



Agenda Item # \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Wilson and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Daniel A. Moreno, Associate Planner

**DATE:** February 1, 2005

**SUBJECT:** Consideration of a Planning Commission Decision to Approve a Variance to Allow New Parking Lot Light Poles and Lights in the Front Parking Lot to Exceed Maximum Allowable Height and Maximum Allowable Lighting Level, for Target, On the Property Located at 1200 Sepulveda Boulevard

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**RECOMMENDATION:**

Staff recommends that the City Council **RECEIVE and FILE** this report.

**FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action.

**BACKGROUND:**

The applicant requests approval of a Variance application to allow: 1) the replacement of existing nonconforming 35-foot high light poles with new 35-foot poles, which exceed the maximum allowable height of 12 feet, 2) lights with illumination levels which exceed the maximum 3-foot candle commercial illumination standard and 3) new 35-foot light poles which exceed the maximum structure height of 30 feet. The Manhattan Beach Municipal Code requires that any new light poles must meet current Code requirement for height and illumination foot candle standards.

The applicant proposes to remove and replace all existing lighting poles in order to reduce any potential hazard to guests and to provide as much parking as possible to the site as some of these light poles are located in existing parking stalls and cart returns. Additionally, the applicant proposes to maintain the existing 35-foot pole height for all the new light poles in order to provide improved lighting to the site and to provide a safe and secure environment for their customers. Target believes that a hardship is created with the requirement to meet the current maximum Code requirement of 12-foot high poles. They believe that meeting the Code maximum light pole requirement of 12-feet and maximum structure height of 30 feet would create the need for substantial increases in the number of light poles, which increases the light source for glare due to increase lighting.

At the regularly scheduled Planning Commission meeting of December 8, 2004, the Commission voted (4-0-1) to approve the Variance request to allow new parking lot light poles and lights in the front parking lot to exceed maximum allowable height and maximum allowable lighting level. At this meeting, the Commission passed a motion to direct Staff to prepare a 'Draft Resolution' for review at the next Planning Commission meeting of January 12, 2005. At the December 8, 2004 Planning Commission meeting, several adjoining property owner spoke in favor of the proposal to upgrade the existing 35-foot tall light poles.

At the January 12, 2005 Planning Commission meeting the Commission voted (4-0-1) to approve the Variance with Commissioner Savikas abstaining because she was not present at the December 8, 2004 meeting.

Attached for the Councils review is Resolution No. PC 05-01, as well as other pertinent materials including: excerpts from the Planning Commission minutes and the staff report to the Commission, dated December 8, 2004 and January 12, 2005, with more detailed background and analysis.

**ALTERNATIVE**

1. **REMOVE** this item from the Consent Calendar, **APPEAL** the decision of the Planning Commission and schedule a public hearing.

- Attachments:
- A. Resolution No. PC 05-01 (available electronically)
  - B. Excerpt from the Planning Commission Minutes, dated 12/8/04 and 1/12/05 (available electronically)
  - C. Planning Commission Reports and attachments, dated 12/8/04 and 1/12/05 (available electronically)

cc: Talin Aghazarian, Pacific Land Services, Applicant's Representative  
David Henry, Target Corporation,

**Resolution No. 05-01**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE TO ALLOW NEW PARKING LOT LIGHT POLES AND LIGHTS IN THE FRONT PARKING LOT TO EXCEED MAXIMUM ALLOWABLE HEIGHT AND MAXIMUM ALLOWABLE LIGHTING LEVEL AT 1200 SEPULVEDA BOULEVARD**

(Target Corporation/Pacific Land Services)

**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. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on December 8, 2004, to consider an application for a Variance for the property legally described as a Portion of Lot 7, Section 19, and Partition of Property formerly of Redondo Land Co., located at 1200 Sepulveda Boulevard in the City of Manhattan Beach.
- B. At the December 8, 2004 meeting, the Planning Commission, on a 4-0-1 vote, passed a motion to direct Staff to prepare a 'Draft' Resolution of approval for review at the Planning Commission meeting of January 12, 2005.
- C. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- D. The applicant for the Use Permit Amendment is Pacific Land Services, Target representatives.
- E. The proposed use is permitted in the CG (General Commercial) Zone and Sepulveda Boulevard Development Guidelines but subject to a Variance approval for proposed light poles that do not meet current Code requirement for height and illumination foot candle standards.
- F. Pursuant to the California Environmental Quality Act (CEQA), and Manhattan Beach CEQA Guidelines, the proposed change is exempt based on a determination that it has no potential for having a significant effect on the environment.
- G. The Planning Commission made the following findings with respect to this Variance application:
  1. The applicant requests approval of a Variance application to allow: 1) the replacement of existing nonconforming 35-foot high light poles with new 35-foot poles, which exceed the maximum allowable height of 12 feet, 2) lights with illumination levels which exceed the maximum 3-foot candle commercial illumination standard and 3) new 35-foot light poles which exceed the maximum structure height of 30 feet.
  2. The applicant proposes to replace all nine 35-foot tall light poles with new poles at their present height. The existing 6 light poles located in the main parking area (in front of the building) would be removed and replaced with 8 new poles and concrete footings. The three 35-foot poles located along Manhattan Beach Boulevard would be replaced with new poles and will remain in the same location with the same concrete footings. The four existing 12-foot high light poles adjacent to the separate retail building would not be altered or relocated.
  3. The project is located in Area District II along the Sepulveda Boulevard commercial corridor and is zoned (CG) General Commercial. The surrounding adjacent properties to the north, south, and west are similarly zoned. The properties to the east are zoned (RS) Residential Single Family.

