

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
OCTOBER 23, 2019**

A. CALL MEETING TO ORDER

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 23rd day of October, 2019, at the hour of 6:00 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

Chair Burkhalter called the meeting to order.

B. PLEDGE TO FLAG

C. ROLL CALL

Present: Fournier, Morton, Thompson, Ungoco, Chairperson Burkhalter
Absent: None
Others Present: Jeff Gibson, Interim Director of Community Development
Laurie Jester, Planning Manager
Brendan Kearns, Assistant City Attorney
Ted Fatuross, Assistant Planner
Rosemary Lackow, Recording Secretary

D. APPROVAL OF AGENDA

It was moved and seconded (Thompson/Fournier) to approve the agenda with no change. No objection, it was so ordered.

E. AUDIENCE PARTICIPATION (3-minute limit) - None

F. APPROVAL OF THE MINUTES

10/23/19-1. Regular Meeting – October 9, 2019

It was moved and seconded (Thompson/Burkhalter), to approve the minutes with one change – on Page 7, first paragraph under Commission Discussion; strike “strict” and replace with “restrict”. No objection, it was so ordered.

G. PUBLIC HEARING

10/23/19-2. Consideration of a Use Permit and Vesting Tentative Parcel Map for Three New Residential Condominium Units Located at 1446 12th Street and a Separate Use Permit and Vesting Tentative Parcel Map for Three New Residential Condominium Units located at 1450 12th Street (Manhattan Construction, LLC)

Chair Burkhalter opened the public hearing and invited staff input. Assistant Planner Ted Fatuross gave a slide presentation summarizing the written staff report (full report:

http://cms6ftp.visioninternet.com/manhattanbeach/commissions/planning_commission/2019/20191023/20191023-2.pdf)

Mr. Fatuross highlighted: background and location; project description - two use permits to allow two (2) three-unit condo buildings, to replace (2) four-unit existing apartment buildings, at 1446 and 1450 12th Street; Applicant - Manhattan Construction LLC; zoning (RH); project details and the staff recommendation: to conduct hearing, accept public input, and adopt the two Resolutions, approving both with conditions. Mr. Fatuross noted receipt of a late comment from an adjoining neighbor at 1447 Manhattan Beach Boulevard who requests that the Commission impose five additional conditions on the

project at 1446 12th Street. Mr. Fatuos also explained some trees need to be replaced, and in some detail, grade conditions at the rear at a proposed accessory building, which relates to the late comment.

Chair Burkhalter invited questions of staff from the Commission.

Mr. Fatuos responded to questions:

- (Thompson) Staff has read the late comment letter, which relates only to the 1446 (12th St.) address; staff understands the issue is mainly about privacy. He clarified grade and wall conditions, noting that the rear retaining wall is existing and fully on the neighbor's property; the applicant will not be altering this wall.
- (Fournier): Using the plan sections as reference, **Mr. Fatuos** explained that the mezzanine does not create a 4-story condition based on the code definition of "story" even though from the exterior, the building may look appear as 4 stories. It adds square feet, but is within the allowable floor area.
- (Chair Burkhalter): As a procedural matter: how does one determine a project to be consistent with the General Plan? And, in making such a finding - does the project only have to be found consistent with the Land Use Element or does it also have to be consistent with the Housing Element? **Assistant City Attorney Kearns** responded that findings of General Plan consistency must be made for both use permits /parcel maps and also for the Housing as well as the Land Use Element - to the extent the Housing Element is implicated, in addition to a requirement that the project comply with the Municipal Code. **Attorney Kearns** concluded he is aware that staff has considered all these issues and found the project to be fully consistent with the Manhattan Beach General Plan and State law.
- (Chair Burkhalter): **The Chair** inquired further: because the two projects will result in a total net loss of 2 housing units, can the Commission make a Housing Element consistency finding? **Assistant City Attorney Kearns** responded that the City's code does not require, in developing a site, that the project produce the same number of units as pre-existing. **Director Gibson** added that the General Plan sets broad housing policy and is not to be applied at such a level of detail - on a project-by-project basis. The General Plan therefore does not require that this project not lose one or two units; rather it can lose units and still comply with the General Plan.
- (Chair Burkhalter): **The Chair** asked for more information on how staff rationalizes making the General Plan housing findings, noting that the Housing Element has a couple of programs, including one that calls for regulating the conversion of rental to ownership units (apartments to condos) and another that calls for no net loss of units. How, on a policy level do such programs reconcile with the City's "RHNA" (Residential Housing Needs Assessment), including the annual report and inventory of suitable sites for housing? **Director Gibson** stated that there is an element of judgment on the part of the Commission in that they must determine whether the project will adequately address the goals of the Housing Element within the context of the entire General Plan, despite the fact that one or two units will be lost. Staff believes that the integrity of the General Plan will be intact and there are opportunities in the Community to continue to develop and grow housing. **The Chair** reiterated his concern is procedural in nature, but underscored and concluded that the City has a legal obligation to make a finding of consistency between the project and the City's General Plan/Housing Element which contains a policy goal of preserving housing. **The Chair** asked and it was confirmed that the rationalization for making said finding should be stated in the Resolutions.

