

**MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
SEPTEMBER 9, 2020
(DRAFT)**

A. CALL MEETING TO ORDER

A Regular meeting of the Planning Commission of the City of Manhattan Beach, California was held virtually via Zoom on the 9th day of September, 2020, at the hour of 3:15 p.m. Chair Morton called the meeting to order and announced the protocol for participating in the meeting.

B. PLEDGE TO FLAG

C. ROLL CALL

Present: Burkhalter, Thompson, Ungoco, Vice Chair Fournier, Chairperson Morton
Absent: None
Others Present: Carrie Tai, AICP, Director of Community Development
Brendan Kearns, Assistant City Attorney
Ted Faturos, Assistant Planner
Eric Haaland, Associate Planner
Angelica Ochoa, Associate Planner
Drew Teora, Agenda Host
Nhung Huynh, Participant Host
Rosemary Lackow, Recording Secretary (monitored via livestream)

D. APPROVAL OF AGENDA

It was moved and seconded (Thompson/Burkhalter) that the agenda be unchanged.

Roll Call:

Ayes: Burkhalter, Thompson, Vice Chair Fournier, Ungoco, Chairperson Morton.
Noes: None
Absent: None
Abstain: None

E. AUDIENCE PARTICIPATION

Robert Hayashi began to speak on item H. **Chairperson Morton** explained items on the agenda are not to be discussed in this portion of the meeting.

F. APPROVAL OF THE MINUTES

9/9/20-1. Regular Meeting – July 22, 2020

It was moved and seconded (Thompson/Burkhalter) to approve as presented.

Roll Call:

Ayes: Burkhalter, Vice Chair Fournier, Thompson, Chairperson Morton,
Noes: None
Absent: None
Abstain: Ungoco

G. PUBLIC HEARING

9/09/20-2. Proposed Master Use Permit Amendment to Allow Full Liquor Service in Conjunction with Food Service at an Existing Restaurant with Beer and Wine at 1131 Manhattan Avenue, Part of a Multi-Tenant Building at 1125-1131 Manhattan Avenue and 133 Manhattan Beach Boulevard, and Make an Environmental Determination in Accordance with the California Environmental Quality Act (Nando Milano LA, LLC/Vullo)

Chair Morton opened the public hearing and invited staff to make a presentation.

Assistant Planner Ted Fatuos summarized the staff report: Master Use Permit entitlement history, downtown location and land use setting, public comments (9 late - 6 in favor, 3 opposed), proposed findings, and staff recommendation to conduct a public hearing and approve subject to conditions. **Assistant Planner Fatuos** noted opposing comments are generally concerns that the liquor license upgrade could result in the space becoming more of a bar/nightclub with greater impacts. He explained that staff's determination that the use is a restaurant is based on the floor plan - whether the seating will accommodate more table dining as opposed to bar/lounge accommodations - and whether there is a fully functioning kitchen. Staff has concluded that the plan is clearly for a restaurant and added that the applicant is making only cosmetic changes and operationally, will maintain prior approved hours (closing: 11:00 p.m. Sunday – Thursday, and 12:00 a.m. Fridays, Saturdays). The only requested change is the upgrade of the ABC license, from beer/wine to Type 47 (beer/wine/distilled spirits).

Chair Morton opened the floor to public input.

PUBLIC INPUT

Dario Vullo, Applicant, noted his years of experience in running a number of restaurants, emphasizing his goal is to provide a casual fine dining experience, and to compete with other similar restaurants in meeting customer convenience and dining experience, it is critical that he have a full liquor license.

Carol Glover, attorney representing the project property owner, Crazy Horse Investments LLC, supports the applicant; is available for any questions.

Donald McPherson, opposes intensifying alcohol service in the city without offsetting impacts with conditions. He requested the Commission to impose a condition requiring that Mr. Vullo stipulate the current closing hours in his liquor application to effectively keep the applicant from later requesting a 1:00 am closing hour. Mr. McPherson also believes: 1) The Applicant has not demonstrated there will be no impact to residents living within 100 feet of nearby parking structures, as required by the State ABC; and 2) Staff has improperly classified the subject amendment as “categorically exempt” per CEQA, when considered cumulative with impacts from other alcohol approvals, like Tacolicious and Manhattan Beach Post.

