

RESOLUTION NO. PC 25-XX

A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION APPROVING A COASTAL DEVELOPMENT PERMIT AND MINOR EXCEPTION FOR THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE WITH AN ATTACHED GARAGE LOCATED AT 2800 OCEAN DRIVE, AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE MANHATTAN BEACH PLANNING COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. On May 2, 2018, the Community Development Director approved a Coastal Development Permit (CA 18-01) to allow the demolition of an existing duplex and the construction of a new single-family residence with an attached garage at 2800 Ocean Drive. A building permit was issued in reliance upon the Coastal Development Permit in 2019. Demolition occurred in the second half of 2019 and construction commenced thereafter. However, both the Coastal Development Permit and building permit expired in 2022, prior to the completion of construction. The structure has remained in a partially-completed state since that expiration.

SECTION 2. On December 5, 2024, Don E. Murphy, Trustee of the DJM Family Trust ("Applicant") applied for a coastal development permit for the construction of a single-family residence with an attached garage ("Project") located at 2800 Ocean Drive ("Property").

SECTION 3. On January 21, 2025, the Applicant applied for a minor exception to allow the project to provide less than the minimum required amount of open space and be considered non-compliant construction due to Community Development staff review error(s), as allowed by the City's Local Coastal Program (LCP) Section A.84.120.

SECTION 4. Coastal Development Permits are governed by Chapter A.96 of the LCP. Section A.96.040 specifies that, "Except as provided by Section A.96.050, any person, partnership, or corporation, or state or local government agency wishing to undertake any development, as defined in Section A.96.030, in the CZ District, shall obtain a Coastal Development Permit in accordance with the provisions of this chapter, in addition to any other permit required by law." The Applicant's request to construct a single-family residence, which is considered development within the Coastal Zone, requires a Coastal Development Permit.

SECTION 5. Minor exceptions are governed by Chapter A.84 of the LCP. Section A.84.120 provides for minor exceptions, wherein "[t]he Community Development Director may grant minor exceptions from certain regulations contained in this ordinance for projects [...]", allowing certain non-conformities to remain without being brought into full compliance with the code. The Applicant requests a Minor Exception to allow reduced open space in lieu of redesigning and reframing portions of the partially-built structure due to Community Development staff review error(s). Because the Project does not meet the criteria to waive the public hearing requirement for the Coastal Development Permit and the Minor Exception is necessary in order to approve said Coastal Development Permit, the Planning Commission is required to consider both requests at a duly noticed public hearing, prior to rendering a decision on the application.

SECTION 6. On July 9, 2025, the Planning Commission conducted a duly noticed public hearing to consider the Project, during which the Planning Commission received a presentation by staff and testimony from the Applicant and provided an opportunity for the public to provide evidence and testimony. The Planning Commission also received and reviewed any written testimony received by the City prior to the public hearing.

SECTION 7. The Planning Commission finds that the Project qualifies for a Categorical Exemption from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), which is a Class 3 exemption. The request is to construct one single-family residence on one legal parcel. There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances.

SECTION 8. The record of the public hearing indicates:

- A. The legal description of the Property is: Lot 11, Block 7 of Peck's Manhattan Beach Tract M.B. 7-34, Except the North 50.00' thereof. The Property is located in Area District III and is zoned High-Density Residential (RH), with a General Plan land use designation of High Density Residential. The Property is within the appealable portion of the City's Coastal Zone, and surrounding properties are zoned RH to the north, south and east, and Medium-Density Residential (RM) to the west.

- B. The proposed use, a single-family residence, is a permitted use in the RH zone. The construction of the proposed use is considered a “development,” as defined in the Manhattan Beach Local Coastal Program (“LCP”). As such, a coastal development permit is required for its construction.
- C. The Applicant is requesting approval of a coastal development permit and minor exception for the following use:
1. A new single-family residence with an attached garage and less than the minimum amount of required usable open space.
- D. The Project is consistent with the following General Plan goals and policies, as described in the staff report prepared for the Project:

Land Use Plan Policy LU-1.1: Limit the height of new development to three stories where the height limit is thirty feet, or to two stories where the height limit is twenty-six feet, to protect the privacy of adjacent properties, reduce shading, protect vistas of the ocean, and preserve the low-profile image of the community.

As the applicable height limit is 30 feet, the project is limited to three stories, and the small deviation in open space will have no impact on adjacent properties; therefore, impacts to shading and privacy are minimized, and the low-profile image of the community preserved.

Land Use Plan LU-1.2: Require the design of all new construction to utilize notches, balconies, rooflines, open space, setbacks, landscaping, or other architectural details to reduce the bulk of buildings and to add visual interest to the streetscape.

The project provides visual interest and architectural detailing via decks, open space areas and varied setbacks on the second and third floors, and the small deviation in open space does not compromise the structure’s design. In addition, low level landscaping will be planted throughout the site at the street level.