## Resolution No. 05-01

4. The General Plan designation for the property is General Commercial.
5. Based upon State law, the proposed project will meet the required findings as follows:

### *Variance*

- a) The special circumstance applicable to this property is the large size of the property which is not conducive for providing the shorter 12 foot tall light fixtures. The applicant's proposal to maintain the existing 35-foot pole height for all 11 new light poles would provide improved lighting to the site and provide a safe and secure environment for their customers. Having to meet the current maximum Code requirement of 12-foot high poles would create a hardship for the applicant because it would create the need for substantial increase of approximately 40 light poles, which increases the light source for glare due increase lighting. The proposed eleven (11) 35-foot light poles would cast no light across any of the adjoining property lines particularly to the residential properties to the east. The proposed plan would use new full cutoff fixtures (the bulb and lens are recessed inside the fixture) which would eliminate the visibility of the lamp elements (bulbs) from location off the Target property.
- b) The relief may be granted without substantial detriment to the public good and the project would not be detrimental or injurious to property or improvements in the vicinity of the development. The size of the property and the number of visits by employees and guest makes this site extraordinary and exceptional for granting relief for taller light poles and light levels higher than is presently permitted by Code. The proposed light pole locations would be located away from the residential neighborhood to the east and will be designed to minimize glare by replacing the existing sag lens fixtures with cutoff fixtures that provide shields and skirts, which further minimize glare and off-site spillage. The off-site foot-candles dissipate dramatically as it gets closer to the property lines particularly to the east and west. Additionally, the existing Target store structure also acts as a buffer to the residential properties which are situated at a higher elevation on Magnolia Avenue.
- c) Granting the request is consistent with the purpose of Title 10 of the MBMC and would not constitute a granting of a special privilege because the proposal consists of replacing existing 30 year old 35-foot high light poles with new 35-foot light poles with updated light fixtures. Maintaining the existing pole height provides a more efficient and safe environment for team members and patrons.

H. This Resolution is intended to incorporate and supersede the previous Use Permit Amendments to allow beer and wine (Resolution No. 03-19) and for the establishment of a pharmacy use (Resolution No. 04-06 – pharmacy addition not implemented). Governing Resolution No. 5292 will also remain in full force for the approved Target retail store and warehouse area and the separate 10,000 square foot retail building.

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

1. The project shall be in substantial conformance with the plans and project descriptions submitted to, and approved by the Planning Commission on January 12, 2005 (for the light poles) and pharmacy plans and project description (approved 11/12/03). Any substantial deviation from the approved plans and/or project description must be reviewed and approved by the Planning Commission.

## Resolution No. 05-01

### *Pharmacy Use*

2. The hours of operation for the pharmacy shall be limited to 7:00 am to 11:00 pm seven days a week.
3. Any new signs advertising the pharmacy shall be compatible with the existing signage and architecture on the site and subject to review and approval of the Director of Community Development. Only new signage on the Target building will be permitted, no new signage on the existing pole sign is allowed.

### *Beer and Wine License*

4. The property owner shall obtain approval from the Alcoholic Beverage Control Board and shall be in compliance with all conditions of approval.
5. The sale of beer and wine shall be for off-sale consumption only and shall not be refrigerated when sold. No sales or consumption of alcohol shall take place in the existing restaurant area.
6. No permanent sign modification and/or additions advertising the sale of alcohol is proposed.

### *Restaurant Use*

7. The outdoor dining area will be removed and the remaining indoor food service use will now contain approximately 1,216 sq. ft. (495 square feet. dining area and 721 square feet. equipment area).
8. The continued hours of operation for the food service use shall be from 8:00 a.m. – 10:00 p.m.
9. No food service deliveries shall take place at the front of the store at any time of the day.
10. The management of the store shall police the property and all areas immediately adjacent to the business during all hours of operation to keep it free of litter.

### *Light Poles*

11. The total height of all proposed light poles shall not exceed a height of 35-feet which includes the concrete base, pole and light fixture.
12. The applicant shall submit comprehensive plans, including photometric study, for review and approval by both the Building and Planning Divisions.

### *Operational Restrictions*

13. No outdoor storage containers shall be permitted on the subject site at any time unless used for construction purposes and approval by the Community Development Department.
14. Prior to issuance of building permit, a construction management plan, relative to construction equipment and storage container(s), shall be provided and approved by the Community Development Department.
15. No parking of delivery vehicles in “Fire Lanes” or overnight parking on the north and east side of the building shall be permitted.
16. The hours of construction for the project shall be Monday-Friday 7:30 a.m. to 6:00 p.m., Saturday 9:00 a.m. to 6:00 p.m. Construction is prohibited on Sundays.

## Resolution No. 05-01

17. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
18. The applicant shall continue to work with staff and the neighbors to further refine the proposed Operational Plan dated March 15, 2004, to address on-going operational issues associated with, outdoor storage containers, rooftop equipment enclosure, deliveries/loading, overnight parking, parking lot maintenance, use of rear driveway, construction staging area, loading dock sound wall, and other issues related to noise and other impacts on the adjacent neighbors. The revised Operational Plan shall be reviewed and approved by the Community Development Director, and the approved Plan shall be implemented prior to the issuance of a building permit for the proposed pharmacy.

### *Public Works*

19. A grease interceptor must be installed and placed into a maintenance program with regular inspections and removal of grease buildup.

### *Building Division*

20. All paths of travel areas for the remodel/addition shall meet the Disabled Access requirements.
21. All work shall comply with the 2001 California Codes which includes: 1999 National Electrical Code, 1997 Uniform Building Code, 2000 Uniform Mechanical Code and Uniform Plumbing Code.

### *Fire Department*

22. All food heat-processing equipment that produces grease-laden vapors shall have hood, duct and fire extinguishing systems according to 2001 California Fire Code Section 1006.

### *Procedural*

23. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
24. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the requiring filing fees are paid.
25. Applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach in defending any legal action associated with the approval of the project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
26. An annual review of these conditions of approval will be conducted by the Planning Division within one year (January 12, 2005) of the initial date of this approval.
27. The applicant/business owner shall cooperate with the Department of the Community Development in its conduct of periodic reviews for compliance of conditions of approval.
28. Any questions of intent or interpretation of any conditions will be resolved by the Planning Commission.