Jill Lamkin, Executive Director for the Manhattan Beach Business & Professional Association, noted their support in that the applicant is a proven fine dining operator and that a Type 47 license is needed to compete. All downtown businesses need the city's support due to the pandemic, and while she understands the residents' concerns, feels any problems can be addressed by city enforcement, rather than assuming there will be a problem.

Matthew Niemann, longtime resident, referenced a letter he has submitted; strongly supports the application.

Peter Hartshorn, lives on Manhattan Avenue nearby, noted that people leaving restaurants create impacts; feels this will only get worse due to this application and others already approved. His concern is not that this or Manhattan Beach Post will become a bar, but feels the changes will not be beneficial and conditions will incrementally worsen. He is concerned in particular that a condition's wording, requiring “food service” as opposed to a “full menu” will be detrimental.

Kelly Stroman, echoing Ms. Lamkin's comment, feels that businesses need much support; understands neighbor concerns but supports because the business is a desirable fine dining establishment that will be run by a proven operator.

Chair Morton closed the public hearing and opened the floor to Commission discussion.

COMMISSION DISCUSSION

Commissioner Thompson fully supports the proposal in that no increase in hours is requested; the change in licensing is negligible especially for a high caliber restaurant; and the proposed amendment is appropriate in the "Commercial Downtown" district.

Responding to **Commissioner Fournier**, **Assistant Planner Faturos** clarified that the City does not have a requirement for restaurants to maintain a "full menu" per se, pointing out the purposes of condition 10 in the draft Resolution: to ensure that the kitchen does not shut down while alcohol is served and to provide flexibility so that a restaurant can reasonably adjust its menu throughout its operating hours, such as offering lighter fare during later hours.

Commissioner Fournier stated he fully supports the proposal in that he feels the application supports the proposed findings and conditions.

Commissioner Burkhalter raised two questions to which **Director Tai** responded: 1) whether there is a functional/legal difference between stipulating operating hours in the Resolution, versus calling them out specifically as a condition, **Director Tai** noted that the hours of operations are already listed in the Resolution, and because no change in operating hours is being requested, there wouldn't be any additional value that could be gained, in terms of city reassurance in the Resolution, by adding to that condition; 2) whether, from a land use perspective, the change in type of alcohol license constitutes an intensification of use, **Director Tai** responded that a change to a Type 47 is not an intensification, in that: such upgrade is consistent with a restaurant use which is a type of commercial use permitted in the Commercial Downtown zone; the application seeks only a different alcohol license, expanding the types and varieties of beverages that a restaurant can serve; and the subject location has existed as a restaurant for many years.

Commissioner Burkhalter noted the City does not have a policy for alcohol use intensification and, although the Commission might be empathetic to the view that the project could result in an incremental increase in alcohol service, he is uncomfortable with making a decision to approve or disapprove a use permit based on only a sense of a trend – when no metric tool exists. He is also not aware of a precedent in another city which does regulate alcohol service intensification, where a full-service restaurant would not be exempted when asking for a similar license upgrade.

Commissioner Ungoco joined in full support of the draft Resolution, noting that the arguments are similar to those heard not long ago by the Commission for another case. This request is based on an operator's desire to provide a convenience commonly enjoyed by patrons that enhance the dining experience - beverage pairing to a menu item, however he is mindful of concerns, noting that balancing quality of life with the viability of the downtown can be complex.

Chair Morton joined in supporting the application, as an excellent addition to downtown restaurants and given that the request is solely to change the type of license.

COMMISSION ACTION

It was moved and seconded (Thompson/Burkhalter) to ADOPT the draft Resolution as presented, approving the subject Master Use Permit Amendment to Allow Full Liquor Service in Conjunction with Food Service at an Existing Restaurant at 1131 Manhattan Avenue, Part of a Multi-Tenant Building at 1125-1131 Manhattan Avenue and 133 Manhattan Beach Boulevard, subject to conditions.

Roll Call:

Ayes: Burkhalter, Vice Chair Fournier, Thompson, Ungoco, Chairperson Morton,
Noes: None
Absent: None
Abstain: None

Director Tai announced that the motion passes 5-0; the Commission’s decision is appealable to the City Council within 15 days from this date.

