

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
MAY 13, 2015**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 13th day of May, 2015, at the hour of 6:30 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Andreani, Bordokas, Conaway, Hersman, Chairperson Ortmann
Absent: None
Staff Present: Marisa Lundstedt, Community Development Director
Mike Estrada, Assistant City Attorney
Jason Masters, Assistant Planner
Rosemary Lackow, Recording Secretary

2. AUDIENCE PARTICIPATION

Peter Tripp, El Porto resident asked whether a hotel was being planned for the El Porto area. The Chair stated the Commission is not aware of any and Director Lundstedt responded that a hotel has been proposed at the corner of Highland and Rosecrans and is in the early stages of discussion with staff. The speaker was advised to provide his contact info to Staff.

3. APPROVAL OF MINUTES – April 29, 2015

A motion was MADE and SECONDED (Hersman/Bordokas) to **APPROVE** the minutes of Apr 29, 2015, with the following 2 changes requested by Commissioner Andreani:

- 1) Pg. 4, 3rd paragraph revise to read:

“Commissioner Andreani asked if the new ordinance could retain a landmark designation program that is voluntary and mirrors the current culturally significant landmarks ordinance (10.86), thereby retaining the current landmark recognition program, as well as providing more protections as described in the new ordinance. She also asked if less daunting like the City has currently, and can the Planning Commission could take on the role of the Historic Commission, to which Ms. Howell-Ardilla responded that it is not the intent of the proposed ordinance to continue the existing program and Ms. Jester explained the Council considered this but proposed that the new Commission be separate from the Planning Commission to make the City eligible for CLG state grants.”

- 2) Pg. 5, in the input from Marcello Vavala, at the beginning of the 7th line, insert “a historic landmark” after “designate”.

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

4. PUBLIC HEARING

- 05/13/15-2. Consideration of Amendments to the Municipal Code and Local Coastal Program (LCP) to Include a Council Review Procedure for Quasi-Judicial Decisions and Modernizing Chapters 10.100 and A.96.160 (Appeals), and Chapters 10.12 and A.12 (Residential Districts) and Related Municipal Code and LCP Sections Regarding Commercial and Transient Uses in Residential Zones.

Director Lundstedt gave a brief background explaining that the subject code amendments are based on a periodic review of the Zoning Ordinance by staff and fall into two categories, including 1) a cleanup to reflect recent case law concerning City Council review including the appeal process, of “quasi-judicial” decisions; and 2) change in regulations pertaining to commercial and transient uses of residentially zoned properties.

Assistant Planner Jason Masters gave a detailed summary of the staff report with the aid of a slide presentation. He explained the appeal sections that will be replaced for the decision-making regulations and for the second item, noted that the current code does not address short term or transient rentals of homes, a current trend, that have the potential to create impacts to neighborhoods and can detract from the quality of life. In 2012 the City Council addressed rentals in a section of the beach area during the 6-man volleyball tournament, but tonight’s hearing is addressing this matter throughout the city at all times. Mr. Masters noted that rentals of less than 30 days are being recommended to be limited but rentals of 30 or more days is not being recommended to be changed, except such rentals would have to be to a single “housekeeping unit”. Mr. Masters concluded with the recommendation that the Planning Commission conduct the public hearing, and adopt the submitted draft Resolution recommending certain changes to the following sections of the Zoning Ordinance (Title 10 of the Municipal Code), and the Local Coastal Program (LCP): Sec. 10.04/A.04.030 (Definitions); 10.08.030/A.08.030 (Residential Use Classifications); 10.12.020 / A.12.020 (Land Use Regulations); 10.100 / A.1-3 (Appeals and Council Review).

Chair Ortmann invited the Commission to ask questions of staff.

In response to a request from Commissioner Conaway Mr. Masters clarified the current legal status of short term renting of homes, stating that currently rentals are legal specifically in a very limited way, only during the operation of the 6-man volleyball tournament and to properties in a specific area. That provision is contained in the business license section of the Municipal Code (Title 6), not the Zoning Ordinance (Title 10). The property owners voluntarily pay their transient occupancy taxes.

In response to Commissioner Hersman, Mr. Masters stated that staff did not anticipate that the 6-man provision would change.

In response to Commissioner Bordokas, Mr. Masters acknowledged that a rental under the 6-man provision would count as one of the permitted short term rentals in a year, and if short term rentals are allowed in the zoning regulations as being proposed, it is possible that the 6-man provision would no longer be needed.