The Chair invited the applicant to address the Commission.

Brett Buchmann, project architect, summarized that the project will comply with all applicable zoning development standards and will be consistent with the General Plan in that, although two units net will be lost, the new buildings will provide a different type of housing that can accommodate families which could be a net increase in the number of persons living there, as the units will be larger, containing more bedrooms. Mr. Buchmann went over parking, setbacks, entryways and the accessory building at the rear for each of the buildings.

Commissioner Thompson noted he has concerns with a number of issues, observing that the project, though code compliant seems to be very tight and he is concerned that the parking layout will result in many conflicts.

To further respond to building design questions, staff readied detailed plans for Commission viewing.

Meanwhile, **Assistant City Attorney Kearns** gave more input on the Housing Element “No Net Loss” policy, stating: 1) The City is satisfying its obligations in meeting housing targets as set forth in the current (5th) planning cycle of the Housing Element (“RHNA”) which ends in 2021; 2) The subject properties are not listed on the available sites inventory; if a site listed on the inventory is being developed at a density less than identified, then cumulatively, this is where a problem can occur in meeting the “No Net Loss” policy; 3) As a general matter, if the site is not on the inventory list and the City’s RHNA targets are being met, overall, the development can be found to be compliance with the housing program even though there may be a marginal reduction in the number of units; 4) It is within the discretion of the Planning Commission to make the determination, if comfortable, that the principles of the General Plan (Housing Element) are being satisfied; lastly, 5) Staff has determined that the City is on track through 2021 to meet the Regional Housing Needs Assessment goals including the various types of housing required.

Planning Manager Jester further informed that the current Manhattan Beach Housing Element is certified by the State Department of Housing and Community Development (HCD) complying with State law. She also explained the inventory that is maintained by Community Development of potentially developable sites broken down by types (targeting various income levels) and the number of sites listed is much greater than the minimum required. Currently a new RHNA is being developed but so far, the preliminary number looks good; in the future the City will likely need to re-evaluate, but for now, in approving this project, it can be said that the City is not depleting its inventory of available housing sites. She affirmed that the final Resolution of approval for this project will be revised to address the consistency with the noted programs within the City Housing Element and in fact will do so for all projects going forward.

Once the plans were available for viewing, discussion returned to how several features would work including: trash storage, parking (owner and guest spaces), access (cars and pedestrian), and a rear accessory structure and retaining wall (e.g. placement, setbacks, openness, appearance). Several points were established based on information provided from **Assistant Planner Fatueros** and **Mr. Buchmann**: 1) parking: each unit will have a 2-car enclosed garage with access into the unit interior and one open guest space which can be used by any guest; all spaces will be non-tandem; 2) circulation: turning movements were shown using plans - guest parking will be accessed freely (not assigned) and have access to the outside of the building; 3) both sites can function independently, and if desired, a fence can be erected separating the side yards of the two condo buildings; 4) Air Conditioning condensers cannot be relocated but will be shielded with vegetation; 5) the architect has been in contact with one the condominium owners of 1447 Manhattan Beach Boulevard and can address most issues raised.