H. 9/09/20-3. Accessory Dwelling Unit/Housing Study Session

Community Development Director Tai gave introductory remarks, noting this is the third study session since June. Discussion has progressed from broad housing issues mainly arising from SB 330, the “no net loss” law that requires, when a residential project is demolished, the new development must build back the pre-existing number of units. The discussion has focused on Accessory Dwelling Units (ADUs) and what to allow in a new ordinance. At the last session, the Commission directed staff to explore ways to create options and increase flexibility in building ADUs. The presentation today is structured around responses to ten issues or questions that have been raised. Director Tai encouraged the public to think about how the staff recommendations might apply to them.

Associate Planner Angelica Ochoa summarized the staff report, assisted by a series of slides, reviewing background information and staff recommendations for each of the eight topics relating to ADUs; the Commission discussed each topic with staff.

Topic 1 (Number of ADUs).

Associate Planner Ochoa first explained the differences between a “JADU” (Junior Accessory Dwelling Unit) and an “ADU” (Accessory Dwelling Unit). Important criteria that differ include: size (JADU maximum 500 square feet); whether it can be detached/attached (JADUs can’t be detached) and amenities (ADUs have more permanent provisions for living, cooking, sleeping, eating and sanitation). **Ms. Ochoa** then compared the regulations in the current urgency ordinances regarding the number of permitted accessory units to changes being recommended by staff for the permanent ordinance - with clarification by Director Tai that the current regulations apply to all City Area Districts, I-IV.

Associate Planner Ochoa noted that under the current regulations 1) single family properties (existing or proposed new), can have one attached JADU and one detached ADU; 2) multi-family properties (existing only) can have only attached ADUs in an amount equal to 25% of the number of existing units, plus two detached ADUs, and; 3) multi-family properties (new) are prohibited from having any ADUs. On the last point for new multi-family properties, staff looked for options to provide more flexibility.

Staff’s recommendations are to: 1) maintain the current regulations for existing or proposed single-family properties and **existing** multi-family; 2) add a new provision to allow a second attached ADU for an existing or proposed single-family residence in all Area Districts, and 3) add a new provision for **new** multi-family properties in area Districts III/IV to allow one attached ADU(s) in an amount equal to 25% of the number of existing units, as long as the proposed number of units does not exceed the existing number of legal dwelling units provided. **Associate Planner Ochoa** emphasized that the second recommendation applying to single-family properties would give more accessory unit options such as an attached ADU and an attached JADU, or an attached JADU and a detached ADU; in any case, a total of two ADUs would be allowed. She also emphasized that option 3 is currently not allowed for existing multi-family properties in Districts III/IV.

Commissioner Thompson asked and discussion ensued regarding whether the intent of the staff recommendation was to increase the allowed density in the inland single-family zones beyond what the state requires, noting that the report describes that three units would be allowed (main home + JADU + ADU). **Director Tai** explained that the City’s current urgency ordinance has been updated to reflect state “must allows” (what must be allowed by building permit) and therefore there is **no density increase** other than what the state requires, which is two ADUs. **Associate Planner Ochoa** clarified that the staff recommendation adds flexibility because it allows two attached accessory units (ADU and JADU) to the main residence in all area districts, which is not currently allowed by the City. This added flexibility is intended to enhance the ability of a property owner to comply with the “no net loss” mandate.

City Attorney Kearns clarified that, in a single-family zone, although up to two accessory units is proposed to be allowed by building permit, an owner can choose to have only one accessory unit, either an ADU or JADU.

Topic 2 (Locations of ADUs) **Associate Planner Ochoa** noted the recommendation is to maintain current regulations citywide but to also allow attached ADUs for new multi-family dwelling units in Area Districts III, IV at the 25% ratio, as long as it does not exceed the number of total existing units.

Topic 3 (ADU Minimum/Maximum Sizes): **Associate Planner Ochoa** stated the staff recommendation is to maintain current maximum sizes for attached/detached ADUs and amend the current Ordinance to clarify minimum sizes for attached and detached ADUs to 220 square feet, to allow at least an efficiency unit, per state law. **City Attorney Kearns** clarified that although for some cities, under certain circumstances, the state allows a minimum of 150 square feet for an efficiency unit, he does not understand this to apply for Manhattan Beach; he would like to research further whether the City could adopt the 150 square foot minimum.

Topic 4 (JADU Bathroom Facilities): **Associate Planner Ochoa** stated that per state law, the city can allow separate or shared bathroom facilities but the city cannot require separate facilities for a JADU.

