

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Anne McIntosh, Director of Community Development 

THROUGH: Laurie B. Jester, Planning Manager

BY: Ted Fatusos, Assistant Planner 

DATE: February 28, 2018

SUBJECT: Consideration of Amendments to the Municipal Code and Local Coastal Program (LCP) Related to Residential Condominium Standards.

RECOMMENDATION:

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **ADOPT** the attached draft resolution recommending that the City Council adopt Municipal Code and Local Coastal Program (LCP) Amendments to address residential condominium standards which require that condominiums consisting of two units on a single lot be of approximately equal size and age, and related amendments (Draft Resolution PC 18-XX- Attachment A).

BACKGROUND:

On October 18, 2016, the City Council directed the Planning Commission to schedule a hearing on a municipal code and Local Coastal Program (LCP) amendment to address residential condominium standards which require that condominiums consisting of two units on a single lot be of approximately equal size and age. The applicant who proposed the amendments is property owner and resident Chris Carey. Staff has spent considerable time researching the implications of the applicant's request, crafting alternative code language to address staff's and the applicant's concerns, and also researching and drafting other amendments to the residential condominium standards that are unrelated to the applicant's request.

The purpose of the most significant recommended code amendment is to eliminate an outdated requirement that both units in a two unit condominium development be of the "same age". The "same age" rule was adopted in 1980 to better regulate condominium conversions before comprehensive condominium conversions standards were adopted and incorporated into the current code. The "same age" rule prohibits one of the two condominium owners in a two unit condominium development from redeveloping their unit, since a new condominium replacing the existing structure would not be of the "same age" as the remaining unit on the lot. Staff recommends eliminating this obsolete rule and to adopt other code amendments related to condominiums (Attachment B).

DISCUSSION

The Residential Condominium Standards (MBMC 10.52.110/LCP A.52.100- Attachment C) state:

All residential condominiums consisting of two (2) units on a single lot which is to be owned in common shall be developed with units which are approximately equal in size and age. In no case shall the difference in enclosed floor space used for living purposes be assigned to one (1) unit which is more than fifty-five percent (55%) of the total floor space assigned for both units, unless the smaller of the two (2) units exceeds one thousand eight hundred (1,800) square feet.

Under this statute, the owner of one of the two condominiums on a lot cannot demolish and rebuild their condominium because the resulting two units would not be “equal in size and age”, as one of the units would be new and the other existing unit would be the original age. This rule does not apply to lots that have three or more condominiums on site, as the “same age” rule only applies to two unit condominium developments.

The applicant owns a condominium zoned RM, Area District III (Coastal Zone), located at 132 Marine Avenue, and would like to demolish his detached condominium and build a new three-story structure that would be required to conform to all required zoning regulations except for the “same age” rule. The applicant is prohibited from demolishing and rebuilding his condominium because of the code’s “size and age” rule described above. The applicant proposed to the City Council a Zoning Text Amendment and a Local Coastal Program (LCP) Amendment that would carve out an exception to the “size and age” rule for condominiums that meet a narrow set of requirements. The City Council accepted the applicant’s request for staff to research the implications and feasibility of the applicant’s proposal, and for staff to bring the applicant’s proposal with staff’s findings before the Planning Commission. Staff has spent significant time analyzing the origins of the language the applicant proposes to change, and agrees with the applicant that “the size and age” rule should be changed, with staff proposing language that eliminates the requirement that both units in a two unit condominium development be of the same age. Staff’s proposed language is different than the applicant’s original proposed text, but the applicant has had time to review staff’s proposed language and has endorsed staff’s proposed language over the applicant’s original proposed amendment (Attachment D).

Condominium vs Townhouse

Using the word “condominium” instead of the word “townhouse” when discussing residential condominium standards is very important because condominiums have a range of characteristics that do not inherently define a townhouse, including but not limited to ownership rights, a governing body like a Homeowners Association, Covenants, Conditions, & Restrictions (CC&Rs), etc. The word “townhouse” is not defined in the code. Furthermore, the word “townhouse” does not describe subdivision status nor ownership rights that the word condominium helps to convey.

Many local realtors, residents, and condominium owners refer to condominium properties as “townhouses” without understanding that most “townhouse” style buildings in the City are condominiums, with characteristics like commonly owned areas and subdivided airspace that are defining features of a condominium development.

The code (MBMC 10.04.030 and LCP A.04.030) defines a condominium as

An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interior space in a residential, industrial or commercial building on the real property, such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of the real property.

The most common condominium developments that exist in the City are two unit condominium developments. The actual condominiums in a two unit condominium development can either be attached to or detached from one another, and are almost always built so that an individual condominium unit’s floorplan stacks vertically as to prevent a condominium unit from being physically on top of or beneath the other condominium unit.

Origins of the “Size and Age” Rule

Staff has spent significant time researching the City’s archives in an attempt to understand the logic behind the “same age” rule and why it was incorporated into the residential condominium standards. Staff has determined that the “same age” rule was specifically designed to address condominium conversions with the goal of trying to ensure parity between two apartments that were being converted into a two unit condominium development.

Starting in the early 1970’s, new condominium projects and condominium conversions of existing multi-unit properties started to be proposed in the City. The City’s first rules governing condominiums passed in May 1975 with the adoption of Ordinance 1417 (Attachment E). Over the next several years, the Planning Commission and the City Council spent a tremendous amount of time and resources studying condominium development and passed a series of ordinances that sought to better regulate condominiums. The late 1970’s in particular saw the beginning of the City implementing a more robust regulatory framework for condominiums which mirrored the increasing number of condominium projects being proposed in the City. According to Planning Commission and City Council minutes from the era reviewed by staff, there were about 100 condominium units built in the City by the late 1970’s, with about half of those 100 units consisting of apartments that were converted into condominiums.

The City Council first required that two unit condominium developments be “developed with units which are approximately equal in size” with the passage of Ordinance 1563 in July 1979 (Attachment F). The “equal in size” rule was aimed at ensuring that developers wouldn’t build two unit condominium developments that had units which were radically different in size. Policymakers wanted to prevent the scenario where one enormous condominium would occupy the vast majority of the lot, leaving only enough

space for a tiny condominium at the other end of the lot. Ordinance 1563 did not require that two on-a-lot condominiums be approximately the same age. The residential condominium standards enhanced by Ordinance 1563 only applied to new condominium developments, not to condominiums created by the conversion of apartments into condominiums.

In September 1980, the City Council passed Ordinance 1589 (Attachment G) that greatly strengthened the City's condominium regulations, and for the first time required that both units of a two unit condominium development be approximately the same age as well as size. The introduction of the "same age" rule should be understood in the greater context of Ordinance 1589, as the ordinance's new regulations applied to both new condominium developments and to condominium conversions. Policymakers were intent on creating a more concrete regulatory framework for condominium conversions with the goal of ensuring that both units being converted to condominiums were built to the same standard in order to create parity between the two units. Parity between two units on a lot could be more easily achieved if the structures were built around the same time and therefore had a similar amount of wear and tear. Someone wanting to convert two structures that were built decades apart into condominiums, however, would need significant additional upgrades to the older unit in order bring the older structure into parity with the newer structure. Requiring that two units be of the "same age" was an easy starting point to ensure parity between the two units that were slated for conversion to condominiums.

Staff has pinpointed the introduction of the "same age" rule to the February 27, 1980 Planning Commission meeting. The minutes from the Planning Commission meeting (Attachment H) specifically identify the "same age" rule as being targeted toward condominium conversions:

It was then noted the purpose of a conversion is to improve the existing structures that have been misused in the past as bootlegs and create affordable housing. Secretary Ordndorff pointed out some suggestions for conversions as follows: 1) Equal age and size of each unit...

The "Size and Age Rule" and the Applicant's Request

Staff believes that the "same age" rule should be eliminated. The applicant, whose initial proposed code amendment language was narrower than staff's recommended language, has endorsed staff's approach to eliminate the "same age" rule and modify the "size rule" for all two unit condominium developments.

Since the passage of Ordinances 1589 in 1980, the City's condominium regulations have changed drastically. The "size and age rule" code section has evolved into the following language that can be found in the code today:

All residential condominiums consisting of two (2) units on a single lot which is to be owned in common shall be developed with units which are approximately equal in size and age. In no case shall the difference in enclosed floor space

used for living purposes be assigned to one (1) unit which is more than fifty-five percent (55%) of the total floor space assigned for both units, unless the smaller of the two (2) units exceeds one thousand eight hundred (1,800) square feet.

The original point of the “same age” rule was to ensure parity between two units targeted for condominium conversion, yet the municipal code and the LCP currently have far more robust regulations governing condominium conversions than when Ordinance 1589 and the “same age” rule became law in 1980. In fact, an entire chapter of the current municipal code and the LCP are dedicated to condominium conversion standards (MBMC 10.88/LCP A.88- Attachment I). Current zoning requirements, such as open space and guest parking requirements, make it extremely difficult to convert older buildings to condominiums. The difficulty in converting apartments to condominiums is reflected in the fact that the City has not processed a condominium conversion request since at least the early 1980’s. Staff sees little if any logic in keeping an outdated rule that was designed for the condominium conversion process, as the City has fielded zero interest from local property owners in converting their duplexes into condominiums.

Staff believes that the “same age” rule is not just an antiquated provision that should be eliminated for the sake of tidying up the code, but is actually bad policy that is harmful to the property rights of homeowners who own a unit in a two unit condominium development. The “same age” rule ties the hands of condominium owners who want to replace their 40 or 50-plus year old buildings, many of which are nonconforming to today’s code. The “same age” rule prevents a new conforming condominium from being built and replacing an existing nonconforming condominium, unless the owner of the other condominium on the lot rebuilt their unit at the same time so both units would be approximately the same “age”. In other words, an owner wishing to rebuild his unit cannot do so unless both owners coordinate to rebuild their structures together at the same time (an extremely unlikely scenario). Staff cannot justify any public benefit gained from such a rule, and believes that the “same age” rule is a pointless obstacle to condominium owners wishing to replace their outdated and nonconforming units.

The “same age” rule also creates significant problems for planning staff when one of the owners of a two unit condominium development wants to do a complete remodel of their unit that involves significant structural alterations. Staff does not have a strong framework for determining at what point the amount of remodeling being proposed to one of the two condominiums on a lot crosses the threshold where the remodeled condominium is no longer of the same “age” as the other condominium on the lot. Staff has struggled during the plan check process to figure out how much remodeling and structural alterations could take place to the condominium before running afoul with the “same age” rule for a handful of condominium remodel plan check submissions in the last few years. The first round of two unit condominium developments from the 1970’s and 1980’s are strong candidates for significant remodels in the coming years, and eliminating the “same age” rule would free condominium owners to remodel and structurally alter their units without having to worry about an outmoded rule that was designed to address condominium conversions. Staff once again cannot find any public

benefit in preventing condominiums owners from significantly remodeling their units and believes the “same age” rule should be eliminated.

Staff’s Recommended Language- Size and Age

Staff recommends that the “same age” rule be eliminated. Condominium conversions are now far better regulated by the code’s Condominium Conversion Standards than by the “same age” rule. Staff proposes the following language, which the applicant has endorsed, to eliminate the “same age” rule and modify the “size rule”:

All residential condominiums consisting of two (2) units on a single lot which is to be owned in common shall be developed with units where the buildable floor area of either unit shall not exceed 55% of the maximum BFA allowed on the lot.

In addition to eliminating the “same age” rule, staff’s proposed language also modifies the “size rule” by not allowing one of the two condominiums to exceed 55% of the maximum buildable floor area allowed on the lot. As an example, a condominium would be capped at 2,376 square feet of BFA for on a typical 2,700 square foot RM Residential Medium-Density, Area District III lot under the proposed language. The 55% BFA cap is to ensure that one condominium doesn’t consume most of the available BFA on a lot, leaving only a limited amount of BFA on a lot for the other condominium and creating an enormous BFA disparity between the two units. Staff choose to cap BFA at 55% for one of the two condominiums on a lot after reviewing the plans for almost all two unit condominium developments that were built within the last 10 years (Attachment J). Of the 70 condominium units built within the last 10 years as part of two unit condominium developments, only a single unit exceeded 55% of the maximum BFA allowed on the lot. Staff believes that the 55% BFA cap is not arbitrary but is rather based on existing building norms in the City.

Staff’s Recommended Language Unrelated to the Applicant’s Request

Staff sees the revision of the “size and age rule” as an opportunity to fix other parts of the city’s condominium regulations that are unrelated and independent of the applicant’s request. Staff has outlined those regulations below:

Required Storage

The residential condominium standards currently require enclosed storage space for each condominium. The code states that “At least one hundred fifty (150) cubic feet of enclosed storage space shall be provided in the garage, or outside area if architecturally screened, for each unit.” Staff believes this language is vague and has contributed to confusion for architects. There have also been several instances where contractors have incorrectly built the required storage, requiring costly changes to remove and rebuild the required storage correctly. Staff proposes revising the language to better define potential locations of required storage with the aim of helping both architects and contractors correctly provide the required 150 cubic feet of storage. Staff proposes the following language:

At least one hundred fifty (150) cubic feet of enclosed or semi-enclosed storage space shall be provided for each unit. Required storage shall be located in either the garage or an area outside of and inaccessible from the living area if visually screened. Required storage shall not be located in required yards, open space, or parking areas.

Enclosed Trash Areas

The residential condominium standards currently state that “enclosed trash areas shall be provided.” Staff wants to use more precise language to better guide architects and contractors on appropriate locations for enclosed trash areas. Similar to enclosed storage areas, both architects and contractors have struggled to correctly provide enclosed trash areas. Staff believes the followed proposed language will help better guide both architects and contractors:

Enclosed or semi-enclosed trash areas shall be provided. Trash areas shall not be located in required front and side yards, open space, and parking areas.

Use Permit Review

The residential condominium standards currently require the title sheet and condominium owner’s agreement to state that “any future construction of living space or reconstruction of the building shall require review and approval of a use permit”. Staff recommends that this language be deleted. In the past, all condominium developments, including two unit condominium developments, required a use permit. In the mid to late 1990’s, the City’s code changed so that only condominium developments with three or more units would require a use permit, leaving two unit condominium developments to be processed administratively at the staff level. Staff feels it is appropriate to formally strike the language from the code as the language no longer mirrors current use permit requirements. Condominium units with three or more units are already governed by their own use permits which usually contain language stating that any significant deviation from the approved plans require a use permit amendment.

Neighbor Notification and Neighbor Approval

State law requires that each condominium project have “governing documents” that contain private rules and regulations that condominium owners must follow. The governing documents for a condominium project often take shape as Covenants, Conditions, & Restrictions (CC&Rs). One of the many things CC&Rs dictate is what type of improvements and construction occurring in a unit require the Homeowner’s Association’s (HOA) or similar governing body’s approval. As a courtesy to the other homeowners in the condominium development, planning staff currently requires a condominium owner doing exterior or structural work on their unit to notify and sometimes get approval from the other owners or governing body in their condominium development. Staff has confirmed that both Redondo Beach and Hermosa Beach also require neighbor notification for exterior or structural work in a condominium development. The City’s code currently does not require planning staff to ask for notification of the other condominium owners. Staff recommends revising

the City's code in order to codify planning staff's practices. Staff recommends the following new language be added to the residential condominium standards:

A permit will not be issued for an exterior or structural improvement to a condominium unless the condominium owner seeking the permit provides the City either one of the following, as determined by the Community Development Director:

- a) the Homeowners Association's or similar governing body's written approval of the proposed work; or*
- b) proof of written notification of the other condominium owner(s) in the condominium development describing the proposed work.*

Staff's recommended language is intentionally written so that the enforcement of a condominium development's CC&Rs is left to the condominium owners, as CC&Rs are private governing documents. The City is not responsible for interpreting and/or enforcing the CC&Rs of a condominium development. The proposed language ensures that at a minimum homeowners are aware of potential exterior or structural alterations to their condominium development and can then enforce their private CC&Rs as they see fit.

Air Conditioning Unit Location

All mechanical equipment, including water heaters, forced air units, and air conditioning units are not allowed in the required front setbacks, side yard setbacks, open space, or required parking areas. Architectural plans are required to show the location of the water heater and forced air unit to ensure that this required mechanical equipment is not in areas where mechanical equipment is not allowed to be located. Air conditioning units, however, are not a required piece of mechanical equipment and are consequently not required to be shown on the architectural plans. As a result, architects often do not create the necessary space in their designs where a future air conditioning unit could be located. The future owner of the condominium unit, however, might want air conditioning but cannot get a permit for a new air conditioning unit because there are no available locations that meet the code requirements. This scenario has occurred countless times, leaving staff, air conditioning contractors, and condominium owners extremely frustrated.