In response to questions from Commissioner Andreani, Mr. Masters explained 1) the proposal only pertains to appeals of a previous decision. If there is a split vote by the Planning Commission on an appeal of an administrative decision of the Director, then the Director’s decision is upheld. If the Council has a split vote on an appeal of a Planning Commission decision, then the Planning Commission decision is upheld; and 2) regarding fees, the proposal does not change the current practice that there is no fee if the city council appeals, but there is a fee for a private individual. Commissioner Andreani also inquired as to whether a reference regarding the business license and Transient Occupancy Tax (TOT) possibly in 10.08.030/A.08.030, should be included in the revised code to which Director Lundstedt responded that staff can add a cross-reference in the proposed zoning code change to the TOT code provision elsewhere in the Municipal Code.

In response to an inquiry from Commissioner Conaway, Director Lundstedt stated that staff does not get a tremendous amount of complaints regarding short term rentals, but wants to be proactive because this is a growing trend and they are aware of problems in other cities with a similar makeup. Staff does not have a precise count on the number of existing rentals but believes there are quite a few.

Chairperson Ortmann noted that there seems to be a lot of dense material to go through, and requested that the staff clarify the problem they are trying to solve, to which Director Lundstedt responded that the issue is fairly simple, and it is Staff’s intent is to make it clear that commercial uses are not permitted in residential zones but also to reinforce the code by establishing specific parameters of use that would be permitted.

Chair Ortmann opened the public hearing and invited public input.

PUBLIC INPUT

Bill Victor, property owner and sometime resident, questioned that the hearing has been properly noticed as he did not receive notice although he is on a list of persons who have requested notice of coastal projects. He thinks this is very important and deserves more public awareness and input, as it could potentially impact owners' ability to use their properties.

Director Lundstedt stated that the hearing has been properly noticed, which includes publishing a quarter-page ad in the newspaper and posting a notice at specific locations such as at City Hall. She understands persons can request receipt of notices regarding coastal projects but believes that the noticing that has been done is adequate for the purpose of this hearing. Staff will make sure that Mr. Victor receives notices of coastal amendments in the future.

Will Arviso, 410, 23rd Street, asked how the City can properly address this if it isn't aware of many complaints, and if it is enacted, is concerned as to how it will be enforced and he is also concerned about subletting. He understands that allowing rentals will bring in more tourism and revenue, but also believes it's important to understand the problem being addressed and he also believes that the short term rental rules should apply to the whole city.

Viet Ngo requested that the Commission give equal time for all speakers, questioned the authority of the Commission regarding the matter regarding quasi-jurisdiction decision making, and believes that the Commissioners should disclose any conflict of interest with the proposed code amendments such as any rentals of property they own and he requested that Commissioner Andreani abstain.

The Chair requested that Mr. Ngo focus his comments not on individual Commissioners but on the hearing and noted that the Planning Commissioners are well aware of conflict of interest issues and regulations.

Mr. Ngo further stated he doesn't believe the hearing has been properly noticed and requested that a decision be postponed to allow the Director to provide notice to property owners and tenants within 500 square feet.

Seeing no additional speakers, Chair Ortmann closed the public hearing and it was agreed that the Commission would discuss the staff proposals separately by subject matter.

PLANNING COMMISSION DISCUSSION

Proposed changes regarding council review of Planning Commission decisions:

Commissioner Hersman stated she supports these changes in that they are based on case law and straightforward and will put the City in line with other cities. Commissioners Bordokas and Andreani also stated their support, seeing no problem with the changes proposed for the appeals changes. Commissioner Andreani addressed the request made by a member of the public that she abstain, stating that she understands she does **not** have a conflict of interest because the matter being considered would apply city-wide. Commissioner Andreani further stated that she likes the idea the city is being proactive. Commissioner Conaway stated that he fully supports the proposal regarding City Council review of decisions and believes the amendments are well written, however he would like to explore splitting the Commission decision into two separate actions and resolutions.

Director Lundstedt emphasized that the matters have been prepped as a joint package.

Proposed changed regarding transient and commercial uses in residential zones:

Commissioner Bordokas stated that she understands that the regulations proposed by staff would provide guidelines and also that in some other cities, such as Santa Monica, dramatic steps may be needed. She supports moving in the direction to regulate and provide guidelines and believes that there are various options that can be pursued, and she gives kudos to staff for bringing this forward at this time.