Topic 5 (Building Separation): **Associate Planner Ochoa** stated that the California residential building code does not require a separation between buildings containing living quarters, as long as firewalls (walls composed of fire-rated materials) are constructed between units. Staff recommends, to provide more design flexibility and encourage more outdoor area, a minimum separation yard of 5-feet between an ADU structure and main residence. This is also consistent with a survey of other nearby cities.

Topic 6 (Driveway use of Garage ADUs): **Associate Planner Ochoa stated that** the recommendation is that the zoning code be amended to clarify that, in cases where a garage is converted to an ADU, the owner would not be required to replace the curb cut and remove the driveway apron, if the apron provides access to an onsite paved parking area.

Topic 7 (ADU/JADU Kitchen Standards): **Associate Planner Ochoa** stated the recommendation is to maintain the current JADU kitchen requirement, but add a provision requiring that ADU kitchens be identified on plans and be reviewed by the City pursuant to state law.

Topic 8 (ADU Parking Clarification): **Associate Planner Ochoa** stated, after checking transit stop locations (70 in the City) it has been determined that the City cannot meet an exception that would allow the city to impose a parking requirement. No change of the current ADU ordinance is recommended.

Associate Planner Haaland next reviewed topics 9 (Development Scenarios for Attached ADUs) and 10 (Nonconforming Constraints).

Topic 9 (Development Scenarios Attached ADU for Multifamily): **Associate Planner Haaland** reviewed that the Commission directed staff to identify development scenarios that could provide more flexibility in constructing accessory units that might be able to be used as replacement units in meeting the “no net loss” state mandate. Staff found that the current regulations allow ADUs to be built only for single-family homes and **existing** multi-family developments. **Mr. Haaland** reviewed two development options on a sample 30 x 90 interior beach area lot: A single-family residence with an attached JADU and ADU; and a two-unit single building townhome, with one attached ADU. He demonstrated that in both cases, an owner could achieve close to the maximum allowed floor area of 4,320 sq. ft., after considering code requirements. The current code would need to be amended to allow these options for the sample lot. In the case of the single-family option, the amendment would be to allow more than one JADU or one attached ADU, and for the townhome option, the code change would be to allow an attached ADU for **new** multi-family developments. It was pointed out that currently, for multifamily developments, an ADU can only be added after a project is completed and becomes “existing”. Allowing ADUs to be constructed along with the new multi-family development would result in improved ability to plan for the inclusion of ADUs in the project.

In following discussion staff provided clarifications and comments: **1) Associate Planner Haaland** stated that a height limit of 16-feet applies to an ADU only when it is detached. He further explained that for condominiums, if providing for an attached accessory unit, two enclosed spaces and one unenclosed guest

parking space would be required for each condo unit; the guest space would not be able to be converted to a JADU as it is unenclosed and not covered; 2) **Assistant City Attorney Kearns** affirmed that, under state law, garage parking that is eliminated when the garage is converted to an ADU is not required to be replaced. His understanding is, however, is that the no parking replacement mandate is meant to apply to single family homes and suggests that this be stipulated in the City's new ADU ordinance for multifamily zones; and, 3) **Director Tai** reminded of a state provision, and although she isn't certain of its application to condominiums, whereby building permits must be approved for ADU conversions in existing multifamily dwellings for certain non-habitable areas which includes garages.

Topic 10 (Nonconformity Constraints): **Associate Planner Haaland** reviewed this issue, not directly related to ADUs but which arises due to the recently enacted "no net loss" requirement of SB 330. Mr. Haaland noted that the Commission has acknowledged that existing multifamily development that exceeds the allowed number of units and which cannot be brought into conformance due to the "no net loss" requirement, should be allowed to remodel beyond minimal repair and maintenance. Staff recommends that the code be amended to allow remodeling that will extend the life of these developments for safety and blight-prevention purposes. **Mr. Haaland** also noted other less than major zoning amendments which could increase development options in Area Districts III/IV, such as adjustment to and relaxing parking requirements for multifamily redevelopments.

In conclusion, **Mr. Haaland** stated that the suggested changes under Topic 10 are not directly related to ADUs, and are not affected by the December 15, 2020 Urgency Ordinance expiration. Staff will continue pursuing such code changes that will increase development options. Staff recommends that the Commission accept public input and discuss the staff recommendations on all ten topics and direct staff to schedule a public hearing to adopt a permanent ADU ordinance.