Staff recommends adding language to the code that would require architectural plans to identify the location of an air conditioning unit. Carving out a dedicated space for air conditioning equipment at least gives the future condominium owners the ability to install air conditioning if they choose to do so. Staff proposes the following language be added to the code:

Each condominium unit shall have a designated space for an air conditioning unit. Air conditioning units shall not be located in the required front yard, side yards, open space, and parking areas.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act ("CEQA"), the Community Development Department has determined that these amendments to the Municipal Code and Local Coastal Program addressing residential condominium standards are exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3).

PUBLIC INPUT

A ¼ page display ad public notice for the proposed MBMC and LCP Code Amendments was published in the Beach Reporter newspaper on February 15, 2018, in compliance with state and local law and mailed to the California Coastal Commission. The draft MBMC and LCP Amendments, including the staff report and attachments, have been made available at the Manhattan Beach County Library, the Police Department and at the Community Development Department. The staff report and attachments are also posted on the City's website.

Attachments:

- A. Draft Resolution PC 18-XX
- B. Proposed Amendment (Red Line Strikeout)- MBMC 10.52.110/LCP A.52.110
- C. Residential Condominium Standards- MBMC 10.52.110/LCP A.52.110
- D. Applicant Letter Endorsing Staff's Proposed Language- February 4, 2018
- E. Ordinance 1417- May 29, 1975
- F. Ordinance 1563- July 10, 1979
- G. Ordinance 1589- September 16, 1980
- H. Planning Commission Minutes- February 27, 1980
- I. Residential Condominium Conversions- MBMC 10.88/LCP A.88
- J. BFA Survey of Two Unit Condominium Developments- 2008 - 2018
- K. Applicant's Letter to the City Council- July 26, 2016

cc. California Coastal Commission

RESOLUTION NO. 18-____

A RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO MUNICIPAL CODE SECTION 10.52.110, AND LOCAL COASTAL PROGRAM SECTION A.52.110 RELATED TO RESIDENTIAL CONDOMINIUM STANDARDS

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY FIND AND RESOLVE AS FOLLOWS:

Section 1. The Planning Commission hereby makes the following findings:

A. On February 15, 2018 the Planning Commission conducted a duly noticed public hearing on residential condominium standards, and reviewed proposed text amendments to Section 10.52.110 of the Municipal Code, part of the City's Zoning Ordinance, and text amendments to Section A.52.110 of the Local Coastal Program.

B. The Planning Commission public hearing for February 28, 2018 included a ¼ page display ad public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

C. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, *et seq.*

D. The proposed text amendments are exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, *et seq.*, ("CEQA")) and the CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Therefore, the Planning Commission finds that the amendments are not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

E. The proposed text amendments are consistent with the General Plan Goals and Policies:

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

Land Use Element Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.

F. The proposed text amendments are consistent with the following Local Coastal Program Policy:

II. Coastal Locating and Planning New Development Policy- Policy II.1: Control Development within the Manhattan Beach coastal zone.

Section 2. The Planning Commission hereby recommends that the City Council amend MBMC Section 10.52.110 and LCP Section A.52.110 (Residential Condominium Standards) to

substantially read as follows, with all other portions of Sections 10.52.0110/A.52.110 remaining in effect without amendment:

Section 10.52.110 – Residential condominium standards

A. Eligibility Requirements.

1. All residential condominiums (new construction or conversion) located in area districts III and IV shall have vehicular access from both the front and the rear property lines from dedicated streets or alleys improved and open to vehicular use.
 - a. **Exception.** Properties on the Strand.
 - b. **Exception.** Where a building site (consisting of a lot or portions of a lot) exists on March 9, 1989, and (1) neither the front nor the rear of the site is adjacent to a "walk street" and (2) the building site has access from two or more property lines from dedicated public streets or alleys improved and open to vehicular use. The building site shall be deemed to be a condominium site. This exception does not apply in area district IV.
 - c. **Exception.** Where a building site is zoned RH is adjacent to a "walk street" and has vehicular access from two (2) or more property lines from dedicated street or alleys improved and open to vehicular use, said building site shall be deemed to be a condominium site, with a maximum of two (2) dwelling units.

B. The following standards shall apply to construction of new condominiums; condominium conversion standards are prescribed by Chapter 10.88.

1. Sound attenuation for all common wall assemblies, and floor-to-ceiling assemblies which separate units from each other or from common areas within the building such as hallways, corridors, laundry rooms, recreation rooms or garage and storage areas, shall be required for both airborne sound and impact sound.

All such common wall assemblies shall provide an airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty-five (55) for wall assemblies, fifty (50) if field tested, as defined in the Uniform Building Code standards.

Dwelling unit entrance including perimeter seals shall meet a sound transmission class (STC) of thirty-three (33).

2. Additional requirements for sound alteration as follows:
 - a. No exhaust fans or vent pipes shall serve more than one (1) dwelling unit.
 - b. All water pipes to sinks and laundry facilities shall be installed with sound deadening materials to prevent the transfer of noise.
 - c. All voids around pipes shall be packed with rock wool or equivalent sound-deadening material, and all pipes shall be wrapped at all points of contact with any wood or steel members, and strap hangers.
 - d. No plumbing vents or similar equipment shall be placed back to back between separate dwelling units.
3. All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty (50), forty-five (45) if field tested, as defined in the Uniform Building Code standards.

4. All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide impact sound insulation equal to that required to meet an impact insulation class (IIC) of sixty (60), fifty-five (55) if field tested, as defined in the Uniform Building Code standards.
5. All residential condominiums consisting of two (2) units on a single lot which is to be owned in common shall be developed with units where the buildable floor area of either unit shall not exceed 55% of the maximum BFA allowed on the lot.
6. All residential condominiums shall have separate electrical and water meters and early warning fire detection systems.
7. At least one hundred fifty (150) cubic feet of enclosed or semi-enclosed storage space shall be provided for each unit. Required storage shall be located in either the garage or an area outside of and inaccessible from the living area if visually screened. Required storage shall not be located in required yards, open space, or parking areas.
8. Where laundry rooms, water heaters, and/or, dishwashers are unequipped to prevent leakage above neighboring units or above other residential floors below "drip pans," or other devices, shall be provided.
9. All new buildings shall conform to Title 24 of the California Code of Regulations requiring compliance with the state energy regulations.
10. Enclosed or semi-enclosed trash areas shall be provided. Trash areas shall not be located in required front and side yards, open space, and parking areas.
11. All utilities serving the site shall be undergrounded consistent with the provisions and exceptions provided in Section 9.12.050, Services undergrounding of this Code.
12. The title sheet and condominium owner's agreement shall state that the unit ownership is an "intangible portion of multiple residential property" and "ownership of a unit does not parallel or emulate ownership of single-family property or use..."
13. The condominium owners' association shall provide the opportunity for annual review and inspection of the building and the interior of individual units.
14. Building exteriors and common areas shall be maintained in the absence of an individual owner's agreement.
15. All common areas including, but not limited to, exterior portions of buildings, structures, utilities, yards, driveways, open space, etc., shall be under common ownership of all owners of condominium units.
16. All title conditions, covenants, and restrictions (CC&Rs), in form and content, and any revisions thereto shall, if required by the project use permit, be subject to approval of the City Attorney.
17. Two (2) off-street parking spaces and one (1) guest space shall be provided, consistent with Section 10.64.030.
18. A permit will not be issued for an exterior or structural improvement to a condominium unless the condominium owner seeking the permit provides the City either one of the following, as determined by the Community Development Director:

- a. the Homeowners Association's or similar governing body's written approval of the proposed work; or
 - b. proof of written notification of the other condominium owner(s) in the condominium development describing the proposed work.
19. Each condominium unit shall have a designated space for an air conditioning unit. Air conditioning units shall not be located in the required front yard, side yards, open space, and parking areas.

Section 3. The Planning Commission also recommends that the City Council direct the City Clerk to make any other corresponding language changes to the MBMC and the LCP to achieve internal consistency as required.

Section 4. The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

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 February 28, 2018 and that said Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Anne McIntosh
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

Attachment B

10.52.110 - Residential condominium standards.

A. Eligibility Requirements.

1. All residential condominiums (new construction or conversion) located in area districts III and IV shall have vehicular access from both the front and the rear property lines from dedicated streets or alleys improved and open to vehicular use.
 - a. **Exception.** Properties on the Strand.
 - b. **Exception.** Where a building site (consisting of a lot or portions of a lot) exists on March 9, 1989, and (1) neither the front nor the rear of the site is adjacent to a "walk street" and (2) the building site has access from two or more property lines from dedicated public streets or alleys improved and open to vehicular use. The building site shall be deemed to be a condominium site. This exception does not apply in area district IV.
 - c. **Exception.** Where a building site is zoned RH is adjacent to a "walk street" and has vehicular access from two (2) or more property lines from dedicated street or alleys improved and open to vehicular use, said building site shall be deemed to be a condominium site, with a maximum of two (2) dwelling units.

B. The following standards shall apply to construction of new condominiums; condominium conversion standards are prescribed by Chapter 10.88.

1. Sound attenuation for all common wall assemblies, and floor-to-ceiling assemblies which separate units from each other or from common areas within the building such as hallways, corridors, laundry rooms, recreation rooms or garage and storage areas, shall be required for both airborne sound and impact sound.

All such common wall assemblies shall provide an airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty-five (55) for wall assemblies, fifty (50) if field tested, as defined in the Uniform Building Code standards.

Dwelling unit entrance including perimeter seals shall meet a sound transmission class (STC) of thirty-three (33).

2. Additional requirements for sound alteration as follows:
 - a. No exhaust fans or vent pipes shall serve more than one (1) dwelling unit.
 - b. All water pipes to sinks and laundry facilities shall be installed with sound deadening materials to prevent the transfer of noise.
 - c. All voids around pipes shall be packed with rock wool or equivalent sound-deadening material, and all pipes shall be wrapped at all points of contact with any wood or steel members, and strap hangers.
 - d. No plumbing vents or similar equipment shall be placed back to back between separate dwelling units.
3. All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty (50), forty-five (45) if field tested, as defined in the Uniform Building Code standards.
4. All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide impact sound insulation equal to that required to meet an impact insulation class (IIC) of sixty (60), fifty-five (55) if field tested, as defined in the Uniform Building Code standards.
5. All residential condominiums consisting of two (2) units on a single lot which is to be owned in common shall be developed with units where the buildable floor area of either unit shall not exceed 55% of the maximum BFA allowed on the lot, which are approximately equal in size and age. In no case shall the difference in enclosed floor space used for living purposes be assigned to one (1) unit which is more than fifty-five percent (55%) of the total floor space assigned for both

~~units, unless the smaller of the two (2) units exceeds one thousand eight hundred (1,800) square feet.~~

6. All residential condominiums shall have separate electrical and water meters and early warning fire detection systems.
7. At least one hundred fifty (150) cubic feet of enclosed or semi-enclosed storage space shall be provided for each unit. Required storage shall be located in either the garage, or an area outside of and inaccessible from the living area if architecturally-visually screened, for each unit. Required storage shall not be located in required yards, open space, or parking areas.
8. Where laundry rooms, water heaters, and/or, dishwashers are unequipped to prevent leakage above neighboring units or above other residential floors below "drip pans," or other devices, shall be provided.
9. All new buildings shall conform to Title 24 of the California Code of Regulations requiring compliance with the state energy regulations.
10. Enclosed or semi-enclosed trash areas shall be provided. Trash areas shall not be located in required front and side yards, open space, and parking areas.
11. All utilities serving the site shall be undergrounded consistent with the provisions and exceptions provided in Section 9.12.050, Services undergrounding of this Code.
12. The title sheet and condominium owner's agreement shall state that:
 - ~~a. Any future construction of living space or reconstruction of the building shall require review and approval of a use permit; and~~
 - ~~b. The the~~ unit ownership is an "intangible portion of multiple residential property" and "ownership of a unit does not parallel or emulate ownership of single-family property or use..."
13. The condominium owners' association shall provide the opportunity for annual review and inspection of the building and the interior of individual units.
14. Building exteriors and common areas shall be maintained in the absence of an individual owner's agreement.
15. All common areas including, but not limited to, exterior portions of buildings, structures, utilities, yards, driveways, open space, etc., shall be under common ownership of all owners of condominium units.
16. All title conditions, covenants, and restrictions (CC&Rs), in form and content, and any revisions thereto shall, if required by the project use permit, be subject to approval of the City Attorney.
17. Two (2) off-street parking spaces and one (1) guest space shall be provided, consistent with Section 10.64.030.
18. A permit will not be issued for an exterior or structural improvement to a condominium unless the condominium owner seeking the permit provides the City either one of the following, as determined by the Community Development Director:
 - a) the Homeowners Association's or similar governing body's written approval of the proposed work; or
 - b) proof of written notification of the other condominium owner(s) in the condominium development describing the proposed work.
19. Each condominium unit shall have a designated space for an air conditioning unit. Air conditioning units shall not be located in the required front yard, side yards, open space, and parking areas.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1891, Amended, 01/06/94; § 2, Ord. 2014, eff. July 6, 2000)

Attachment C

10.52.110 - Residential condominium standards.

A. Eligibility Requirements.

1. All residential condominiums (new construction or conversion) located in area districts III and IV shall have vehicular access from both the front and the rear property lines from dedicated streets or alleys improved and open to vehicular use.
 - a. **Exception.** Properties on the Strand.
 - b. **Exception.** Where a building site (consisting of a lot or portions of a lot) exists on March 9, 1989, and (1) neither the front nor the rear of the site is adjacent to a "walk street" and (2) the building site has access from two or more property lines from dedicated public streets or alleys improved and open to vehicular use. The building site shall be deemed to be a condominium site. This exception does not apply in area district IV.
 - c. **Exception.** Where a building site is zoned RH is adjacent to a "walk street" and has vehicular access from two (2) or more property lines from dedicated street or alleys improved and open to vehicular use, said building site shall be deemed to be a condominium site, with a maximum of two (2) dwelling units.

B. The following standards shall apply to construction of new condominiums; condominium conversion standards are prescribed by Chapter 10.88.

1. Sound attenuation for all common wall assemblies, and floor-to-ceiling assemblies which separate units from each other or from common areas within the building such as hallways, corridors, laundry rooms, recreation rooms or garage and storage areas, shall be required for both airborne sound and impact sound.

All such common wall assemblies shall provide an airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty-five (55) for wall assemblies, fifty (50) if field tested, as defined in the Uniform Building Code standards.

Dwelling unit entrance including perimeter seals shall meet a sound transmission class (STC) of thirty-three (33).

2. Additional requirements for sound alteration as follows:
 - a. No exhaust fans or vent pipes shall serve more than one (1) dwelling unit.
 - b. All water pipes to sinks and laundry facilities shall be installed with sound deadening materials to prevent the transfer of noise.
 - c. All voids around pipes shall be packed with rock wool or equivalent sound-deadening material, and all pipes shall be wrapped at all points of contact with any wood or steel members, and strap hangers.
 - d. No plumbing vents or similar equipment shall be placed back to back between separate dwelling units.
3. All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty (50), forty-five (45) if field tested, as defined in the Uniform Building Code standards.
4. All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide impact sound insulation equal to that required to meet an impact insulation class (IIC) of sixty (60), fifty-five (55) if field tested, as defined in the Uniform Building Code standards.
5. All residential condominiums consisting of two (2) units on a single lot which is to be owned in common shall be developed with units which are approximately equal in size and age. In no case shall the difference in enclosed floor space used for living purposes be assigned to one (1) unit which is more than fifty-five percent (55%) of the total floor space assigned for both units, unless the smaller of the two (2) units exceeds one thousand eight hundred (1,800) square feet.