Director Lundstedt clarified that staff has received a number of complaints not necessarily related to vacation rentals but concern with large residential homes being remodeled in a way that they can create separate living

areas conducive to subletting portions of a residence. This practice often results in creating impacts such as parking. The staff proposal is intended to address that practice as well.

Commissioner Hersman stated that she is concerned about enforcement and isn't sure that enforcement belongs in the Zoning Ordinance, but agrees proactively looking at this is a good thing. This action is in line with comments heard during the downtown ULI study that residential neighborhoods need to be protected from impacts (noise, parking etc.) of inappropriate commercial uses. The city should act before it becomes a big problem and difficult to resolve. She did have some concerns regarding limiting to single households, but after speaking with the Assistant City Attorney, believes that this issue has been worked through over several years.

Director Lundstedt noted that there is a section in the Municipal Code covering enforcement and the proposed code would give staff more definition in enforcing the regulations. Upon receipt of a complaint, the city's zoning code enforcement officer would proceed with enforcement.

Commissioner Andreani suggested that statements be included in the code: 1) to address the intent or purpose of the code (e.g. to protect the residential character of neighborhoods); 2) to indicate that enforcement is by the Department of Community Development; 3) to include a comment that sub-letting of a single home into multiple units is not allowed. She also liked the idea of increasing the number of times that a home can be temporarily leased to 4 total within a 12-month period.

Commissioner Conaway stated he concurs with other commissioners that bringing this forward for a code change is a good thing. While he is concerned that the City is collecting taxes for something not addressed in the Zoning Ordinance he also believes that having short term rentals has a useful purpose in the City and also feels the urgency that the city needs to address impacts if short term rentals continued unchecked. He also believes, however that more notification is needed and suggested that consideration be given to "grandfathering" existing rental use for owners who have leased their property in a responsible way. He does not feel prepared to make a decision on this item tonight.

Director Lundstedt advised that the Planning Commission can make a recommendation of approval predicated on additional recommendations being approved.

Commissioner Bordokas questioned grandfathering something in that is currently illegal and possibly undesirable and has concerns that even if it's a family occupying the home, having very frequent turnovers in occupancy could inhibit a sense of community.

Commissioner Conaway stated he understands but he also sees that homes on The Strand not being occupied year round by the owner and believes this is creating a sort of dead zone and bringing in short term occupants would bring life to these homes. Commissioner Bordokas stated that she has seen personally the impacts that can occur if a home is turned into a vacation rental and believes strongly that the short term uses needs to be legalized, but with clear parameters or limits of use put in place.

Commissioner Andreani stated her belief that grandfathering could be very difficult to manage and believes the main purpose of this code should be about protecting residents and the unique character of neighborhoods. She understands that The Strand is no longer a place where people mostly live year round, and while that is unfortunate, she understands that is the reality.

Commissioner Conaway suggested that notice of this hearing be made to all those on record of voluntarily paying transient occupancy taxes.

Commissioner Hersman stated this code has two main provisions: 1) The short term rentals are going to be allowed but enforced for stays of less than 30 days and 2) longer term (30 days or more) rentals will be allowed as long as the occupancy is by a single housekeeping unit. Commissioner Hersman stated her disagreement about allowing grandfathering, but supports establishing new policy – with the provision of the single housekeeping unit, and thinks this is a win-win for residents and property owners.

Chair Ortmann noted the diversity of opinion on the Commission and questioned the urgency of this matter. He supports staff but is of the opinion that more thoughtful deliberation with more broad input is needed.

Director Lundstedt added that she believes that there are about 250 rentals that are being advertised currently for homes within the City's four square miles.

Commissioner Bordokas stated that she believes that the staff proposal is very well thought out and she could support allowing renting out short term stays up to 6 times a year, the code should be simple and not have different rules in different sections of the Municipal Code and that this is an urgent matter, even though she realizes the process cannot be finalized prior to summer.

Director Lundstedt noted that the proposal will be forwarded to the City Council for an additional hearing and there will be much more discussion, and the intent of the staff proposal is to not regulate the family housekeeping unit type of rental and she believes that owners renting out their properties are well aware of this proposal.

Discussion focused on whether additional public noticing or input is needed for the Planning Commission to make a recommendation. Chair Ortmann and Commissioner Conaway stated their opinion that at least one at-large community meeting or public outreach event would be very helpful. Commissioner Conaway believes that traditional stakeholders including property managers or real estate professionals should be invited to give their input.

