

RESOLUTION NO. PC 19-14

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT FOR A NEW GROUND FLOOR OFFICE USE AT 1419 HIGHLAND AVENUE (ZEBROWSKI)

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

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. On October 9, 2019, the Planning Commission of the City of Manhattan Beach conducted a duly noticed public hearing, received testimony, and considered an application for a Use Permit to allow a new ground floor office at 1419 Highland Avenue. The Planning Commission closed the public hearing and directed staff to return to the Planning Commission with a draft resolution approving the Use Permit.
- B. On October 23, 2019, the Planning Commission of the City of Manhattan Beach considered a resolution approving a Use Permit to allow a new ground floor office at 1419 Highland Avenue.
- C. The subject property is legally described as Lots 2 and Portion of Lot 1, Verano Beach Tract in the City of Manhattan Beach, County of Los Angeles.
- D. The applicant for the subject project is Brett Zebrowski, the owner of the business (hereafter referred to as "the owner").
- E. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Existing Facilities Section 15301 based on Staff's determination that there is no expansion of use associated with the Project.
- F. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- G. The existing tenant space was formerly used as a bank use (Pacific Premier Bank).
- H. The subject property is located in Area District III and is zoned CD, Downtown Commercial. The surrounding properties are zoned RM Medium-Density Residential to the North (across 15th Street), CD Downtown Commercial to the South (across 14th Place), PS Public and Semi-Public to the East (across Highland Avenue), and RM Residential Medium Density to the West.
- I. The use is permitted in the CD Downtown Commercial zone subject to a Use Permit and is in compliance with the City's General Plan designation of Downtown Commercial.
- J. The General Plan identifies the Downtown Commercial land use as an area "that provides locations for a mix of commercial businesses, residential uses with discretionary review, and public uses, with a focus on pedestrian-oriented commercial businesses that serve Manhattan Beach residents. Visitor-oriented uses are limited to low-intensity businesses providing goods and services primarily to beachgoers."

The project is specifically consistent with General Plan Policies as follows:

- LU-5 Protect residential neighborhoods from the intrusion of inappropriate and incompatible uses.
- LU-6 Maintain the viability of the commercial areas of Manhattan Beach.
- LU-6.2 Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.
- LU-7 Continue to support and encourage the viability of the Downtown area of Manhattan Beach.
- LU-7.4 Encourage first-floor street front businesses with retail, restaurants, service/commercial, and

similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

K. The Planning Commission makes the following findings required to approve the Use Permit pursuant to MBMC Section 10.84.060:

1. **The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located.**

The proposed use, Business and Professional Office, is a commercial use located on a parcel that is on the northern boundary of the Downtown, and immediately adjacent to properties that are zoned and used as residential to the west and across the street to the north, in the CD Downtown Commercial zone.

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

The Business and Professional Office use will be a commercial use consistent with the General Plan's Downtown Commercial land use designation assigned to the project lot and the neighboring lots. The proposed use is consistent and complimentary with neighboring uses, as many of the neighboring lots have also been developed with commercial uses, and there are residential uses immediately adjacent to the west and to the north across 15th Street.

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

The proposed use will be a Business and Professional Office use that complies with all provisions of the Municipal Code's Title 10 Planning and Zoning.

4. **The proposed use will not adversely impact or be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.**

The proposed Business and Professional Office, as conditioned, is a low-impact use that generates relatively low levels of noise, traffic, trash, and other negative impacts. The proposed use is also consistent with some of the surrounding uses in the CD Downtown Commercial zone and residential zones.

L. The project shall comply with all applicable provisions of the Manhattan Beach Municipal Code.

M. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject project.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the Use Permit subject to the following conditions:

1. The project shall be in substantial conformance with the plans and project description submitted to, and approved by the Planning Commission on October 23, 2019 as amended and conditioned. Any substantial deviation from the approved plans and project description, as conditioned, shall require review by the Community Development Director to determine if approval from the Planning Commission is required.
2. Any questions of intent or interpretation of any condition will be reviewed by the Community Development Director to determine if Planning Commission review and action is required.

Operation

- 3. The rooftop deck shall only be used by the tenant for their own private use for activities related to their office use. The rooftop deck shall not be offered to other parties or entities for private events and gatherings. Gatherings on the rooftop deck shall only occur during the following hours:

Sunday – Thursday: 9am – 9pm*
Friday – Saturday: 9am – 10pm

*The tenant will be allowed to hold a gathering on the rooftop deck till 9:30pm on the one Sunday in December associated with the annual Manhattan Beach Holiday Fireworks show.

- 4. Amplified sound shall be allowed on the rooftop deck only during the following hours:

Sunday – Thursday: 10am – 7pm
Friday – Saturday: 10am – 8pm

- 5. No more than 30 people can be on the rooftop deck at any one time.
- 6. The majority of the building’s windows facing Highland Avenue will not be significantly covered. The intent of this condition is to ensure there is a relationship between the building’s interior and the pedestrian activity on the street.
- 7. All rooftop mechanical equipment shall be screened from the public right-of-way.
- 8. Noise emanating from the property shall not create a nuisance to nearby property owners, and will also be within the limitations prescribed by Chapter 5.48 Noise Regulations of the Manhattan Beach Municipal Code.
- 9. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purpose of revocation or modification in accordance with the requirements of the MBMC Chapter 10.104. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

Refuse

- 10. The management shall arrange for special on-site pickup as often as necessary to ensure that the refuse area has adequate space to accommodate the needs of the subject business.
- 11. No refuse generated at the subject site shall be located in the non-alley Public Right-of-Way for storage or pickup, including the disposal of refuse in any refuse container established for public use.

Signage

- 12. All new signs and alterations to existing signs shall receive permits, and shall be in compliance with the City’s sign code.
- 13. A-frame or other sidewalk signs in the public right-of-way shall be prohibited.
- 14. No temporary banner or other signs shall be placed on the site without City permit and approval.

Procedural

- 15. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired
- 16. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.

17. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
18. The Planning Commission's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.
19. The Secretary of the Planning Commission shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the owner. The Secretary shall make this resolution readily available for public inspection.
20. Terms and Conditions are Perpetual; Recordation of Covenant. The provisions, terms and conditions set forth herein are perpetual, and are binding on the owner, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the owner shall submit the covenant, prepared and approved by the City, indicating its consent to the conditions of approval of this Resolution, and the City shall record the covenant with the Office of the County Clerk/Recorder of Los Angeles. Owner shall deliver the executed covenant, and all required recording and related fees, to the Department of Community Development within 30 days of the adoption of this Resolution. Notwithstanding the foregoing, the Director may, upon a request by owner, grant an extension to the 30-day time limit. The project approval shall not become effective until recordation of the covenant.
21. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* The owner shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. The owner shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify the owner of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify the owner of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, the owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. The owner shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require the owner to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. The owner shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

(Votes and signatures on next page)

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on **October 23, 2019** and that said Resolution was adopted by the following vote:

- AYES:** Fournier, Morton, Ungoco,
Chair Burkhalter
- NOES:** Thompson
- ABSTAIN:** None
- ABSENT:** None

JEFFREY W. GIBSON
Secretary to the Planning Commission

ROSEMARY LACKOW
Recording Secretary