6. All residential condominiums shall have separate electrical and water meters and early warning fire detection systems.
7. At least one hundred fifty (150) cubic feet of enclosed storage space shall be provided in the garage, or outside area if architecturally screened, for each unit.
8. Where laundry rooms, water heaters, and/or, dishwashers are unequipped to prevent leakage above neighboring units or above other residential floors below "drip pans," or other devices, shall be provided.
9. All new buildings shall conform to Title 24 of the California Code of Regulations requiring compliance with the state energy regulations.
10. Enclosed trash areas shall be provided.
11. All utilities serving the site shall be undergrounded consistent with the provisions and exceptions provided in Section 9.12.050, Services undergrounding of this Code.
12. The title sheet and condominium owner's agreement shall state that:
 - a. Any future construction of living space or reconstruction of the building shall require review and approval of a use permit; and
 - b. The unit ownership is an "intangible portion of multiple residential property" and "ownership of a unit does not parallel or emulate ownership of single-family property or use..."
13. The condominium owners' association shall provide the opportunity for annual review and inspection of the building and the interior of individual units.
14. Building exteriors and common areas shall be maintained in the absence of an individual owner's agreement.
15. All common areas including, but not limited to, exterior portions of buildings, structures, utilities, yards, driveways, open space, etc., shall be under common ownership of all owners of condominium units.
16. All title conditions, covenants, and restrictions (CC&Rs), in form and content, and any revisions thereto shall, if required by the project use permit, be subject to approval of the City Attorney.
17. Two (2) off-street parking spaces and one (1) guest space shall be provided, consistent with Section 10.64.030.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1891, Amended, 01/06/94; § 2, Ord. 2014, eff. July 6, 2000)

Attachment D

Christopher T. Carey

429 Marine Place • Manhattan Beach, CA. 90266
E-Mail: ctjcarey@gmail.com
Phone: (818) 681 9224

Date: February 4, 2018
Manhattan Beach City Planning Department

Dear Planning Department,

I am writing to confirm that I like and prefer the proposed amendment of 10.52.110 Residential Condominium Standards language that the planning department has developed, versus my original proposed language. Please proceed with using this revised language for consideration at the upcoming city Council meeting.

Sincerely,

Christopher T. Carey

Manhattan Beach Homeowner

Attachment E

ORDINANCE NO. 1417

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADDING SECTIONS 10-3.1609.2.1 AND 10-3.1609.2.2 TO ARTICLE 16, CHAPTER 3, TITLE 10 OF THE MANHATTAN BEACH MUNICIPAL CODE (COMPREHENSIVE ZONING REGULATIONS) RELATING TO CONDITIONAL USE PERMIT FOR DEVELOPMENT OF RESIDENTIAL CONDOMINIUMS.

The Council of the City of Manhattan Beach, California, does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 10-3.1609.2.1 is hereby added to Article 16, Chapter 3, Title 10 of the Manhattan Beach Municipal Code to read as follows:

SEC. 10-3.1609.2.1. Conditional use permit for development of residential condominiums.

All residential condominium development (sub-division of airspace) shall obtain a conditional use permit for design review purposes. Applicants shall submit as part of their application all necessary plans, elevations, and other material that clearly depict the proposed development. The purpose of this procedure is to ensure that all condominium development, either new construction or conversion of existing structures, will obtain a compatible degree of residential living standards. The following conditions shall be mandatory for conversion of existing residential structures into condominiums:

(a) Sound attenuation for all common wall assemblies, and floor-to-ceiling assemblies which separate units from each other or from common areas within the building such as hallways, corridors, laundry rooms, recreation rooms or garage and storage areas, shall be required for both airborne sound and impact sound.

(1) All such common wall assemblies shall provide an airborne sound insulation equal to that required to meet a sound transmission class (STC) of 55 for wall assemblies,

1 50 if field tested, as defined in the Uniform Building Code
2 standards.

3 Dwelling unit entrance including
4 perimeter seals shall meet a sound transmission class (STC)
5 of 33. Additional requirements shall include:

6 (i) No exhaust fans or vent pipes
7 shall serve more than one dwelling unit.

8 (ii) All water pipes to sinks and
9 laundry facilities shall be installed with surge pipes, or
10 equivalent approved devices.

11 (iii) All voids around pipes shall
12 be packed with rock wool or equivalent sound-deadening material,
13 and all pipes shall be wrapped at all points of contact with
14 any wood or steel members, and strap hangers.

15 (iv) No recessed cabinets, vents,
16 electrical devices, junction boxes or similar equipment shall
17 be placed back to back between separate dwelling units.

18 (2) All floor-to-ceiling assemblies
19 between separate dwelling units or common areas shall provide
20 airborne sound insulation equal to that required to meet a
21 sound transmission class (STC) of 50.

22 (3) All floor-to-ceiling assemblies
23 between separate dwelling units or common areas shall provide
24 impact sound insulation equal to that required to meet an impact
25 insulation class (IIC) of 60.

26 (b) Early warning fire detection system and fire
27 protection appurtenances.

28 (c) Enclosed trash areas.

29 Trash and refuse areas shall be provided.
30 All outside trash and refuse storage areas shall be enclosed
31 on all sides by a five (5') foot solid wall, one side of which
32 may open as a gate.

1 (d) Parking requirements.

2 The number of off-street parking spaces
3 required shall be no less than two (2) for each dwelling unit.

4 SECTION 2. Section 10-3.1609.2.2 is hereby added
5 to Article 16, Chapter 3, Title 10 of said Code to read as
6 follows:

7 SEC. 10-3.1609.2.2. Conditions which may be imposed
8 for condominium conversion of existing structures.

9 The following conditions may be imposed for
10 condominium conversion of existing structures:

11 (a) A minimum amount of usable open space.

12 Usable open space should be provided for
13 each dwelling unit. Usable open space shall mean any area
14 designed for and to be used for outdoor living, recreation,
15 or landscaping and located on the ground or on an unenclosed
16 balcony, deck or porch. No portion of off-street parking
17 spaces, driveways, rooftops, accessory buildings or required
18 front or side yards shall constitute usable open spaces.

19 Recommended open spaces shall be as follows:

20 (1) Area District I: 300 square feet per
21 unit.

22 (2) Area District II: 300 square feet
23 per unit.

24 (3) Area District II-A: 250 square feet
25 per unit.

26 (4) Area District III: 150 square feet
27 per unit.

28 (b) Storage space.

29 At least sixty (60) cubic feet of enclosed
30 storage space for each unit.

31 (c) Separate natural gas and/or electric utility
32 connection and metering for each unit.

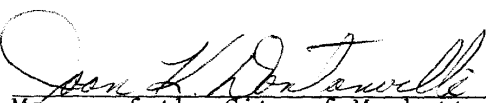
1 (d) Utility space provided for laundry facilities,
2 either in a central common location or within each unit.

3 (e) Any additional requirements deemed necessary
4 to assure that the condominium conversion will provide the highest
5 degree of residential compatibility with surrounding uses.

6 SECTION 3. This ordinance shall go into effect and
7 be in full force and operation from and after thirty days after
8 its final passage and adoption.

9 SECTION 4. The City Clerk shall certify to the passage
10 and adoption of this ordinance; shall enter the same in the book
11 of original ordinances of said City; shall make a minute of the
12 passage and adoption thereof in the records of the proceedings
13 of the City Council at which the same is passed and adopted;
14 and shall within fifteen days from the passage and adoption there-
15 of cause the same to be published once in the Manhattan Beach
16 News, a weekly newspaper of general circulation, published and
17 circulated within said City of Manhattan Beach and which is
18 hereby designated for that purpose.

19 PASSED, APPROVED AND ADOPTED this 20th day of May, 1975.
20

21
22 
23 Mayor of the City of Manhattan
Beach, California

24 ATTEST:

25
26 
27 City Clerk

28 (SEAL)
29
30
31
32

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS
3 CITY OF MANHATTAN BEACH)
4

5 I, BEVERLY E. KIEFER, City Clerk of the City of Manhattan
6 Beach, California, do hereby certify that the whole number of
7 members of the City Council of said City is five; that the fore-
8 going Ordinance, being Ordinance No. 1417, was duly passed and
9 adopted by the said City Council, approved and signed by the
10 Mayor, and attested by the City Clerk, of said City, all at a
11 regular meeting of the said Council duly and
12 regularly held on the 20th day of May, 19 75;
13 and that the same was so passed and adopted by the following
14 vote, to wit:

15 AYES: Councilmen Blumberg, Cashin, Nordeck, Sweeney and Mayor Dontanville

16 NOES: None

17 ABSENT: None

18 NOT VOTING: None

19 IN WITNESS WHEREOF, I have hereunto subscribed my name and
20 affixed the official seal of said City this 21st day of
21 May, A.D., 19 75.
22

23
24 Beverly E. Kiefer
25 BEVERLY E. KIEFER, City Clerk of the
26 City of Manhattan Beach, California

27 (SEAL)
28
29
30
31
32

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF MANHATTAN BEACH

I, BEVERLY E. KIEFER, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 1417, is a full, true and correct copy of Ordinance No. 1417 of said City, entitled:

AN ORDINANCE OF THE CITY OF MANHATTAN
BEACH, CALIFORNIA, ADDING SECTIONS
10-3.1609.2.1 AND 10-3.1609.2.2 TO
ARTICLE 16, CHAPTER 3, TITLE 10 OF THE
MANHATTAN BEACH MUNICIPAL CODE (COMPREHENSIVE
ZONING REGULATIONS) RELATING TO CONDITIONAL
USE PERMIT FOR DEVELOPMENT OF RESIDENTIAL
CONDOMINIUMS

which was duly passed and adopted by the said City Council, and approved and signed by the Mayor and attested by the City Clerk of said City, all at a regular meeting of the said Council duly and regularly held on the 20th day of May, A.D., 19 75; and that the same was so passed and adopted by the following vote:

AYES: Councilmen Blumberg, Cashin, Nordeck, Sweeney and Mayor Dontanville

NOES: None

ABSENT: None

NOT VOTING: None

I do hereby further certify that the said foregoing Ordinance No. 1417 has been duly and regularly published according to law and the order of the City Council of said City and that the same was so published in the Manhattan Beach News, a weekly newspaper of general circulation, published in said newspaper on the following date, to wit: May 29, 19 75.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City, this 29th day of May, A.D., 19 75.

Beverly E. Kiefer
BEVERLY E. KIEFER, City Clerk of the
City of Manhattan Beach, California

(SEAL)

Attachment F

ORDINANCE NO. 1563

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH,
CALIFORNIA, AMENDING SECTION 10-3.1609.2.1,
ARTICLE 16, CHAPTER 3, TITLE 10 OF THE MAN-
HATTAN BEACH MUNICIPAL CODE RELATING TO RE-
VISED CONDOMINIUM STANDARDS

The Council of the City of Manhattan Beach, Calif-
ornia, does ordain as follows:

SECTION 1. The first paragraph of Section
10-3.1609.2.1 of Article 16, Chapter 3, Title 10 of the Manhat-
tan Beach Municipal Code is hereby amended to read as follows:

SEC. 10-3.1609.2.1. Conditional use permit for development
of residential condominiums.

All residential condominium development, including sub-
division of airspace, community apartments, and stock coopera-
tives, shall obtain a conditional use permit for design review
purposes. Applicants shall submit as part of their application
all necessary plans, elevations, and other material that clearly
depict the proposed development. The purpose of this procedure
is to ensure that all condominium development, either new con-
struction or conversion of existing structures, will obtain a
compatible degree of residential living standards. The following
conditions shall be mandatory for the construction or development
of new condominium units. A new condominium unit is a
residential housing unit which has never been occupied as living
quarters by an individual or family prior to the applicant for
condominium use.

SECTION 2. Section 10-3.1609.2.1 of Article 16,
Chapter 3, Title 10 of the Manhattan Beach Municipal Code is
hereby further amended by adding additional conditions to read
as follows:

(d) Parking requirements.

In all Area Districts, all new residential condo-
minium developments of four (4) or more units in the same

1 subdivision shall provide one-half (1/2) space guest parking
2 per unit.

3 (e) Vehicular access.

4 All residential condominiums located in Area
5 District III shall have vehicular access from both the front
6 and rear property lines from dedicated public streets or alleys
7 improved and open to vehicle use, or in the case of corner lots,
8 access may be provided from the side property or a combination
9 of the rear place and the side place.

10 The requirement for vehicular access shall not
11 apply to lots which front on the Strand.

12 (f) All individual private garages shall be equipped
13 with automatic remote control operated garage door openers.

14 (g) All residential condominiums which consist of
15 two (2) units on a single lot which is to be owned in common
16 by not more than two owners, shall be developed with units which
17 are approximately equal in size. In no case shall the
18 difference in enclosed floor space used for living purposes be
19 assigned to one unit which is more than 55% of the total floor
20 space designed for both units.

21 SECTION 3. This ordinance shall go into effect and
22 be in full force and operation from and after thirty days after
23 its final passage and adoption.

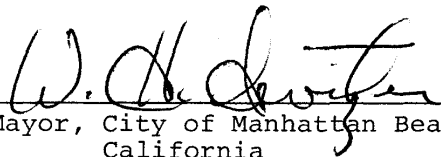
24 SECTION 4. The City Clerk shall certify to the passage
25 and adoption of this Ordinance; shall enter the same in the book
26 of original ordinances of said City; shall make a minute of the
27 passage and adoption thereof in the records of the proceedings
28 of the City Council at which the same is passed and adopted; and
29 shall within fifteen days from the passage and adoption thereof
30 cause the same to be published in the Manhattan Beach News, a
31 weekly newspaper of general circulation, published and circulated
32 within said City of Manhattan Beach and which is hereby

designated for that purpose.

PASSED, APPROVED and ADOPTED this 10th day of

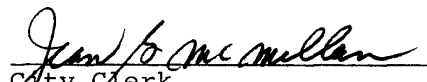
July, 1979.

Ayes: Blumberg, Lesser, Nordeck, Sweeney, and Mayor Switzer
Noes: None
Absent: None
Abstain: None



Mayor, City of Manhattan Beach,
California

ATTEST:



City Clerk

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.
3 CITY OF MANHATTAN BEACH)

4 I, JEAN G. McMILLAN, City Clerk of the City of Manhattan
5 Peach, California, do hereby certify that the whole number of
6 members of the City Council of said City is five; that the
7 foregoing Ordinance, being Ordinance No. 1563, was duly
8 passed and adopted by the said City Council, approved and
9 signed by the Mayor, and attested by the City Clerk, of said
10 City, all at a regular meeting of the said
11 Council duly and regularly held on the 10th day of
12 July, 19 79, and that the same was so passed
13 and adopted by the following vote, to wit:

14 AYES: Blumberg, Lesser, Nordeck, Sweeney, and Mayor Switzer

15 NOES: None

16 ABSENT: None

17 ABSTAIN: None

18 IN WITNESS WHEREOF, I have hereunto subscribed my name and
19 affixed the official seal of said City this 11th day of
20 July, 19 79.

21 (SEAL)

Jean G. McMILLAN
City Clerk of the City of
Manhattan Beach, California

22
23 CERTIFICATE OF PUBLICATION

24 STATE OF CALIFORNIA)
25 COUNTY OF LOS ANGELES) SS.
26 CITY OF MANHATTAN BEACH)

27 I, JEAN G. McMILLAN, City Clerk of the City of Manhattan
28 Beach, California, do hereby certify that Ordinance No. 1563
29 has been duly and regularly published according to law and the
30 order of the City Council of said City and that same was so
31 published in the Manhattan Beach News, a weekly newspaper of
32 general circulation on the following date, to wit: July 19, 1979
in witness whereof, I have hereunto subscribed my name this
14th day of December, 1979.

Jean G. McMILLAN
City Clerk of the City of
Manhattan Beach, California

Attachment G

ORDINANCE NO. 1589

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH,
CALIFORNIA, AMENDING SECTION 10-3.1609.2.1,
ARTICLE 16, CHAPTER 3, TITLE 10 OF THE MAN-
HATTAN BEACH MUNICIPAL CODE RELATING TO CON-
DITIONAL USE PERMIT FOR DEVELOPMENT OF
RESIDENTIAL CONDOMINIUMS

THE COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA,
DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 10-3.1609.2.1 of Article 16,
Chapter 3, Title 10 of the Manhattan Beach Municipal Code is
hereby amended to read as follows:

SEC. 10-3.1609.2.1. Conditional use permit for
development of residential condominiums.

All residential condominium development, including sub-
division of airspace, community apartments, and stock coopera-
tives, shall obtain a conditional use permit for design review
purposes. Applicants shall submit as part of their application
all necessary plans, elevations, and other material that clearly
depict the proposed development. The purpose of this procedure
is to ensure that all condominium development, either new con-
struction or conversion of existing structures, will obtain a
compatible degree of residential living standards. The following
conditions shall be mandatory for new construction of condo-
miniums and conversion of existing multiple residential uses
into condominiums, including subdivision of airspace, community
apartments, and stock cooperatives:

(a) Sound attenuation for all common wall assemblies,
and floor-to-ceiling assemblies which separate units from each
other or from common areas within the building such as hallways,
corridors, laundry rooms, recreation rooms, or garage and
storage areas, shall be required for both airborne sound and
impact sound.

