

RESOLUTION NO. PC 25-XX

A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION APPROVING A USE PERMIT TO ALLOW FOR A CHANGE OF USE FROM FOOD AND BEVERAGE SALES TO EATING AND DRINKING ESTABLISHMENT (RESTAURANT) WITH INDOOR AND OUTDOOR SEATING AND HOURS OF OPERATION FROM 7:00 A.M. TO 9:00 P.M. DAILY AT AN EXISTING COMMERCIAL BUILDING LOCATED AT 904 MANHATTAN AVENUE #1 AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE MANHATTAN BEACH PLANNING COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. On January 7, 2025, Mark Wain (“Applicant”), on behalf of Caffè Luxxe, applied for a use permit to allow a change of use from Food and Beverage Sales to Eating and Drinking Establishment with hours of operation from 7:00 a.m. to 9:00 p.m. daily (“Project”) located at 904 Manhattan Avenue #1 (“Tenant Space”).

SECTION 2. As defined in the Manhattan Beach Local Coastal Program (“LCP”), the existing use is classified as food and beverage sales and the proposed use is classified as an eating and drinking establishment.

SECTION 3. The Tenant Space is within a multi-tenant commercial property located at 904 Manhattan Avenue (“Property”). The Project is specific to the Tenant Space and does not affect other uses previously approved at the Property unless specifically stated herein.

SECTION 4. Use permits are governed by Chapter A.84 of the LCP. Section A.84.010 specifies that, “[U]se permits are required for use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.” The Applicant’s request to change the use of the tenant space to eating and drinking establishment within the Downtown Commercial (CD) zoning district, in which the Property is located, requires a Use Permit per LCP Section A.16.020.

SECTION 5. On July 9, 2025, the Planning Commission conducted a duly noticed public hearing to consider the Project, during which the Planning Commission received a presentation by staff and testimony from the Applicant and provided an opportunity for the public to provide evidence and testimony. The Planning Commission also received and reviewed written testimony received by the City prior to the public hearing.

SECTION 6. The Planning Commission finds that the Project qualifies for a Categorical Exemption from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15301 (Existing Facilities), which is a Class 1 exemption. The request is to change the use of an existing facility from food and beverages sales to eating and drinking establishment with the addition of both indoor and outdoor seating. The proposed change in operations would be a negligible expansion of the existing use. There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances.

SECTION 7. The record of the public hearing indicates:

- A. The legal description of the Property is: Lots 4 and 5, Block 69 of Manhattan Beach Tract, in the City of Manhattan Beach. The Property is located in Area District III and is zoned Downtown Commercial (CD), with a General Plan land use designation of Downtown Commercial. The Property is within the non-appealable portion of the City’s Coastal Zone, and surrounding properties are zoned CD to the north, south and west, and Medium-Density Residential (RM) to the east.
- B. The use is conditionally permitted in the CD zoning district subject to a use permit and is in compliance with the City’s General Plan designation of Downtown Commercial. The General Plan encourages the Downtown Commercial land use category to provide “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.”
- C. The Applicant is requesting approval of a use permit for the following use:

1. An eating and drinking establishment use with both indoor and outdoor seating and hours of operation from 7:00 a.m. to 9:00 p.m. daily

- D. The Project is consistent with the following General Plan goals and policies, as described in the staff report prepared for the Project:

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

The viability of commercial areas depends on a range of factors, including having various types of services and restaurants. The proposed eating and drinking establishment use will continue to offer a coffee shop option to the community and visitors to support the Downtown commercial businesses.

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

Allowing the existing establishment to change to an eating and drinking establishment use to increase their amount of indoor and outdoor seating enhances the viability of the business. Many other existing eating and drinking establishments in the Downtown provide both indoor and outdoor seating, and the applicant's request would be consistent with such uses.

Land Use Plan 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.

Downtown Manhattan Beach has a mix of restaurants and services. The addition of both indoor and outdoor seating could attract more patrons to the eating and drinking establishment. Eating and drinking establishments are required to collect sales tax, a portion of which goes back to the City.

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

Downtown Manhattan Beach has a variety of commercial uses including, but not limited to, coffee shops, restaurants, and retail stores. As proposed, the eating and drinking establishment is complimentary to these uses, as patrons may visit other Downtown businesses, thus contributing to the economic vitality of Downtown Manhattan Beach.

Land Use Plan 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.

The existing use is a first-floor food and beverage sales use, with the business's façade facing a commercial corridor (Manhattan Avenue) in the heart of Downtown Manhattan Beach. The establishment proposes to maintain that orientation and further activate their frontage by adding outdoor seating. The proposed eating and drinking establishment use will be open during daytime and evening hours, encouraging pedestrian activity.

SECTION 8. Based upon substantial evidence in the record, and pursuant to Section A.84.060 of the LCP, the Planning Commission hereby makes the following findings related to the Use Permit:

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 for the following reasons:

The tenant space is currently permitted as a food and beverage sales use on the first floor within an existing commercial building in the CD zoning district. The applicant is proposing to change the use to an eating and drinking establishment in order to provide additional indoor and outdoor seating for customers. As stated in LCP Section A.16.020, an "Eating and Drinking Establishment" use is permitted through a Use Permit in the CD zoning district. There are no existing use permits for this tenant space or overall site. The applicant proposes to establish an eating and drinking establishment use as the primary use at the tenant space; however, the proposal to add indoor and outdoor seating does not alter the primary use of the tenant space or the overall site.

