff reports which suggests changes to the draft ordinance including the following Sections of Chapter 86: 110A (adding 60-day maximum waiting period); 110.D.2 (including a provision to clarify that design guidelines also apply to non-contributing resources in districts); 180A (clarifying moratoriums for pending landmarks and districts); and to the end of .050, adding a provision that would require that all property owners within boundaries of a historic district proposed to be listed on the Historic Inventory, be notified of all Historic Preservation Commission (strike “Planning Commission”) meetings when such listings are being considered.

Planning Manager Jester noted that the change to 110.D.2 was included based on staff's interpretation of the Planning Commission's intent that modified guidelines would apply to non-contributors.

Commissioner Conaway stated his opinion is that the historic districts are an important way of implementing the General Plan goal to maintain the small town beach atmosphere and he believes this is the highest priority. He would rather keep the historic districts in the ordinance, even if it is weakened a little. He doesn't think that requiring 100% consent will work. There may be an option where you could have different rules for non-contributing properties in a district, but cautioned having a provision that would encourage gerrymandering a district which he does not believe will be beneficial.

Chair Hersman encouraged the Commission to make a motion. Commissioner Conaway asked about the minimum 25% owner consent requirement, and there was subsequent consensus that this percentage not be changed. Chair Hersman noted that a typo in Section 10.86.240 A, "502090" should be "50290" and suggested that title "Building Official" be defined in the ordinance. Chair Hersman also expressed concern that the findings required to grant a Certificate of Economic Hardship in Section 10.86.200 as written would be very difficult to be made, but after brief discussion, there was consensus that this is not critical, as long as owner consent is required for all designations, or if the ordinance includes an "opt-out" provision for owners.

PLANNING COMMISSION ACTION

Commissioner Apostol moved, with second by Commissioner Conaway, to approve the implementation of the draft Resolution submitted by staff (including amendments per the late attachment dated 9/23/15), recommending that the City Council adopt amendments to Title 10 Planning and Zoning, other portions of the Manhattan Beach Municipal Code (MBMC), and the Local Coastal Program (LCP) revising the Historic Preservation provisions, with the following changes:

1. Section 10.86.110 (procedures for historic districts): revise such that any property owner would have the right to opt out from participating in a historic district,
2. Section 10.86.090.B (landmark designation by City Council without owner consent): revise this section to link back to 10.86.070 D. such that designation without owner consent would be subject to finding by the City Council that the subject property qualifies for designation under at least 3 of the 6 categories listed in 10.86.070 D..
3. Section 10.86.110.D.2 (guidelines for historic districts - see 9/23/15 addendum): revise to read:
"The Director or Commission may also prepare or cause the preparation of design guidelines for the historic district, which will establish general recommendations to guide subsequent new construction, alterations (~~including of non-contributing resources~~) and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting. Any such guidelines require Council approval."

Commissioner Ortmann expressed his concern with the proposed change to 10.86.090.B., questioning whether it is appropriate to require meeting three criteria because each of the 6 criteria stand alone, independent of each other. Commissioner Ortmann pointed out that Section 10.86.070 D. requires that only one designation category be met with an owner's consent and it feels arbitrary to raise this to three. Director Lundstedt pointed out that there are several categories listed in 10.86.070 D. because there are multiple reasons why a property might be considered culturally significant. Commissioner Apostol explained his intent that, if the City Council were to have the power to designate a property without owner consent, then, because this would amount to a forced taking of property rights; therefore he feels the requirements should be stricter. Chair Hersman suggested as an option, that in addition to providing a link to 10.86.070 D., and requiring compliance with at least one of the six designation criteria in that section, that the City Council also be required to make an additional finding regarding the significance of the site being considered for designation.