Land Use Plan Policy LU-2.2: Preserve and encourage private open space on residential lots citywide.

The project includes open space on the ground floor and private decks/balconies on the second and third floors. Although the Project is deficient in meeting the minimum usable open space requirement by 27 square feet, 304 square feet of countable open space is being proposed. Additionally, even though it is ineligible to be counted toward the minimum open space requirement of 331 square feet, 32 square feet of additional open space area on the ground floor is being provided at the Property.

SECTION 9. Based upon substantial evidence in the record, and pursuant to Section A.96.150 of the LCP, the Planning Commission hereby makes the following findings related to the Coastal Development Permit:

- A. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located for the following reasons:

The subject site is located within Area District III and zoned High-Density Residential (RH). The General Plan and Local Coastal Program/Land Use Plan designation for the property is High-Density Residential, which accommodates “all types of housing, and specifically housing development of a more intensive form, including apartments, condominiums, and senior housing.” The proposed single-family residence is permitted in the RH zoning district and complies with the City’s General Plan land use designation of High-Density Residential; as such, the project, as conditioned, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use, and it will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II.B.1, II.B.2, and II.B.3 as follows:

- II.B.1: The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal

Program-Implementation Plan as demonstrated in the Project Overview summary above, provided that the open space deviation is authorized through the related minor exception request.

II.B.2: The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program - Implementation Plan, as the project meets all maximum requirements, and exceeds all minimum requirements as applicable, for height, number of stories, buildable floor area (BFA), setbacks, and parking. While full compliance with the minimum usable open space is requirement is not being proposed, this is addressed in the findings for the Minor Exception below.

II.B.3: The proposed structure is consistent with the 30-foot Coastal Zone residential height limit as required by the Local Coastal Program – Implementation Plan, as the proposed structure does not exceed the 30-foot maximum height limit.

- B. If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (Commencing with Section 30200 of the Public Resources Code).

Pursuant to Section 30212(a)(2) of the Public Resources Code, the proposed structure does not impact public access to the shoreline. Adequate public access is provided and shall be maintained along Ocean Drive, 28th Street, Manhattan Avenue, and 28th Place. Furthermore, the Project does not create any new barriers along Ocean Drive, 28th Street, Manhattan Avenue, and 28th Place that prevent public access to the coast.

SECTION 10. Based upon substantial evidence in the record, and pursuant to Section A.84.120(F)(2) of the LCP, the Planning Commission hereby makes the following findings related to the Minor Exception:

- A. The proposed project will be compatible with properties in the surrounding area, including, but not limited to, scale, mass, orientation, size and location of setbacks, and height.

Properties in the surrounding area are two- and three-story structures with approximately 870 square feet to 4,800 square feet of BFA. The structure will comply with the maximum allowable BFA for the site of 2,040 square feet, as the project will only be 1,487 square feet. The proposed structure will comply with all setback requirements. The project proposes a three-story structure in a three-story zone and will comply with the 30-foot height limitation for the Property. The minor open space deviation does not make the project incompatible with properties in the surrounding area, because it does not materially impact the project's scale, mass, or orientation. Therefore, the proposed project is compatible with surrounding properties in terms of scale, massing, and size, and meets the required finding.

- B. There will be no significant detrimental impact to surrounding neighbors, including, but not limited to, impacts to privacy, pedestrian and vehicular accessibility, light, and air.

The proposed structure will not impose on or negatively impact neighbors, as it will be comparable in scale and height to surrounding properties, and will comply with all setback, maximum height, and parking requirements. The minor open space deviation will not have a detrimental impact on surrounding neighbors because the subject area that cannot be counted toward the minimum requirement is adjacent to a street-side property line and not a property line shared with another private property, and is more than 13 percent of the lot width. Thus, the proposed structure would not impact privacy, accessibility, light or air, and therefore meets this finding.

- C. There are practical difficulty which warrants deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot.

The incomplete, but framed structure has a non-compliant open space area along the western property line (adjacent to Ocean Drive). The sole way to comply with the minimum 5 foot dimension and the minimum 48 square feet for the open space area to be countable would be to redesign portions of the project and demolish and reframe in order to move the adjacent exterior wall inward by one foot. The incomplete structure provides a 4 foot dimension (rather than the minimum 5 feet), and measures 32 square feet (rather than the

minimum required 48 square feet). This option would create a broader scope of work in comparison to the limited changes the applicant is proposing, compared to the original design from the expired permits.

This portion of the structure was constructed in a non-compliant manner as a result of staff review error(s) on the original (approved) plans. As the construction relied upon the dimensions and square footages provided in those plans, this Project is eligible for a minor exception to allow non-compliant construction to remain as result of staff review error.

- D. That existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.

