



Legislation Details (With Text)

File #: RES 17-0065 **Version:** 1

Type: Public Hearing - SR w/Resolution **Status:** Agenda Ready

In control: City Council Regular Meeting

On agenda: 6/6/2017 **Final action:**

Title: Application for a Use Permit for the Expansion of an Existing Retail Use That Would Exceed 1,600 Square Feet of Buildable Floor Area Located at 1115, 1117, 1121 Manhattan Avenue (Skechers USA, Inc) (Community Development Director McIntosh).
CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION NO. 17-0065 APPROVING THE PROJECT WITH CONDITIONS

Sponsors:

Indexes:

Code sections:

Attachments: 1. City Council Draft Resolution No. 17-0065, 2. Proposed Plans, 3. Project Overview/Zoning Summary Chart, 4. IZO Ordinance No. 16-0013-U, 5. Power Point Presentation, 6. Appellant's Materials, 7. Planning Commission Resolution No. PC 17-02, 8. Planning Commission Meeting Minutes of March 29, 2017, 9. Planning Commission Report, Attachments and Related Material - March 29, 2017

Date	Ver.	Action By	Action	Result
6/6/2017	1	City Council Regular Meeting	accept	Pass

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Anne McIntosh, Community Development Director

Laurie Jester, Planning Manager

Ted Fatuross, Assistant Planner

SUBJECT:

Application for a Use Permit for the Expansion of an Existing Retail Use That Would Exceed 1,600 Square Feet of Buildable Floor Area Located at 1115, 1117, 1121 Manhattan Avenue (Skechers USA, Inc) (Community Development Director McIntosh).

CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION NO. 17-0065 APPROVING THE PROJECT WITH CONDITIONS

RECOMMENDATION:

Staff recommends that after conducting the public hearing, the City Council adopt Resolution No. 17-0065, (Attachment 1) conditionally approving the Use Permit.

EXECUTIVE SUMMARY:

The subject site is an existing Skechers retail space located at 1117 and 1121 Manhattan Avenue. Skechers proposes to merge its existing retail space with a vacant adjacent retail space located at 1115 Manhattan Avenue, thereby creating a larger single retail space (Attachment 2). Although the proposed use is a permitted use in the Downtown Commercial (CD) zone, the Downtown Interim Zoning Ordinance (IZO) 16-0013-U (Attachment 4) requires a use permit for any proposed retail use that would exceed 1,600 square feet of Buildable Floor Area.

The Planning Commission's decision has been appealed (Attachment 6). The Municipal Code provides that appeals of Commission decisions are public hearings *de novo*. *De novo* means that the Council must take a "fresh look" at all the evidence presented at the public hearing and, after the public hearing is closed, base its decision on the evidence presented at the hearing. The Applicant (not the Appellant) has the burden of showing that the proposed Project satisfies the necessary findings.

DISCUSSION:

Background-Proposed Project

The existing Skechers store occupies a 3,435 square foot retail space located at 1117 and 1121 Manhattan Avenue. The current store is part of a larger multi-tenant building located at the southwest corner of Manhattan Beach Boulevard and Manhattan Avenue in Downtown Manhattan Beach. Skechers wishes to expand their retail footprint and merge their existing store with the neighboring 1,394 square foot space located at 1115 Manhattan Avenue; formerly occupied by Quatrine, an interior design and furniture store. The other spaces in the building are occupied by Mangiamo Ristorante & Bar (128 Manhattan Beach Boulevard), and a vacant tenant space (1113 Manhattan Avenue) formerly occupied by Lucky Brand Jeans. The Skechers retail space resulting from the expansion will be 4,829 square feet of Buildable Floor Area (BFA). A Project Overview/Zoning Summary chart, as well as a square footage comparison chart and the Municipal Code 10.04.030 definition of Buildable Floor Area (BFA) is included as Attachment 3.

In July 2016, the City Council adopted an Interim Zoning Ordinance (IZO) 16-0009-U, subsequently extended by IZO 16-0013-U, requiring a Use Permit for the establishment of a retail use exceeding 1,600 square feet of BFA. Although the existing Skechers retail store already exceeds 1,600 square feet of BFA and is thus unaffected by the IZO, any square footage added to the existing tenant space like the proposed expansion would trigger the need for a Use Permit under the IZO.

