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RESOLUTION NO. PC 14-09

**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.

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

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

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

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

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

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

18 Policy LU-6.2: Encourage a diverse mix of businesses that support the local tax base,
19 are beneficial to residents, and support the economic needs of the
20 community.

21 Policy LU-6.3: Recognize the need for a variety of commercial development types and
22 designate areas appropriate for each. Encourage development
23 proposals that meet the intent of these designations.

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

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

29 Policy LU-7.2: Encourage the use of the Downtown Design Guidelines to improve the
30 Downtown's visual identification as a unique commercial area.

31 Policy LU-7.3: Support pedestrian-oriented improvements to increase accessibility in
32 and around Downtown.

33 Policy LU-7.4: Encourage first-floor street front businesses with retail, restaurants,
34 service/commercial, and similar uses to promote lively pedestrian
35 activity on Downtown streets, and consider providing zoning
36 regulations that support these uses.

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

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

42 4. *The proposed use will not adversely impact nor be adversely impacted by nearby properties.*
43 *Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration,*
44 *odors, resident security and personal safety, and aesthetics, or create demands exceeding*
45 *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.

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

3 **Commercial Operational Restrictions**

- 4 10. The subject site may include up to 1,611 square feet of handmade artisanal food manufacturing
5 space, and 290 square feet of food and beverage sales space to be limited to the ground floor
6 storefront area. On-site consumption of food or beverages within or adjacent to the food and beverage
7 sales space shall be prohibited, except for sampling of food products, which is permitted as determined
8 by the Community Development Director.

- 9 11. Food and beverage sales or retail use shall be limited to operating hours of 6am to 10:30pm daily.
10 Manufacturing operations shall be limited to operating hours of 8am to 6pm daily

- 11 12. Alcohol sales and entertainment on the property shall be prohibited.

- 12 13. Parking shall be provided in conformance with the current Manhattan Beach Municipal Code. A
13 maximum of two Downtown parking permits may be provided toward required parking.

- 14 14. The management of the property shall police the property and all areas adjacent to the business
15 during hours of operation to keep it free of litter and debris.

- 16 15. On-site trash storage, with adequate capacity for refuse/recycling and accessibility for routine pick-
17 up, shall be provided on the site subject to the specifications and approval of the Public Works
18 Department, Community Development Department, and City's waste contractor. A trash and
19 recycling plan shall be provided as required by the Public Works Department. No refuse generated
20 at the subject site shall be located in the public right-of-way for storage or pick-up.

- 21 16. All signs shall be in compliance with the City's Sign Code. Pole signs and internally illuminated
22 awnings shall be prohibited. A sign program shall be submitted to the Community Development
23 Department for review and approval prior to occupancy.

- 24 17. Any outside sound or amplification system or equipment is prohibited.

- 25 18. Operations shall remain in compliance with all Fire and Building occupancy requirements at all
26 times.

- 27 19. The Fire Department Connection (FDC), fire suppression valve, and related equipment shall be
28 incorporated into the design of the project and screened from off-site views to the extent reasonably
29 possible.

- 30 20. The operators of the facility shall provide adequate management and supervisory techniques to
31 prevent loitering and other security concerns outside the subject businesses.

- 32 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,
23 unless implemented or extended pursuant to 10.84.090 of the Municipal Code and the standards set
24 forth by the City's Local Coastal Program.

- 25 Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c),
26 the project is not operative, vested or final until the required filing fees are paid.

- 27 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: Andreani, Bordokas, Conaway, Hersman, Chairman Ortmann

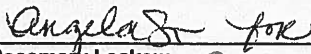
NOES: None

ABSTAIN: None

ABSENT: None



RICHARD THOMPSON
Secretary to the Planning Commission



Rosemary Lackow
Recording Secretary 