**SECTION 3.** Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this

**Resolution No. 05-01**

decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The Department of Community Development shall send a copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

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 **January 12, 2005** and that said Resolution was adopted by the following vote:

**AYES:** Montgomery, Kuch, Simon,  
Chairman O'Connor

**NOES:**

**ABSTAIN:** Savikas

**ABSENT:**

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**Richard Thompson**  
Secretary to the Planning Commission

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**Sarah Boeschen**  
Recording Secretary

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

**TO:** Planning Commission

**FROM:** Richard Thompson, Director of Community Development

**BY:** Daniel A. Moreno, Associate Planner

**DATE:** January 12, 2005

**SUBJECT:** Variance to Allow New Parking Lot Light Poles and Lights in the Front Parking Lot to Exceed Maximum Allowable Height and Maximum Allowable Lighting Level at 1200 Sepulveda Boulevard (Target Corp./Pacific Land Services)

**RECOMMENDATION**

Staff recommends that the Planning Commission **REOPEN** the Public Hearing and **ADOPT** the attached ‘Draft’ Resolution.

**BACKGROUND/DISCUSSION**

At the Planning Commission meeting of December 8, 2004, the Commission voted (4-0-1) to approve the Variance request to allow new parking lot light poles and lights in the front parking lot to exceed maximum allowable height and maximum allowable lighting level. This decision was based on the following findings:

1. The special circumstance applicable to this property is the large size of the property which is not conducive for providing the shorter 12 foot tall light fixtures. The applicant’s proposal to maintain the existing 35-foot pole height for all 11 new light poles would provide improved lighting to the site and provide a safe and secure environment for their customers. Having to meet the current maximum Code requirement of 12-foot high poles would create a hardship for the applicant because it would create the need for substantial increase of approximately 40 light poles, which increases the light source for glare due increase lighting. The proposed eleven (11) 35-foot light poles would cast no light across any of the adjoining property lines particularly to the residential properties to the east. The proposed plan would use new full cutoff fixtures (the bulb and lens are recessed inside the fixture) which would eliminate the visibility of the lamp elements (bulbs) from location off the Target property.
2. The relief may be granted without substantial detriment to the public good and the project would not be detrimental or injurious to property or



improvements in the vicinity of the development. The size of the property and the number of visits by employees and guest makes this site extraordinary and exceptional for granting relief for taller light poles and light levels higher than is presently permitted by Code. The proposed light pole locations would be located away from the residential neighborhood to the east and will be designed to minimize glare by replacing the existing sag lens fixtures with cutoff fixtures that provide shields and skirts, which further minimize glare and off-site spillage. The off-site foot-candles dissipate dramatically as it gets closer to the property lines particularly to the east and west. Additionally, the existing Target store structure also acts as a buffer to the residential properties which are situated at a higher elevation on Magnolia Avenue.

3. Granting the request is consistent with the purpose of Title 10 of the MBMC and would not constitute a granting of a special privilege because the proposal consists of replacing existing 30 year old 35-foot high light poles with new 35-foot light poles with updated light fixtures. Maintaining the existing pole height provides a more efficient and safe environment for team members and patrons.

At this meeting, the Commission passed a motion to direct Staff to prepare a 'Draft Resolution' for review at the next Planning Commission meeting of January 12, 2005. A 'Draft' Resolution is attached for the Commission's consideration.

At the December 8, 2004 Planning Commission meeting, several adjoining property owner spoke in favor of the proposal to upgrade the existing 35-foot tall light poles.

Attachments:

- Exhibit A Attached 'Draft' Resolution (available electronically)
- Exhibit B 'Draft' Planning Commission Minutes (available electronically as a separate agenda item)

cc: Talin Aghazarian, Applicant's Representative, Pacific Land Services

5Target.rptPC1-12-05

**'Draft' Resolution No. 05-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE TO ALLOW NEW PARKING LOT LIGHT POLES AND LIGHTS IN THE FRONT PARKING LOT TO EXCEED MAXIMUM ALLOWABLE HEIGHT AND MAXIMUM ALLOWABLE LIGHTING LEVEL AT 1200 SEPULVEDA BOULEVARD**

(Target Corporation/Pacific Land Services)

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- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on December 8, 2004, to consider an application for a Variance for the property legally described as a Portion of Lot 7, Section 19, and Partition of Property formerly of Redondo Land Co., located at 1200 Sepulveda Boulevard in the City of Manhattan Beach.
- B. At the December 8, 2004 meeting, the Planning Commission, on a 4-0-1 vote, passed a motion to direct Staff to prepare a 'Draft' Resolution of approval for review at the Planning Commission meeting of January 12, 2005.
- C. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- D. The applicant for the Use Permit Amendment is Pacific Land Services, Target representatives.
- E. The proposed use is permitted in the CG (General Commercial) Zone and Sepulveda Boulevard Development Guidelines but subject to a Variance approval for proposed light poles that do not meet current Code requirement for height and illumination foot candle standards.
- F. Pursuant to the California Environmental Quality Act (CEQA), and Manhattan Beach CEQA Guidelines, the proposed change is exempt based on a determination that it has no potential for having a significant effect on the environment.
- G. The Planning Commission made the following findings with respect to this Variance application:
  1. The applicant requests approval of a Variance application to allow: 1) the replacement of existing nonconforming 35-foot high light poles with new 35-foot poles, which exceed the maximum allowable height of 12 feet, 2) lights with illumination levels which exceed the maximum 3-foot candle commercial illumination standard and 3) new 35-foot light poles which exceed the maximum structure height of 30 feet.
  2. The applicant proposes to replace all nine 35-foot tall light poles with new poles at their present height. The existing 6 light poles located in the main parking area (in front of the building) would be removed and replaced with 8 new poles and concrete footings. The three 35-foot poles located along Manhattan Beach Boulevard would be replaced with new poles and will remain in the same location with the same concrete footings. The four existing 12-foot high light poles adjacent to the separate retail building would not be altered or relocated.
  3. The project is located in Area District II along the Sepulveda Boulevard commercial corridor and is zoned (CG) General Commercial. The surrounding adjacent properties to the north, south, and west are similarly zoned. The properties to the east are zoned (RS) Residential Single Family.