Staff responded to questions from the Commission.

Director Tai clarified for **Commissioner Thompson** that in a single-family zone, the staff recommendation which reflects what is mandated by the state, has two options that could result in three units total: 1) single family home with JADU plus an attached ADU; or 2) single family home with JADU plus detached ADU. An owner would have the option of a single-family home and one attached or detached ADU.

Director Tai clarified for **Vice Chair Fournier**, that the intent of the staff recommendation regarding beach area multi-family properties is to encourage owners, when redeveloping, to plan for and design ADUs and JADUs "up front" as opposed to retroactively having to come back and convert an area to an accessory unit after the project is built. **Commissioner Burkhalter** added that he sees an advantage to allowing an ADU with brand new multifamily construction in that, when the project goes through the approval process, in applying the "no net loss" state mandate, the owner would be able to get credit for the ADU or JADU to offset loss of units being torn down.

Vice Chair Fournier discussed with **Assistant City Attorney Kearns** the City's zoning discretion and authority irrespective of the ADU regulations and whether the state, in the interest of increasing housing, has the authority to supersede and thus allow an applicant to exceed, or relax important city standards such as building height and parking. Assistant City Attorney Kearns opined that depending on the scenario, looked at case-by-case, a state mandate could supersede local zoning in cases where local law clearly conflicts with state law or for an activity that is clearly one the state wants to regulate, as increasingly is the case with housing. **Vice Chair Fournier** stated this conforms to his understanding that, in coming to understand the new state laws he sees it is a difficult process requiring the City to maintain its standards while still satisfying the state.

Director Tai added that while state ADU law is very specific about some standards (e.g. detached ADU height, setbacks), SB 330 does not have any language that specifically waives a local development standard and a property owner proposing a development would have to meet the state "no net loss" regulation but also comply with local zoning standards and there has been no blatant usurping of the City's zoning regulations.

Chair Morton emphasized that no changes in the basic residential height limits are being suggested and **Commissioner Burkhalter** stated he understood, as they discussed an ADU ordinance, that the underlying zoning standards for any given district would apply "across the board" to a proposed ADU.

There being no further questions, Chair Morton invited public input.

PUBLIC INPUT

Brandon Straus, Srour and Associates, believes the staff recommendation helps triplex owners, but, after applying all standards, it will still be very difficult to design a functional complying residential structure. He suggests that a limited “carve out” provision be created that would provide needed flexibility in meeting a variety of standards for existing nonconforming buildings of three or more units. He believes that providing such can be justified because the alternative - having hundreds of properties becoming dilapidated – is far worse. Regarding accessory units, every time a JADU is attached to a single family home, an owner occupancy requirement is also attached and because he feels this is impractical (not all owners want to live on-site and an occupancy requirement would be difficult to enforce when ownership is by an LLC, trust or similar entity), he suggested that the ordinance provide that, in all cases where a JADU is allowed, either a JADU or ADU be permitted.

Bruce Humiston owns a 1940 triplex in a medium density zone; it is unusual in that the third unit was inadvertently approved by the City. In the 1970’s it was formally declared legal nonconforming with the condition that required that, the number of units be reduced to two when redeveloped. He doesn’t see how he can rebuild without violating either SB 330 or the City’s zoning ordinance; requested that his situation be looked at for possible solutions.

Desiree Kellogg stated that her family owns a beach area triplex and feels that the staff recommendation does not help her situation; she feels that the state mandate is unconstitutional in that they are deprived of the right to develop their property or sell it for fair market value; requests that the City revisit this issue and find a way to allow property owners to build back fewer units.

Julie Tran, Government Affairs Director, South Bay Association of Realtors, is thankful for thoughtful recommendations but thinks the minimum area for a JADU is, per §17958.1 of the State Health and Safety Code, 150, not 220 square feet. She is concerned that the feasibility of coastal multifamily redevelopment is greatly impacted by City interpretation and implementation of state laws. She agrees with a prior speaker that a carve out code should be developed and urges working together to find solutions. She offered to be a resource to the City and can be reached at: julie@southbayaor.com.

Karynne Thim, realtor spoke for a client. She understands this is a balancing act; expressed concern that, while staff has addressed many concerns, there are still over 400 properties in Manhattan Beach that have 4 or more units and a number of others (e.g. El Porto half lots with two or three units) that will be affected, for which she does not see a viable solution. She feels it’s very important to avoid proliferation of blighted structures and urged that the City invite local architects to provide input; suggests allowing smaller sized JADUs (150 square feet?) to help the half-lots and more than one ADU per lot to help fourplexes.

