

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Eric Haaland, Associate Planner

DATE: June 11, 2014

SUBJECT: Consideration of a Use Permit and Coastal Development Permit for Proposed Construction of a New Building with Small On-site Production and Retail Sales of Handmade Chocolate at 324-326 13th Street (Bar Au Chocolat)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing, **DISCUSS** the project and testimony received, and **ADOPT** a Resolution approving the project with certain conditions.

APPLICANT/OWNER

Tony Choueke/Nicole Trutanich
326 13th Street
Manhattan Beach, CA 90266

BACKGROUND

The subject site presently consists of a 1,000 square-foot, two-story duplex with a 3-car garage. The project is proposed to be a 1,900 square-foot, 2-story building for the manufacture and sales of chocolate food products. The application describes the project as an artisanal maker of handmade chocolate, with retail sales of chocolate and related products. Custom industrial manufacturing at this location requires Planning Commission approval of a Use Permit.

PROJECT OVERVIEW

LOCATION

Location	326 13 th Street between Crest Drive and Morningside Drive (See Vicinity Map).
Legal Description	North half of Lot 14, Block 93, Manhattan Beach Div. No. 2
Area District	III

LAND USE

General Plan	Downtown Commercial
Zoning	CD, Commercial Downtown

	<u>Existing</u>	<u>Proposed</u>
Land Use	1,032 sq. ft. duplex	1,611 sq. ft. custom industry & 290 sq. ft. retail (food & beverage sales)
Neighboring Zoning/Land Uses	North (across 13 th St.) South East West	PS/Civic Center CD/Duplex CD/Office CL/Duplex

PROJECT DETAILS

	<u>Proposed</u> (existing)	<u>Requirement</u>
Parcel Size:	1,350 sq. ft. (30'x45') (*)	2,700 sq. ft. min
Building Floor Area:	1,901 sq. ft. (1,032 sq. ft.)	2,025 sq. ft. max
Height	30 ft. (appr. 26 ft.)	30 ft. max. (with pitched roof)
Setbacks		
Front	0 ft. (5 ft.)	None
Rear	0 ft. (10 ft.)	None
East Side	0 ft. (3 ft.)	None
West Side	0 ft. (3 ft.)	None
Landscaping	13 sq. ft. on-site	None
Parking:	2 spaces (*)	1 Space
Vehicle Access	None (13 th St. driveway)	N/A

(*) – Existing nonconforming parcel area. No change.

(**) - 2 new street spaces are proposed where none exist. 2 Downtown parking permits may be issued.

DISCUSSION

The submitted plans show an existing 1,000 square-foot 2-story duplex building to be demolished, and the site to be redeveloped with a 1,900 square-foot, 2-story building with a retail component in front, at street level. Compared to the existing duplex, the new building would be similar in form, but have a larger floor area, increased height, front patio, front balcony, and Mediterranean style. Most of the increased building mass would occur in the existing side and rear yards of the site, and the front balcony is proposed to encroach into the public right-of-way. The existing driveway access on 13th Street would be removed, street parking would be restored, and pedestrian access would continue to be taken from 13th Street.

The new building is intended for the manufacture of specialty chocolate, and on-site sales of chocolate products and related items. The westerly portion of the ground floor frontage would be occupied by retail area, and the easterly portion would be occupied by loading/shipping area. No on-site food consumption is permitted, which would require restaurant approval and parking.

The proposed building would feature a primarily pitched tile roof with a hidden equipment well at the center, and a small elevator tower at the east side. Architectural columns and planters characterize the sidewalk entry perspective.

The project generally conforms to the City's requirements. The project issues that warrant discussion include the following: neighborhood compatibility, parking, height, and balcony encroachment.

Neighborhood Compatibility:

The Zoning Code permits retail use in the Downtown Commercial (CD) zone by right. Use Permit approval is required for "Small-scale Custom Industry", which includes the proposed manufacturing use, and is defined as follows:

Industry, Custom. Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment.

Small-Scale. Includes mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle-making shops, and custom jewelry manufacture.

The attached applicant material describes the proposed use as a small operation producing handmade artisanal chocolate with high quality cocoa beans and small equipment. A bi-weekly, 3-hour cocoa bean roasting process appears to be a focal point of the chocolate production. This description is consistent with the small-scale custom industry classification that is appropriate for the Downtown area. Larger manufacturing uses are primarily limited to the Industrial (IP) zone located in the northeast portion of the City. This is the first occurrence of Custom Industry use Downtown.

The site is located within a transitional office/residential block within the CD zone surrounded by retail, office, and civic center areas. The relatively recent redevelopment of the easterly Metlox property, previously used for manufacturing (General Industry), has created a more viable retail atmosphere on the subject segment of 13th Street. A weekly farmers market now generates substantial commercial activity there each Tuesday, and some street level retail-oriented uses have been required for the recent commercial building on the north side of 13th Street. The proposal for small-scale chocolate manufacturing and sales in a decorative setting appears to be consistent with current and anticipated activity in this area. The expected low intensity of a small artisan-oriented manufacturing operation, combined with a retail component that must be attractive to customers, is not anticipated to be disruptive to the surrounding area.