(1) All such common wall assemblies shall

1 provide an airborne sound insulation equal to that required to
2 meet a sound transmission class (STC) of 55 for wall assemblies,
3 50 if field tested, as defined in the Uniform Building Code
4 standards.

5 Dwelling unit entrance including perimeter seals shall
6 meet a sound transmission class (STC) of 33.

7 Additional requirements shall include:

8 (i) No exhaust fans or vent pipes shall
9 serve more than one dwelling unit.

10 (ii) All water pipes to sinks and laundry
11 facilities shall be installed with surge pipes, or equivalent
12 approved devices.

13 (iii) All voids around pipes shall be
14 packed with rock wool or equivalent sound-deadening material,
15 and all pipes shall be wrapped at all points of contact with any
16 wood or steel members, and strap hangars.

17 (iv) No recessed cabinets, vents, electrical
18 devices, junction boxes or similar equipment shall be placed
19 back to back between separate dwelling units.

20 (2) All floor-to-ceiling assemblies between
21 separate dwelling units or common areas shall provide airborne
22 sound insulation equal to that required to meet a sound trans-
23 mission class (STC) of 50, 45 if field tested, as defined in the
24 Uniform Building Code standards.

25 (3) All floor-to-ceiling assemblies between
26 separate dwelling units or common areas shall provide impact
27 sound insulation equal to that required to meet an impact insula-
28 tion class (IIC) of 60, 55 if field tested, as defined in the
29 Uniform Building Code standards.

30 (b) Early warning fire detection system and fire
31 protection appurtenances.

32 (c) Enclosed trash areas.

1 Trash and refuse areas shall be provided. All
2 outside trash and refuse storage areas shall be enclosed on all
3 sides by a five (5') foot solid wall or fence, one side of which
4 may open as a gate.

5 (d) Parking requirements.

6 In all Area Districts, all condominium development
7 (new construction and conversion) shall comply with the following
8 parking standards:

9 (1) Conversions of existing dwellings to condo-
10 miniums, cooperatives, or community apartments.

11 (i) Two (2) enclosed spaces per dwelling
12 unit.

13
14 (2) New construction of condominiums, coopera-
15 tives, and community apartments.

16 (i) Two (2) enclosed spaces per dwelling
17 unit, plus one parking space per dwelling unit for guest
18 parking.

19 EXCEPTION: Ten (10) or more units
20 shall provide not less than one-half (1/2) space per dwelling
21 unit for guest parking. Where a fraction of a space occurs,
22 the number shall be rounded up to the next highest whole number.

23 (e) Vehicular access.

24 All residential condominiums (new construction
25 or conversion) located in Area District III shall have
26 vehicular access from both the front and rear property lines
27 from dedicated public streets or alleys improved and open to
28 vehicle use.

29 EXCEPTION: Properties on the Strand.

30 EXCEPTION: Where a building site (consisting of
31 a lot or lots or portions of lots) exists at the effective date
32 of this ordinance and where the building site as it presently

1 exists or as originally subdivided is not adjacent to a "walk
2 street" and where a building site has vehicular access from
3 two or more property lines from dedicated streets or alleys
4 improved and open to vehicle use, said building site shall be
5 deemed to be a condominium site.

6 (f) All residential condominiums (new construction
7 and conversion) consisting of two (2) units on a single lot
8 which is to be owned in common shall be developed with units
9 which are approximately equal in size and age. In no case
10 shall the difference in enclosed floor space used for living
11 purposes be assigned to one unit which is more than fifty-five
12 (55%) percent of the total floor space assigned for both units,
13 unless the smaller of the two units exceeds 1,800 square feet.

14 (g) All residential condominiums (new construction
15 and conversion) shall have separate electrical and water meters.

16 (h) All residential condominiums (new construction
17 and conversion) shall construct all utility lines underground,
18 except as provided by Ordinance No. 1491, adopted June 7, 1977.

19 (i) All residential condominium conversions may be
20 required to comply with one or more of the provisions of the
21 State Energy Regulations, California Administrative Code,
22 Title 24.

23 (j) A minimum amount of usable open space.

24 Usable open space shall be provided for each
25 dwelling unit. Usable open space shall mean areas designed
26 for and to be used for outdoor living, recreation, or landscaping
27 and located on the ground or on an unenclosed balcony, deck, or
28 porch. No portion of off-street parking spaces, driveways,
29 rooftops, accessory buildings, or required front, rear, or
30 side yards shall constitute usable open spaces. The open space
31 areas should be evenly distributed in ground and decks or
32 balconies. The minimum dimension of any deck, balcony, or patio

1 shall not be less than three (3) feet.

2 Open space requirements shall be as follows:

3 (1) Area District I: 300 square feet per unit.

4 (2) Area District II: 300 square feet per unit.

5 (3) Area District II-A: 250 square feet per unit.

6 (4) Area District III: 150 square feet per unit.

7 (k) At least one hundred fifty (150) cubic feet of
8 enclosed storage space shall be provided in the garage, or
9 outside area if architecturally screened, for each unit for
10 all condominium development (new construction and conversion).

11 (1) All condominiums (new construction and conversion)
12 shall provide "drip pans" or other devices for laundry rooms,
13 water heaters, and dishwashers to prevent water damage in case
14 of leakage.

15 (m) Warranty clause.

16 The subdivider of a condominium conversion shall
17 provide a report prepared by a licensed general contractor
18 estimating the remaining useful life of the plumbing, electrical,
19 roof (water tightness) and mechanical conditioning equipment.
20 This report shall be submitted with the application for said
21 condominium conversion.

22 (n) Prior to scheduling for hearing an application
23 for conversion of an existing multiple unit building(s) into
24 condominiums, ~~cooperatives~~, or community apartments, the Commu-
25 nity Development Department shall inspect the interior and
26 exterior of the improvements to determine condition and legal
27 occupancy.

28 (o) Any additional requirements that are deemed
29 necessary to assure that the condominium development (new
30 construction and conversion) will provide the highest degree
31 of residential compatibility within the development and with
32 surrounding neighborhoods.

1 (p) A variance procedure could be approved through
2 a Conditional Use Permit for combined lots where the number
3 of units on the combined lots is less than that permitted on
4 the lots developed separately.

5 (q) Each tenant of the proposed condominium,
6 community apartment, or stock cooperative conversion shall be
7 given notice not less than ten (10) days prior to the first
8 public hearing for said condominium project.

9 In addition, the legislative body shall not
10 approve a final map for a subdivision to be created from the
11 conversion of residential real property into a condominium
12 project, a community apartment project, or a stock cooperative
13 project unless it finds both that:

14 (1) Each of the tenants of the proposed
15 condominium, a community apartment project, or stock cooperative
16 project has been or will be given 120 days' written notice of
17 intention to convert prior to termination of tenancy due to
18 the conversion or proposed conversion. The provisions of this
19 subdivision shall not alter or abridge the rights or obligations
20 of the parties in performance of their covenants, including,
21 but not limited to the provision of services, payment of rent
22 or the obligations imposed by Sections 1941, 1941.1 and 1941.2
23 of the Civil Code.

24 (2) Each of the tenants of the proposed
25 condominium, community apartment project, or stock cooperative
26 project has been or will be given notice of an exclusive right
27 to contract for the purchase of their respective units upon the
28 same terms and conditions that such units will be initially
29 offered to the general public or terms more favorable to the
30 tenant. The right shall run for a period of not less than
31 60 days from the date of issuance of the subdivision public
32 report pursuant to Section 11018.2 of the Business and

1 Professions Code, unless the tenant gives prior written notice
2 of his intention not to exercise the right.

3 (3) This section shall not diminish, limit or
4 expand, other than as provided herein, the authority of any
5 city, county, or city and county to approve or disapprove
6 condominium projects.

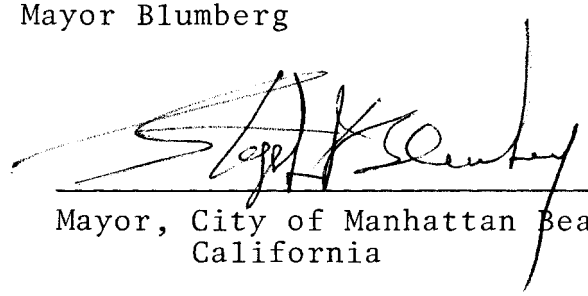
7 SECTION 2. Section 10-3.1609.2.2 of Article 16,
8 Chapter 3, Title 10, relating to condominium conversion, is
9 hereby repealed.

10 SECTION 3. This ordinance shall go into effect and
11 be in full force and operation from and after thirty days
12 after its final passage and adoption.

13 SECTION 4. The City Clerk shall certify to the
14 passage and adoption of this ordinance; shall cause the same
15 to be entered in the book of original ordinances of said City;
16 shall make a minute of the passage and adoption thereof in
17 the records of the meeting at which the same is passed and
18 adopted; and shall within fifteen days after the passage and
19 adoption thereof cause the same to be published once in the
20 Manhattan Beach News, a weekly newspaper of general circulation,
21 published and circulated within said City of Manhattan Beach
22 and which is hereby designated for that purpose.

23 PASSED, APPROVED and ADOPTED this 16th day of
24 September, 1980.

25 Ayes: Holmes, Lesser, and Mayor Blumberg
26 Noes: Switzer
27 Absent: Sweeney
28 Abstain: None


Mayor, City of Manhattan Beach,
California

29
30 ATTEST:

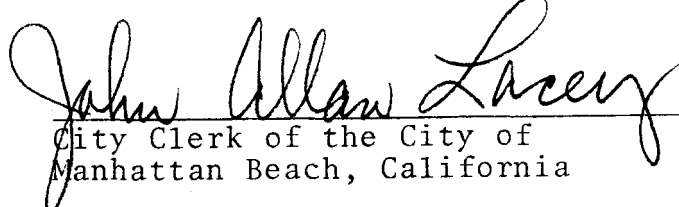
31 
32 City Clerk

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.
3 CITY OF MANHATTAN BEACH)

4 I, JOHN ALLAN LACEY, City Clerk of the City of Manhattan
5 Peach, California, do hereby certify that the whole number of
6 members of the City Council of said City is five; that the
7 foregoing Ordinance, being Ordinance No. 1589, was duly
8 passed and adopted by the said City Council, approved and
9 signed by the Mayor, and attested by the City Clerk, of said
10 City, all at a regular meeting of the said
11 Council duly and regularly held on the 16th day of
12 September, 19 80, and that the same was so passed
13 and adopted by the following vote, to wit:

14 AYES: Holmes, Lesser, and Mayor Blumberg
15 NOES: Switzer
16 ABSENT: Sweeney
17 ABSTAIN: None

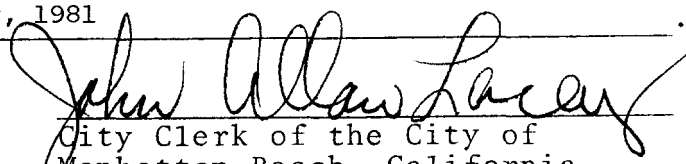
18 IN WITNESS WHEREOF, I have hereunto subscribed my name and
19 affixed the official seal of said City this 17th day of
20 September, 19 80.

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(SEAL) 
City Clerk of the City of
Manhattan Beach, California

CERTIFICATE OF PUBLICATION

24 STATE OF CALIFORNIA)
25 COUNTY OF LOS ANGELES) SS.
26 CITY OF MANHATTAN BEACH)

27 I, JOHN ALLAN LACEY, City Clerk of the City of Manhattan
28 Beach, California, do hereby certify that Ordinance No. 1589
29 has been duly and regularly published according to law and the
30 order of the City Council of said City and that same was so
31 published in the Manhattan Beach News, a weekly newspaper of
32 general circulation on the following date, to wit: Sept. 25, 1980
in witness whereof, I have hereunto subscribed my name this
20th day of January, 1981.


City Clerk of the City of
Manhattan Beach, California

Attachment H

New Hearings

2/27/80

1. Condominium Ordinance Reivision

A) Council Referral

- a) M. B. M. C. relating to 55%/45%
- b) M. B. M. C. relating to 2 parking spaces

William Orndorff, Secretary to the Commission, clarified that the Condominium Ord. is proposed to be amended, then items A and B will be discussed as a result of Council referrals. He continued and noted the material that was distributed at the last Planning Commission meeting.

Secretary Orndorff pointed out the main issues are 1) condominiums on walk streets and corners 2) condominiums on the Strand.

Commissioner Foote questioned if this condominium ordinance revision would eliminate the Conditional Use Permit process. Secretary Orndorff clarified that a Conditional Use Permit would still be required.

As discussion commenced, Commissioner Fruin added that the amendment should not distinguish from new construction and conversions. New construction could be designed to meet all the new requirements. Conversions should also have to meet all standards as new construction.

Secretary Orndorff noted the purpose of a Conditional Use Permit is to review some of the boundaries set forth. Commissioner Fruin pointed out after the ordinance is adopted, perhaps the CUP could be taken care of over the counter. Then if there is a grievance the applicant could bring the application before the Commission. Secretary Orndorff noted all Tract Maps must be heard before a public hearing and not just handled over the counter. Standard conditions should be mandatory on new construction and on conversions.

It was then noted the purpose of a conversion is to improve the existing structures that have been misused in the past as bootlegs and create affordable housing. Secretary Orndorff pointed out some suggestions for conversions as follows: 1) Equal age and size of each unit. 2) Greater parking than required. 3) Up grading building stucco. He continued and pointed out to the Commission if plans are submitted with bathrooms back to back, they must be stamped by an acoustical engineer for proper noise attenuation.

The 45%/55% rule was then discussed among the Commission. They were in favor of this rule. It would allow a 5% variance for the units to be equal.

In conclusion, this 45%/55% rule would apply to such a limited area. Other Commissioners felt this could be an issue any place other than the Strand. Commissioner Fruin felt this would encourage builders to build units over 1,800 sq. ft. to qualify for an exemption to the 55%/45%. Commissioner Bard felt this encourages building bulk.

William Ross, 1413 Sepulveda Boulevard, stated he is not in full agreement with doing away with Conditional Use Permits. He explained that Parcel Maps are processed from recorded data. Tract Maps are processed from "scratch." He continued and stated if the building is worthy of conversion it should be done to create a means of affordable housing.

The hour being 9:00, a ten-minute break was taken.

The Commission resumed at 9:10. Commissioner Fruin pointed out seven reasons why he felt two unit condominiums should be prohibited on corner lots and walk streets as follows:

1. Not equal in amenities.
2. Condominiums are a bulky building and will change the character of the neighborhood "bookend effect."
3. Condominiums are a stimulus to development with a bulky building.
4. Would create a "Chinese Wall" effect.
5. Not equitable to inner lots.

6. There are relatively few corner lots that would qualify, there are many problems, so why do it.
7. Should discourage garage egress and ingress from arterial vehicular streets.

Issue: Whether or not condominiums should be allowed on walk streets

Upon discussion a motion was made and seconded (Armistead/Fruin) to not have any condominiums on walk streets. The motion carried with the following roll call vote:

Roll Call: Armistead-yes; Bard-yes; Foote-yes; Fruin-yes;
Giese-abstain; Logan-yes; Wachtfogel-yes;

Commissioner Giese pointed out he abstained because of inadequate input.

A subsequent motion was then made (Wachtfogel/Foote) to maintain the 45%/55% rule. Motion carried with the following roll call vote:

Roll Call: Armistead-yes; Bard-yes; Foote-no; Fruin-yes;
Giese-abstain; Logan-yes; Wachtfogel-yes.

A substitute motion was made (Armistead/Wachtfogel) to leave the first paragraph in the condominium ordinance as it is and unanimously carried with a voice vote.

Lengthy discussion regarding condominiums on the Strand. It was pointed out the Strand should be treated differently because it is perpendicular to the ocean. There is so much open space. Commissioner Fruin felt it is a stimulus and noted as pointed out by Mr. Ross, condominiums are a way to recycle the property. Commissioner Fruin continued and noted to the Commission that he preferred a variety on the Strand rather than a "Chinese Wall" of condominiums. He pointed out condominiums create an economic incentive to build large bulky buildings.

Commissioner Wachtfogel pointed out Manhattan Beach has been hit by "condomania." The word condominium in most people's mind means a 300 unit building. Commissioner Giese noted the bulk in a condominium is controlled. Commissioner Bard pointed out the only way condominiums could qualify on the Strand is to have tandem parking.