Kathy Nikolai owns an interior walkstreet lot. SB 330 will prevent her from building a single-family home on her property and she is concerned about allowing carport parking converting to units without having adequate parking and how this will impact the character of her neighborhood.

Michele Miller, real estate agent, has two clients – one with a duplex on an El Porto half-lot and another, an older beach area triplex; their plans for retirement are being greatly impacted and she believes that the triplex should be able to be replaced with a single home with one ADU but the half-lot has no viable option. She urged that the City get input from the community to come up with a new coastal code with viable options for all types of situations and questioned whether a minimum JADU would be 150, not 220 square feet.

Pablo Escutia, building designer, realizes there cannot be a “one size fits all” solution as building sites vary greatly (e.g. El Porto vs. downtown) and commends staff for their efforts, supports creating a type of variance process to help property owners on a case-by-case basis perhaps until regulations can be developed.

Rosanna Libertucci owns a 2,700 square foot beach area corner walkstreet triplex at Bayview/35th, has hired a local architect to devise complying redevelopment options such as a triplex and 2-unit

condominium. She found the resulting projects, both cases to be not viable. In the triplex case, while about 4,200 square feet of living area would be normal, they could only build very small units, as at least 20% of the allowed living area would be deducted. She reviewed the various standards that she felt excessively impact construction including definition of “buildable floor area”, open space, parking (spaces required, size and configuration), required turning radius and the minimum recommended sizes for accessory units. She suggested city code changes that would comply with the intent vs. strict letter of the law: parking pads with reduced dimensions; maximum 1,200 not 1,000 square feet ADUs, and JADUs with less than 220 sq. ft, allow less than a full kitchen for ADUs and generally use an approach of meeting the end goal of being able to replace units.

Steve Murillo, real estate broker, owns two back-to-back El Porto half-lot duplexes, feels there’s no incentive to redevelop with the new requirements; El Porto development will stagnate unless some codes are changed; suggested relaxing parking (eliminate guest parking?), setbacks and open space, possibly allowing roof decks which would add new value.

Susan Sweeney, real estate agent, has a client who owns a beach area triplex and wants to remodel it and the regulations are confusing; feels it’s important to meet residents’ needs, not impact property rights, and encourage development that is desirable for purchasing. A high building activity level is good for the City and needs to be encouraged.

Tiffany Rhodes, echoed comments from other speakers, has a 4-unit beach area property and urges that the City work with residents, local architects and designers to find solutions that will be creative and give more flexibility.

Matthew Gorman, attorney for Coastal Zone Coalition, recognizes progress but the City recommendation does not go far enough, referencing his letter, he stated: 1) Certainty, streamlining is needed for the development process; 2) A study session should be held with architects, designers etc. to develop good solutions 3) Solutions should advance options that would allow development to full potential; and 4) Regulations should allow owners to have same footprint, options for uses as other new construction; and 5) RHNA housing allocations should be taken into consideration.

William Victor, attorney and resident, owns a beach area triplex, complimented staff but agrees with suggestion to have a community meeting to discuss options before the next step is taken; feels the impacts are a “taking” without due process and feels insufficient time has been given to study the staff recommendations.

Harry Abby, doesn’t see how the staff recommendation will benefit owners of 4-plexes on 30 x 90 beach lots; it seems ironically that multifamily zones are able to provide fewer units than single family zones and suggested allowing one ADU per multifamily unit.

Kim Komick, agreed with others that staff should seek input from local professionals, currently the situation due to much uncertainty is resulting in a chaotic situation for people buying and selling; asked, if the main issue is to have more units overall in the City, can housing replace vacant offices, can variances be granted in unbuildable situations?

Anthony Laney, licensed architect, has studied this issue and finds the open space requirement surprisingly impactful; has several clients with nonconforming properties who are much impacted and he would like to assist the City.

Jeremy Shelton, real estate agent, has a client with a 33 x 100 beach lot whose triplex’s value has decreased from 5 to 3.5 million dollars. The client cannot build two ADUs and is afraid the property has been effectively condemned.