On March 29, 2017, the Planning Commission held a public hearing and approved Skechers' request for a Use Permit. The complete Planning Commission public record, including the Resolution, minutes, staff report and attachments is provided in Attachments 7-9.

Downtown Specific Plan

The City Council adopted the Downtown Specific Plan in late 2016, and the Plan has been submitted to the California Coastal Commission for certification. The Downtown Specific Plan won't become effective until the Coastal Commission certifies the Plan, a process expected to take at least six months to a year from the date of transmittal, pending any changes directed by the Coastal Commission. As a result, the proposed project is not yet under the jurisdiction of the Downtown Specific Plan, but must comply with the requirements of the IZO. If the Downtown Specific Plan was in effect, the proposed expansion would need Use Permit for the retail space because it exceeds 1,600 sq ft of sales floor area, and a variance because the Manhattan Ave frontage exceeds the maximum 35 ft tenant frontage width.

Although the proposed project is not subject to the Downtown Specific Plan's requirements, Staff asked Skechers to provide extra information for the Planning Commission on its proposed plans (Attachment 2) in order to gauge the proposed project's compliance with the Downtown Specific Plan's new development standards, as these are the standards and guidelines envisioned by the community and the City Council for future development in the Downtown. Staff requested that Skechers pay particular attention to maximum square footage of sales floor area, maximum individual tenant frontage, and maximum façade transparency.

Square Footage

The Downtown Specific Plan requires a Use Permit for any retail use with over 1,600 square feet of sales floor area, while the IZO's square footage cap is based off of Buildable Floor Area (BFA). Sales floor area is different, and smaller, than Buildable Floor Area (BFA), as sales floor area is defined in the Downtown Specific Plan as:

“the total area of a tenant space, measured from the inside walls, excluding rooms or areas that are permanently inaccessible to the public, including but not limited to storage rooms, offices associated with the retail tenant, mechanical rooms, bathrooms, and common areas shared with other tenants in the building.”

Skechers existing tenant space (1117 and 1121 Manhattan Avenue) has 1,419 square feet of sales floor area, out of a Buildable Floor Area of 3,435 square feet. The neighboring space (1115 Manhattan Avenue) that Skechers wishes to expand into has a sales floor area of 764 square feet out of a Buildable Floor Area of 1,394 square feet. If approved, the total expanded tenant space will have a total of 2,183 square feet of sales floor area and 4,829 square feet of Buildable Floor Area. Thus, the project's proposed 2,183 square feet of sales floor area will exceed the Downtown Specific Plan's 1,600 square foot sales floor area Use Permit threshold by 36.44%, while the project's proposed Buildable Floor Area will exceed the IZO's Use Permit threshold by 301.81%. The proposed project's expanded Buildable Floor Area triggers a Use Permit under the IZO. Furthermore, the proposed project's expanded sales floor area would trigger a Use Permit if the Downtown Specific Plan were currently effective. This information is distilled in a summary shown in Attachment 3.

Tenant Frontage

The Downtown Specific Plan also sets requirements for maximum individual tenant frontage along Manhattan Beach Boulevard, Highland Avenue, and Manhattan Avenue. The maximum individual tenant frontage is intended to prevent a single tenant from consolidating multiple store fronts into a single oversized space that would disrupt the rhythm, pattern, and pedestrian-oriented scale of the buildings on the street.

The maximum individual tenant frontage is based on lot depth as defined in the Downtown Specific Plan, with a maximum individual tenant frontage of 35 feet for lots 35 feet or more in depth or a maximum individual tenant frontage of 50 feet for lots with less than 35 feet in depth. The Plan has more refined tenant frontage regulations for corner lots that would apply to the building partly occupied by Skechers:

For corner lots the Director of Community Development will determine on a case by case basis which storefront would be subject to the maximum tenant frontage of 35 feet or 50 feet, with the Director taking into account the lot's development, size, slope, and the tenant patterns of the surround blocks. Key to the Director's determination on the appropriate maximum tenant

frontage for corner lots would be consistency with surrounding development, maintaining and enhancing pedestrian-orientated orientation, and encouraging an active, lively streetscape.

After analyzing the property's characteristics, it has been determined that the 35-foot maximum individual tenant frontage would apply to the Manhattan Avenue side of the property, and a 50-foot maximum individual tenant frontage would apply to the eastern two-thirds of the Manhattan Beach Boulevard frontage, with a 35-foot maximum individual tenant frontage applying to the western one-third of the building where Mangiamo is located. The Downtown Specific Plan allows tenants to exceed the maximum individual tenant frontage requirement if a Variance is obtained.