**‘Draft’ Resolution No. 05-**

4. The General Plan designation for the property is General Commercial.
5. Based upon State law, the proposed project will meet the required findings as follows:

*Variance*

- a) The special circumstance applicable to this property is the large size of the property which is not conducive for providing the shorter 12 foot tall light fixtures. The applicant’s proposal to maintain the existing 35-foot pole height for all 11 new light poles would provide improved lighting to the site and provide a safe and secure environment for their customers. Having to meet the current maximum Code requirement of 12-foot high poles would create a hardship for the applicant because it would create the need for substantial increase of approximately 40 light poles, which increases the light source for glare due increase lighting. The proposed eleven (11) 35-foot light poles would cast no light across any of the adjoining property lines particularly to the residential properties to the east. The proposed plan would use new full cutoff fixtures (the bulb and lens are recessed inside the fixture) which would eliminate the visibility of the lamp elements (bulbs) from location off the Target property.
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- c) Granting the request is consistent with the purpose of Title 10 of the MBMC and would not constitute a granting of a special privilege because the proposal consists of replacing existing 30 year old 35-foot high light poles with new 35-foot light poles with updated light fixtures. Maintaining the existing pole height provides a more efficient and safe environment for team members and patrons.

H. This Resolution is intended to incorporate and supersede the previous Use Permit Amendments to allow beer and wine (Resolution No. 03-19) and for the establishment of a pharmacy use (Resolution No. 04-06 – pharmacy addition not implemented). Governing Resolution No. 5292 will also remain in full force for the approved Target retail store and warehouse area and the separate 10,000 square foot retail building.

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

1. The project shall be in substantial conformance with the plans and project descriptions submitted to, and approved by the Planning Commission on January 12, 2005 (for the light poles) and pharmacy plans and project description (approved 11/12/03). Any substantial deviation from the approved plans and/or project description must be reviewed and approved by the Planning Commission.

**‘Draft’ Resolution No. 05-**

*Pharmacy Use*

2. The hours of operation for the pharmacy shall be limited to 7:00 am to 11:00 pm seven days a week.
3. Any new signs advertising the pharmacy shall be compatible with the existing signage and architecture on the site and subject to review and approval of the Director of Community Development. Only new signage on the Target building will be permitted, no new signage on the existing pole sign is allowed.

*Beer and Wine License*

4. The property owner shall obtain approval from the Alcoholic Beverage Control Board and shall be in compliance with all conditions of approval.
5. The sale of beer and wine shall be for off-sale consumption only and shall not be refrigerated when sold. No sales or consumption of alcohol shall take place in the existing restaurant area. The packaged goods will be displayed and located along with other food and beverage products in a very limited specific area of the store (see floor plan for this approval).
6. No permanent sign modification and/or additions advertising the sale of alcohol is proposed.

*Restaurant Use*

7. The outdoor dining area will be removed and the remaining indoor food service use will now contain approximately 1,216 sq. ft. (495 square feet. dining area and 721 square feet. equipment area).
8. The continued hours of operation for the food service use shall be from 8:00 a.m. – 10:00 p.m.
9. No food service deliveries shall take place at the front of the store at any time of the day.
10. The management of the store shall police the property and all areas immediately adjacent to the business during all hours of operation to keep it free of litter.

*Light Poles*

11. The total height of all proposed light poles shall not exceed a height of 35-feet which includes the concrete base, pole and light fixture.
12. The applicant shall submit comprehensive plans, including photometric study, for review and approval by both the Building and Planning Divisions.

*Operational Restrictions*

13. No outdoor storage containers shall be permitted on the subject site at any time unless used for construction purposes and approval by the Community Development Department.
14. Prior to issuance of building permit, a construction management plan, relative to construction equipment and storage container(s), shall be provided and approved by the Community Development Department.
15. No parking of delivery vehicles in “Fire Lanes” or overnight parking on the north and east side of the building shall be permitted.
16. The hours of construction for the project shall be Monday-Friday 7:30 a.m. to 6:00 p.m., Saturday 9:00 a.m. to 6:00 p.m. Construction is prohibited on Sundays.

**'Draft' Resolution No. 05-**

17. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance.
18. The applicant shall continue to work with staff and the neighbors to further refine the proposed Operational Plan dated March 15, 2004, to address on-going operational issues associated with, outdoor storage containers, rooftop equipment enclosure, deliveries/loading, overnight parking, parking lot maintenance, use of rear driveway, construction staging area, loading dock sound wall, and other issues related to noise and other impacts on the adjacent neighbors. The revised Operational Plan shall be reviewed and approved by the Community Development Director, and the approved Plan shall be implemented prior to the issuance of a building permit for the proposed pharmacy.

*Public Works*

19. A grease interceptor must be installed and placed into a maintenance program with regular inspections and removal of grease buildup.

*Building Division*

20. All paths of travel areas for the remodel/addition shall meet the Disabled Access requirements.
21. All work shall comply with the 2001 California Codes which includes: 1999 National Electrical Code, 1997 Uniform Building Code, 2000 Uniform Mechanical Code and Uniform Plumbing Code.

*Fire Department*

22. All food heat-processing equipment that produces grease-laden vapors shall have hood, duct and fire extinguishing systems according to 2001 California Fire Code Section 1006.

*Procedural*

23. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
24. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the requiring filing fees are paid.
25. Applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach in defending any legal action associated with the approval of the project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
26. An annual review of these conditions of approval will be conducted by the Planning Division within one year (January 12, 2005) of the initial date of this approval.
27. The applicant/business owner shall cooperate with the Department of the Community Development in its conduct of periodic reviews for compliance of conditions of approval.
28. Any questions of intent or interpretation of any conditions will be resolved by the Planning Commission.

**'Draft' Resolution No. 05-**

**SECTION 3.** Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The Department of Community Development shall send a copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

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 **January 12, 2005** and that said Resolution was adopted by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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**Richard Thompson**

Secretary to the Planning Commission

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**Sarah Boeschen**

Recording Secretary

**D R A F T      CITY OF MANHATTAN BEACH      D R A F T**  
**MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION**  
**JANUARY 12, 2005**

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on  
2 Wednesday, January 12, 2005, at 6:40 p.m. in the City Council Chambers, City Hall, 1400  
3 Highland Avenue.