David Balfour, many years has owned a beach area triplex on 13th Street is retiring this year and was relying on his property for funding; feels, like many others, that his property rights are being taken away as options available for over 30 years no longer exist; urged that the City try to preserve property value and construction options.

COMMISSION DISCUSSION

There being no more speakers, **Chair Morton** made introductory remarks, noting that the “no net loss” (SB 330) provision came from Sacramento; the City is trying to provide flexibility and assistance to mitigate its challenges. SB 330 was effective January 1, 2020 and after 5 years, unless extended, will automatically expire. December 15, 2020 is a key date when the City’s urgency ADU ordinance will expire; it will now be at least mid-January before a replacement ordinance can become effective. If this is to be studied more, there will likely be months in which owners will have no relief from the state requirement; the Commission is trying to work as quickly as possible.

At 3:12 the Chair called for a brief break; the Commission reconvened at 3:15 and the Chair opened the floor for Commission discussion.

Commissioner Thompson, agreeing the timeline is important, inquired as to the possibility of creating an exception of waiver process for a category of situations such as very small parcels in high density areas where additional units cannot be created due to constraints.

Commissioner Burkhalter emphasized the task is to replace the Urgency ADU Ordinances by mid-December. The goal is to come up with options that could make the state ADU requirements work better for the City; believes that the options identified provide more flexibility for ADUs but cannot be expected to solve SB 330 issues, an entirely different problem. To address SB 330, a more granular study is needed, but there still will be no perfect solution for some sites.

Commissioner Fournier agrees – the ADU ordinance is more of a band aid and will not work as a replacement unit tool for the 178 triplexes and other parcels with four to seven units. This is ironic in that the City has long worked to decrease density and now the state is mandating increasing it, and while the state is being pro-development, for Manhattan Beach, development is being stifled. While these 178 lots, out of a total of 15,000 houses, may not seem significant, in terms of property value it’s enormous. He is interested in getting staff input on whether the City can designate certain lots as an exception and believes a community effort, requested by speakers will be informative and will help him make a decision, instead he likely will pass, not being able to see a clear solution.

Commissioner Ungoco apologized for missing the last session but has watched the meeting and is up to speed. He wouldn’t be averse to discussing a possible exception process.

Chair Morton believes the staff ADU proposal provides some flexibility in meeting the “no net loss” requirement while still being able to build a decently sized home. Modifying standards such as the open space requirement has much larger implications, established after years of careful study; would like to see the Commission get at least the ADU code written and advanced to the Council so property owners can avail themselves of the flexibility as soon as possible. The City can meanwhile convene stakeholders and continue to look at other code issues.

Commissioner Fournier asked whether the intent was to separate the issues (ADU permanent standards/SB 330 impacts, including building codes). **Director Tai** explained that this effort is not about changing building codes and the primary purpose of this effort is to replace the Urgency ADU Ordinance with permanent regulations, but in doing so, some of the discussion has naturally been informed by SB 330 and its effect. A replacement ADU ordinance can be in effect in mid-January. She has seen a shift in these study sessions, from using ADUs as a primary tool in addressing SB 330, toward a much broader discussion involving basic standards. Stakeholder discussions would be good conversations to have - on one hand would further understanding of SB 330 challenges, but on the other hand, it should be recognized that in such compact situations as the beach districts, compliance with standards has long been a challenge and is not a new issue.

Commissioner Fournier noted that if the City does not look more carefully now at SB 330 it will be a missed opportunity to address resident issues. **Chair Morton** stated his concern that discussion of changing important standards would be very contentious, questions that going down that path is beyond the Commission’s mandate and, if the City does not act timely regarding ADUs, the City would have to adopt another urgency ordinance to avoid applying state codes by default and the state requirements would be far more restrictive. **Commissioner Thompson** indicated readiness to proceed with a public hearing on a draft ADU ordinance but would also like to direct staff to look into a waiver process.

Commissioner Burkhalter opined that the ADUs and SB 330 issues should be separate - while there is overlap, there are distinctions, and the staff proposal would adapt the state ADU code without being counterproductive or limiting. If a community discussion is convened, the effort which involves very hard work - should try to get at exactly what it is in the code that prevents an owner from doing what they want. **Chair Morton** reiterated his opinion that staff ADU proposals are ready to be acted on and suggested that, if a pathway is to be created for an exception, that it be a ministerial, not discretionary approval process.

