

RESOLUTION NO. 17-0065

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL
APPROVING A USE PERMIT ALLOWING THE EXPANSION OF AN
EXISTING RETAIL USE THAT WOULD RESULT IN A RETAIL SPACE
OVER 1,600 SQUARE FEET OF BUILDABLE FLOOR AREA AT 1115,
1117, 1121 MANHATTAN AVENUE (SKECHERS USA, INC)

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DETERMINES AND
RESOLVES AS FOLLOWS:

SECTION 1. Skechers USA, Inc. (Applicant) has submitted an application for a Use Permit for the properties located at 1115, 1117 and 1121 Manhattan Avenue (Subject Property). The Applicant seeks approval to combine its existing retail space (1117 and 1121 Manhattan Avenue) with a vacant neighboring retail space located at 1115 Manhattan Avenue, thereby creating a larger single retail space of 4,829 square feet in buildable floor area) (the Project). The Subject Property is located in Area District III and is zoned CD, Downtown Commercial. The properties to the north, east, and south are also zoned CD, Downtown Commercial. The property to the west is zoned PS, Public and Semi-Public. The subject property is classified Downtown Commercial in the Manhattan Beach General Plan.

SECTION 2. The existing and proposed retail use is a permitted use in the Downtown Commercial (CD) zone. However, on July 5, 2016, the City Council adopted Interim Ordinance 16-0009-(the Downtown IZO), requiring a use permit for any new retail space exceeding 1,600 square feet of Buildable Floor Area (BFA). The Council thereafter extended the Downtown IZO. As stated in Section 1, the proposed retail space will exceeds 1,600 square feet of BFA. Accordingly, a Use Permit is required.

SECTION 3. On March 29, 2017, the Planning Commission conducted a duly noticed public hearing to consider the Project. After the public hearing was closed, the Commission adopted Resolution No. PC 17-02 conditionally approving the Project. The Planning Commission's decision was timely appealed by Martha Andreani.

SECTION 4. On June 6, 2017, the City Council conducted a duly noticed public hearing *de novo* to consider the Project. Evidence, both written and oral, was presented to the Council. All persons wishing to address the Council regarding the Project were given an opportunity to do so at the public hearing. Speakers spoke in favor and in opposition to the Project.

SECTION 5. The Project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines because it is a minor alteration within an existing facility and will not significantly expand any use.

SECTION 6. The project will neither individually nor cumulatively have an adverse effect on wildlife resources, as defined in Fish and Game Code Section 711.2.

SECTION 7. Pursuant to the City's Local Coastal Program, A.96.050, a Coastal Development Permit is not required for the proposed Project because the proposed work is a tenant improvement in an existing commercial building that does not change the use or intensity of the structure.

SECTION 8. Based upon substantial evidence in the record presented at the public hearing, and pursuant to MBMC Section 10.84.060 and state law, the City Council hereby finds:

- 1. The Project and its proposed location is in accord with the objectives of the Zoning Code, the purpose of the district (Downtown Commercial) in which the site is located, and is consistent with the General Plan.**

The Subject Property is zoned Downtown Commercial, and its General Plan land use designation is Downtown Commercial. The expanded Skechers store is a commercial retail sales use, and one of the key uses that make up the Downtown Commercial district. The expanded retail footprint of the Skechers storefront would complement existing Downtown Manhattan Beach retailers. The proposed location of the use and the proposed conditions under which it will be operated or maintained will be consistent with the General Plan because the Subject Property is classified as Downtown Commercial, which allows for a diverse mix of complementary commercial uses. Specifically, the Project is consistent with the following Goals of the General Plan:

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal LU-5: Encourage high quality, appropriate private investment in commercial areas of Manhattan Beach.

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

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

The proposed expansion of the retail sale of shoes and related sportswear is compatible with surrounding uses and the neighborhood, poses no detrimental effects to the public health, safety, or welfare of persons residing or working on the Subject Property, or to the adjacent or neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare. The subject property is located in a multi-tenant commercial area, which includes Mangiamo Ristorante & Bar (128 Manhattan Beach Boulevard) and a vacant tenant space (1113 Manhattan Avenue) formerly occupied by Lucky Brand Jeans.

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

The proposed expansion of an existing commercial retail use complies with applicable provisions of the Downtown Commercial Zone. Retail sales is a permitted use in the Downtown Commercial (CD) zone and the expanded Skechers store will comply with the applicable development regulations under Municipal Code 10.16.030. Further, as discussed below, the expanded Skechers store will comply with the specific conditions required under Interim Zoning Ordinance 16-0013-U.

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

Skechers' proposed retail expansion will not adversely impact neighboring properties, as the expansion space was occupied by a retail use (interior design services and furniture sales), and thus does not constitute an intensification of use. Skechers has mitigated the aesthetic impacts of its enlarged space by providing three different façade treatments on the Manhattan Avenue frontage. Skechers' unique design for the Manhattan Avenue frontage visually breaks up the single façade into what looks like three separate and distinct storefronts, maintaining consistency with the Downtown District's village-like scale and existing Downtown retail stores.

SECTION 9. Pursuant to the Downtown Interim Zoning Ordinance, the City Council further finds:

- 1. The proposed use will maintain and enhance the residential quality of life for the Manhattan Beach community.**

The expanded Skechers store will maintain the residential quality of life for the community, as there is no intensification of use. The proposed expanded retail use is replacing another retail use. The use will also enhance the residential quality of life for the community because it provides a broader range of products for Manhattan Beach residents. Because the Subject Property is more than 150 feet away from the nearest residential property, its operations will have no detrimental impact on the quality of life for residents.