Discussion ensued. Commissioner Fruin pointed out his concern is that it places a higher value on the lot because it allows the owner/developer to build two full size structures on the same lot. It encourages people to tear down the existing structure and put a condominium in its place so the owner could get the additional value of his property. He continued and suggested to prevent this would be to ALLOW condominiums on the Strand but restrict them to not go two stories high. The City should change the rules to encourage a new type of development on the Strand. He felt the Strand is the "signature" of Manhattan Beach along with the walk streets.

As discussion continued, Commissioner Fruin pointed out most of the condominiums on the Strand are conversions. He felt condominiums should be restricted to two stories.

William Ross, 1413 Sepulved Boulevard, felt these suggestions are completely "off the wall." He pointed out it does not make sense to limit the height of a building to 20 feet if it is called a "condominium" but 30 feet is o'kay for a duplex or house. He continued and noted the Strand is very sensitive area. He concluded in pointing out Commissioner Bard will have to disqualify herself from voting on this matter.

Commissioner Fruin stated the condominium ordinance requires the Commission to evaluate the desirability of each application and to question the concept of condominium development in this town.

Commissioner Wachtfogel felt if condominiums are allowed on a lot, the result would naturally be a bigger, bulkier building.

Mr. Ross, in answer to Commissioner's question pointed out lot splits are a political issue.

As discussion ensued, a motion was then proposed to allow condominiums on the Strand to remain the same under the current standards. Secretary Orndorff suggested that the building not be separate, but stacked units. He continued and noted there is one condominium pending that is not a stacked unit on the Strand.

A motion was then made and seconded (Giese/Foote) to allow condominium units on the Strand in a stacked configuration complying with any other existing conditions which are currently imposed. Motion did not carry with the following vote:

Roll Call: Armistead-yes; Bard-abstain; Foote-yes; Fruin-no;
Giese-yes; Logan-no; Wachtfogel-no.

Chairman Logan suggested that this be continued and parking now be discussed. Commissioner Fruin noted a survey dated June 1978 that indicated that average number of vehicles owned by condominium residents in the coastal area (2.4) and the city area (2.8.) The total responses were 33 (13 in the coastal and 20 outside the coastal area). On the average, condominium owners are parking one half vehicle outside the garage.

Commission discussion ensued regarding required parking for condominiums. A motion was made and seconded (Bard/Foote) to require 2.5 vehicles per dwelling unit regardless of how many units are in the building. Motion unanimously carried with a voice vote.

It was then suggested to continue the remainder of this public hearing to the next meeting with the hour being 11:00 p.m.

2. & 3. Conditional Use Permits, Tentative Tract Maps
39455 & 39456, 1160-10th St./917 Johnson St. (Kim/Choi)

2/27/80

Secretary Orndorff pointed out this is an application for two, two unit condominiums for property that consists of two, R-2 lots. Both condominium units will be new construction.

Chairman Logan opened the public hearing and invited testimony from proponents of the subject applications.

Jay Stevenson, Architect of the proposed developments, stated they are in agreement with the conditions as outlined by staff. He continued in pointing out this is a quality project and will add quality to the neighborhood. He noted they provided excess parking, open space, storage space and sound attenuation between the units. There will be high quality kitchen appliances. He concluded in highlighting many of the amenities the projects will have.

There being no further proponents, Chairman Logan invited opponents to speak regarding the subject application.

George Fall, 1157 - 9th Street, spoke as an opponent for the development because the property would look down into his personal hot tub and take away his privacy. Secretary Orndorff pointed out a deck projection can project within two feet of the property line. Mr. Fall pointed out he can now look at a view of trees. If the proposed development is approved, he will be looking at the wall of the structure.

Mr. and Mrs. Robert Johnson, residing on 9th Street, also spoke as opponents of the proposed development. They felt it would not fit in with the character of the neighborhood.

Attachment I

Chapter 10.88 - RESIDENTIAL CONDOMINIUM CONVERSIONS

Sections:

10.88.010 - Specific purposes.

The conversion of residential structures from one (1) individual ownership to condominiums or any other form of multiple ownership interests creates special community problems, both social and economic. Conversions may significantly affect the balance between rental and ownership housing within the city, and thereby reduce the variety of individual choices of tenure, type, price, and location of housing; increase overall rents; decrease the supply of rental housing for all income groups; displace individuals and families; and disregard the needs of the prevailing consumer market. The purpose of this chapter is to provide guidelines to evaluate those problems, including the impact any conversion application may have on the community, and to establish requirements which shall be included in any conversion approval.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

10.88.020 - Objectives.

This chapter is enacted for the following reasons:

- A. To establish procedures and standards for the conversion of existing multiple-family rental housing to condominiums;
- B. To reduce the impact of such conversions on tenants, who may be required to relocate due to the conversion of apartments to condominiums, by providing for procedures for notification and adequate time and assistance for relocation to comparable rental housing and rates;
- C. To assure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase;
- D. To ensure that converted housing achieves a high standard of appearance, quality, and safety, and is in good condition without hidden needs for maintenance and repair;
- E. To provide the opportunity for low- and moderate-income persons to participate in the ownership process, as well as to maintain a supply of rental housing for low-and moderate-income persons; and
- F. To assure that adequate rental housing is available in the community.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

10.88.030 - Requirements.

In addition to the applicable requirements and procedures set forth in Chapter 10.76, Subdivisions, conversions of existing rental housing to condominiums, community apartments, stock cooperatives and any other subdivision which is a conversion of existing rental housing shall be subject to the additional requirements of this title. Such conversions also must obtain a use permit pursuant to Chapter 10.84. Consistent with Section 10.12.020, the use permit requirement shall apply only to conversions creating three (3) or more units.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; § 2, Ord. 1951, eff. July 4, 1996)

10.88.040 - Application procedures.

The following procedures and regulations shall apply to condominium conversion applications:

- A. **Preliminary Applications.** Applicants may submit preliminary applications for condominium conversions of residential structures to condominiums. Such applications shall identify the owner or authorized agent, the location and number of units in the building to be converted, and contain information on the vacancy rate of multifamily dwellings of three (3) or more units within the city and the number of tenants residing in the building(s) to be converted who support such a conversion. A fee will be charged for the review of the proposed conversion in accordance with the fee resolution.

Data for determining the city's annual multifamily vacancy rate shall be compiled from a variety of sources including, but not limited to, United States Postal Service Surveys, idle utility meter reports, reports from financial institutions and real estate organizations.

- B. **Department Review.** The Department shall review preliminary applications for condominium conversions. Preliminary applications may be accepted for further discretionary review if any one of the following factors exists:

1. The vacancy rate of multiple-family developments of three (3) or more rental units within the city, as determined by the Community Development Director, is equal to or more than five percent (5%), unless the conversion will result in a decrease of the vacancy rate to less than five percent (5%).
2. Tenants lawfully in possession of seventy-five percent (75%) of the units indicate in writing to the City their desire (one (1) vote per unit) to convert such units to condominium ownership. To qualify under this provision, the applicant shall submit evidence that tenants have been provided with information on all estimated costs, including, but not limited to, the unit cost, down-payment requirements, financing, estimated property management costs, and homeowner association fees. If the conversion is approved, the developer shall provide information to the City on the number of tenants who actually purchased. If at any time during the conversion approval process, a sufficient number of tenants decide not to purchase, or if misrepresentation is discovered, the Board of Zoning Adjustment shall have sufficient grounds for recommending denial of the use permit application.
3. The applicant agrees to sell or rent at affordable prices twenty-five percent (25%) of the units to low- and moderate-income households, with a minimum of twenty percent (20%) of the units affordable to low-income households. If the units are to be made available for purchase, the maximum sales price of units intended for low- or moderate-income households shall not exceed 2.5 times the annual median income for such households as defined by the California Health and Safety Code, Section 50093. Resale controls shall be included as a deed restriction. If the units are to be for rent, the maximum rent allowed shall keep the units within the low- or moderate-income housing stock.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1891, Amended, 01/06/94)

10.88.050 - Required reports and information.

After preliminary applications are accepted for further discretionary review, the applicant shall submit all the information required for a use permit application and a tentative map pursuant to this code. In addition, the applicant shall submit information documenting that the project as a whole will be in good repair on the interior and the exterior when offered for sale. As part of the material necessary for the City to determine this to be the case, the reports and/or information required by this section shall be submitted. The cost of all reports shall be paid by the applicant, and the persons preparing the reports shall be approved by the City. The reports shall include information on what improvements, if any, shall be accomplished by the developer and at what point in the conversion proceedings such improvements

shall be completed. All improvements cited in the reports, whether required or voluntary, shall be considered conditions of approval.

The applicant shall be responsible for the remedy of physical conditions within individual units or common areas, noted by a prospective purchaser and/or tenant, which have been missed by inspections or which occur subsequent to the inspections but prior to the close of escrow. In case of disagreement between the applicant and the prospective purchaser as to the actual condition, remedy, or cause of deterioration, the burden of proof shall be that of the applicant.

A. **Physical Elements Report.** A report on the physical elements of all structures and facilities shall be submitted, containing the following:

1. A report by a California-licensed structural or civil engineer detailing the structural condition, useful life, and any apparent deferred maintenance of all elements of the property, including, but not limited to, foundations, electricity, plumbing, utilities, walls, ceilings, windows, frames, recreational facilities, sound transmissions of each building, mechanical equipment, parking facilities, and drainage facilities. Such report also shall describe the condition of refuse disposal facilities; swimming pools, saunas, and fountains; stone and brickwork; fireplaces; and exterior lighting.
2. A report by a California-licensed appliance repair contractor detailing the age, condition, expected size, and the cost of replacement for each appliance and mechanical equipment for heating and cooling. The report shall identify any defective or unsafe appliances and set forth the proposed corrective measures to be employed.
3. A report by a California-licensed structural termite and pest control specialist certifying whether or not all attached or detached structures are free of infestation and structural damage caused by pests and dry rot. The report shall describe what procedures would be necessary to eliminate infestation or damage, if present. Such report shall be updated within 6 months after the close of escrow, and any infestation shall be remedied prior to sale.
4. Existing soils reports shall be submitted for review with a statement regarding any known evidence of soils problems relating to the structures.
5. A report by a California-licensed painting contractor verifying the condition of the painting throughout the project, including building interior and exterior surfaces and an estimate of the remaining physical life of the paint. A statement that new paint will be applied on all building interior and exterior surfaces may take the place of such report. Such statement shall include the brand name of the paint and the exterior colors to be used.
6. A report by a California-licensed roofing contractor verifying the condition of the roofs of all structures and an estimate of the remaining physical life of the roofs and the cost of replacement. A statement that new roof material will be applied may take the place of such report. Such statement shall include the type, grade, and color of the proposed roofing material.
7. A declaration of the covenants, conditions, restrictions, and rules and regulations which would be applied on behalf of any and all owners of condominium units within the project. The declaration shall include, but not be limited to: the conveyance of units; the assignment of parking and storage areas; and an agreement for common area maintenance, together with an estimate of any initial assessment fees anticipated for such maintenance, and an indication of appropriate responsibilities for the maintenance of all utility lines and services for each unit.
8. Specific information concerning the demographic and financial characteristics of the project, including, but not limited to, the following:
 - a. The square footage and number of rooms in each unit;
 - b. The rental rate history for each type of unit for the previous 3 years;

- c. The monthly vacancy rate for each month during the preceding 3 years;
- d. A complete list of the number of tenants and tenant households in the project, including the following information:
 - 1. Households with persons 62 years or older;
 - 2. The family size of households, including a breakdown of households with children 5 years and younger; and between 5 and 18 years;
 - 3. Households with handicapped persons;
 - 4. The length of residence;
 - 5. The age of tenants; and
 - 6. The designation of low- and moderate-income households and whether any are receiving federal or state rent subsidies.

When the subdivider can demonstrate that demographic information is not available, this requirement may be modified by the Community Development Director.

- e. The proposed price of each of the units;
 - f. The proposed homeowners' association budget, detailed to include fixed costs, operating costs, reserves, administration, and contingencies; and
 - g. A statement of intent as to the types of financing programs to be made available, including any incentive programs for existing residents.
9. Signed copies from each tenant of the notice of intent to convert, as specified in this chapter. The applicant shall submit evidence that a certified letter of notification was sent to each tenant for whom a signed copy of such notice is not submitted.
- B. **Acceptance of Reports.** The final form of the physical elements report and other documents shall be approved by the Board of Zoning Adjustment. The reports in their acceptable form shall remain on file with the Department for review by any interested person.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

10.88.060 - Condominium conversion standards.

- A. **Compliance with Zoning, Building, Housing, Mechanical, and Fire Codes.** All units, as well as the common ownership facilities, shall be brought into compliance with all applicable state and local zoning, building, housing, mechanical, and fire codes adopted for use by the City unless, upon approval of the Community Development Director and prior to recordation of the final map or parcel map, funds have been adequately escrowed to assure completion of such corrective work prior to the closing of escrow of any unit in the project.
- B. **Parking Requirements.** The project shall conform to all applicable parking requirements of Chapter 10.64.
- C. **Sound Transmission Characteristics and Energy Conservation.** The following methods shall be used to regulate noise transmission:
 - 1. **Shock Mounting of Mechanical Equipment.** All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which are determined by the Community Development Director to be a source of structural vibration or structure-borne noise, shall be shock-mounted in inertia blocks or bases and/or vibration isolators in a manner approved by the Community Development Director.

2. **Noise Mitigation and Energy Conservation.** Energy conservation insulation shall be installed in all heated or cooled buildings, including common ownership structures used for assembly purposes, in accordance with Title 24 of the California Code of Regulations, as amended, and in effect on the date building permits are issued for condominium conversion rework. Common walls and common floor/ ceiling between units shall be constructed to meet a sound transmission coefficient (STC) rating of 55 or higher.

D. Fire Protection

1. **Smoke Detectors.** Every dwelling unit shall be provided with an AC- powered smoke detector approved by the State Fire Marshal. Installations shall comply with Uniform Building Code Section 1210(a).
2. **Sprinkler and Other Systems.** A sprinkler system, fire alarm, and other fire protection devices shall be installed as required by the Municipal Code.

E. Utilities: Location and Metering.

1. **Location.** Each dwelling unit shall be served by gas and electric services completely within the lot lines or ownership space of each separate unit. No common gas or electrical connection or service shall be allowed. Easements for gas and electric lines shall be provided in the common ownership area where lateral service connections shall take place.
2. **Undergrounding.** All new utilities, both on-site and off-site, across property frontage shall be underground.
3. **Metering.** Each dwelling unit shall be separately metered for gas and electricity. Individual panel boards for electrical current shall be provided for each unit. A plan for the equitable sharing of communal water metering and other shared utilities shall be included in the covenants, conditions, and restrictions.

- F. **Laundry Facilities.** A laundry area shall be provided in each unit, or, if common laundry areas are provided, such facilities shall consist of not less than 1 automatic washer and dryer for each 5 units or fraction thereof.

- G. **Condition of Equipment and Appliances.** At such time as the homeowners' association takes over the management of the condominium project, the applicant shall provide a one-year warranty to the association that any pool and/or spa and pool and/or spa equipment (filter, pumps, and chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition. The plumbing and electrical systems in both the dwellings and the common ownership areas shall also be covered by a one-year warranty for proper and safe operation and installation in a safe and workmanlike manner. Such warranty shall be offered by an independent homeowner's warranty service licensed by the California Insurance Commission.

- H. **Refurbishing and Restoration.** All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Board of Zoning Adjustment shall be refurbished and restored as necessary to achieve a high standard of appearance, quality, and safety.

- I. **Contingency Fees.** The intent of the City in requiring the creation of a contingency or reserve fund for condominium conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant shall convey to the homeowners' association's contingency fund a minimum fee of \$200 per dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant, within 30 days, shall convey such fee for each of the unsold units. Such funds shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the homeowners' association.

10.88.070 - Tenant benefits and notification.