Commissioner Andreani stated that because the proposed ordinance is intended primarily to provide parameters of use to protect the residential quality of neighborhoods, she does not think it would be helpful or necessary to bring in individuals whose potential livelihood may be affected by the rentals as in the case of real estate and property management professionals who may have a completely opposite opinion. She believes it is important to proceed; but perhaps an announcement can be made when this is going to be heard by the City Council.

In response to an inquiry from Chairperson Ortmann, Director Lundstedt stated that public noticing for the City Council hearing would be handled the same as any other code amendment and would be as has been done for the Planning Commission hearing. She also knows that development projects are going forward whereby homes are more complex and provide for separate living areas, all to code, but this allows for commercialized use of residences with renting portions out. Again, the staff intent is to protect the residential neighborhoods.

Chairperson Ortmann iterated his unease about the process, not the purpose or content of the proposed code. He feels like this is being foisted on the community with limited conversation and input. Commissioner Conaway emphasized that he believes community buy-in is integral to a successful public policy which can be attained with one community meeting.

PLANNING COMMISSION ACTION

Subsequently a motion was made (Andreani/Hersman) to **APPROVE** the draft resolution, recommending the proposed code amendments with inclusion by staff of statements pertaining to the amendments that pertain to commercial and transient uses including: enforcement mechanism, addressing subletting, cross reference to the Title 6 business license and tax provisions, and changing the allowed number of times a transient use (period less than 30 days) rentals can occur from 2 to a total of 4 in a 12 month period.

Discussion on the motion followed. Commissioner Bordokas requested clarification on the frequency that less than 30-day rentals would be allowed.

Assistant Planner Masters clarified that staff proposed that less than 30 day stays would be permitted 2 times per 12 months, or once per a 6-month period or there is also the option of once every three months for 4 total over a 12 month period .

Commissioner Andreani amended her motion, (seconded by Hersman) that the Commission recommend to the Council revisions in the Zoning Code and LCP, for changes as proposed by staff on City Council review procedures for quasi-judicial decisions and for changes in regulations for commercial and transient uses in residential zones that would allow one (1), less than 30-day rental per every 3-month period, with a maximum of four (4) such rentals in a 12-month period and including statements (to be drafted by staff) as previously described in the original motion.

Chair Ortmann invited any additional comment, seeing none he added his opinion that he still felt more input and thought was needed and Commissioner Conaway stated that he would like to see the Resolution come back to the Commission. The Chair called for the question on Commissioner Andreani's amended motion with the resulting vote as follows:

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

6. DIRECTOR'S ITEMS

a. Planning Commission responses to emails from the public. Director Lundstedt stated the policy as follows: If an email comes to the full commission, the Chair will take the lead and refer to staff with a blind cc to all commissioners. If an individual Commissioner receives an email that would be referred to the Director who will refer to staff and the Director will respond back to the Commission. The point is for the Commission to retain impartiality.

b. Director Lundstedt recognized Commissioner Andreani with a commendation signed by the City Council for her service as she is completing her full 6-year tenure on the Commission. Director Lundstedt complimented Commissioner Andreani on her thoughtfulness and thoroughness in deliberations and the passion she brought in her role as a Commissioner.

Commissioner Andreani expressed her appreciation for the opportunity to serve on the Commission and in working with staff. She greatly appreciates her fellow commissioners and cited tonight's meeting is an example of the Commissioners being proactive with planning.

7. PLANNING COMMISSION ITEMS

Chair Ortmann affirmed that it has been a very positive and educational experience working with Commissioner Andreani, has personally learned a lot from her and believes that her departure is a loss for the Commission. The other Commissioners Hersman joined in this sentiment. Commissioner Andreani thanked the Commission and noted that the Commission has a very good breadth of knowledge which is very important such as Commissioner Conaway's knowledge on environmental issues and the Chair's knowledge in urban planning. She believes that the perspective of the Commission is invaluable.

8. TENTATIVE AGENDA - May 27, 2015

Director Lundstedt noted that no items currently are scheduled and most likely the meeting will be canceled.

9. ADJOURNMENT

The meeting was adjourned at 8:18 pm to Wednesday, May 27, 2015 in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

MARISA LUNDSTEDT
Community Development Director