Parking:

The Local Coastal Program Zoning Code provides that commercial use on the subject property is exempt from on-site parking to the extent that it does not exceed the area of the site. The project does exceed the 1,350 square foot site area by 551 square feet, and is therefore not completely exempt from parking. Since the majority of the use is Custom Industry, which has a low parking requirement (1 space/1000 sf), the resulting requirement is only 1 parking space.

The Code provides that up to 2 City-issued Downtown parking permits may be used toward parking requirements, as long as the Downtown parking supply is adequate (see Attachment D). Downtown parking permits are limited since demand is about equal to the parking supply, however, the Finance Department will issue permits when required by an establishment's Use Permit. The project results in up to 2 new street parking spaces by elimination of the existing duplex driveway. This increase in public parking supply would support issuance of City parking permits (at Lot M – Metlox) toward required parking.

Height:

Most of the CD zone has a 26-foot height limit. The subject block, along with the Metlox property, has 22-foot flat roof, and 30-foot pitched roof (or buildings above parking structures) height limits. The proposal includes a pitched roof design to take advantage of the 30-foot height limit. Most 2-story commercial designs are infeasible under the 22-foot height limit. The submitted roof design does include minor flat portions devoted to a hidden roof equipment well at building center, and a small elevator tower that is shown to be approximately 26 feet high. These elements are visually remote and do not detract from the primary appearance of a pitched roof.

The proposed building is designed with zero-setbacks, typical of Downtown commercial buildings, which do present challenges to a conventional pitched roof design. Certain

restrictive construction methods will be required in order to avoid fire-mitigating roof parapet elements that would detract from the pitched roof aesthetics.

Balcony Encroachment:

The project proposes a 10-foot portion of the upper balcony to project roughly 3 feet into the 13th Street public right-of-way for architectural interest. The upper deck area appears primarily decorative in general, since it abuts manufacturing space, but may be used for employee breaks, guests, tours, etc. The Encroachment Code permits eaves, awnings, and signs, as commercial encroachments (see Attachment E), but requires City Council approval for other non-public items. A somewhat similar balcony encroachment proposed at 117 Manhattan Beach Boulevard (Strand House) was ultimately approved by the City Council in 2011, but was not recommended by the Planning Commission. The Strand House encroachment was found to be appropriate by the Council due to its central Downtown location near the pier, and a neighboring, long pre-existing, balcony encroachment.

The subject area is a lower intensity Downtown area without any pre-existing balcony encroachments, and is a view corridor for residential properties east of Valley/Ardmore. Since the Planning Commission does not have authority to approve it, and this location does not appear appropriate for a balcony encroachment, Staff does not support this encroachment, and it is specifically not approved in the proposed Draft Resolution.

General:

Use Permit

Required Use Permit findings per MBMC Section 10.84.060 are as follows:

1. 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;
2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;
3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located; and
4. The proposed use will not adversely impact or be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking noise, vibration, odors, resident security and

personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

Downtown Commercial Zone

The stated purpose of the CD zone is as follows:

CD Downtown Commercial District. To provide opportunities for residential, commercial, public and semipublic uses that are appropriate for the downtown area. This district is intended to accommodate a broad range of community businesses and to serve beach visitors.

General Plan

The General Plan description of the Local Commercial Land Use Category is as follows:

Downtown Commercial

The Local Commercial category applies only to the Downtown, an area of 40+ blocks that radiates from the intersection of Manhattan Beach Boulevard and Highland Avenue. Downtown provides locations for a mix of commercial businesses, residential uses with discretionary review, and public uses, with a focus on pedestrian-oriented, commercial businesses that serve Manhattan Beach residents. Visitor-oriented uses are limited to low-intensity businesses providing goods and services primarily to beachgoers. The maximum FAF for commercial or mixed-use development is 1.5:1, and the maximum residential density is 51.3 units per acre.

Some General Plan goals and policies that the Planning Commission might determine to be relevant to its decision on this application include the following:

Policy 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.

Policy LU-3.1: Continue to encourage quality design in all new construction.

Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.

Policy LU-6.1: Support and encourage small businesses throughout the City.

Goal LU-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.

Policy LU-7.1: Encourage the upgrading and growth of businesses in the Downtown area to serve as a center for the community and to meet the needs of local residents and visitors.