The subject minor exception request is limited to providing relief from the requirement to bring the non-compliant open space area into conformance with current codes and application of those codes. The Project is deficient in meeting the minimum usable open space requirement by 27 square feet, by proposing 304 square feet that are eligible to be counted towards the minimum 331 square foot requirement (which is 91.84% of the total requirement). The LCP, through the minor exception process, allows for relief for non-compliant construction when it was the result of staff review error, as is the case for this Project. Because modifying the partially-built structure in this way to meet all LCP and Building and Safety requirements would not be a reasonable expectation given the unique circumstances, the project is consistent with this finding.

- E. That the proposed project is consistent with the City's General Plan, the purposes of this title and the zoning district where the project is located, the Local Coastal Program, if applicable, and with any other current applicable policy guidelines.

The General Plan states that the High-Density Residential land use category "accommodates all types of housing, and specifically housing development of a more intensive form, including apartments, condominiums, and senior housing." Thus, the project is consistent with the High-Density Residential land use category, as the proposed project is limited to the construction and completion of one, new single-family residence. In addition, the Project's consistency with specific goals and policies is discussed in greater detail in the *Manhattan Beach General Plan* section above.

Furthermore, the project meets the intent of the LCP as the proposed project allows the applicant to make certain alterations to and complete a partially-built structure that has sat vacant for many years by the previous owner. The one non-compliant element being proposed is the open space dimension and minimum area size requirements, but all other open spaces areas meet the minimum dimensions and size requirements. The project also meets all other code requirements. Therefore, the proposed project meets this finding.

SECTION 11. Based upon the foregoing, the Planning Commission hereby **APPROVES** the Project, subject to the conditions below.

General

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Community Development Department.
2. Compliance. All development must occur in substantial conformance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans shall be reviewed and approved by the Community Development Director. Variation from these plans may require that existing nonconformities be brought into conformity with applicable zoning standards.
3. Interpretation. Any questions of intent or interpretation of any condition shall be resolved by the Community Development Director.
4. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
5. Future modifications and improvements to the site shall comply with all applicable Planning Division, Building Division, Public Works, and Fire Department requirements.

6. Assignment. The permit may be assigned to any qualified persons subject to submittal of the following information to the Community Development Director:
 - a. A completed application and application fee as established by the City's Fee Resolution;
 - b. An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. Evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. The original permittee's request to assign all rights to undertake the development to the assignee; and
 - e. A copy of the original permit showing that it has not expired.
7. The project shall be developed in conformance with all applicable development standards of the RH zoning district, and Chapter 2 of the Local Coastal Program - Implementation Plan, except the project can provide 304 square feet of usable open space, as authorized by approval of the minor exception.
8. Structural alterations or modifications, as regulated by Chapter A.68 of the LCP, to existing non-conforming portions of structures shall only be allowed for architectural upgrades and minor alterations or modifications as determined to be necessary by the Community Development Director.
9. Development on the site which is existing legal, nonconforming with regard to zoning regulations may remain as shown on the project plans, however non-conformities shall be brought closer to or in conformance with current zoning requirements to the extent that it is reasonable and feasible. All development on the site which is existing legal, nonconforming for Building and Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.
10. After completion of the project that is subject to this Minor Exception approval, no further addition shall be permitted unless the entire structure is brought into conformance with the current LCP requirements or another Minor Exception that meets the applicable criteria established by the LCP is approved.

Procedural

11. Terms and Conditions are Perpetual; Recordation of Covenant. The provisions, terms and conditions set forth herein are perpetual, and are binding on the owner, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the owner shall submit the covenant, prepared and approved by the City, indicating its consent to the conditions of approval of this Resolution, and the City shall record the covenant with the Office of the County Clerk/Recorder of Los Angeles. Owner shall deliver the executed covenant, and all required recording and related fees, to the Community Development Department within 45 calendar days of receipt of a signed copy of this Resolution. Notwithstanding the foregoing, the Director may, upon a request by owner, grant an extension to the 45-day time limit. The Project approval shall not become effective until the covenant is recorded.
12. Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City. The operator and owner (operator/owner) 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. The operator/owner 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 the operator/owner of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify the operator/owner of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, the operator/owner 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. The operator/owner 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 the operator/owner 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. The operator/owner shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 12. The Planning Commission's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 13. This Resolution shall become effective when all time limits for appeal as set forth in LCP Section A.96.160 and MBMC Chapter 10.100 have expired and all relevant conditions contained herein have been satisfied.

SECTION 14. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the Applicant. The Secretary shall make this resolution readily available for public inspection.

SECTION 15. This Coastal Development Permit and Minor Exception shall lapse two years after its date of approval, unless implemented or extended pursuant to A.84.090 of the LCP.

July 9, 2025

Jim Dillavou
Planning Commission Chair

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 **July 9, 2025**, and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Adam Finestone
Secretary to the Planning Commission

Tatiana Maury
Recording Secretary