Applications for condominium conversions shall include the following procedures as they relate to tenant notification:

- A. **Notices of Intent.** A notice of intent to convert shall be delivered to each tenant at least 60 days prior to filing the application for a use permit and a tentative map. Evidence of the receipt of such notice shall be submitted with the application for conversion. The form of the notice shall be in the form outlined by Section 66452.9 of the California Government Code, and shall contain not less than the following:
 1. The name and address of the current owner;
 2. The name and address of the proposed subdivider;
 3. The approximate date on which the application and tentative map are proposed to be filed;
 4. The approximate date on which the final map or parcel map is to be filed;
 5. The approximate date on which the unit is to be vacated by non-purchasing tenants;
 6. The tenant's rights of:
 - a. Purchase;
 - b. Notification to vacate; and
 - c. Termination of the lease.
 7. A statement of no rent increase;
 8. Provisions for special cases;
 9. The provision of moving expenses and the tenant's right to claim any penalty imposed if timely payment is not made;
 10. The anticipated price range of the units;
 11. The proposed homeowners' association fees;
 12. A statement of the types of financing programs to be made available, including any incentive programs for existing residents; and
 13. A copy of the City's condominium conversion regulations.
- B. **Notification to Tenants**
 1. **Mailing.** Two separate stamped, pre-addressed envelopes for each resident of each unit shall be furnished to the Department by the applicant at the time the subdivider submits an application for a use permit for a conversion. The Department shall use one envelope to notify the residents by mailing a copy of the public hearing notice to tenants not less than 10 days prior to the proposed hearing date on the application. The notice shall include notification of the tenant's right to appear and be heard. The second envelope shall be used by the Department to notify the residents of the results of the public hearing by mailing notification of the decision of the Board of Zoning Adjustment not more than 7 days following the Board's action. Failure of the Department to mail such notice shall not invalidate any proceeding or action taken by the City in considering a conversion. The list of names and addresses of the residents of each unit in the conversion project shall be current as of the day of submittal and shall be certified as such by the applicant.
 2. **Notices to Prospective Tenants.** Commencing 60 days prior to the submittal of the application, any prospective tenants shall be notified in writing by the subdivider of the intent to convert prior to leasing or renting any unit pursuant to Section 66452.8 of the California Government Code.

3. **Posting Notices.** The notice of intent shall be posted on-site in at least one location readily visible to tenants.
- C. **Tenants' Discounts.** Any present tenant of any unit at the time of an application for conversion shall be given a nontransferable right of first refusal to purchase the unit occupied at a discount of the price offered to the general public. The amount of the discount shall be based on the longevity of each tenant, and shall be ratified by the applicant at the time of conversion.
- D. **Vacation of Units.** Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which the subject unit is occupied, shall have not less than 120 days after the date of the tentative map approval by the City or until the expiration of the tenant's lease to find substitute housing and to relocate. Tenants shall be permitted to terminate leases or tenancy with 1 month's notice at any time after a conversion application.
- E. **No Increase in Rent.** A tenant's rent shall not be increased within 2 months prior to a project application, nor shall the rent be increased for 2 years from the time of the filing of the project application or until relocation takes place.
- F. **Special Cases**
 1. All non-purchasing tenants 62 years old or older and all non-purchasing medically-proven permanently disabled tenants shall receive a lifetime lease. Rents for such tenants shall not be increased for 2 years after the filing of the project application.
 2. The following non-purchasing tenants shall receive a minimum of 12 months' relocation time, measured from the tentative map approval, to find replacement housing:
 - a. Tenants with low or moderate incomes; and
 - b. Tenants with minor children in school.
- G. **Moving Expenses.** The subdivider shall provide moving expenses equal to three times the monthly rent to any tenant, in compliance with all the terms of the subject lease and/or financing, who relocates from the building to be converted after City approval of the use permit authorizing conversion of the units. When the tenant has given notice of his intent to move prior to City approval of the use permit, eligibility to receive moving expenses shall be forfeited.
- H. **Relocation Assistance.** Relocation assistance shall be provided by the subdivider to non-purchasing tenants for a minimum period of 4 months following the tentative map approval. Information on available rental units in the same general area with costs comparable to the preconverted apartments shall be provided by the subdivider on a calendar quarterly basis. Copies of the list shall be posted on-site, dated, and provided to the Department.
- I. **Discrimination.** No discrimination in the sale of any unit shall be based on race, color, creed, national origin, sex, or age, and a statement to this effect shall be included in the covenants, conditions, and restrictions. Projects created exclusively for the purpose of providing senior citizen housing shall be exempted from this requirement.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

10.88.080 - Effect of proposed conversions on the city's low- and moderate-income housing supply.

In reviewing requests for the conversion of existing apartments to condominiums, the Board of Zoning Adjustment shall consider the following:

- A. Whether or not the amount and impact of the displacement of tenants, if the conversion is approved, would be detrimental to the health, safety, or general welfare of the community;
- B. The role the apartment structure plays in the existing housing rental market. Particular emphasis will be placed on the evaluation of rental structures to determine if the existing apartment complex is serving low- and moderate-income households;

- C. The need and demand for lower-cost home ownership opportunities which are increased by the conversion of apartments to condominiums.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91, 10-3.2114)

10.88.090 - Bonus for including low- and moderate-income housing.

Consistent with the requirements of Section 65915.5 of the California Government Code, the City shall offer a density bonus or other incentives of equivalent financial value to condominium conversions including low- or moderate-income housing units or lower-income household units. When an applicant for approval to convert apartments to a condominium project agrees to provide at least thirty three percent (33%) of the total units of the proposed condominium project to persons of low or moderate income, as defined in Section 50093 of the California Health and Safety Code, or fifteen percent (15%) of the total units to lower-income households, as defined in Section 50079.5 of the California Health and Safety Code, the Planning Commission shall either (1) grant a twenty-five percent (25%) density bonus or (2) provide other incentives of equivalent financial value. Any density bonus or other incentives of equivalent financial value provided under this section shall be governed by the requirements of Chapter 10.94.

- A. For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments to be provided within the existing structure or structures proposed for conversion. "Other incentives of equivalent financial value" shall not be construed to require the City to make any cash transfer payments or other monetary compensation to the subdivider, but may include the reduction or waiver of any required fees or the condominium conversion standards prescribed in Section 10.88.070.
- B. An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus was provided under the provisions of Chapter 10.94.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Amended § 13, Ord. 13-0006, eff. August 1, 2013)

10.88.100 - Findings.

The Board of Zoning Adjustment may approve an application for a condominium conversion if it finds that the proposed conversion meets the following requirements:

- A. That all the provisions of the Subdivision Map Act, this title, and other applicable provisions of this Code are met;
- B. That the proposed conversion is consistent with the General Plan and the adopted Housing Element and any applicable specific plan;
- C. That the proposed conversion will conform to the provisions of this Code in effect at the time of the project approval, except as otherwise provided in this chapter;
- D. That the overall design and physical condition of the condominium conversion achieves a high standard of appearance, quality, and safety;
- E. That the proposed conversion will not displace a significant percentage of low- or moderate-income, permanently or totally disabled, or senior citizen tenants or delete a significant number of low- and moderate- income rental units from the City's housing stock at the time when no equivalent housing is readily available in the Manhattan Beach area;
- F. That the dwelling units to be converted have been constructed and used as rental units for at least 3 years prior to the application for conversion.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

Attachmnet J

BFA Survey of Two Unit Condominium Developments- 2008-2018

Building Permit Finaled	Address	Max BFA	Proposed BFA	% of Max BFA	Unit 1 BFA	% of Max BFA	Unit 2 BFA	% of Max BFA
05/19/2009	2520 Alma Ave/408 26th St	5,600	5,155	92.1%	2,625	46.9%	2,530	45.2%
11/03/2009	1308 Manhattan Ave	4,582	4,318	94.2%	2,112	46.1%	2,206	48.1%
05/07/2012	105 Bayview	5,012	4,772	95.2%	2,323	46.4%	2,449	48.9%
11/27/2012	1400 Manhattan Ave	5,950	5,369	90.2%	2,982	50.1%	2,387	40.1%
01/17/2013	2208 Manhattan Ave	5,948	5,229	87.9%	2,495	41.9%	2,734	46.0%
04/08/2013	2400 Alma	5,596	5,135	91.8%	2,787	49.8%	2,348	42.0%
12/24/2013	300 7th St	5,333	5,297	99.3%	2,651	49.7%	2,646	49.6%
01/10/2014	612 Manhattan Ave	5,333	4,949	92.8%	2,246	42.1%	2,703	50.7%
01/22/2014	433 Marine Place	4,323	3,929	90.9%	2,000	46.3%	1,929	44.6%
04/10/2014	432 Marine Ave	4,313	3,942	91.4%	2,136	49.5%	1,806	41.9%
05/21/2014	3120 Alma Ave	5,602	5,424	96.8%	2,750	49.1%	2,674	47.7%
09/16/2014	3216 Alma Ave	5,606	5,289	94.3%	2,874	51.3%	2,415	43.1%
02/11/2015	228 38th St	5,358	4,298	80.2%	2,123	39.6%	2,175	40.6%
01/28/2016	428 23rd St/429 Marine Pl	5,760	5,038	87.5%	2,528	43.9%	2,510	43.6%
06/03/2016	1406 15th Street	7,493	5,010	66.9%	2,437	32.5%	2,573	34.3%
06/21/2016	814 Highland Ave	5,328	5,074	95.2%	2,567	48.2%	2,507	47.1%
12/13/2016	100 Manhattan Ave/209 1st St	5,332	5,269	98.8%	2,590	48.6%	2,679	50.2%
03/09/2017	704 Manhattan Avenue	5,680	5,371	94.6%	2,448	43.1%	2,923	51.5%
04/25/2017	445 21st Street	5,794	4,913	84.8%	2,643	45.6%	2,269	39.2%
07/11/2017	1016 Highland Avenue	5,653	5,134	90.8%	2,594	45.9%	2,540	44.9%
09/13/2017	2800 Alma Ave (407/413 28th)	5,598	5,597	100.0%	3,142	56.1%	2,455	43.9%
10/26/2017	304 3rd St	5,336	5,312	99.6%	2,637	49.4%	2,675	50.1%
12/28/2017	2616 Alma Ave	5,601	5,451	97.3%	2,748	49.1%	2,703	48.3%
Under Construct.	320 35th Street	4,320	4,103	95.0%	2,102	48.7%	2,001	46.3%
Under Construct.	2420 Highland Avenue	5,953	4,758	79.9%	2,018	33.9%	2,740	46.0%
Under Construct.	443 23rd Place	5,460	4,763	87.2%	2,520	46.2%	2,243	41.1%
Under Construct.	326 2nd Street	4,325	4,021	93.0%	2,220	51.3%	1,801	41.6%
Under Construct.	217 1st Street	4,320	4,032	93.3%	2,016	46.7%	2,016	46.7%
Under Construct.	221 1st Street	4,320	4,016	93.0%	2,008	46.5%	2,008	46.5%
Under Construct.	441 23rd Street	4,352	4,024	92.5%	2,005	46.1%	2,019	46.4%
Under Construct.	400/404 27th Street	5,601	5,560	99.3%	2,817	50.3%	2,743	49.0%
Under Construct.	2412 Manhattan Ave	5,956	5,275	88.6%	2,490	41.8%	2,785	46.8%
In Plan Check	216 Marine Avenue	4,291	3,915	91.2%	1,951	45.5%	1,964	45.8%
In Plan Check	2204 Alma Avenue	5,590	5,229	93.5%	2,606	46.6%	2,623	46.9%
In Plan Check	3516 Manhattan Avenue	5,914	5,470	92.5%	2,570	43.5%	2,900	49.0%

Number of Condo Projects	35
Number of Condo Units	70
Number of Condo Units Over 55% Max BFA	1
Percentage of Condo Units Over 55% Max BFA	1.4%

Attachment K

Christopher T. Carey

1247 11th Street • Manhattan Beach, CA. 90266
E-Mail: ctjcarey@gmail.com
Phone: (818) 681 9224

Date: July 26, 2016
Manhattan Beach City Council

Dear Councilmembers,

I am writing to formally request the council's consideration of my proposal (attached) for a text amendment to the City of Manhattan Beach Planning Ordinance 10.52.110. I will request a place on the public comments portion of the August 2nd council meeting, where I will ask that this request be recorded, and the city council take appropriate next steps to address the proposal. It is my understanding that that may include asking the Planning Commission to review and consider it.

For your reference, in preparation for this submission, I have met with the Mayor, Mr. D'Errico, and prior to that, spent considerable time in review with City Planning Department (including Marisa Lundstedt), and thus my submission is presented to you, under their guidance, as the appropriate next step.

I appreciate your consideration, and look forward to addressing you in person on August 2nd.

Sincerely,

Christopher T. Carey

Manhattan Beach Homeowner

Proposal to City of Manhattan Beach Planning Department related to Planning Ordinance 10.52.110 Residential Condominium Standards.

Introduction:

I am the owner of the condominium located at 132 Marine Avenue. This property was originally constructed in 1969, as 1 of 2 completely separate single-family structures on the lot # Tract 34007, Lot 10, Block 8, Subdivision No.2. On November 2nd, 1977 the property was converted, (Resolution NO. 646) to a 2 on a lot condominium and was provided separate mailing addresses, (132 Marine Ave. and 133 21st Street). After this conversion, there were amendments made (Ordinances 1563, and 1589) to the planning code that required renovation of all condominiums to be “of approximately the same size and age”. These changes create an unfair restriction for owners of properties constructed and converted to condominiums prior to the amendments. My proposal is to make a limited exception to the code that permits me to reconstruct my property and a small number of others in town (approximately 15), independent of the age and size of the adjoining unit on the lot.

Background:

This proposal is related to the current condominium standards (*Manhattan Beach Ordinance 10.52.110,B.5*) that states that “2 on a lot” condominiums be developed under the requirement that both units (regardless if they are separate structures and owned separately) are developed/redeveloped such that both units are “*approximately equal in size and age*”.

Proposal:

Amend the text to include an “exception” that allows a certain category of “2 on a lot” condominiums where no common facility of structures exist to completely rebuild either unit separately subject to certain conditions, See **Exhibit A** (*proposed text amendment in context of the full Ordinance 10.52.110*), and requiring compliance with all relevant planning and building requirements.

Considerations:

The current language was approved over the course of several years after my property had already been converted and separate owners had taken title to the two units. The concern being addressed about unequal development of larger, multi-unit condominium properties created an unfair restriction for completely separate 2 on a lot structures like mine. See **Exhibit B** (timeline summary of relevant ordinances).

The current ordinance, does not specifically address separate structure, “2 on a lot” condominium properties, which share absolutely no common facilities or structures. A certain number of these properties were constructed prior to 1979, and may be non-conforming to the existing building and planning codes.

By specifying the proposed exception to properties originally constructed prior to June, 1979, (the first appearance of the combined “approximately same age and

size” language), the proposed amendment creates a narrow allowance that will not undermine the original intent of the ordinance(s), while allowing the City to appreciate improvements in the conformance of properties to the current planning and building codes, as well as improving the general quality of property values in Manhattan Beach.

Rationale:

The current language in the Planning Ordinance 10.52.110 Residential Condominium Standards was developed over the course of several years, with additions that were approved based on considerations that at the time were reasonable but did not contemplate all consequences created by the combined language.

The proposed amendment allows for specific condominium owners, (separate structure, 2 on a lot), developed before July 1979 to be provided the right to develop their properties with the same, not more restrictive, requirements than single-family homeowners.

Benefits:

The proposed exception will provide the following benefits:

- Based upon available information, approximately 15 eligible condominium properties see **Exhibit C** will be allowed the right to redevelop up to the current standards.
- A positive effect on the City property tax base on an ongoing basis.
- Overall quality of the residential property inventory of MB.
- Increased compliance with the current building codes, including public safety, off street parking, open space requirements, trash storage, and general building and safety standards.
- Eliminates an unfair condition in the city planning code.

Exhibit A

Proposed Text Amendment to 10.52.110 - Residential condominium standards.

A. *Eligibility Requirements.*

1. *All residential condominiums (new construction or conversion) located in area districts III and IV shall have vehicular access from both the front and the rear property lines from dedicated streets or alleys improved and open to vehicular use.*
 - a. *Exception. Properties on the Strand.*
 - b. *Exception. Where a building site (consisting of a lot or portions of a lot) exists on March 9, 1989, and (1) neither the front nor the rear of the site is adjacent to a "walk street" and (2) the building site has access from two or more property lines from dedicated public streets or alleys improved and open to vehicular use. The building site shall be deemed to be a condominium site. This exception does not apply in area district IV.*
 - c. *Exception. Where a building site is zoned RH is adjacent to a "walk street" and has vehicular access from two (2) or more property lines from dedicated street or alleys improved and open to vehicular use, said building site shall be deemed to be a condominium site, with a maximum of two (2) dwelling units.*

B. *The following standards shall apply to construction of new condominiums; condominium conversion standards are prescribed by Chapter 10.88.*

1. *Sound attenuation for all common wall assemblies, and floor-to-ceiling assemblies which separate units from each other or from common areas within the building such as hallways, corridors, laundry rooms, recreation rooms or garage and storage areas, shall be required for both airborne sound and impact sound.*

All such common wall assemblies shall provide an airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty-five (55) for wall assemblies, fifty (50) if field tested, as defined in the Uniform Building Code standards.

