

RESOLUTION NO. PC 16-10

**RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION APPROVING
A HEIGHT VARIANCE REQUEST TO ALLOW MODIFICATIONS TO THE MANHATTAN
BEACH VILLAGE SHOPPING CENTER LOCATED AT 3200-3288 NORTH SEPULVEDA
BOULEVARD (RREEF AMERICA REIT II CORP BBB)**

THE PLANNING COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. On November 9, 2016, the Planning Commission reviewed an application for a height variance to allow improvements to the Manhattan Beach Village Shopping Center located at 3200-3288 North Sepulveda Boulevard in the City of Manhattan Beach including expanding the clerestory, remodeling the mall entrances, and increasing the height of the parapet walls as part of the façade. Widening the outdoor corridor entrance is also part of the project but does not require a height variance.
- C. The subject property (entire Manhattan Village Shopping Center) is located at 2600-3562 North Sepulveda Boulevard and is legally described as Parcel Map P.M. 122, pages 33-35, Lots 8 & 9 in the City of Manhattan Beach, County of Los Angeles.
- D. The subject property is located in Area District II and is zoned CC, Community Commercial. The subject property is classified Manhattan Village in the Manhattan Beach General Plan.
- E. The applicant for the Variance is JLL representing RREEF American REIT Corp II: BBB (Manhattan Beach Village Shopping Center). The project is proposing to make interior and exterior façade improvements that will be over the maximum allowed height of 22 feet. The purpose of the project is to enhance the appearance of the center and to introduce a new design theme throughout.
- F. The subject property is located in a multi-tenant commercial center, which includes restaurants, retail shops, services, and offices. The existing 2,393 parking spaces are proposed to remain.
- G. The proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines because it is a minor alteration to the operational characteristics within an existing facility and will not significantly expand any uses. The requested height variance is to allow exterior improvements, but will not alter or change the underlying use.
- H. Pursuant to Section 10.84.060 the following findings are made with respect to the subject Height Variance request:
 1. **Because of special circumstances or conditions applicable to the subject property—including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions—strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;**
 - a. The site has numerous special circumstances or conditions that would deprive the site of privileges enjoyed by other properties in the vicinity. The project is located within the largest commercial site in the City and the entire Mall site suffers from severe topographic variation. The properties immediately to the east contain skyscrapers with heights that eclipse the height of the proposed Project. The existing buildings on the properties owned by 3500 Sepulveda and Macy's enjoy a height equal to or higher than the heights requested by RREEF. The strict application of the height standards would impose a unique hardship to the project in that the entire Mall site, in which the project is located, is unique in nature due to its size and topographic fluctuations.

- b. In light of the topographic fluctuations, and the large size of the site, there are special circumstances and conditions on this property that would result in exceptional difficulties and hardships if the City were to apply the height restriction strictly. Additionally, the streets and properties surrounding the overall Mall site have a wide variety of topographic fluctuations so this relationship between the surrounding area, the overall Mall site and the project site results in peculiar and exceptional difficulties.
- 2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and**
- a. The granting of the variance to allow additional building height will not obstruct views from surrounding properties and is consistent and lower than the height and massing of the existing shopping center structures.
 - b. The site is situated in an area of the City that is fully developed and relatively devoid of natural resources.
 - c. The proposed height variance will not be detrimental or injurious to properties or improvements in the vicinity because the shade/shadow and visual impacts of the Mall Expansion Project were analyzed and determined not have aesthetic impacts and this project is further away from surrounding properties and lower in height. The architectural features have been designed to minimize visual impacts. Additionally, the rolling topography of Sepulveda Boulevard, Rosecrans Avenue, and Marine Avenue alleviates adverse impacts generally seen with increased building heights.
 - d. The buildings over the height limit have large setbacks from adjacent land uses, are adjacent to major arterial roadways, and will not create adverse light, shadow or massing impacts.
 - e. The remodeled entrances will be adjacent to the taller 40 foot high department stores and will serve as a transition between them and the lower main Mall roofline. No impacts are anticipated, in that, the new clerestory and associated exterior improvements will be located almost 500 feet away from the nearest right of way, Sepulveda Boulevard, and more than 700 feet from Rosecrans Avenue.
 - f. The proposed alterations that exceed the Code's height standards will be setback more than 350 feet from the closest residential area to the east, will have a minimal impact on any residences reducing any potential impacts to nearby sensitive receptors.
 - g. The high quality of design will attract new tenants and maintain a diverse and quality mix of tenants. It is not reasonably feasible to accomplish the Project without increasing the height as part of the new design theme. The additional height needed for the new design because it is integral to the continuing improvement of the shopping center. Therefore, allowing the additional height will not result in substantial detriment to the public good, public health, safety or general welfare.
- 3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.**
- a. The additional height needed for the Project is integral to the continuing improvement of the Mall in order to fulfill the purposes of the CC zone. The height is necessary to accommodate attractive architecture as part of the new exterior redesign and for consistency with the Mall Expansion Project. Granting the height variance is consistent with the purposes of the City's zoning code. Additionally, several buildings within the vicinity already exceed the maximum allowable height limit and are much higher than the proposed project. As conditioned, granting the height variance will not constitute a

grant of special privileges because the property is zoned to accommodate a planned commercial center that is regional in nature.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject application subject to the following conditions:

Operational

1. The project shall be in substantial conformance with the plans and project description submitted to, and approved by, the Planning Commission on November 9, 2016. Any substantial deviation from the approved plans or project description shall require approval from the Planning Commission.

Procedural

2. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
3. This Height Variance shall lapse two years after its date of approval, unless implemented or renewed pursuant to 10.84.090 of the Municipal Code.
4. *Terms and Conditions are Perpetual; Recordation of Covenant.* The provisions, terms and conditions set forth herein are perpetual, and are binding on RREEF, their respective successors-in-interest, and, where applicable, all tenants and lessees of RREEF. Further, RREEF shall record a covenant indicating its consent to the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The covenant is subject to review and approval by the City Attorney. RREEF shall deliver the executed covenant, and all required recording fees, to the Department of Community Development within 30 days of the adoption of this Resolution. If RREEF fails to deliver the executed covenant within 30 days, this Resolution shall be null and void and of no further effect. Notwithstanding the foregoing, the Director may, upon a request by RREEF, grant an extension to the 30-day time limit.
5. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of the Variance.
6. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* RREEF shall defend, indemnify, and hold harmless the City, its elected officials; officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. RREEF shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify RREEF of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify RREEF of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, RREEF shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. RREEF shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require RREEF to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. RREEF shall deposit that amount with the City or enter into an agreement with the City to pay such expenses as they become due.

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on November 9, 2016 and that the Resolution was adopted by the following vote:

AYES: Conaway, Bordokas, Chair Hersman.


NOES: None.

ABSTAIN: None.

ABSENT: Apostol, Ortmann.



Marisa Lundstedt
Secretary to the Planning Commission



Rosemary Lackow
Recording Secretary 