4  
5 **ROLL CALL**

6  
7 Chairman Montgomery called the meeting to order.

8  
9 Members Present:           Kuch, O'Connor, Savikas, Simon, Chairman Montgomery  
10 Members Absent:           None  
11 Staff:                       Richard Thompson, Director of Community Development  
12                               Daniel Moreno, Associate Planner  
13                               Rosemary Lackow, Senior Planner  
14                               Sarah Boesch, Recording Secretary  
15

16 **APPROVAL OF MINUTES**                       December 8, 2004

17  
18 Commissioner Simon requested that page 3, line 36 of the December 8, 2004 minutes be revised  
19 to state "He indicated that he does not feel there has been input as to the height or size of sign .."

20  
21 Commissioner O'Connor requested that on page 10 line 11, the bold be removed from "Richard  
22 Thompson, Director" and that the wording be changed to "Director Thompson."

23  
24 A motion was MADE and SECONDED (O'Connor/Kuch) to **APPROVE** the minutes of  
25 December 8, 2004, as amended.

26  
27 AYES:           Kuch, O'Connor, Simon, Chairman Montgomery  
28 NOES:           None  
29 ABSENT:       None  
30 ABSTAIN:       Savikas  
31

32 **REORGANIZATION**

33  
34 Chairman O'Connor presented Richard Montgomery with a plaque and commended him on his  
35 service as chairman of the Planning Commission for the past year.

36  
37 The Commissioners commended Richard Montgomery on his being a good role model and being  
38 responsive to the interests of the community.

39  
40 **AUDIENCE PARTICIPATION**   None

41  
42 **PUBLIC HEARINGS (CONTINUED)**

**PLANNING COMMISSION MINUTES**

January 12, 2005

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**04/1208.4-1 VARIANCE to Allow New Parking Lot Light Poles and Lights in Front Parking Lot to Exceed Maximum Allowable Height and Maximum Allowable Lighting Level, at 1200 North Sepulveda Boulevard (Pacific Land Services)**

Director Thompson indicated that staff has drafted a Resolution with conditions that reflect the approval subject to conditions as discussed at the previous hearing.

Associate Planner Moreno summarized the staff report. He stated that the Commissioners directed staff to prepare a Resolution of approval to allow new light poles. He pointed out that the last sentence of Condition 5 which states “The packaged goods will be displayed and located along with other food and beverage products in a very limited specific area of the store” has been deleted.

In response to a question from Commissioner Savikas, Associate Planner Moreno stated that no further public comments have been received by staff.

Chairman O’Connor opened the public hearing.

There being no one wishing to speak, Chairman O’Connor closed the public hearing.

Commissioner Savikas stated that it does not seem logical to have a 12 foot high pole as required by the Code, as many trucks and SUVs could have difficulty clearing the poles. She indicated that she is in favor of the proposed 35 foot pole that matches the existing pole.

Commissioner Simon stated that there was initially opposition from the neighbors regarding the amount of light that would intrude into their yards, and the concerns appear to have been mitigated as it was made clear that it would not be the case. He stated that he would hope that the Code would be rewritten to apply more appropriately for larger properties such as the subject site. He commented that he would support the proposal.

In response to a question from Commissioner Simon, Director Thompson stated that staff feels the existing Code requirement regarding the permitted heights of poles is unreasonable for sites such as the subject property, and staff will consider revising the Code.

Commissioner Kuch said that the proposal is well designed.

Commissioner Montgomery indicated that the concerns of the neighbors regarding light spilling onto their properties were reduced once they realized that the lights would not create an impact. He said that allowing the Variance would not be granting a special privilege. He said that he



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1 would support the proposal with the revision to Condition 5 as suggested by staff.

2  
3 Chairman O'Connor stated that he agrees with the comments of the other Commissioners. He  
4 commented that he was a critic of the applicant because of the issues had with the neighbors with  
5 their previous application. He indicated, however, there has been much better communication by  
6 the applicants with this proposal.

7  
8 A motion was MADE/SECONDED (Kuch/Savikas) to **APPROVE** a Variance to allow new  
9 parking lot light poles and lights in front parking lot to exceed maximum allowable height and  
10 maximum allowable lighting level, at 1200 North Sepulveda Boulevard

11  
12 AYES: Kuch, Montgomery, Simon, Chairman O'Connor  
13 NOES: None  
14 ABSENT: None  
15 ABSTAIN: Savikas

16  
17 Director Thompson explained the 15 day appeal period and stated that the item will be placed on  
18 the City Council's Consent Calendar for their meeting of February 1, 2005.

19  
20 **04/412.1-2 Municipal Code AMENDMENT and Local Coastal Program AMENDMENT**  
21 **Pertaining to Regulation of Telecommunication Facilities on Public Right-of-**  
22 **Way, Public Property, and Private Property Citywide**

23  
24 Senior Planner Lackow summarized the staff report. She stated that issues that have been raised  
25 include citizen participation in the approval of proposals for wireless antennas, particularly  
26 regarding noticing and appeal rights; the potential for degradation of sites and particularly  
27 residential neighborhoods; the need for special treatment of walk-streets and The Strand;  
28 inclusion of school sites in the public review process; the need to provide cell coverage in  
29 general in residential areas; and the need to address legal issues. She indicated that all  
30 significant changes that have been made to the draft Ordinance relate to private property.

31  
32 Senior Planner Lackow stated that most changes made by staff were to Section 13.02.090  
33 relating to the regulation of antennas within private property, and the section has been expanded  
34 to address any public property not owned by the City such as schools and County sites. She  
35 reviewed the changes that have been made to the draft Ordinance. She said that the requirement  
36 for an RF study has been eliminated. She indicated that for non-residential properties staff  
37 suggests allowing antennas to extend 8 feet above the height limit for bulkier panel antennas and  
38 15 feet above existing building height for the more slender "whip" antennas with a maximum  
39 diameter and number (of whip antennas). She commented that Section H and I on page 9 and 10  
40 of the draft Resolution have been revised to provide that all cell sites on non-commercial  
41 properties would automatically require noticing to property owners within a radius of 500 feet

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1 prior to a decision being made by the Community Development Director. She indicated that  
2 appeals for such applications would be heard by the City Council, and an appeal process  
3 description would be included in the notice.