- Policy LU-7.2: Encourage the use of the Downtown Design Guidelines to improve the Downtown’s visual identification as a unique commercial area.
- Policy LU-7.3: Support pedestrian-oriented improvements to increase accessibility in and around Downtown.
- Policy LU-7.4: Encourage first-floor street front businesses with retail, restaurants, service/commercial, and similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

Downtown Design Guidelines

The Downtown Design Guidelines identify the following goals:

- Goal 1: Preserve the small-town village character of downtown Manhattan Beach.*
- Goal 2: Preserve and enhance the pedestrian orientation of downtown Manhattan Beach.*
- Goal 3: Protect and encourage streetscape amenities.*

Coastal Development Permit Findings

The applicable policies of the Manhattan Beach Local Coastal Program are as follows:

- Policy I.C.4: The City shall ensure that future residential and commercial development provides the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan, except that residential parking requirements shall not be reduced for units less than 550 square feet.*
- Policy I.C.7: The City shall require, when feasible, that commercial development using on-site ground level parking provide vehicular access from the rear of the lot only, so as not to conflict with pedestrian traffic.*
- Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.*
- Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.*

Policy II.A.4: Discourage commercial lot consolidations of greater than two standard city lots.

Additionally, the project is also consistent with specific purposes for commercial district regulations identified by Section A.16.010 of the Local Coastal Program as follows:

1. Provide appropriately located areas consistent with the General Plan and Local Coastal Plan for a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the Coastal Zone.
2. Strengthen the city's economic base, but also protect small businesses that serve city residents.
3. Create suitable environments for various types of commercial and compatible residential uses, and protect them from the adverse effects of inharmonious uses.
4. Minimize the impact of commercial development on adjacent residential districts.
5. Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located. Commercial projects involving the combination of three or more lots or on sites exceeding 5,400 square feet shall be approved only if the scale and articulation of the facade of the proposed structure is consistent with this purpose statement.
6. Ensure the provision of adequate off street parking and loading facilities.
7. Encourage commercial buildings that are oriented to the pedestrian, by providing windows and doors accessible from city sidewalks at or near sidewalk level, protecting pedestrian access along sidewalks and alleys and maintaining pedestrian links to parks, open space, and the beach.
8. Carry out the policies and programs of the certified Land Use Plan.

Upon review, it is Staff's opinion that the required Use Permit findings can be made for the project, and the project is consistent with the aforementioned Zoning, General Plan, and Downtown Design Guideline standards, goals, and policies. Specifically, the project will not be detrimental to surrounding area, adds to the mixed nature of downtown architectural design, provides articulation through columns, balconies and a pitched roof, and enhances pedestrian orientation with driveway removal and ground floor retail frontage.

Public Input

A public notice for the project was mailed to residents within 100 feet of the site, property owners within 500 feet of the site, and was published in the Beach Reporter newspaper. Staff has received no responses to the project hearing notice

ENVIRONMENTAL DETERMINATION

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332 based on staff's determination that the project is a small infill development within an urbanized area.

CONCLUSION

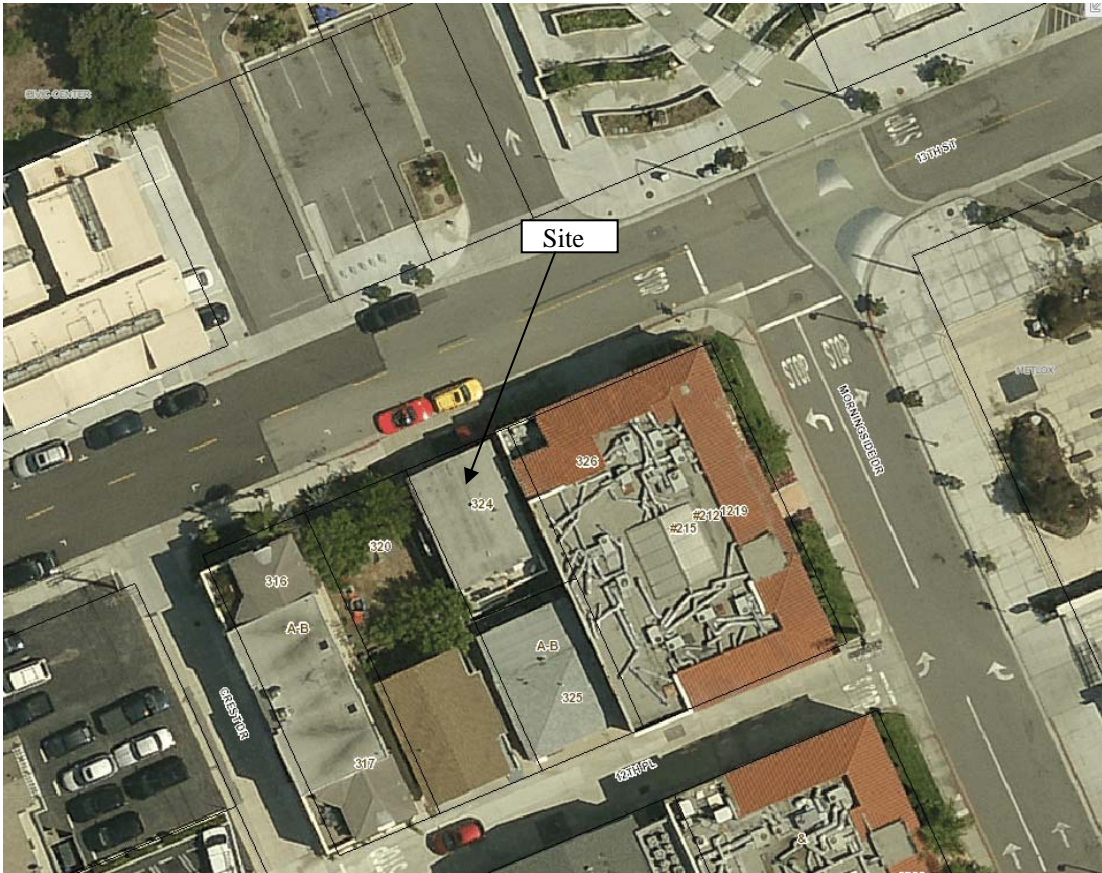
Staff recommends that the Planning Commission conduct the public hearing for the proposed Use Permit, discuss the information and testimony received, determine that the required findings can be made, and adopt the attached Resolution approving the proposal subject to conditions of approval contained therein.