Dwelling unit entrance including perimeter seals shall meet a sound transmission class (STC) of thirty-three (33).

2. *Additional requirements for sound alteration as follows:*
 - a. *No exhaust fans or vent pipes shall serve more than one (1) dwelling unit.*
 - b. *All water pipes to sinks and laundry facilities shall be installed with sound deadening materials to prevent the transfer of noise.*
 - c. *All voids around pipes shall be packed with rock wool or equivalent sound-deadening material, and all pipes shall be wrapped at all points of contact with any wood or steel members, and strap hangers.*
 - d. *No plumbing vents or similar equipment shall be placed back to back between separate dwelling units.*
3. *All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide airborne sound insulation equal to that required to meet a sound transmission class (STC) of fifty (50), forty-five (45) if field tested, as defined in the Uniform Building Code standards.*
4. *All floor-to-ceiling assemblies between separate dwelling units or common areas shall provide impact sound insulation equal to that required to meet an impact insulation*

class (IIC) of sixty (60), fifty-five (55) if field tested, as defined in the Uniform Building Code standards.

5. All residential condominiums consisting of two (2) units on a single lot, which is to be owned in common shall be developed with units, which are approximately equal in size and age. In no case shall the difference in enclosed floor space used for living purposes be assigned to one (1) unit, which is more than fifty-five percent (55%) of the total floor space assigned for both units, unless the smaller of the two (2) units exceeds one thousand eight hundred (1,800) square feet.

a. Exception: Detached condos built before July 19th 1979 can be completely rebuilt, without regard to valuation, if the condos are no more than two on a lot and are completely detached from one another. The rebuilt condo cannot take more than half of the maximum allowable buildable floor area (BFA) for the lot, and will be required to receive approval of a use permit for the new construction.

Proposed Text
Amendment

6. All residential condominiums shall have separate electrical and water meters and early warning fire detection systems.
7. At least one hundred fifty (150) cubic feet of enclosed storage space shall be provided in the garage, or outside area if architecturally screened, for each unit.
8. Where laundry rooms, water heaters, and/or, dishwashers are unequipped to prevent leakage above neighboring units or above other residential floors below "drip pans," or other devices, shall be provided.
9. All new buildings shall conform to Title 24 of the California Code of Regulations requiring compliance with the state energy regulations.
10. Enclosed trash areas shall be provided.
11. All utilities serving the site shall be undergrounded consistent with the provisions and exceptions provided in Section 9.12.050, Services undergrounding of this Code.
12. The title sheet and condominium owner's agreement shall state that:
 - a. Any future construction of living space or reconstruction of the building shall require review and approval of a use permit; and
 - b. The unit ownership is an "intangible portion of multiple residential property" and "ownership of a unit does not parallel or emulate ownership of single-family property or use..."
13. The condominium owners' association shall provide the opportunity for annual review and inspection of the building and the interior of individual units.
14. Building exteriors and common areas shall be maintained in the absence of an individual owner's agreement.
15. All common areas including, but not limited to, exterior portions of buildings, structures, utilities, yards, driveways, open space, etc., shall be under common ownership of all owners of condominium units.
16. All title conditions, covenants, and restrictions (CC&Rs), in form and content, and any revisions thereto shall, if required by the project use permit, be subject to approval of the City Attorney.
17. Two (2) off-street parking spaces and one (1) guest space shall be provided, consistent with Section 10.64.030.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1891, Amended, 01/06/94; § 2, Ord. 2014, eff. July 6, 2000)

Exhibit B

Summary of the timeline of Planning Ordinances related to Condominium Standards in Manhattan Beach

Ordinance 1417 May 29th 1975

- Allowed condominium conversions
- Created conditional use requirements including
 - Sound attenuation
 - Fire safety
 - Trash enclosures
 - Parking
 - Open space
 - Enclosed storage
 - Separate utilities
 - Laundry facilities

Ordinance 1563 July 19th 1979

- First appearance of “**approximately equal in size**” language
- *Note: No mention of same age*

Ordinance 1589 Sept 16th 1980

- First appearance of “**approximately equal in age**” language

Ordinance 1611 Oct 21st 1981

- Provided for condo conversion for apartments with a C/O prior to Jan 1, 1982

Ordinance 1794 March 7th 1989

- Additional requirements for condominiums including
 - Parking
 - Underground utilities
 - Open space standards
 - Non-conforming reconstruction of buildings damaged by fire, acts of God, the public enemy

Ordinance 1832 Dec 18th 1990

- Renumbering of condo standards and conversion standards
- No content changes

Ordinance 1838 June 4th 1991

- More renumbering of Chapters and Sections
- No content changes

Ordinance 1891 Jan 6th 1994

- Various conditions and limitations about use and restrictions related to encroachment etc..

Ordinance 2014 June 6th 2000

- Added CC&R language
- Added survival if any provisions are found to be unenforceable

Exhibit C

Draft list of eligible properties to the proposed text amendment

YEAR_BUILT	AREA	SITUSADDR	LEGAL_DESC
1967	2682.95769986000	333 1ST ST	TR=36067 CONDOMINIUM UNIT 2
1967	2682.95769986000	332 1ST PL 1	TR=36067 CONDOMINIUM UNIT 1
1967	2697.14629961000	133 21ST PL	TR=34007 CONDOMINIUM UNIT 2
1967	2697.14629961000	132 MARINE AVE	TR=34007 CONDOMINIUM UNIT 1
1969	2697.34814979000	401 20TH PL	P M 155-28-29 LOT 1 CONDOMINIUM UNIT 2
1969	2697.34814979000	400 21ST ST	P M 155-28-29 LOT 1 CONDOMINIUM UNIT 1
1967	2697.36425004000	121 38TH PL	TR=35028 LOTS 1 AND 2 CONDOMINIUM UNIT 2
1967	2697.36425004000	120 39TH ST	TR=35028 LOTS 1 AND 2 CONDO UNIT 1
1967	2699.70206602000	208 MARINE AVE	TR=34349 CONDOMINIUM UNIT 1
1967	2699.70206602000	209 21ST PL 2	TR=34349 CONDOMINIUM UNIT 2
1977	2699.87090007000	420 MARINE AVE	TR=MARINE VILLAS CONDOMINIUM UNIT 1
1977	2699.87090007000	422 MARINE AVE	TR=MARINE VILLAS CONDOMINIUM UNIT 2
1979	2701.22064991000	213 15TH ST	TR=36247 CONDOMINIUM UNIT 1
1979	2701.22064991000	214 15TH PL	TR=36247 CONDOMINIUM UNIT 2
1968	2701.40535039000	221 15TH ST	TR=39495 LOT 1 CONDOMINIUM UNIT 1
1968	2701.40535039000	220 15TH PL	TR=39495 LOT 1 CONDOMINIUM UNIT 2
1968	2702.44415070000	233 16TH ST	TR=38412 LOT 1 CONDO UNIT 1
1968	2702.44415070000	232 16TH PL	TR=38412 LOT 1 CONDO UNIT 2
1969	2707.67889979000	2605 ALMA AVE 1	TR=34259 CONDOMINIUM UNIT 1
1969	2707.67889979000	2605 ALMA AVE 2	TR=34259 CONDOMINIUM UNIT 2
1965	3152.33721922000	113 ROSECRANS AVE	TR=36838 LOT 1 CONDOMINIUM UNIT 1 N
1965	3152.33721922000	112 ROSECRANS PL	TR=36838 LOT 1 CONDOMINIUM UNIT 2 N
1978	3334.86494945000	605 BAYVIEW DR	TR=33615 CONDOMINIUM UNIT 2
1978	3334.86494945000	604 MANHATTAN AVE	TR=33615 CONDOMINIUM UNIT 1
1968	3335.42715024000	612 HIGHLAND AVE	TR=37689 LOT 1 CONDOMINIUM UNIT 1
1968	3335.42715024000	613 CREST DR	TR=37689 LOT 1 CONDOMINIUM UNIT 2
1967	3509.64219965000	3409 VISTA DR	TR=38201 LOT 1 CONDO UNIT 2
1967	3509.64219965000	3408 ALMA AVE	TR=38201 LOT 1 CONDO UNIT 1
1971	3810.48339987000	2700 MANHATTAN AVE	TR=37651 LOT 1 CONDOMINIUM UNIT 1
1971	3810.48339987000	205 27TH ST 2	TR=37651 LOT 1 CONDOMINIUM UNIT 2

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
FEBRUARY 28, 2018**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 28th day of February, 2018, at the hour of 6:01 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Burkhalter, Fournier, Morton, Seville-Jones, Chairperson Apostol
Absent: None
Others Present: Anne McIntosh, Director of Community Development (20 min late)
Laurie Jester, Planning Manager
Ted Faturos, Assistant Planner
Jason Masters, Assistant Planner
Andrew Contreras, Assistant City Attorney
Rosemary Lackow, Recording Secretary

2. AUDIENCE PARTICIPATION (3-minute limit) – None

3. APPROVAL OF THE MINUTES – Continued to March 14, 2018.

02/28/18-1. Regular meeting – February 14, 2018

4. PUBLIC HEARING

02/28/18-2. Consideration of Amendments to the Municipal Code and Local Coastal Program (LCP)
Related to Residential Condominium Standards

Chair Apostol announced the public hearing. **Planning Manager Laurie Jester** gave introductory remarks, explaining that the applicant is Chris Carey, an owner of an existing “two on a lot” detached condominium that he wants to improve. Per code, staff referred this request to the City Council which, on October 16, 2016, directed the Planning Commission to schedule a public hearing to consider amending the Municipal Code and Local Coastal Program (LCP). The regulations being considered are residential condominium standards that require that condominiums consisting of 2 units on a single lot be of approximately the same size and age, and other related regulations. Since application submittal, staff has spent much time researching the background to the existing rules. Procedurally, the Commission will conduct a public hearing, accept input and adopt a Resolution, recommending changes to the code which ultimately will be, upon approval of the City Council, taking on the form of an Ordinance.

Assistant Planner Ted Faturos gave a detailed report with accompanying slides that focused on: 1) the nature of the requested code amendment (primarily issues related to the “same size and age rule”); 2) history and purpose of the subject rule; 3) examples of condominium buildings affected; 4) history of condominium standards and staff conclusion that the “same age” rule is obsolete and does not provide a public benefit; 5) proposed wording: to eliminate same age and modify same size rules; 6) other proposed changes relating to required storage, enclosed trash areas, location of air conditioning (AC) equipment, use permit review requirements, and neighbor notification. Mr. Faturos concluded with the staff recommendation that the Commission hold the public hearing, and, subject to input, adopt a Resolution recommending that the City Council approve the subject request to amend the condominiums standards. He also noted a typo in the transmitted draft Resolution in Section 1(A) in that the date of the hearing should read February 28th, 2018.

In response to questions, **Mr. Faturos** provided the following information: Assistant City Attorney Contreras stated that he doesn’t believe there is a legal complication in the staff proposal that provides applicants can comply with one of two options for receiving private clearance for a proposed condo plan (either HOA approval or proof of notification to neighbor) (Fournier); Assistant Planner Faturos stated that about 20 square feet maximum is estimated to be needed to be reserved to locate AC units and there is no requirement that all units in a project share the same architectural style (Seville-Jones) and that when one

unit is modified, the combination of the floor area cannot exceed 100% of what is allowed for the total project (in its research staff found that at most a single condo took up a maximum 52% of allowed floor area), and staff prefers that the AC location standard be more vague for flexibility (Burkhalter).

Brief discussion focused on the proposed maximum 55% of BFA for either of two units and it was agreed that, as the breakdown would be approved through the HOA, the Commission understood the proposed 55% maximum.

There being no further questions, **Chair Apostol** invited **Mr. Carey**, the applicant, to address the Commission.

Chris Carey, purchased his unit and then found the codes greatly affected his plan, which he found to be illogical. He has spent two years researching this and is anxious to move forward and is waiting for this matter to be concluded. Chair Apostol invited the public to give input.

PUBLIC HEARING

Martha Andreani, lifelong resident, noted that in the past “lot splits” were not allowed out of concern that this increases density. Condominiums then came along which she feels is a form of a “lot split”. She suggested a split of 50/50, not 45/55 percentage of floor area to mitigate increased density. She is in support of clarifying how parking, trash, and ACAC units will be handled.

There being no other speakers, **Chair Apostol** closed the public hearing and invited discussion.

COMMISSION DISCUSSION

Commissioner Morton stated his support for the staff Resolution, understanding how these code sections have become obsolete. He has no suggestions to modify the draft Resolution.

Commissioner Burkhalter asked and Mr. Fatuos responded that in the applicant’s, case, and anticipating others, all new or significantly improved (over 50%) units will be required to conform to code in all ways therefore will be upgraded.

Commissioner Fournier stated he shares Ms. Andreani’s concern but understands the context and history and is very comfortable with all the proposed changes. He thanked Mr. Carey, acknowledging his long wait and research. He strongly supports and has nothing to add to the draft resolution.

Commissioner Seville-Jones stated she supports and understands that there are many who will benefit and she complimented staff and clarified that the process of developing a condominium is not a “lot split”. She sees that perhaps the only reason there might be to maintain the “same age” requirement in the code is an argument that by doing so, the units might look more similar which may help maintain aesthetics of the project. But, since the city does not currently require that units look similar when being permitted, she doesn’t think this is a reason to keep the same age requirement.

Chair Apostol noted agreement with all that’s been said and supports the staff proposal and especially addressing things like where air conditioning units will be located.

ACTION

It was moved and seconded (Morton/Burkhalter) to ADOPT THE DRAFT RESOLUTION with only correction of the typo in Section I.A, approving a recommendation that the City Council approve and adopt amendments to MBMC 10.52.110 and LCP A.52.110 related to residential condominiums.

Roll Call:

AYES:	Burkhalter, Fournier, Morton, Seville-Jones, Chairperson Apostol
NOES:	None
ABSENT:	None
ABSTAIN:	None

Planning Manager Jester announced that this item will be scheduled for a future City Council public hearing because this is an Amendment to the Municipal Code and the LCP. The action will be for the City Council to adopt Ordinances. Once approved by Council, the Local Coastal Program

amendments will be forwarded to the California Coastal Commission to be finalized after which they will be in effect.

02/28/18-3. Proposed amendments to the Use Permit for the 900 Club for a Change in Hours of Operation and Changes to the Entertainment Permit Requirements, for an Existing Restaurant/Bar at 900 Manhattan Avenue (900 Club and Downstairs Bar)

Chair Apostol announced this public hearing was continued from January 24, 2018. The staff recommendation is for the Commission to conduct the continued hearing, accept additional testimony, and direct staff to prepare a resolution, approving with or without additional conditions.

Director McIntosh made brief remarks and then Assistant Planner Jason Masters gave the staff report with a slide presentation. He updated the Commission as to meetings held since January including one between staff and business owner, then with staff, the business owner and residents, and most recently (today) with the Police Department (“PD”) at which enforcement at this business was discussed. Mr. Masters distributed a late comment received from resident Mark Tuccinardi.

Mr. Masters outlined the background, issues, and possible conditions as noted in the written staff report. The staff recommendation is to approve the application with changes in the conditions including removal of the “last call” provision, an increase from 18 to 24 in annual Entertainment Permit events and consideration of additional conditions addressing the downstairs bar such as: a requirement for an on-site manager present at all times; the requirement to make a list of all UP and other conditions which would be incorporated into a handbook and physically provided on the premises; a prohibition of the use of the 9th Street door except for emergencies and for ADA access, after hours or permanently; requirement to hire an acoustical engineer to look at possibly adding sound buffering to ceiling and walls; required closure of all windows during nighttime; possible further limit in occupancy; possible earlier closing time; continued prohibition of amplified entertainment; continue the requirement for a security guard to be stationed on 9th Street for late events and lastly, to consider requiring a one-year review.

Director McIntosh informed that Sgt. Knickerbocker, MBPD, was present at a meeting she attended today. Summarizing a memo she received today, in the last 12 months (February 2017 - February 2018) MBPD has received a total of 9 documented requests for service specifically at 900 Club, and of these, no citations or arrests were deemed necessary.