After brief discussion Commissioner Conaway moved approval, seconded by Commissioner Bordokas and there was unanimous approval, to change the pending motion to read as follows:

1. Section 10.86.110 (procedures for historic districts): revise such that any property owner would have the right to opt out from participating in a historic district,
2. Section 10.86.090.B (landmark designation by City Council without owner consent): revise this Section to link back to 10.86.070.D such that City Council designation without owner consent would be subject to 1 or more out of 6 landmark criteria of that section and, in addition, the City Council must also make the following finding: "The subject property is a significant cultural resource, such that its loss would be a significant detriment to the cultural heritage of the community", plus similar language related to the greater good and betterment of the community as a whole..
3. Section 10.86.110.D.2 (guidelines for historic districts - see 9/23/15 addendum): revise to read:
"The Director or Commission may also prepare or cause the preparation of design guidelines for the historic district, which will establish general recommendations to guide subsequent new

construction, alterations (~~including of non-contributing resources~~) and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting. Any such guidelines require Council approval.”

4. Section 10.86.180 relating to the Work Moratorium: add a provision to allow building changes (Certificate of Appropriateness) during the moratorium that conform to the Secretary of the Interior’s standards.

The Director also clarified that the typo in .050 “Historic Preservation Commission” and the addition of a definition of “Building Official”, as mentioned previously, as well as the other revisions in the handout distributed at the meeting, will be included in the revised Resolution.

Commissioner Apostol requested that, when the Commission’s recommendation goes forward, that staff inform the City Council of the importance to the Commission of the opt-out provision, in that, as long as an opt-out is allowed to property owners, the Commission did not see a need to change other provisions (e.g. percentages of owner consent required). Commissioner Apostol stated further that he hopes, that the Council seek input from the Commission if it deletes the opt-out provision. Commissioner Ortmann requested that the record reflect that, while voting in favor of the motion, he does this in the spirit of compromise and unity, but does not support the opt-out clause as he doesn’t believe it is a good idea, but at this time he does not believe there is another clear alternative before him.

Roll call vote on the amended motion:

AYES: Apostol, Bordokas, Conaway, Ortmann, Chairperson Hersman
NOES: None
ABSENT: None
ABSTAIN: None

6. DIRECTOR’S ITEMS

Director Lundstedt informed the Commission on the following items:

- Mobility Plan: she is scheduling a joint meeting with the Council and she appreciates the Commissioners all getting back to her with input on possible meeting dates.
- Downtown Specific Plan: Staff will be updating the Commission at the next meeting. A public outreach meeting will be held on October 8, 6:00 PM at the Civic Center Police and Fire Facility and she encouraged the Commission to attend as many important issues will be covered.
- Commission calendar: Director Lundstedt is considering how to provide the Commission with a calendar of upcoming projects and suggested that meanwhile perhaps staff can provide more information regarding tentative future agendas at their meetings as a regular “tentative agenda” item. Commissioner Hersman explained that this request is prompted by the fact that the Commissioners are often asked by residents about upcoming projects and it would be helpful for the Commission to know generally what projects are “in the pipeline.” It was also suggested that it would be helpful if staff can, a month ahead if possible, let the Commission know that a meeting will be cancelled.

7. PLANNING COMMISSION ITEMS

Commissioner Ortmann inquired as to when the Gelson’s application will come to the Commission. Director Lundstedt responded that this is uncertain, because the applicant has yet to submit a complete application.

Commissioner Conaway requested an update on Manhattan Village and the status of the Sepulveda bridge widening project. Director Lundstedt informed that the shopping center implementation team is fully engaged, meeting with Staff to work out a demolition/construction schedule and to finalize details such as landscaping. Regarding the bridge project, Planning Manager Jester stated that this project is being overseen by Public Works, but she believes that right-of-way dedication is being acquired from adjoining property owner(s) and the design is still being engineered.

8. TENTATIVE AGENDA – October 14, 2015

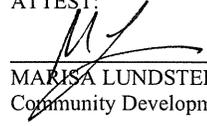
Director Lundstedt advised that she expects a meeting on this date.

9. ADJOURNMENT

The meeting was adjourned at 9:40 PM to Wednesday, October 14, 2015 in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:



MARISA LUNDSTEDT
Community Development Director