Attachments:

- A. Vicinity Map
- B. Draft Resolution No. PC 14-
- C. Applicant description
- D. In-lieu parking Code excerpt
- E. Encroachment Code excerpt
Plans (separate)
- c: Choueke/Trutanich, Applicant
Srouer & Associates, Applicant Rep.
Tomaro Design Group, Architect.

THIS PAGE
INTENTIONALLY
LEFT BLANK

Vicinity Map
324-326 13th Street



THIS PAGE
INTENTIONALLY
LEFT BLANK

RESOLUTION NO. PC 14-

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT
PERMIT AND USE PERMIT TO ALLOW A NEW 2-STORY
INDUSTRIAL/RETAIL BUILDING AT 324/326 13th STREET**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE
AS FOLLOWS:**

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on June 11, 2014, received testimony, and considered an application for a Coastal Development and Use Permit to allow a new 2-story industrial/retail building located on the property legally described as a portion of Lot 14, Block 93, Manhattan Beach Division No. 2, located at 324/326 13th Street in the City of Manhattan Beach.
- B. The proposed 2-story building will include a pedestrian-oriented street-front with large front windows/doors and a patio area adjacent to the 13th Street sidewalk. The building will have a pitched roof peaking at a maximum height of 30 feet. An existing driveway will be removed, and replaced by full-curb pedestrian sidewalk and on-street parking.
- C. The applicant for the subject project is Tony Choueke/Nicole Trutanich, the property owner.
- D. Pursuant to the Manhattan Beach Local Coastal Program, a Coastal Development permit is required for the proposed demolition of the existing building and construction of the new building. This document constitutes the required Coastal Development Permit.
- E. Pursuant to Manhattan Beach Municipal Code (MBMC) Section 10.16.020 (L-7), a Use Permit is required for Custom Industry use in the CD district.
- F. The project is Categorically Exempt (Sections 15303 & 15332) from the requirements of the California Environmental Quality Act (CEQA) as a small infill project.
- G. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- H. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that serve City residents and visitors.
- I. The zoning designation for the property is CD (Downtown Commercial).
- J. The zoning districts surrounding the property are CD (Downtown Commercial). The existing land use for the property is residential.
- K. A proposed balcony encroachment into the public right-of-way is not within the authority of the Planning Commission and is not approved.
- L. Pursuant to the City's Local Coastal Program, the project is consistent with the following policies of the Manhattan Beach Local Coastal Program:

Policy I.C.4: The City shall ensure that future residential and commercial development provides the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan, except that residential parking requirements shall not be reduced for units less than 550 square feet.

- Policy I.C.7: The City shall require, when feasible, that commercial development using on-site ground level parking provide vehicular access from the rear of the lot only, so as not to conflict with pedestrian traffic.*
- Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.*
- Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.*
- Policy II.A.4: Discourage commercial lot consolidations of greater than two standard city lots.*

Additionally, the project is also consistent with specific purposes for commercial district regulations identified by Section A.16.010 of the Local Coastal Program as follows:

1. Provide appropriately located areas consistent with the General Plan and Local Coastal Plan for a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the Coastal Zone.
 2. Strengthen the city's economic base, but also protect small businesses that serve city residents.
 3. Create suitable environments for various types of commercial and compatible residential uses, and protect them from the adverse effects of inharmonious uses.
 4. Minimize the impact of commercial development on adjacent residential districts.
 5. Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located. Commercial projects involving the combination of three or more lots or on sites exceeding 5,400 square feet shall be approved only if the scale and articulation of the facade of the proposed structure is consistent with this purpose statement.
 6. Ensure the provision of adequate off street parking and loading facilities.
 7. Encourage commercial buildings that are oriented to the pedestrian, by providing windows and doors accessible from city sidewalks at or near sidewalk level, protecting pedestrian access along sidewalks and alleys and maintaining pedestrian links to parks, open space, and the beach.
 8. Carry out the policies and programs of the certified Land Use Plan.
- M. Pursuant to Section 10.84.060 of the Manhattan Beach Municipal Code and Section A.84.060 of the Manhattan Beach Local Coastal Program, the following findings for the Use Permit are made:
1. *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.*

The proposed building is located within the downtown commercial district. The proposed uses are consistent with MBMC Section 10.16.010 which states that the district is intended to provide opportunities for commercial uses, to provide a broad range of community businesses, and to serve beach visitors.

