

**MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JUNE 8, 2022**

A. CALL MEETING TO ORDER

A Regular meeting of the Planning Commission of the City of Manhattan Beach, California was held in a hybrid format (via Zoom and concurrently in person at City Hall, 1400 Highland Avenue) on the 8th day of June, 2022. Chair Morton called the meeting to order at the hour of 3:04 p.m.

B. PLEDGE TO FLAG

C. ROLL CALL

Present: Chair Morton, Vice Chair Ungoco, Commissioners Sistos, Dillavou, Tokashiki
Absent: None
Others Present: Carrie Tai, AICP, Director of Community Development
Talyn Mirzakhanian, Planning Manager
Brandon Kearns, Assistant City Attorney
Ted Fatuross, Associate Planner
Fel Cortez, Agenda Host
Rosemary Lackow, Recording Secretary

D. REORGANIZATION OF THE COMMISSION

Chair Morton moved to nominate Vice Chair Joseph Ungoco to serve as the next Chair, and Commissioner Robert Tokashiki as next Vice Chair, per established seniority protocol; the motion was seconded by Commissioner Dillavou.

Roll Call:
Ayes: Sistos, Dillavou, Tokashiki, Vice Chair Ungoco, Chair Morton
Noes: None
Absent: None
Abstain: None

Commissioners Ungoco and Tokashiki assumed the seats of Chair and Vice Chair. Recognition and thanks were given by Chair Ungoco and Director Tai on behalf of staff to Commissioner Morton for his excellent leadership.

E. APPROVAL OF AGENDA

A motion was made and seconded (Dillavou/Sistos) to approve the agenda with no changes.

Roll Call:
Ayes: Sistos, Dillavou, Morton, Vice Chair Tokashiki, Chair Ungoco.
Noes: None
Absent: None
Abstain: None

F. AUDIENCE PARTICIPATION – None

G. APPROVAL OF THE MINUTES

06/08/22-1 Regular Meeting – May 11, 2022

It was moved and seconded (Dillavou/Tokashiki) to approve the minutes as submitted.

Roll Call:

Ayes: Sistos, Dillavou, Morton, Vice Chair Tokashiki, Chair Ungoco
Noes: None
Absent: None
Abstain: None

H. GENERAL BUSINESS

06/08/22-2 Consideration of four appeals of the Community Development Director’s decision to approve a Precise Development Plan, Coastal Development Permit, and Tentative Parcel Map for the demolition of a banquet facility and multiuse commercial building and subsequent construction of a 96,217 square-foot multifamily residential building with 79 rental dwelling units, with the developer utilizing a density bonus pursuant to State law, inclusive of waivers and concessions, at 401 Rosecrans Avenue and 3770 Highland Avenue (HighRose El Porto, LLC)

Chair Ungoco announced the item and invited staff to present a report.

Assistant City Attorney Kearns made brief introductory comments regarding decorum and protocols.

Associate Planner Ted Faturos provided a presentation using slides, summarizing the written staff report. He noted that all speakers will have a chance to speak in turn when invited.

Chair Ungoco invited questions from the Commission of staff, seeing none, the Chair invited the Applicant to address the Commission.

Frank Buckley, Applicant representative, summarized the application, covering the purchase of the property, development objectives, community outreach, and proposed construction including unit mix and amenities and exterior elevations and parking/access.

Chair Ungoco invited each of the four appellants to make 5-minute maximum presentations. The following persons addressed the Commission:

Don McPherson, believes that the project review process is not “ministerial” and requests that the Commission request an EIR be prepared; believes that under CEQA alternative sites are required to be considered and he believes there are two other sites in the City that he feels could provide affordable housing more appropriately.

George Bordokas, objects to applying waivers to the code such as a 30-foot height limit and believes that this decision-making process unequally favors the developer over the residents; is concerned that the applicant has not adequately substantiated that the project cannot viably be built unless waivers are granted.

Dr. Richard MacKenzie: believes that an EIR should be prepared to analyze impacts; has concern that there may be increased criminal activity; while code waivers may be granted, only a small number of affordable units will be produced; and the process undermines the authority of the Planning Commission.

Andrew Ryan, focusing on environmental issues believes an environmental review is required based on his reading of state code section 65589.5 subsection (d). He referenced a report to California EPA dated September, 2019 prepared for the Chevron refinery site which indicates an underground plume of floating petroleum; he believes this may seep onto the HighRose site and potentially be an adverse impact on public health and safety.

Chair Ungoco invited the Applicant to rebut the appellant comments.

Frank Buckley, Applicant, commented in rebuttal: 1) The project provides parking in a subterranean parking structure which will improve parking supply in the area, noting that it will replace older buildings that have nonconforming parking; 2) It is not likely that the project will result in an increase in criminal activity as the new uses will be residential units; 3) The project in and of itself cannot solve the State housing crisis or meet the City’s housing production mandate but by providing 6 new affordable and 73 market rate units, will be increasing housing supply and will advance the City and State housing goals;

4) The project would not be precedent-setting in that this is a very unique site and development opportunity and many boxes need to be checked for any other site to submit a similar feasible request, and there also must be a willing seller.