The Commission directed questions to Sgt. Knickerbocker, who distributed copies of the PD memo.

Sgt. Knickerbocker responded to Commission inquiries. To Commissioner Morton, he explained that out of about 30-40 calls, 9 were specifically related to noise or issues being discussed tonight. He stated he didn’t know the specifics on what was meant by “business was advised” as stated in complaints 7 and 8 and further elaborated that the PD’s view is that their primary role is to determine whether the activity generating the complaint arises to a crime being committed. He doesn’t feel the 900 Club is operating as a “nuisance”, but also this is not his or the PD’s expertise. Sgt. Knickerbocker stated he is aware that the calls do however, seem to reflect openings of old wounds for the residents.

Commissioner Seville-Jones noted that there were at least two incidents where the report seemed to verify very loud music and correction was directed by the PD.

Responding to **Commissioner Fournier**, **Sgt. Knickerbocker** confirmed that the Department triages calls. For example, they may receive a nuisance call relating to the 900 Club, but because they may also need to respond to another higher priority call such as a theft arrest, by the time they arrive to 900 Club, perhaps 20 minutes later, the nuisance problem may already be resolved. Such nuisance calls that get resolved before they arrive do not register on the memo distributed

tonight. **Sgt. Knickerbocker** confirmed that the Department, regardless of the priority, however, responds to all calls.

To **Commissioner Seville-Jones**, **Sgt. Knickerbocker** responded that 900 Club does get more calls than other downtown businesses, but noted that this location is considered “hot”, meaning that it has issues that have a long history. Further, he stated that the fact that this business generates more calls than others doesn’t necessarily mean that it deserves more calls than other downtowns businesses.

Director McIntosh informed that in speaking with PD, she learned that the Department feels that the existing conditions mitigate concerns, including the “last call” provision. The PD clarified that the intent of the “last call” requirement is to preclude a large number of bar patrons from exiting to the public sidewalk at about the same time, which could lessen impacts to neighbors.

Director McIntosh noted it is valid to have different concerns for the upstairs vs. downstairs areas. A main issue is that the side door on 9th Street is often propped open and strong diligence is required by the operator to make sure windows or doors are closed. She noted PD input, that since the 2014 review, smoking has been prohibited and it may be useful to include a reference to this in the conditions.

Director McIntosh reminded of the nature of the application submitted by the business owner, which is the subject of this hearing: request to amend an existing UP such that the conditions of approval be amended to allow an increase in hours by one hour on Thursday nights (to 1:00 a.m.) and to Friday and Saturdays nights by one hour (to 2:00 a.m.) as well as some changes to the Entertainment Permit including 1) elimination of the neighbor notification requirement; and 2) an increase from 18 to 24 events annually that require an Entertainment Permit. Lastly 900 Club requests to perform notification to the PD and Community Development Departments only (not also to neighbors).

Commissioner Seville-Jones asked for clarification for the process of a UP review if there is evidence of the Use Permit being violated, to which Ms. McIntosh stated that, per Section 10.104.04 of the Municipal Code, the Planning Commission, Community Development or the City Council can initiate a public hearing to consider revoking the UP if there is evidence that the UP is being violated. That is a different procedure from this, which is a UP amendment initiated by the business owner.

Brief discussion followed about occupancy requirements. Staff informed that the calculation and posting of maximum occupancy is required under the purview of the Fire Department. The occupancy limit in the downstairs is 31; it was learned that permanent posting of this limit has not occurred in the downstairs area.

The Commission directed questions to staff. **Mr. Masters** noted that the existing conditions require a “state licensed, bonded and certified security guard” who, among other tasks, shall monitor the doors and direct customers as they exit not to loiter on 9th Street as they wait for their rides.

Chair Apostol invited the applicant to provide input.

Albro Lundy, attorney for 900 Club commented: 1) the occupancy limit sign is now posted downstairs; 2) they have always had a security guard, but he’s not sure if he is bonded, but his main job is to control the occupancy; 3) he doesn’t believe a MBPD officer has ever been inside the building; and 4) the primary issue for the owner is this is a commercial business in a commercial zone and their objective is to recover hours they had that were taken away in 2014 and he feels should legitimately be given back.

The Commission directed questions to **Mr. Lundy**.

Commissioner Seville-Jones commented based on evidence (open door and windows, lack of compliance with Entertainment Permit, e.g.), it seems that the owner is not taking responsibility as he

should. She emphasized that the main issue is noise.

Mr. Lundy indicated he did not have a chance to review new evidence. *A copy was handed to him to review.* He explained that the front door on Manhattan is the entry to the Club upstairs and the side door, the entry and exit for the downstairs bar. He reiterated that the owner is interested in restoring rights lost in 2014 and the owner believes that he has done what is needed to get that back. The owner is willing to address noise problems ongoing, but he believes that a main issue is that there is a small number of people not getting along and there are also some objectors who don't live in the area. Those who live close should have a reasonable expectation that there will be more noise next to a commercial site than in a solely residential area.

Dave Rohrbacher stated he would take ownership of whatever is his responsibility, but he is surprised because the last meeting is the first time he heard that the downstairs is a noise problem. He immediately called a staff meeting and ordered thicker blinds, and now they close the windows at 10 pm and let the side door be open only a little and he believes this is helping. He has spent \$80k mainly on the windows. The downstairs only is 216 square feet and can hold 31 people. The windows are triple paned and patrons are directed downhill, not uphill, when they leave. He is aware of the no smoking Ordinance. He will continue working on monitoring the downstairs, including having a new doorman and new blinds. He understood that the downstairs door has not been required to be shut, but would be willing to shut that and have a doorman.

There was discussion with **Mr. Albro** after he was able to review the new information. **Mr. Rohrbacher** indicated that he could install a self-closing device on the side and rear door, but doesn't see a problem if the front door is not kept completely shut. **Mr. Albro** commented that the doors must be shut only when music is playing.

Mr. Rohrbacher clarified that he did not want to have separate conditions including hours of operation, applying to the up and down stairs; he wants all conditions to apply to the entire building. After some discussion about options including keeping the midnight last call provision, the **Chair** asked that the applicant clarify his preference regarding last call and closing hour; **Mr. Rohrbacher** indicated he wants to eliminate the last call (would stop serving drinks about 15-20 minutes prior to closing) which will effectively let them stay open an hour later as they did in the past. He feels there should be some flexibility as to when to stop serving liquor due to the nature of his business, especially the club portion.

PUBLIC HEARING

The Chair invited public comments.

Rick Buckley, 228 8th Street, feels that there may be only 1 or 2 callers with complaints and wonders if some calls are being coordinated. He feels it would be helpful if they could tell where the majority of complaints are coming from, i.e. within or outside the immediate neighborhood.

Martha Andreani, longtime resident, feels the neighbors and the business can get along. While it may be tricky for the owner to operate the two businesses as one Use Permit, it should be simple for the City to enforce the Use Permit. She feels it's necessary to talk about the past. Residents reported that disturbances have decreased for the Club, but since the downstairs became a bar run by the same operator as upstairs, it seems like noise problems went downstairs. She doesn't endorse giving additional allowances until the business can show after a one-year review that they are operating in compliance.

Don McPherson; 1014 1st Street, owns 1001 Bayview Drive, believes there are reasonable grounds for the city to set a hearing for Use Permit modification or revocation. He has three issues to be considered in a modification/revocation hearing: 1) the ground floor bar needs physical separation for acoustical reasons as noise travels down the stairwell; 2) the annual entertainment permit (EP) is a violation and the EP can be modified with additional restrictions and 3) staff should bring forward a

new proposed 900 Club Resolution during the public hearing. He believes the hours should not be increased but left as they currently are. If you take out the whole sentence for last call, he thinks this will be a problem as this will leave the PD no standard for “closing time”.

Karol Wahlberg, doesn’t live Downtown anymore and she respects the fact that someone is trying to do a business, but believes that the owner of the bar is pushing the envelope of his business and the nearby residents are suffering and potentially having property value taken from them.

Rosanna Libertucci, 200 block of 9th Street, is perplexed that staff seemed more interested in protecting residents across from Metlox from upstairs dining noise compared to this case. She has double paned windows, but cannot keep them open at night regularly. To add more late hours, means she will be up later, but she has not complained and does not want to put the owner out of business. She has worked with Code Enforcement Officer Jackie Harris, and the Community Development Department, and has understood in the past that until 5 p.m. enforcement is through Jackie, but after 5 p.m., it’s the PD. She feels leadership is needed for consistent enforcement of the UP.

Jacki May, long-time resident at 10th and Highland, came to show that the nearby residents care. Even though she has partial deafness, she can hear noise from commercial establishments and has traced noise coming from 900 Club but is not sure if it was from up or downstairs. She believes it would be a simple matter to have a last call time limit as well as a later closing time. She is against extending the operating hours.

Denise Ardondo Epeneeter (spelling unknown), lives across the street and loves where she lives; attended the residents/owner meeting but feels everyone was coming up with problems, but no solutions. She supports the business owner who she feels is willing to do things to make people happy. She would like the neighbors to agree on what needs to be done and simply give the list to the owner to make changes.

Mr. Dave Bohnert, 621 MBB, feels there is a lot of information available, but it should be a simple matter to go through the Use Permit and check off conditions, whether complying or not; believes that there is consistent violation. He is concerned that he is hearing that there is no Use Permit enforcement after 5:00 p.m. He believes that this unique location adjoining to residential should be taken into account.

Chad Epeneeter; 817 ½ Bayview, believes a lot of good points have been made which can all be justified. He believes that the addition of the one hour is very important and it’s not unreasonable that there are different Use Permit conditions for different bars in town. He supports giving back the one hour.

William Victor, property owner since 1977 or so on 9th Street, loves the small town family lifestyle. Never bargained for a dance hall. He likes solutions. He believes that this owner has a long history of not following the UP. There shouldn’t be live entertainment unless noise, which is horrendous, can be solved. Advocates giving the owner another year to comply and, until then, keep the existing conditions with no increase in entertainment permits or hours.

Chandra Shaw, 512 4th Street, has a business in Metlox, believes things need to be kept in perspective without getting personal. She supports the staff recommendation as being very fair and believes that the owner should be allowed to fix the downstairs noise issue and then everyone should move on.

There being no further speakers, **Chair Apostol** closed the public hearing.

COMMISSION DISCUSSION

The Commission focused first on recalling discussion from January, including possibly eliminating

the last call, but keeping the same hours, increasing the annual Entertainment Events to 24, and adding more conditions to mitigate noise.

Commissioner Fournier commented that a great asset of the community is its “live and let live” feeling, but it’s up to the Commission to provide leadership because, based on the staff report it appears that residents and the owner were not able to arrive at solutions. He went through the 10 staff proposed bulleted additional conditions and stated he was ok with: the onsite manager (#1), provision to employees of conditions (#2), access limits on the 9th Street door, with consensus (#3), hire an acoustical engineer (#4); window closing times, with consensus (#5); impose an earlier closing time, interpreted as keeping the same, without increasing (#7); Continue prohibiting amplified music (#8); providing a security guard (#9); and the one-year review (#10).

He has concerns and would like to discuss limiting occupancy (#6), and whether to keep the last call provision (he leans toward eliminating) (#6)

Commissioner Seville-Jones stated she is generally ok with the proposed conditions, but has concerns for compliance based on testimony, that adding more operational conditions as opposed to physical, will result in improvement. She is troubled by evidence from various sources regarding problems with amplified music noise, failure to obtain permits and notify, and having open doors and windows. She is trying to balance the complaints with positive input. She feels getting rid of the last call will give them an additional property right, but would not increase the entertainment permit events until at least one year is shown of compliance. She feels comparison with Metlox is not fair, because this situation is an established business that has some existing rights, where at Metlox that was about a future restaurant that does not yet exist.

Commissioner Burkhalter stated he believes points made are good and he thinks most or all of the proposed conditions will be an improvement. He believes that this is a well and long established issue and there will always be some supporting and some not supporting a late night use at this location. He thinks there are some bigger issues such as management by the City of after hour UP enforcement and also how to deal with impacts caused by the ride-hailing industry. He is uncomfortable about playing the role of designer of physical mitigations, but likes the idea of having a self-closing device for the doors. As to the number of special events he feels that following procedures (getting permits and notification) may be more critical than the requested increase but generally feels like the resolution should be a compromise.

Commissioner Morton provided input that there’s been improvement over the last 4 years. He likes increasing entertainment permits to 24 in recognition of efforts made.

Director McIntosh clarified that the front door is nonconforming to fire code and not reliable as access for the downstairs bar.

Discussion focused on the downstairs, its access and entertainment held. **Director McIntosh** noted that sometimes a DJ is used and it should be discussed what constitutes “background music” which is allowed.

Commissioner Morton suggested based on this info, deleting bullet #3 because the 9th Street door is the main access to the downstairs bar.

Discussion continued on the side door and how to control noise. The consensus was that the 9th Street door should be allowed to remain as there are no viable options and the door has existed for many years.

Chair Apostol called for consensus on revised conditions to be put into the Use Permit. After discussion, it was agreed to direct staff to only include the following as revised conditions (and not apply bullets 3, 4, 6, and 7):

- 1) From pg. one of the Staff report, item 1: remove the “last call” provision
- 2) From pg. one of Staff report, item 2: increase the number of entertainment permit events from 18 to 24
- 3) From pg. two of Staff Report, bullet 1: provision for an on-site manager at all times
- 4) From pg. two of Staff Report, bullet 2: provide list of conditions in an employee handbook
- 5) From pg. two of Staff Report, bullet 5: require downstairs windows and door to be shut after 10:00 p.m. and install self-closing device on 9th street door.
- 6) From pg. two of Staff Report: bullets 8, 9, 10 (prohibiting amplified entertainment, requiring a guard, and requiring a one-year review) as stated in the staff report
- 7) New condition: owner to post some “No Smoking” signs in the businesses, citing MBMC, and requesting that patrons be respectful of neighbors.

The above consensus was reached based on the following considerations: there are significant physical limitations that limit options regarding access to the 9th Street door; regarding noise, the main issue was loudness, not the source of the sound; that the violations of the Entertainment Permits are procedural, and the City’s noise Ordinance still has enforcement authority; regarding outdoor smoking: it’s appropriate to encourage proper behavior, but the owner should not be held responsible for his patrons once they leave the building; The best approach is to contain noise when noise is an issue in the late hours and it is unfair to not allow fresh ventilation during daytime hours; and having a one-year review at a public hearing will give the neighbors a chance again to give input.

After discussion about how to measure noise, **Chair Apostol** called for the question.

ACTION

It was moved and seconded (Morton/Fournier) to DIRECT STAFF to prepare and return a draft Resolution that APPROVES the subject application and modifies the Use Permit at 900 Manhattan Avenue with conditions (as stated above).

Roll Call:

AYES: Burkhalter, Fournier, Morton, Seville-Jones, Chairperson Apostol
 NOES: None
 ABSENT: None
 ABSTAIN: None

Planning Manager Jester announced that the motion has carried. A draft Resolution will be brought back for Commission review and adoption at the next meeting on March 14, 2018.

5. DIRECTOR’S ITEMS - None

6. PLANNING COMMISSION ITEMS

Commissioner Seville-Jones suggested that at times when there are no scheduled items, the meeting time could be used for workshops or brainstorming. She’d like to see information on how other cities enforce UP enforcement such as involvement by the Police Department.

Commissioner Burkhalter noted that the hearings have raised issues about trends such retail changing to restaurant, service and entertainment use, the increase in ride hailing, which are skyrocketing. Perhaps this can be included in a study session.

Commissioner Morton added that another issue that is on the horizon, which has potential implication to the Sepulveda corridor, is the potential effect of autonomous cars. **Planning Manager Jester** noted that these items have come up in the Sepulveda Initiatives Meetings and this will be brought to the Commission in the spring.

It was noted by the City Attorney that the Sepulveda meetings are open, and **Planning Manager Jester** indicated that she will forward that information to the Commission.

7. TENTATIVE AGENDA – March 14

- a. Skechers continued public hearing.
- b. Mobility Plan Update public hearing.
- c. 900 Club draft Resolution.

8. ADJOURNMENT - The meeting was adjourned at 9:18 P.M. to Wednesday, March 14, 2018 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue.

/s/Rosemary Lackow
ROSEMARY LACKOW
Recording Secretary

/s/George Apostol
GEORGE APOSTOL
Chairperson

ATTEST:

/s/Anne McIntosh
ANNE MCINTOSH
Community Development Director