2. *The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city.*

The proposed uses pose no detrimental effects to the public health, safety, or welfare of persons working on the proposed project site or on the adjacent properties. The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. Specifically, the project is consistent with the following Goals and Policies of the General Plan:

- Policy 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.
- Policy LU-3.1: Continue to encourage quality design in all new construction.
- Goal LU-6: Maintain the viability of the commercial areas of Manhattan Beach.
- Policy LU-6.1: Support and encourage small businesses throughout the City.
- Policy LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.
- Policy LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.
- Goal LU-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach.
- Policy LU-7.1: Encourage the upgrading and growth of businesses in the downtown area to serve as a center for the community and to meet the needs of local residents and visitors.
- Policy LU-7.2: Encourage the use of the Downtown Design Guidelines to improve the Downtown’s visual identification as a unique commercial area.
- Policy LU-7.3: Support pedestrian-oriented improvements to increase accessibility in and around Downtown.
- Policy LU-7.4: Encourage first-floor street front businesses with retail, restaurants, service/commercial, and similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

3. *The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located;*

The proposed retail and custom industry uses on the site will be in compliance with applicable provisions of the (CD) Downtown Commercial zone and the required notice, hearing, and findings for the Coastal Development Permit and Use Permit.

4. *The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.*

The proposed project will not adversely impact nearby resident or commercial properties as they are related to traffic, parking, noise, vibration, odors, personal safety, or aesthetics, or create demands exceeding the capacity of public services and facilities. The proposed uses will provide the required off-street parking and will not create an additional demand for public services and facilities which cannot be mitigated.

- N. As part of the plan review in preparation for the Planning Commission's hearing and discussion, Staff ensures that the proposed project is consistent with the Downtown Design Guidelines. This project is consistent with the said guidelines. The Downtown Design Guidelines identifies the following goals:

Goal 1: Preserve the small-town village character of downtown Manhattan Beach.

Goal 2: Preserve and enhance the pedestrian orientation of downtown Manhattan Beach.

Goal 3: Protect and encourage streetscape amenities.

- O. One of the objectives included in the six month (July 2013 through July 2014) City Council Strategic Plan is for Staff to review the current commercial regulations on office, banks and other uses in the Downtown area. The recommendation is to encourage a vibrant and sustainable downtown environment that increases retail business and sales tax revenue by encouraging retail businesses to be located on the ground floor and thus create pedestrian-friendly streets. The proposed project is consistent with the City Council's desire to encourage retail businesses at street level.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit and Coastal Development Permit subject to the following conditions:

Site Preparation / Construction

1. The project shall be in substantial compliance with the submitted plans and project description as approved by the Planning Commission on June 11, 2014, except that the shown balcony right-of-way encroachment shall be removed or revised to conform with MBMC Section 7.36.170. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.
2. The building shall include a pitched roof design consistent with the submitted plans as determined by the Community Development Director.
3. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department. Any transformers or other boxed utility items shall be located on-site with appropriate screening.
4. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with improvements as required by the Public Works Department. New sidewalk shall be constructed along 13th Street as required by the Public Works Department.
5. Right-of-way trees shall be installed if required by the Public Works Department. Tree size and species shall be approved by the Public Works Department prior to installation.
6. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.
7. Property line clean outs, mop sinks, erosion control, and other sewer and storm water items shall be installed and maintained as required by the Department of Public Works or Building Official.
8. Security lighting for the site shall be provided in conformance with Municipal Code requirements and shall include glare prevention design.

9. During building construction of the site, the soil shall be watered in order to minimize the impacts of dust on the surrounding area.

Commercial Operational Restrictions

10. The subject site may include up to 1,611 square feet of handmade artisanal food manufacturing space, and 290 square feet of food and beverage sales space to be limited to the ground floor storefront area. On-site consumption of food or beverages within or adjacent to the food and beverage sales space shall be prohibited.
11. Food and beverage sales or retail use shall be limited to operating hours of 6am to 10:30pm daily.
12. Alcohol sales and entertainment on the property shall be prohibited.
13. Parking shall be provided in conformance with the current Manhattan Beach Municipal Code. A maximum of two Downtown parking permits may be provided toward required parking.
14. The management of the property shall police the property and all areas adjacent to the business during hours of operation to keep it free of litter and debris.
15. On-site trash storage, with adequate capacity for refuse/recycling and accessibility for routine pick-up, shall be provided on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided as required by the Public Works Department. No refuse generated at the subject site shall be located in the public right-of-way for storage or pick-up.
16. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated awnings shall be prohibited. A sign program shall be submitted to the Community Development Department for review and approval prior to occupancy.
17. Any outside sound or amplification system or equipment is prohibited.
18. Operations shall remain in compliance with all Fire and Building occupancy requirements at all times.
19. The Fire Department Connection (FDC), fire suppression valve, and related equipment shall be incorporated into the design of the project and screened from off-site views to the extent reasonably possible.
20. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
21. The project shall conform to all disabled access requirements subject to the approval of the Building Official.