4  
5 Senior Planner Lackow commented that the City Attorney has recommended that cellular  
6 antennas not be prohibited on walk-streets or The Strand to avoid a challenge that this would be  
7 considered local government interference that would be prohibited under state and federal law.  
8 She stated that the Ordinance does not include a minimum distance of an antenna within the  
9 public right-of-way from a residential building. She commented that the planning staff felt it  
10 might be appropriate to set a minimum distance; however, it is difficult to establish a standard  
11 because of the variations in the distance of zoning setbacks (between 1 foot and 20-feet). She  
12 stated that staff did contact a number of additional cities that have not made changes to their  
13 Ordinance regarding telecommunication facilities. She noted that most cities staff contacted  
14 which have not recently passed a new Ordinance have not made changes because they were not  
15 aware of any specific legislation requiring them to change their Ordinances and have no pending  
16 legal issues. She commented that at the writing of the report staff had met with two residents,  
17 and there has been additional input on the most recent changes. She commented that a letter was  
18 also received by **Jeremy Stern** with suggested changes after the staff report was written. She  
19 reviewed the specific text changes to the draft Ordinance made since the staff report was written  
20 and noted that the most recent resolution is being presented tonight and is marked “PC 1-12-05  
21 rev” in blue.

22  
23 Chairman O’Connor stated that section G on page 9 of the draft Resolution that addresses the  
24 appeal process for amateur radio antennas seems to be redundant, as section I on page 10  
25 addresses appeals for the entire section of the Code.

26  
27 Senior Planner Lackow stated that the Code currently includes a policy regarding amateur HAM  
28 radios that allows appeals to be heard before the Commission, and staff did not feel comfortable  
29 changing the existing language. She stated that wording could be added to item I to state: “with  
30 the exception of amateur HAM radios.”

31  
32 Senior Planner Lackow indicated that staff feels the need of citizens to participate in the permit  
33 process and the need to streamline the process have been addressed by the proposed Resolution.  
34 She commented that the proposed Resolution would give staff the authority to incorporate  
35 camouflage and the mitigation of aesthetic impacts.

36  
37 In response to a question from Commissioner Simon, Associate Planner Lackow indicated that,  
38 while staff hadn’t been able to review this case in detail or with the City Attorney, the court  
39 decision in the case against Palos Verdes Estates encouraged staff that the proposed Resolution  
40 is moving the City in the right direction, especially with respect to the public right of way.

41

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1 Commissioner Montgomery suggested adding wording to page 9, item F(4) to state: “The  
2 applicant shall demonstrate good faith effort to co-locate on existing facilities or sites and non-  
3 residential zones.”  
4

5 Senior Planner Lackow indicated that staff’s reasoning in wording the condition is that there  
6 currently are no wireless facilities or sites that are on residential property. She said that the  
7 wording could be added as suggested by Commissioner Montgomery.  
8

9 In response to a question from Commissioner Montgomery, Senior Planner Lackow indicated  
10 that applications in noncommercial sites would be noticed before a decision by the Community  
11 Development Director is made. She indicated that there would not be an automatic public  
12 hearing, and applications would be appealed only if a request was received.  
13

14 In response to a question from Commissioner Savikas, Director Thompson indicated that appeals  
15 of wireless facilities would be heard by the City Council.  
16

17 Commissioner Simon commented that with public hearings there is a definite point by which all  
18 information must be received before the item is considered for a decision. He indicated his  
19 concern that with the decision on wireless facility applications being made by the Community  
20 Development Director, there might not be a mechanism to ensure that information is available to  
21 the public before a decision is reached.  
22

23 Senior Planner Lackow said that in the notice that would automatically be given to surrounding  
24 property owners, it would note a date at which a decision will be made, and before which  
25 comments and concerns must be received by staff. Members of the public will have until that  
26 time to ask staff for further information or provide input.  
27

28 Chairman O’Connor opened the public hearing.  
29

30 **Jeremy Stern**, representing Cingular Wireless, commented that the revisions to page 8, section  
31 13 are consistent with the remarks at the last hearing. He requested that item D (a) on page 8 be  
32 revised to state: “no feasible alternative nonresidential site was available for the facility.” He  
33 also requested that item D (b) be revised to state: “adverse aesthetic impacts have been  
34 substantially mitigated.”  
35

36 Regarding **Mr. Stern’s** proposed change to item D(b), Commissioner Simon commented that the  
37 word “substantially” has a different meaning than the word “fully,” which means totally.  
38

39 **Mr. Stern** commented that their concern is that an argument could be made that an antenna be  
40 denied even if it is hidden within a structure such as a chimney because the screening itself  
41 would be visible. He indicated that the word “substantially” would provide flexibility to

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1 antennas where the screening is visible.

2  
3 **Mr. Stern** also requested that page 10, section 13.02.100(B) eliminate the reference to  
4 “necessity” and instead read: “no feasible alternative nonresidential site is available for the  
5 facility.” He commented that they would request the change to maintain consistency because the  
6 determination of necessity has already been made.

7  
8 In response to a question from Chairman O’Connor, Senior Planner Lackow indicated that staff  
9 has not had an opportunity to discuss the proposed change to section 13.02.100 (b) as suggested  
10 by **Mr. Stern** and is reluctant to support it at this time.

11  
12 In response to a question from Commissioner Savikas, Director Thompson said that staff’s  
13 analysis of projects would not change regardless of whether item D (a) included the word “fully”  
14 or “substantially.” He said, however, wording does sometimes become challenged in court.

15  
16 **Don McPherson**, a resident of the 1000 block of 10<sup>th</sup> Street, stated that staff has made progress  
17 with the Ordinance; however, he would request that the Commission conduct a more thorough  
18 analysis of all of the issues. He commented that the decision in the recent case in Rancho Palos  
19 Verdes has indicated that cities do have discretion in the aesthetics of wireless antennas. He  
20 stated that once the Ordinance is enacted and applications are approved it will be difficult to  
21 make changes because companies can argue that they should have the same consideration as  
22 previous applications. He stated that there is very limited opportunity to appeal applications on  
23 property outside of the public right-of-way and no opportunity to appeal applications on public  
24 property. He said that there are no substantial requirements or standards for antennas on public  
25 property. He commented that antennas would be permitted on walk-streets and The Strand, and  
26 there would not be a limit to proximity of antennas placed within the right-of-way to adjacent  
27 residential properties.