The current Skechers space has about 50 feet of frontage along its Manhattan Avenue side, exceeding the 35-foot maximum individual tenant frontage set by the Downtown Specific Plan. There is also 50 feet of frontage along the Manhattan Beach Boulevard, meeting the 50-foot maximum tenant frontage set by the Downtown Specific Plan.

Skechers' proposed expansion will increase their Manhattan Avenue tenant frontage from about 50 feet to about 70 feet. Skechers will, however, provide three completely different façade treatments to the expanded Manhattan Avenue façade, employing three distinct architectural styles that help break up the larger façade. The middle façade provides an art panel in lieu of tenant signage to further enhance and distinguish the individual façade. This three-part façade design helps establish a rhythm that fits into the small town scale of existing Downtown businesses. The width of each of the three unique facades will also be less than the 35-foot maximum tenant frontage. Furthermore, a separate Manhattan Avenue entrance will be kept from the prior tenant space (1115 Manhattan Avenue) so that there will be two entrances in different sections of the tenant space in an effort to further break up the look and feel of the proposed Skechers space. The Manhattan Beach Boulevard frontage is unaffected by the proposed project. The IZO does not address individual tenant frontage.

Façade Transparency

Another new development standard introduced by the Downtown Specific Plan is the façade transparency requirement. The facade transparency requirement is intended to encourage commercial façade design that encourages more lively streets by providing visual interest for pedestrians. This standard requires that at least 70% of a building's façade be transparent, such as clear glass windows and/or doors, measured between two-and-a-half feet and eight feet off the sidewalk grade. Corner properties have a slightly different standard as described in the plan:

Corner properties at the intersections of Manhattan Beach Boulevard and Highland Avenue, as well as Manhattan Beach Boulevard and Manhattan Avenue, must provide a minimum of 70% facade transparency on the primary frontage of the corner building, as determined by the Director of Community Development. The non-primary frontage of corner buildings at said intersections must attempt to meet a minimum 60% facade transparency. If 60% facade transparency cannot be reached, due to structural limitations, extreme topographic situations or floor plan configuration, including but not limited to the location of offices, dressing rooms, safes, kitchens, mechanical equipment or similar constraints, architectural elements consistent with the Chapter 6 Design Guidelines must be added to the non-primary frontage in order to create visual interest along the building side, as determined to be appropriate by the Director of Community Development.

The Manhattan Avenue frontage is the primary frontage and requires 70% transparency. The

proposed project provides about 75% transparency on the Manhattan Avenue frontage, exceeding the minimum 70% transparency requirement. The Manhattan Beach Boulevard frontage is the non-primary frontage and requires a minimum of 60% transparency. The proposed project provides 27% transparency for the Manhattan Beach Boulevard frontage, falling short of the 60% requirement. There are, however, unique topographic characteristics that affect the Manhattan Beach Boulevard frontage, and the tenant space has storage in the rear of the store that makes transparency along its side counterproductive. As mentioned above, the Specific Plan requires that non-primary facades on corners which cannot meet the 60% transparency requirement must nonetheless provide architectural elements that provide visual interest. The Planning Commission enhanced one of the conditions of approval regarding the Manhattan Beach Boulevard facade, requiring Skechers to submit plans for a local public art piece that provides visual interest along this façade. The Planning Commission required that the public art piece be subject to review by the City's Cultural Arts Commission in addition to meeting the satisfaction of the Director of Community Development. This public art piece will serve as the required visual interest along the Manhattan Beach Boulevard façade. The IZO does not address façade transparency.

Required Findings

Pursuant to Manhattan Beach Municipal Code Section 10.84.060, the City Council must make the following findings in order to approve a Use Permit. Staff believes all findings can be met as follows:

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

The stated purpose of the CD zone is as follows:

CD Downtown Commercial District: To provide opportunities for residential, commercial, public and semipublic uses that are appropriate for the downtown area. This district is intended to accommodate a broad range of community businesses and to serve beach visitors.

Skechers is a retail sales use, and retail sales is one of the key uses that make up any thriving downtown commercial district. Skechers expanded retail footprint would complement existing Downtown Manhattan Beach retailers.