Procedural

22. This Coastal Development Permit and Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code and the standards set forth by the City's Local Coastal Program.
23. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
24. Applicant shall defend, indemnify, and hold 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") free and harmless from and against any and all claims

(including, without limitation, claims for bodily injury, death, or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including, without limitation, attorneys' fees, consequential damages, disbursements, and court costs) of every kind and nature whatsoever (individually, a "Claim," collectively, "Claims"), in any manner arising out of or incident to: (i) this approval and related entitlements, (ii) the City's environmental review of this project, (iii) any construction related to this approval, or (iv) the use of the property that is the subject of this approval. Applicant 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 arising out of or incident to this approval, any construction related to this approval, or the use of the property that is the subject of this approval. The City shall have the right to select counsel of its choice. Applicant 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. Applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Applicant or Indemnitees. This indemnity shall apply to all Claims and liability regardless of whether any insurance policies are applicable. Nothing in this Section shall be construed to require Applicant 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 coastal permit, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

25. At any time in the future, the Planning Commission or City Council may review the Coastal Development Permit and Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 11, 2014 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

ATTACHMENT TO APPLICATION FOR CONDITIONAL USE PERMIT - DESCRIPTION

BAR AU CHOCOLAT

March 2014

PROPOSED DEVELOPMENT

SETTING

The subject 1350sf site is located on the south side of 13th Street, one-half block east of Highland, in the Commercial Downtown Business District and within environs of Metlox Plaza and the Civic Center– Library Plaza. The property consists of the street facing half of a 30 x 90' through lot from 13th Street to 12th Place. This strategic location is within easy walking distance of public parking lots located directly across 13th Street in the lower level Civic Center lot (less than 100') and the Metlox parking structure on Morningside Drive (approximately 170'), as well as the upper level Civic Center Parking. Although the 58 year old structure historically has been used as a residential duplex, the applicant is now on title and has established her office at this location.

COMMERCIAL DOWNTOWN ZONING DESIGNATION

The Bar au Chocolat business is a unique blend of chocolate making and retail sales and is more fully described in the attached descriptive profile. Both components are permitted uses within the CD zone, which encourages a wide variety of retail sales and also permits "limited" or "small-scale" facilities of a custom "industrial" nature in which the product is made on-site by hand .

With a location in this quadrant of the Downtown Business District, the business is ideally situated as it expands retail opportunities on 13th Street, enhances the pedestrian experience on the east side of Highland and also establishes a new & unique business operation in the Downtown environs. *Bar au Chocolat*, therefore, is fully compatible with the historic concept of the "Downtown Commercial" designation which implies a sector that encourages active pedestrian uses catering to the Manhattan Beach community and the lively Downtown business and visitor community. This is accomplished by providing for a wide variety of business operations that strengthen and enhance the vitality of the commercial base.

The proposed architectural design, with its attractive Mediterranean façade characterized by large, street-facing window and door openings and a covered entry colonnade, invites curious pedestrians into the shop. These same elements promote a comfortable relationship with the street and pedestrian orientation all of which contribute to a successful business operation and blending with the surrounding business community.

OPERATING PARAMETERS

Operation of business and building design in full compliance with CD zone and goals & objectives of the General Plan

Hours of operation: Tuesday-Sunday, 8:00am to 8:30pm, initially for first year or two, and seven days/week thereafter

Retail use: 255 sf, located on first floor

Includes display and service counter with seating for 4 patrons

Industrial (chocolate making) 501 sf, located on portion of first floor and on second floor

Number of employees: 2-4 employees - varies throughout chocolate making process

Parking: 2 spaces required – to be satisfied through participation in Downtown Parking District

ATTACHMENT C
PC MTG 6-11-14

ATTACHMENT TO USE PERMIT APPLICATION - REQUIRED FINDINGS
BAR AU CHOCOLAT - 326 – 13th Street
March 2014

1. The proposed studio combining retail and chocolate making, categorized as limited industrial, is in accord with the objectives and purposes of the Downtown District in that:

- The new business is a permitted use and will contribute to a broad range of high quality & unique commercial uses anticipated by the Downtown Strategic Plan and Downtown Commercial Zone, as well as by the community.
- New business investment such as proposed will help strengthen the traditional Downtown commercial sector and expand the business environment to meet contemporary needs.

2. The location and operation of the business will be consistent with the General Plan and will not be detrimental to the public health, safety or welfare of persons residing or working in the area, and will not be detrimental to properties or improvements in the vicinity.

- The proposed retail use is consistent with the types of uses permitted by right or with a conditional use permit in the Downtown zone. The site development incorporates all development standards and land use regulations as set forth in the Zoning Code and Local Coastal Plan which seek compatibility between various uses
- All business activity will take place within an enclosed building and within normal business hours
- The General Plan Goals and Policies for the Downtown Zone specifically address the issue of encouraging business that
 - blends in with the small town village character
 - enhances the downtown as a focus of community activity and embraces a pedestrian orientation
 - enhances the economic viability of the Downtown community

The proposed development responds to all of those goals and standards and thus promotes a compatible and positive relationship with the surrounding neighborhood.