It was moved by **Commissioner Thompson** that that Staff be directed to schedule a public hearing on proposed amendments to the Zoning Ordinance incorporating ADU/JADU standards as discussed in study sessions.

Commissioner Burkhalter stated he would second the motion, upon clarification as to the minimum JADU square footage.

Assistant City Attorney Kearns stated that state ADU law refers back to the Building Code which refers back to state code which sets it at 220 sq. feet unless a local ordinance is adopted that reduces the minimum to as low as 150 sq. feet. In Manhattan Beach the minimum is 220 square feet by default as there is no local ordinance allowing smaller. If there is interest, the City could consider adopting such an ordinance allowing less than 220 square feet but it should be noted that if this is done, this would affect operation of the ADU ordinance.

Commissioner Burkhalter seconded the pending motion, subject to this clarification.

Director Tai informed that, reducing the size of an efficiency unit to less, e.g. 150 square feet would have ramifications on as to sharing of bathroom facilities. Staff can provide information regarding the ramifications of such a change when the draft ordinance is brought to the Commission.

Roll Call:

Ayes:	Burkhalter, Thompson, Ungoco, Chairperson Morton,
Noes:	Vice Chair Fournier
Absent:	None
Abstain:	None

Director Tai announced the motion passes 4-1; Staff anticipates bringing the draft ordinance to the Commission in late October; this timeframe is based on the need to have the ordinance fully drafted concurrent with the public notice.

Discussion ensued on the feasibility of creating a “carve out” in the code to help owners meet the “no net loss” requirement. **Director Tai** noted staff would need to understand fully what is needed, which standards work as constraints and what criteria should apply - many details are needed. The City has Variance and Minor Exception provisions that provide flexibility - variances provide code relief in very unusual circumstances based on specific findings, and a variety of Minor Exceptions are available which provide flexibility in certain situations code deviations are relatively minor. Staff could look to see if it’s feasible to have an exception probably applicable to smaller sites that have a high density or which are nonconforming, and talk with individuals and hopefully come up with a menu of items that can be done.

Assistant City Attorney Kearns affirmed that the City cannot waive the “no net loss” requirements as that is state law – but potentially the City, case-by-case, could ease a property owner’s burden by modifying local zoning standards.

Commissioner Thompson clarified that he was not suggesting a waiver from the state law, rather from local zoning specifications when it can be shown that the standards prevent building back the same number of units. **Commissioner Burkhalter** agreed with such approach, adding that the basic concept of “no net loss” will be at play soon in a larger city-wide context when the Commission reviews the Housing Element. While under SB 330 an individual owner cannot offset a loss of units if new units are built elsewhere in the City, offsets can be considered in the Housing Element in accommodating its RHNA allocation.

Brief discussion was held regarding setbacks. **Director Tai** clarified for **Commissioner Ungoco** that the proposed reduction of building separation yard from 10 to 5 feet is not expected to help small parcels (e.g. El Porto half-lots); more flexibility will be provided in being able to build an attached ADU, which eliminates the need for a building separation yard. **Director Tai** confirmed that nonconforming setbacks can be a constraint in that such setbacks may be required to be enlarged with new construction, while pointing out that such has been a common situation that pre-existed SB 330.

I. DIRECTOR'S ITEMS

Director Tai reported that the City is continuing to support business owners to facilitate operating outdoors consistent with public health guidelines. Salons and barbershops are now able to operate indoors at 25% capacity but restaurants still cannot serve indoors. Council has extended or is in the process of extending outdoor dining permits that are located in the north end and downtown to January 15, 2021 and Staff is working with operators on agreement extensions.

J. PLANNING COMMISSION ITEMS

Vice Chair Fournier inquired as to the code enforcement process for code violations. **Director Tai** informed that residents can report code violations by emailing: code@citymb.info (most efficient) or call 310-802-5518. The City will investigate and take appropriate action; ultimately a fine can be issued starting at \$250 and could be as much as \$1,000.

K. TENTATIVE AGENDA – September 23, 2020

Chair Morton noted that there are no items scheduled at this time.

L. ADJOURNMENT TO – The meeting was adjourned at 7:15 p.m. to Wednesday, September 23, 2020 at 3:00 P.M. via Zoom/virtual format.

ROSEMARY LACKOW
Recording Secretary

GERRY MORTON
Chairperson

ATTEST:

Carrie Tai, AICP
Community Development Director