Chair Ungoco invited public input.

The following spoke **in support** of the Director's decision of approval:

Kevin Covert
Kate Hirsch
Lou Henriksson
Nick Grasu
Gary Horwitz
Rod Parsley
Mike Grannis

The following spoke **in opposition** to the Director's approval:

Ronald Schendel
John Dumbacher
Phillip Cook
Scott Floyd
John Wilcox
Will Arviso

At 4:51 pm Chair Ungoco called for a break and the Commission vacated the chamber.
At 5:09 pm the Commission returned to the chamber and Chair Ungoco resumed the meeting.

The following commented **in support** of the Director's approval:

Zac Dean

The following commented **in opposition** to the Director's approval:

Dan Stern
Lenie Ramos
Michael Curen

The following individual commented, posing a series of questions to staff:

Marilyn Shapiro

Chair Ungoco invited the Commission to ask questions; the following responses were provided:

- **Assistant City Attorney Kearns** clarified that, as the matter being reviewed is a ministerial or staff decision, the Commission's decision is to be based narrowly only on applicable objective standards to determine whether the project complies with State and local law. A class-action lawsuit filed by four cities related to SB 9 has no direct bearing on this review.
- **Associate Planner Fatuross** stated that the City does not have a view protection ordinance and no formal communications have been received regarding the project from Chevron, MB Chamber of Commerce, North MB BID, nor from the MB Fire and Police Departments.
- **Planning Manager Mirzakhani** informed that the developer will be required to enter into an affordable housing agreement with the City which will be recorded on the property.
- **Planner Fatuross** explained that the base density applicable under City zoning is 51 units and reviewed how in applying all State and local incentives the total number of allowed units is 79 with 6 designated as affordable.
- **Assistant City Attorney Kearns** confirmed that, while each case is unique, the City has protections in place in terms of legal challenges to planning application decisions.
- **Jim Williams, Frank Buckley, and Tim Wood** with the applicant team provided clarifying information in response to Commissioner questions.

- **Planning Manager Mirzakhania and Director Tai** provided clarification on additional questions pertaining to traffic safety, staff’s evaluation of applicant materials, and notification to Chevron representatives.

Chair Ungoco invited Commission discussion.

Commissioner Morton stated after reviewing all materials including all four appeals, he supports the staff recommendation to reject the appeals and uphold the Director’s approval on the basis that he cannot find evidence that the project is not in compliance with any regulation or provision that is applicable to the project.

Commissioner Sistos noted that she has concluded that the only basis for denial of the waivers, would be a finding that the waivers would have a specific adverse impact on public health and safety or the physical environment; and there is no feasible way to mitigate such adverse impact(s) without rendering the project unaffordable to low and moderate income households. Based on the information available, she does not believe there is sufficient evidence to support such a finding.

Commissioner Dillavou recognizes that the developer has designed the project in conformity with applicable density bonus regulations and is concerned that as such, to reject the waivers and not support the Director’s decision would expose the City to a costly legal challenge. He believes that the best course is to uphold the Director’s decision.

Vice Chair Tokashiki is in agreement with Commissioner Morton and feels that the developer has acted with due diligence.

Chair Ungoco stated that he lives on Kelp Street and has strong ties to the community. He applauds the community for participating in this review. He cannot however, find evidence that the applicant has not followed all applicable regulations and standards and therefore will vote for upholding the Director’s decision, approving the project.

City Attorney Kearns confirmed that Chair Ungoco’s real property interest on Kelp Street is well beyond 500 feet of the project site.

A motion was made and seconded (Morton/Tokashiki) to adopt the attached draft resolution affirming the decision of the Community Development Director.

Roll Call:

Ayes:	Morton, Sistos, Dillavou, Vice Chair Tokashiki, Vice Chair Ungoco
Noes:	None
Absent:	None
Abstain:	None

Community Development Director Tai announced that the decision of the Commission is appealable to the City Council and there is a 15-day appeal period that will expire at the close of business on June 23rd.

H. DIRECTOR’S ITEMS

Director Tai provided updates as follows:

1. 7-Eleven Use Permit: The City Council upheld the Commssion’s approval for an upgraded use permit and will consider a resolution documenting this decision at its meeting on June 21.

Director Tai thanked Commissioner Morton for his extended service as Chair and congratulated new Chair Ungoco and Vice Chair Tokashiki in assuming their new positions.

I. PLANNING COMMISSION ITEMS – None

J. TENTATIVE AGENDA – June 22, 2022 – no items currently scheduled and may be cancelled.

K. ADJOURNMENT

At 6:31 p.m. it was moved and seconded (Vice Chair Tokashiki/Sistos) that the meeting be adjourned to Wednesday, June 22, 2022 at 3:00 p.m. via a hybrid meeting format (at Manhattan Beach City Hall, 1400 Highland Avenue and via Zoom). The motion passed 5-0 with a roll call vote (Ayes: Sistos, Dillavou, Morton, Vice Chair Tokashiki, Chair Ungoco).