2. The proposed location of the use and the proposed conditions under which the uses 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 uses; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city for the following reasons:

The General Plan encourages a “vibrant downtown” that offers “services and activities for residents and visitors.” The Property’s General Plan land use designation is Downtown Commercial, and eating and drinking establishment uses are consistent with the intended mix of uses in the district. The Project is compatible with neighboring uses, as neighboring lots to the north, south, and west are developed with commercial uses, and the tenant space has no frontage adjacent to the residential uses to the east. Furthermore, the Project was reviewed by the Building & Safety Division and the Public Works Department, neither of which raised objections or concerns. Therefore, with the proposed conditions of approval, the Project will not be detrimental to the public health, safety or welfare of persons residing or working on the 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 requested operational change described above (the addition of indoor and outdoor seating) does not result in a significant intensification of use because the site will continue operating similarly to how it has been under the current land use classification of food and beverage sales. Additionally, the existing tenant space is on a commercial street and would operate in a similar manner to other eating and drinking establishments in the vicinity, and conditions of approval, including conditions regarding hours of operation and operational standards have been proposed to address any potentially adverse impacts.

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

The Project proposes a change of use to an existing tenant space from food and beverage sales to eating and drinking establishment. Per LCP Section A.16.020, the CD zoning district allows “Eating and Drinking Establishment” uses, which includes sit-down restaurants, through the approval of a use permit.

The project scope is limited to allowing a greater quantity of indoor and outdoor seating area than is permitted under the existing use of food and beverage sales. Conditions of approval have been proposed which will enable the Commission to make the required findings for a Use Permit and serve as the governing entitlement for the development and operation of the use at the subject site.

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 for the following reasons:

The proposed use is located in an existing multi-tenant commercial building along Manhattan Avenue and is compatible with uses surrounding the site, which primarily include commercial uses. Project characteristics related to parking, noise, vibration, odors, security, personal safety, and aesthetics were addressed in the original project design and prior tenant improvements. Further, there is no physical expansion of the tenant space or building proposed and the Project is limited to the addition of indoor and outdoor seating, and expanded hours of operation. Project characteristics related to noise, odors, security, personal safety, and aesthetics are addressed in the project design, Municipal Code requirements, and proposed conditions of approval. Furthermore, the use will not create demands exceeding the capacity of public services and facilities.

SECTION 9. Based upon the foregoing, the Planning Commission hereby **APPROVES** the Project, subject to the conditions below.

General

1. The Project shall be in substantial conformance with the plans and project description submitted to, and approved by, the Planning Commission on July 9, 2025, as amended by these conditions. Any substantial deviation from the approved plans and project description, as conditioned, shall require review by the Community Development Director to determine if approval from the Planning Commission is required.
2. Any questions of intent or interpretation of any condition will be reviewed by the Community Development Director to determine if Planning Commission review and action is required.

3. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purpose of revocation or modification in accordance with the requirements of LCP Section A.84.090(D) Chapter 10.104 of the Manhattan Beach Municipal Code ("MBMC"). Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
4. Future modifications and improvements to the site shall comply with all applicable Planning Division, Building Division, Public Works, Waste Management, Fire Department, and Health Department regulations.
5. The Project shall be operated in conformance with all applicable provisions of the MBMC, LCP, and this use permit.
6. No refuse generated at the subject site shall be located in the Public Right-of-Way for storage or pick-up, including the disposal of refuse in any refuse container established for public use. All refuse shall be stored within the approved trash enclosure area.
7. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m. daily.
8. Noise emanating from the Property shall be within the limitations prescribed by the City's Noise Ordinance at all times, as specified in Chapter 5.48 of the MBMC, and shall not create a nuisance to nearby residents and property owners.

Procedural

9. Terms and Conditions are Perpetual; Recordation of Covenant. The provisions, terms and conditions set forth herein are perpetual, and are binding on the owner, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the owner shall submit the covenant, prepared and approved by the City, indicating its consent to the conditions of approval of this Resolution, and the City shall record the covenant with the Office of the County Clerk/Recorder of Los Angeles. Owner shall deliver the executed covenant, and all required recording and related fees, to the Community Development Department within 45 calendar days of receipt of a signed copy of this Resolution. Notwithstanding the foregoing, the Director may, upon a request by owner, grant an extension to the 45-day time limit. The Project approval shall not become effective until the covenant is recorded.
10. Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City. The operator and owner (operator/owner) shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. The operator/owner shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify the operator/owner of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify the operator/owner of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, the operator/owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. The operator/owner shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require the operator/owner to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. The operator/owner shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 10. The Planning Commission's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 11. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Chapter 10.100 have expired and all relevant conditions contained herein have been satisfied.

SECTION 12. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the Applicant. The Secretary shall make this resolution readily available for public inspection.

SECTION 13. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to A.84.090 of the LCP.

July 9, 2025

Jim Dillavou
Planning Commission Chair

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on **July 9, 2025**, and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Adam Finestone
Secretary to the Planning Commission

Tatiana Maury
Recording Secretary