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 General Plan describes the Downtown Commercial Land Use Category as follows:

The Downtown Commercial category applies only to the Downtown, an area of 40+ blocks that radiates from the intersection of Manhattan Beach Boulevard and Highland Avenue. Downtown 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 maximum FAF for commercial or mixed-used development is 1.5:1, and the maximum residential density is 51.3 units per acre.

The proposed expansion of the retail sale of shoes and related sportswear poses no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent or neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare.

The proposed location of the use and the proposed conditions under which it will be operated or maintained will be consistent with the General Plan, since the project site is classified as Downtown Commercial which allows for a diverse mix of complementary commercial uses. Specifically, the project is consistent with the following Goals of the General Plan, as well as other Goals and Policies as stated in the draft City Council Resolution:

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

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

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

As a corner lot on two primary streets in the Downtown, the site is very distinctive and the proposed project will enhance and emphasize this key corner location with distinctive architecture and artwork.

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; and*

The proposed expansion of an existing commercial retail use is determined to be in compliance with applicable provisions of the (CD) Downtown Commercial zone, and the required notice, hearing and findings for the Use Permit have been met.

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

Skechers proposed retail expansion will not adversely impact neighboring properties, as the space that Skechers is expanding into is already a retail use (interior design services and furniture sales), and thus does not constitute an intensification of use. No additional parking is required for the use as it is not a change or intensification. Additionally, no Skechers has made a good faith effort to mitigate the aesthetic impacts of their enlarged space by providing three different façade treatments, with artwork, on the Manhattan Avenue frontage. Skechers unique design for the Manhattan Avenue frontage visually breaks up the single façade into what looks like three separate and distinct storefronts, insuring that the village-like scale and rhythm of existing Downtown businesses is maintained.

The IZO also requires that the following findings be made for any retailer seeking a use permit for retail tenant spaces exceeding 1,600 square feet of BFA:

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

The expanded Skechers store will not impact the residential quality of life, as there is no intensification of use considering that the proposed expanded retail use is replacing an existing retail use. The use will provide a broader range of products for Manhattan Beach residents. Furthermore, the building is more than 150 feet away from the nearest residential property.

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

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

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

The proposed use is consistent with the 1998 Downtown Design Guidelines (Attachment 9), and makes a strong effort to meet or exceed the Design Guidelines found in the Downtown Specific Plan. The proposed store has pedestrian-oriented facades with attractive architectural features, including two well-defined store entries. As mentioned above, the proposed project's Manhattan Avenue façade has been broken up into three distinct styles that make the larger store look like three smaller stores, helping to maintain the existing rhythm of smaller store fronts and a village feel.

The proposed space's Manhattan Avenue facade exceeds the minimum 70% transparency requirement, and Skechers has agreed to provide elements of visual interest on the Manhattan Beach Boulevard façade which is not meeting the minimum 60% minimum transparency requirement as shown in the attached plans and provided for in the draft conditions. The artwork requirement for the Manhattan Beach Boulevard façade will enhance this large, flat, predominantly blank façade and be consistent with the goals of the Design Guidelines

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

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

Planning Commission Discussion

The Planning Commission unanimously approved Skechers Use Permit request, with one Commissioner abstaining from the hearing. The Commission's discussion primarily centered on the size of the proposed Skechers store, the store's exterior facade design, and the opportunity the Use Permit process gives the Planning Commission to impose development standards on the expanded Skechers store. Specifically, the Planning Commission noted that Skechers would not need a Use Permit had Skechers moved into the vacant space (1115 Manhattan Avenue) next to their existing store and chose to keep their new store separate from their current store since the 1,600 square foot

Use Permit threshold would not be breached by the new store.

The Planning Commission explained that they saw Skecher's Use Permit request as an opportunity to impose an array of conditions dealing with the building's façade and design. Planning Commission, taking advantage of the Use Permit process, enhanced a condition in the resolution by requiring Skechers to install a local public art piece on the Manhattan Beach Boulevard façade that would be subject to approval by the Cultural Arts Commission and the Director of Community Development. One Commissioner expressed concern regarding some people's vocal perception that perhaps Skechers' request was getting preferential treatment. Staff explained that the basis for evaluating Skecher's application has been the merits of their plans and design alone.