28  
29 **Mr. McPherson** indicated that antennas would be permitted 15 feet above the height limit, and  
30 there is also a loophole regarding amateur antennas. He commented that projects should be  
31 evaluated in relation the carrier’s entire network rather than being judged on a set of narrow  
32 merits. He said that members of the public would have to ask regarding projects in order to  
33 receive information, and the only way a project could be appealed is if the Director decides that  
34 the application does not have sufficient camouflage or is on a residential property. He  
35 commented that the Ordinance should allow appeals of the Director’s decision according to  
36 standard practice of the Code, and applications should be placed on the City’s website. He stated  
37 that he cannot find any requirement in federal law to shorten time for noticing and public  
38 hearings regarding wireless applications, and the language of the Telecommunications Act  
39 indicates that the standard amount of time for public hearings before the Commission and City  
40 Council is acceptable. He commented that there are no standards for City owned property  
41 including parks, and such areas should be treated the same as private property. He indicated that

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1 antennas on public property should not be permitted to be placed immediately adjacent to a  
2 residential property. He suggested that antennas should be allowed to extend 8 feet above the  
3 height limit with a clause that it can be higher if proved necessary. He suggested that the item be  
4 continued to allow more consideration of the issues.

5  
6 **Wayne Partridge** a resident of the 3500 block of The Strand, said that aesthetic control must be  
7 taken regarding amateur arrays. He indicated that in two separate cases in Rancho Palos Verdes,  
8 individuals received administrative approval for wireless antennas and subsequently allowed  
9 them to be utilized for commercial purposes. He indicated that Conditional Use Permits for the  
10 antennas were subsequently denied by the City in both cases, and the district court determined  
11 that there was no justification in the city denying the antennas since the sites were originally  
12 permitted. He stated that the decisions suggest that the antennas could have been denied had the  
13 city addressed aesthetic concerns regarding the antennas originally. He indicated that amateur  
14 antennas are capable of changing to commercial by simply changing the frequency. He indicated  
15 that amateur arrays should be allowed; however, consideration regarding restricting commercial  
16 use in residential properties must be given in approving such arrays. He also commented that  
17 item D (b) should include the word “fully” rather than “substantially.”

18  
19 In response to a question from Chairman O’Connor, **Mr. Partridge** indicated that the case of  
20 AT&T v. Carlsbad as referenced in his submitted materials is regarding a stealth site proposed  
21 by the applicant within a faux chimney. He commented that in that case it was determined that  
22 the City did not have sufficient evidence in the record for grounds to deny the application. He  
23 commented that the cases demonstrate that the City should as much as possible ensure that  
24 antennas are placed in the right-of-way away from residential property and leave a provision to  
25 ensure that the Telecommunications Act is not violated.

26  
27 **George Cohn**, a resident of the 1400 block of 8<sup>th</sup> Street, stated that the goal is for it to become  
28 easier and more desirable for companies to locate antennas in commercial sites in order to avoid  
29 public opposition and hearings before the Council. He commented that his understanding is that  
30 there would be no difference in the proposed Ordinance whether wireless companies applied to  
31 place a facility in the right-of-way on Rosecrans Avenue or in the right-of-way on a residential  
32 walk-street. He suggested that separate categories be established for right-of-ways, as several  
33 are adjacent to exclusively residential areas. He said that it should be difficult for companies to  
34 install facilities in schools and next to residential areas. He suggested increasing fees for  
35 wireless antenna applications and posting applications on the City website. He commented that  
36 the City has worked to maintain a low profile without a huge number of antennas. He suggested  
37 that the Ordinance be reviewed by an outside professional consultant with no interest to cellular  
38 companies.

39  
40 **Dick Whilden**, a resident of the 100 block of Poinsettia Avenue, indicated that the proposed  
41 Ordinance does not provide for an appeal process for antennas in the public right-of-way, and he

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1 feels there should be no circumstance without an opportunity for appeal. He commented that  
2 there are generally not many appeals, and the \$500.00 fee helps to prevent frivolous appeals. He  
3 commented that a method should be established by which the public is made aware of when  
4 decisions are to be made by the Director. He stated that he feels it would be appropriate to  
5 maintain the appeal process for wireless facilities of coming before the Planning Commission  
6 and the City Council.

7  
8 **Martha Andreani**, a resident of the 100 block of 10<sup>th</sup> Street, also requested that the issue be  
9 continued. She commented that notification process becomes particularly critical if the appeal  
10 process is removed under any circumstance. She stated that noticing only within a 500 foot  
11 radius of a proposed site is inadequate, particularly when antennas would be permitted to extend  
12 above the height limit and would be visible for more than 500 feet. She suggested that any  
13 application for a wireless facility be posted on the website as soon as it is received to allow as  
14 much time as possible for residents to review the proposal. She also suggested that the areas of  
15 right-of-way be differentiated within the Ordinance as suggested by **Mr. Cohn**.

16  
17 **Mr. Stern** commented that he cannot envision an engineering principle that would drive  
18 Cingular Wireless to locate an antenna on a walk-street. He indicated that there likely are  
19 telephone poles where an antenna can be located in the green belt adjacent to any walk-street.

20  
21 Commissioner Kuch stated that he feels the hearing should be continued to further consider the  
22 additional issues that have been raised. He indicated that valuable input is still being received  
23 and agreement on the Resolution appears closer, but at some point there has to be a conclusion.  
24 He indicated that there are items that have been brought up that should be included in the  
25 Ordinance.