In response to **Commissioner Thompson**, Mr. Buchmann indicated that he would not object to a condition prohibiting a fence to be installed on the common side property line between the two sites.

Commissioner Thompson noted that he feels it’s important to go through the exercise of examining the parking and access closely to not just determine if the project meets code, but to understand how the City codes work.

PUBLIC INPUT

The Chair invited public testimony.

Cheryl Hines, owner of one of the condominiums at 1447 Manhattan Beach Boulevard, which shares a rear property line with 1446 12th Street, is happy that the projects are condominiums, not apartments and she went over the issues and specific requests in adding some conditions to mitigate impacts of the project at 1446 12th Street, mainly aesthetic in nature. Her property is topographically above the project site. Her requests are: 1) that the accessory structure height be no higher than her existing fence (atop a retaining wall); 2) that the final subdivision map include an easement to facilitate future maintenance/repair for a rear wall located close to the common rear property line; 3) that the roof of the proposed accessory structure not be “built up” but be “Life Deck” or equal; 4) that translucent glazing material be required

in the windows facing her property in the stairway and clerestory windows for Unit 3; and lastly 5) that finish materials on the south façade be required to be non-reflective. She indicated that the project architect has worked with her in devising most of these requested modifications and staff has been very helpful.

Ms. Hines indicated, in response to questions from **Commissioner Thompson**: 1) she is not interested in whether the back of the accessory structure is enclosed, but more that its height be no higher than 11-feet, so it will not stick up above her existing rear fence (she has measured 11-feet as the existing distance to top of her fence from below grade); 2) her concern regarding the wall of the accessory structure is that it will make repair or replacement of her wall more difficult but she also recognizes that while the accessory structure will have a zero setback, the main condo building will be 22-feet from the common rear property line.

Mr. Buchmann indicated to the Commission that he is willing to reduce the height of the accessory building (which will resemble a lanai) to match the neighbor’s fence height and can provide a back wall subject to building code requirements. He would also be willing to fill in the space between the neighbor’s wall and the rear lanai wall, but that area belongs to the neighbor.

Chair Burkhalter commented that he did not believe that the Commission has the legal authority to impose an easement and from a technical perspective, it is not uncommon for retaining walls to be repaired and replaced from one property side – it can be done.

Chair Burkhalter closed the public hearing and opened the floor to Commission discussion.

COMMISSION DISCUSSION

Commissioner Thompson stated he supports the project with added findings to address the General Plan/Housing Element, and with added conditions.

Director Gibson suggested that this item be continued to the next meeting, and staff will prepare a Resolution with direction from the Commission.

Commissioners Fournier, Morton and Ungoco stated they also support the project, and appreciate the engagement with the neighbor and creativity in design and believe it will be a great improvement.

Chair Burkhalter stated he will defer until he sees the modified findings – this is not project specific comment but a more general issue relating to policy city wide. He added that he cannot support including a requirement for a maintenance easement for the rear wall. **Vice-Chair Morton** stated his agreement about not requiring an easement.

COMMISSION ACTION

Chair Burkhalter called for the motion; it was subsequently moved and seconded (Thompson/Burkhalter) to reopen and continue the public hearing to November 13th to allow staff to draft Resolutions approving the project, modified to include findings regarding consistency with Housing policies, and with added conditions addressing issues raised by the adjoining owner (except request Number 2 in the submitted letter) regarding a maintenance easement.

Staff will re-notice if necessary.