Appeal

An appeal of the Planning Commission's decision was timely submitted by Martha Andreani (Attachment 6). The appeal's main points are:

- the Commission's decision is contrary to the IZO and the intent of the Downtown Specific Plan.
- The exterior façade of three separate stores ignores the spirit and specifics of the Downtown Specific Plan as the interior of the store will exceed the maximum allowable under the IZO as well as the DTSP.
- The proposal is not consistent with the "small-town downtown" character.

The goal of the IZO's and Downtown Specific Plan's retail square footage cap is to ensure that new Downtown retail spaces fit into the existing pedestrian-oriented scale and small town feel of Downtown Manhattan Beach. The Downtown Specific Plan does not outright prohibit retail uses over 1,600 square feet of sales floor area. The Plan does, however, require a Use Permit for any retail use with over 1,600 square feet of sales floor area, thereby creating a pathway for any proposed retail space to exceed 1,600 square feet of sales floor area if the required Use Permit findings can be made. By giving retailers the opportunity to open stores larger than 1,600 square feet through the Use Permit process, the Downtown Specific Plan explicitly recognizes that there could be certain scenarios where some retail spaces could exceed 1,600 square feet and still fit into the small town character of Downtown Manhattan Beach.

The decision making body is required to deny a retailer's Use Permit request if the required Use Permit findings cannot be met. The draft Resolution and this report provide the support for the Use Permit findings as found in the Code and the IZO. The written appeal does not explain how Skechers' project fails to meet the required Use Permit findings.

The appeal also states that the Skechers proposal has the appearance of three stores, but that the store is actually one large store that is out of character for Downtown. Skechers could move into the empty neighboring tenant space (1115 Manhattan Avenue) without needing a Use Permit if they kept their existing store and new store completely separate. Skechers understood their options but chose to apply for the Use Permit in order to create a large passageway from their existing store to the neighboring tenant space that they also wish to occupy, creating the larger single store. The Use Permit process gives the City tremendous leverage to dictate the appearance of the Skechers store and infuse the key requirements of the Downtown Specific Plan into the Skechers design before the Downtown Specific Plan actually becomes effective. If Skechers decided to skip the Use Permit process by renting out the neighboring tenant space without combining it with their existing store, the City would not have the opportunity to mandate the three distinct façade styles on Manhattan Avenue and the local public art piece along Manhattan Beach Boulevard.

As discussed earlier, the Skechers expanded retail store will have a sales floor area of 2,183 square feet, exceeding the 1,600 square foot Use Permit threshold found in the Downtown Specific Plan by 36.44%. Staff is comfortable with this proposal as Skechers has created a thoughtful storefront design that makes a serious effort to fit into the existing rhythm and pattern of Downtown storefronts. Also, larger buildings or tenant spaces tend to occupy prominent corner locations in commercial districts, regardless of the tenant's use. Skechers existing and proposed expanded store occupies one of Downtown's most important commercial corners, and Staff feels this corner location further justifies Skechers larger store design as long as the store incorporates the three façade treatments along Manhattan Avenue and the local public art piece along Manhattan Beach Boulevard.

PUBLIC PARTICIPATION AND NOTICE:

A notice of the public hearing for this application was mailed to all owners of property within 500 feet of the project site boundaries and was published in the Beach Reporter on May 25, 2017. As of the writing of this report, Staff has received no public comment.

COASTAL DETERMINATION

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

ENVIRONMENTAL REVIEW

The City has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 1 categorical exemption pursuant to Section 15301 of the State CEQA Guidelines as the proposed project is a minor alteration within an existing facility and will not constitute an expansion of any use.

LEGAL REVIEW:

The City Attorney has approved as to form draft Resolution No. 17-0065.

ALTERNATIVES:

The City Council has the following alternatives to the staff recommendation of approval:

1. Approve the project as proposed, or with additional conditions.
2. Direct staff to draft a resolution containing findings to deny the Project.

If the Council opts for Option 1, staff has drafted a proposed resolution for its consideration.

CONCLUSION:

Staff recommends that after conducting the public hearing, the City Council adopt Resolution No. 17-0065, conditionally approving the project.

Attachments:

1. City Council Draft Resolution No. 17-0065
2. Proposed Plans
3. Project Overview/Zoning Summary Chart
4. IZO Ordinance No. 16-0013-U
5. PowerPoint Presentation
6. Appellant's Materials

- 7. Planning Commission Resolution No. PC 17-02
- 8. Planning Commission Meeting Minutes of March 29, 2017
- 9. Planning Commission Report, Attachments and Related Material - March 29, 2017