3. The proposed business is a permitted use for the Downtown Commercial sector and will comply with all applicable provisions and standards.

4. The proposed business complex will not create adverse impacts or be adversely impacted by nearby properties nor create demands exceeding the capacity of public services and facilities in place for the area.

- The proposed use is intended to attract local users and capitalize on surrounding commercial neighborhoods. The business owner and patrons will rely on the many services and amenities existing throughout the Downtown and will generate and utilize the successful and very active, year-round pedestrian orientation of the Downtown.
- The new business is not designed to be a destination attraction but, rather, a compliment to a vibrant business community that is growing and maturing with the surrounding business and residential community.
- The business operation, including retail and chocolate making aspects, is a small scale and self-contained operation that will not result in any offensive impacts relating to noise, odors, security or personal safety nor will it result in any significant change in need for municipal services or generate a need for new services.

BAR AU CHOCOLAT
326 13th Street, Manhattan Beach
March 2014

TO THE MANHATTAN BEACH PLANNING COMMISSION

BAR AU CHOCOLAT (BAC) is a true, artisanal maker of chocolate. We propose to set up a studio in MB where chocolate is handmade from bean to bar, and we will also have a retail area for sale of our chocolate and related gift accoutrements. In this area, visitors will be able to see someone actually making chocolate, which adds to the experience. With our distinctive product and setting, our studio and shop will offer a unique service to the Downtown and contribute to the attraction and diversity of our beautiful city.

Chocolate is made from cocoa beans grown in equatorial regions that circle the globe. Beans with origins in Africa, Central and South America or the Caribbean all differ in characteristics, taste and quality.

The chocolate making process does not require a large area or equipment, but exceptional chocolate does require quality cocoa beans and personal attention. To summarize the process, beans are extracted from cocoa pods, fermented, dried and transported to the buyer in jute bags. They are then sorted, roasted at low temperatures, separated from their husks, refined, and blended with organic cane sugar, after which they are tempered in a temperature-controlled environment, molded into bars or blocks and shipped or sold on premises.

What makes our artisan chocolate unique is that all of our cocoa is single origin and hand selected from very specific producers who use sustainable growing methods and whose farms we have personally visited. Beans are shipped and stored under BAC control and stored off-site in a certified food storage warehouse. Beans are periodically transported to our MB studio in small quantities where they are temporarily stored in a room located on the first floor just for that purpose. Beans are sorted by hand, to eliminate substandard beans, to prepare for roasting.

The main components of our production process take place on the second floor accessed by an elevator with the last phase of tempering, molding and packaging taking place on the first floor. The roasting process is a bi-weekly process that takes approximately 3 hours during which time mild cacao aromas are generated in the studio. Ultimately, the finished chocolate is molded into bars or blocks to be wrapped and packaged for sale in specialty stores and to the general public, or to industry professionals including chefs and chocolatiers.

Our building has been specifically designed to accommodate a small-scale version of all components required to make chocolate. The main operating characteristic is the need for temperature control and oversight. There are no unusual noises or annoying smells related to the process. We use commercial delivery services such as FEDEX and UPS, and small commercial delivery trucks for periodic deliveries of the beans to our shop, all of which are typical for the commercial Downtown.

We expect a need for 2 to 4 employees at any one time, depending on the time of year and stage of processing. Understandably, our busy times are related to traditional holidays, such as Valentine's Day, Easter, and Christmas. Although we expect to work within a typical workday of 8:00 a.m. to 6:00 p.m., we intend to be full participants of Downtown activities, especially during annual events, such as the Halloween Fest, Holiday Open House, Fireworks, sidewalk sale weekends, and others. Thus our over-all closing hours will be 8:30 p.m. various evenings throughout the year. And, most importantly, we believe our studio and shop will become fully integrated within the active Downtown and Civic Center environment and will attract a range of customers from visitors and community neighbors who already frequent the Downtown.

What distinguishes our chocolate making from other commercial producers that require a more typical factory setting is our reliance on hand selection of high quality beans, small scale production under personal care and supervision and unique blend of ingredients, tailored to specific proprietary requests. As with boutique wineries, artisanal chocolate making represents a growing influence in the development of chocolate. Having such a studio in the heart of Manhattan Beach will add yet another sophisticated attraction to our dynamic and creative City.

It is our sincere hope to see our vision become a reality in our hometown. Our new building will be a beautiful addition to the 13th Street corridor and our boutique chocolate making and shop a new and happy addition to the Downtown community.

NICOLE TRUTANICH
BAR AU CHOCOLAT

A.64.050. Reduced parking for certain districts and uses.