Roll Call:

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| Ayes: | Fournier, Morton, Thompson, Ungoco, Chairperson Burkhalter |
| Noes: | None |
| Absent: | None |
| Abstain: | None |

H. GENERAL BUSINESS

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| 10/23/9-3 | Adoption of a Resolution Approving a Use Permit to Allow an Office Use on the Ground Floor of a Building Previously Occupied by a Bank at 1419 Highland Avenue (Brett Zebrowski) |
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Chair Burkhalter announced the business item. Director Gibson gave a brief summary: The Resolution has been drafted based on Commission direction at the October 9th meeting to approve the request based on reasonable “common sense” conditions to address potential noise impacts. The public hearing has been closed but the applicant is present who along with staff, is available for questions.

The Chair opened the floor to Commission discussion.

COMMISSION DISCUSSION

Commissioner Thompson led off by stating his main concern relates to possible noise disturbances from the roof deck use.

Starting with the size of gatherings **Commissioner Thompson** stated a limit of 30 as staff suggests in condition 5 may be too high since the applicant had indicated between 15 and 20 persons was the typical size of anticipated gatherings for his real estate use. Discussion that followed indicated no strong support for a number lower than 30 as Staff believes that this number is reasonable and makes sense, considering that the Fire Department fire/life/safety absolute limit would be 49.

Discussion turned towards conditions 3 and 4, which relate to hours of the deck including times permitted for amplified sound. **Commissioner Thompson** indicated he was satisfied with keeping the limit for amplified sound consistent at 8:00 pm, to make enforcement simpler and offered for discussion limiting amplified sound to between 10:00 am and 8:00 pm consistently, but to prohibit all amplified sound.

Chair Burkhalter stated his support, with an exception for special events (e.g. holiday fireworks); he also doubted that amplified sound would practically work on the deck; **Vice Chair Morton** stated he felt Commissioner Thompson’s suggestion may be overly restrictive given the broad meaning of “amplified sound” and fact that the use would also be subject to enforcement of the Noise Ordinance which could be interpreted to be less restrictive than the suggested condition revision; he supports the staff limits. **Commissioner Thompson** noted his main concern with amplified sound is possible D.J.s. and then the ease of enforcement if varying limits are applied.

Discussion continued around the best way to write the conditions in a way that balances safeguarding the neighbors from noise with the right of the applicant to use the rooftop deck. It was noted that the Resolution also has condition 8, to reference required compliance with the Noise Ordinance. Subsequently the Commission came to a consensus that they felt the drafted Resolution as submitted by staff, with a maximum of 30 people on the deck, and other limitations was reasonable and a common sense solution. In discussing, it was felt that D.J. sound if disruptive could be easily enforced, and that since about 2012 this site had a total of three separate episodes of recorded complaints and the MBPD was well practiced in handling such service calls.

Chair Burkhalter called for a motion; it was subsequently moved and seconded (Morton/Fournier) to ADOPT Resolution PC 19 - approving a use permit for a new ground floor office use at 1419 Highland Avenue as submitted by staff.

Roll Call:

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| Ayes: | Fournier, Morton, Ungoco, Chairperson Burkhalter |
| Noes: | Thompson |
| Absent: | None |
| Abstain: | None |

I. DIRECTOR’S ITEMS – None

In response to a Commissioner Thompson’s inquiry about Manhattan Village Shopping Center, Director Gibson stated that staff will provide an update at the next meeting summarizing the project’s progress.

J. PLANNING COMMISSION ITEMS – None

K. TENTATIVE AGENDA – November 13, 2019

The Chair noted that the hearing for the condominium projects heard tonight will be brought back for adoption of Resolutions, as well as a summary report for the Manhattan Village center.

L. ADJOURNMENT TO – The meeting was adjourned at 7:08 p.m. to Wednesday, November 13, 2019 at 6:00 P.M. in the City Council Chambers, City Hall, 1400 Highland Avenue.

/s/Rosemary Lackow
ROSEMARY LACKOW
Recording Secretary

/s/Benjamin Burkhalter
BENJAMIN BURKHALTER
Chairperson

ATTEST:

/s/Jeff Gibson
JEFF GIBSON
Interim Community Development Director