- 2. The proposed use would preserve and enhance the safe, attractive, pedestrian-friendly small town atmosphere and a sound economy.**

The proposed project helps preserve the Downtown's small town atmosphere by employing a thoughtful design that complements the existing scale of neighboring storefronts and buildings. The proposed Project's design is clean, attractive, and pedestrian oriented. Furthermore, the proposed Project contributes to the Downtown's sound economy by having a proven, successful business expand its footprint in order meet the needs of its customers.

- 3. The proposed use is consistent with the Downtown Design Guidelines.**

The proposed use is consistent with the 1998 Downtown Design Guidelines. Further, it

meets or exceeds the Design Guidelines in the 2016 Downtown Specific Plan, adopted by the City Council and awaiting Coastal Commission action. The proposed store has pedestrian-oriented facades with attractive architectural features, including two well-defined store entries. The Project's Manhattan Avenue façade has been broken up into three distinct styles that make the larger store look like three smaller stores, helping to maintain the existing rhythm of smaller store fronts and a village feel. Additionally, as a key corner location on two major streets in the Downtown, a larger more prominent retail tenant space is consistent with both the existing 1998 Guidelines and the 2016 Guidelines. In addition, the proposed Manhattan Avenue facade exceeds the minimum 70% transparency set forth in the Downtown Specific Plan. Skechers has also agreed to provide elements of visual interest on the Manhattan Beach Boulevard façade.

4. The proposed use will contribute to a balance of mix of uses, which serves the needs of both local and nonlocal populations.

Skechers has maintained a retail presence in Downtown Manhattan Beach since June 1995, and the proposed expansion will continue to ensure that the Downtown has a strong mix of retailers in a climate where retailers are shrinking their footprints or closing stores altogether. Skechers is one of a few stores in the Downtown that is primarily focused on selling shoes, and Skechers sells a tremendous variety of shoes at several different price points that appeal to a wide cross section of local and non-local customers.

SECTION 10. Based upon the foregoing, and after considering all of the evidence in the record, the City Council hereby **APPROVES** the Use Permit for an expansion of Applicant's existing retail space (1117 and 1121 Manhattan Avenue) to include the neighboring retail space located at 1115 Manhattan Avenue, thereby creating a larger single retail space of 4,829 square feet BFA, subject to the following conditions:

Operational

1. The project shall be in substantial conformance with the plans and project description submitted to, and approved by, the City Council on June 6, 2017. Any substantial deviation from the approved plans or project description shall require approval from the City Council. A reconfiguring of the sales-floor area that does not result in a net gain of sales floor area will not be considered a substantial deviation from the approved plans and project description, and will not require the approval of the City Council.
2. Applicant shall maintain three separate façade treatments along its 70 foot Manhattan Avenue frontage so that it appears as three separate, distinct storefronts. Each façade along Manhattan Avenue shall have a unique architectural style, subject to the satisfaction of the Community Development Director.
3. Skechers shall submit plans for a local public art piece that provides visual interest on the large, blank Manhattan Beach Boulevard façade, subject to review of the Cultural Arts Commission and to the satisfaction of the

Director of Community Development consistent with the design guidelines of the Downtown Specific Plan.

4. Televisions or similar electronic displays shall not be allowed to be displayed in store windows.

Building Department

5. All construction shall comply with the California Codes, including: 2016 Uniform Building Code, 2016 Uniform Mechanical Code, 2016 Uniform Plumbing Code and 2016 Electrical Code.

Procedural

6. The Applicant shall cooperate with the Department of the Community Development in its conduct of periodic reviews for compliance of conditions of approval.
7. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of the Use Permit.
8. *Indemnity, Duty to Defend and Obligation to Pay Judgments, Awards of Attorney Fees and Defense Costs, Including Attorneys' Fees, Incurred by the City.* Applicant 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. 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, including any award of attorney's fees. The City shall promptly notify Applicant of any claim, action, or proceeding and the City shall reasonably cooperate in the defense, however, cooperation does not include the City having to take any action or make any decision that the City does not believe, in the exercise of its good faith judgment, is in its own best interest, and cooperation shall not be construed in a manner that requires the City to exercise its discretion in a particular manner. If the City fails to promptly notify Applicant of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, Applicant 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. Applicant shall reimburse the City, and the other Indemnitees, for any and all legal expenses, fees, and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Condition 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 approval,

the City shall estimate its expenses for the litigation. Applicant shall deposit that amount with the City for the payment of such expenses as they become due. Applicant shall replenish the deposit as necessary based upon notice by the City.

SECTION 11. The City Council'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 12. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the requiring filing fees are paid. This Use Permit shall lapse two years after its date of approval, unless implemented or renewed pursuant to Municipal Code Section 10.84.090.

SECTION 13. The time within which judicial review, if available, of this decision must be sought is governed by California Code of Civil Procedure Section 1094.6, unless a shorter time is provided by other applicable law. The City Clerk shall mail by first class mail, postage prepaid, a certified copy of this Resolution and a copy of the affidavit or certificate of mailing to Skechers, Martha Andreani and any other persons or entities requesting notice of the decision.

SECTION 14. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED on June 6, 2017

AYES:
NOES:
ABSENT:
ABSTAIN:

DAVID LESSER
Mayor

ATTEST:

LIZA TAMURA
City Clerk