- A. CD District. The following parking requirements shall apply to nonresidential uses:
1. Building Sites equal to or less than 10,000 Sq. Ft. If the FAF is less than 1:1, no parking is required; if the FAF exceeds 1:1, only the excess floor area over the 1:1 ratio shall be considered in determining the required parking prescribed by Section A.64.030.
 2. Building Sites greater than 10,000 Sq. Ft. The amount of required parking shall be determined by first excluding 5,000 square feet from the buildable floor area and then calculating the number of spaces prescribed by Section A.64.030.
- B. A use permit may be approved reducing the number of spaces to less than the number specified in the schedules in Section A.64.030, provided that the following findings are made:
1. The parking demand will be less than the requirement in Schedule A or B; and
 2. The probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand.

In reaching a decision, the Planning Commission shall consider survey data submitted by an applicant or collected at the applicant's request and expense.

A.64.060. Parking in-lieu payments.

Within designated parking districts established by the City Council and shown on the map on the following page, a parking requirement serving nonresidential uses on a site may be met by a cash in-lieu payment to the City prior to issuance of a building permit or a certificate of occupancy if no permit is required. The fee shall be to provide public off-street parking in the vicinity of the use. The City shall not be obligated to accept a fee for more than 20 spaces, and then only with express approval by the City Council, based on a finding that adequate parking supply exists in the district structures to accommodate such additional parking spaces, and that the tendered payment represents the actual cost of construction of new parking spaces.

In establishing parking districts, the City may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

The following limitations apply:

1. Businesses may lease up to two spaces in the oversubscription program to meet City parking requirements.
2. A business may lease up to five total spaces in the oversubscription program, if available, but only two of the spaces may be used to meet required parking.

§A.64.070

3. Businesses will be allowed to make in-lieu payments on an installment plan over a five year period at prime rate adjusted quarterly. The in-lieu parking fee shall be the actual construction cost of a space in an above ground parking structure, adjusted annually. The in-lieu fee is presently \$20,363 per space (October 1993).
4. Businesses proposing in-lieu fees to fulfill parking required under §A.64.020 and §A.64.030 of the Zoning Ordinance shall first provide evidence acceptable to the Board of Parking Place Commissioners that there is adequate additional under-used capacity within the structure or structures to accommodate the number of spaces proposed.
5. When total commercial development on the development site exceeds 10,000 square feet, no in-lieu fee shall be accepted unless additional parking is provided within commercial parking structures in the parking district prior to occupancy of the structure.

In establishing parking districts, the City may set additional limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered so that the parking demand of the approved new development does not exceed the parking supply.

A.64.070. Parking spaces for the handicapped.

All parking facilities shall comply with the requirements of the California Code of Regulations (Title 24, Part 2, Chapter 2-71) and with the sign requirements of the California Vehicle Code, Section 22507.8.

A.64.080. Bicycle parking.

- A. Where Required. Bicycle parking spaces shall be provided as required by this section; the provisions of Section A.64.020 shall apply.
- B. Number Required.
 1. Public and Semipublic Use Classifications: as specified by use permit.
 2. Commercial Use Classifications: Five percent of the requirement for automobile parking spaces, except for the following classifications, which are exempt:
 - a. Ambulance Services;
 - b. Animal Boarding;
 - c. Animal Grooming;
 - d. Catering Services;
 - e. Commercial Filming;
 - f. Horticulture, Limited;
 - g. Funeral and Interment Services;
 - h. Vehicle/Equipment Sales and Services (all classifications).

- L. Only existing tables used inside the restaurant may be used for sidewalk dining unless additional parking and zoning approval is provided in accordance with the Municipal Code.
- M. The portion of sidewalks used for dining must be cleaned regularly and consistently kept free of litter by the applicant.
- N. The applicant must provide an insurance endorsement and complete a Hold Harmless agreement, to the satisfaction of the City Risk Manager.
- O. The applicant must submit an application for a permit and pay an established permit fee as set forth by resolution of the City Council.
- P. Permits are issued to business owners rather than property owners and are not considered an entitlement to the adjacent private property. New business owners must apply for a new permit.

(§ 1, Ord. 2039, eff. February 18, 2003)

7.36.170 Long-term commercial use encroachment permits.

- A. Commercial use of the public right of way requires City Council approval.
Exceptions. The Director of Community Development may approve the following:
 - a. Sidewalk dining permits applicable to vehicular streets in conformance with Section 7.36.110 of this chapter.
 - b. Building projections such as eaves, awnings, signs or elements that benefit the public and comply with applicable codes.
 - c. Roof access or other elements for existing buildings that are required by applicable codes, when alternative on-site locations are not feasible.
- B. Commercial use of a walk street is prohibited. Existing long-term uses conducted on a walk street under the authority of an Encroachment Permit approved prior to January 21, 2003 may continue to operate provided the use is not expanded or intensified. Expansion of intensification includes but is not necessarily limited to: increase of floor area or expansion of hours of operation, or addition of alcohol beverage service.

(§ 1, Ord. 2039, eff. February 18, 2003)

THIS PAGE
INTENTIONALLY
LEFT BLANK