26  
27 Commissioner Montgomery indicated that he would like to hear the opinion of the City Attorney  
28 regarding adding wording to page 9, item F(4) to state: "The applicant shall demonstrate a good  
29 faith effort to co-locate on existing facilities or sites and non-residential zones." He pointed out  
30 that the City Attorney indicated at the previous hearing that including a public process does not  
31 change the discretion that the City has in the approval of antennas but simply makes the process  
32 more public and open. He indicated that he would support continuing the issue.

33  
34 Commissioner Simon said that he would support continuing the item because of the quantity of  
35 material and because the Commissioners have not had an opportunity to review all of the new  
36 information that has been submitted. He indicated that much progress has been made since the  
37 original proposal in making the process of approval more open, and additional time should be  
38 taken to ensure that the Ordinance is written correctly. He stated that he likes the approach  
39 regarding prohibiting antennas along The Strand and walk-streets unless there is no other  
40 alternative, and he would like input from the City Attorney regarding whether it is a good  
41 approach.

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1  
2 Commissioner Montgomery said that he appreciates **Mr. Stern**'s comment that Cingular would  
3 not have a situation in which they would propose an antenna adjacent to a walk-street.

4  
5 Commissioner Savikas thanked the public and staff for their energy and time spent on the issue.  
6 She requested a map that depicts the areas of the public right-of-way within the City to have a  
7 clearer understanding of the areas. She suggested that guidelines be established regarding  
8 preferences along The Strand and walk streets rather than strictly prohibiting antennas. She said  
9 that she would support posting of the applications on the website. She commented that she has  
10 confidence in the opinion of the City Attorney and is not certain that it would be necessary to  
11 have an outside legal opinion of the Ordinance as suggested by **Mr. Cohn**.

12  
13 Chairman O'Connor stated that he would support a continuance, as there is a great deal of new  
14 information and changes. He indicated that he has difficulty understanding why a process would  
15 be established that allows no appeal capability, which is an issue of checks and balances. He  
16 also agreed that companies should be encouraged to place antennas in the public right-of-way;  
17 however, that should not mean that the appeal process is removed within those areas. He  
18 indicated that there will be the occasional application within the right-of-way that does create  
19 issues, and it is necessary to have a specified process for everyone to be able to receive more  
20 information and appeal such projects. He said that he would like for antennas to be prohibited  
21 along The Strand and walk streets as much as is possible. He said that at a minimum he would  
22 like for an offset to be provided so that an antenna is not placed directly in front of a home along  
23 a walk-street. He commented that posting applications to the websites should be part of the  
24 process but does not necessarily need to be included in the Ordinance. He indicated that 7 days  
25 is too short of a notice, and the Telecommunications Act allows for a standard noticing period of  
26 10 to 15 days.

27  
28 Commissioner Simon requested that more information be provided regarding the criteria of  
29 allowing the height of antennas 15 feet above the permitted height rather than 8 feet.

30  
31 Director Thompson commented that it should be clarified in the Resolution that 15 feet permitted  
32 for antennas above the height limit would be from the existing building height rather than the  
33 permitted building height. He said that staff will consider the possibility of reducing the  
34 diameter from 3 inches for antennas that would be permitted to extend 15 feet.

35  
36 Commissioner Savikas inquired regarding whether a definition should be provided regarding  
37 amateur as opposed to commercial antennas.

38  
39 Director Thompson said that staff will consider the comments of **Mr. Partridge** regarding  
40 addressing amateur antennas in residential areas.

41

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1 A motion was MADE/SECONDED (Kuch/Savikas) to **CONTINUE** the issue of Municipal  
2 Code Amendment and Local Coastal Program Amendment pertaining to regulation of  
3 telecommunication facilities on public right-of-way, public property, and private property  
4 citywide to February 9, 2005.

- 5  
6 AYES: Kuch, Montgomery, Savikas, Simon, Chairman O’Connor  
7 NOES: None  
8 ABSENT: None  
9 ABSTAIN: None

10  
11 At 8:35 a 15 minute recess was taken.

12  
13 **PUBLIC HEARINGS**

14  
15 **05/0112.3 USE PERMIT and COASTAL DEVELOPMENT PERMIT to Allow On-Site**  
16 **Wine Tasting and Food Sampling at an Existing Retail Wine Store Located**  
17 **at 1000 Manhattan Avenue (Bacchus Wine Made Simple)**

18  
19 Director Thompson pointed out that the proposal is for wine tasting indoors only, and none of  
20 the activities are proposed outdoors. He said that staff is recommending approval subject to  
21 several conditions.

22  
23 Senior Planner Lackow summarized the staff report. She said that the proposal is to convert 100  
24 square feet of an existing wine retail store for an area for wine tasting. She commented that the  
25 hours of operation currently are Monday through Saturday from 11:00 a.m. to 8:00 p.m. and  
26 Sunday 11:00 a.m. to 6:00 p.m. She indicated that the proposed hours of operation would be  
27 Sunday through Wednesday from 11:00 a.m. to 8:00 p.m., and Thursday through Saturday from  
28 11:00 to 9:00 p.m. She said that staff is recommending approval with conditions similar to  
29 conditions placed on Manhattan Wine Company on Sepulveda Boulevard. She indicated that  
30 **Mr. McPherson** has provided input stating that Bacchus violates the Alcoholic Beverage  
31 Commission (ABC) license that requires non-alcohol sales to be 50 percent of the total. She  
32 commented that the requirement is a compliance issue with the ABC, and is not in the domain of  
33 the City to enforce the applicant’s alcohol license. She indicated that in reviewing the  
34 application, the main issue is regarding the character of the existing use: is this request going to  
35 change the retail character to that of a bar? Typically staff looks at operational factors such as the  
36 hours and whether entertainment is proposed and the floor plan to see a differentiation from  
37 retail tasting and bar drinking. Conditions imposed can regulate the use to ensure the character  
38 remains what is intended. Turning to the draft Resolution, she said that staff is suggesting that  
39 condition 8 on page 3 be revised to read: “wine tasting shall be limited to a maximum of five 1  
40 ounce samples . . .” She pointed out that the proposed hours of operation are not similar to a bar  
41 in that the closing hour is relatively early.



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1  
2 Senior Planner Lackow commented regarding a letter submitted by Mr. McPherson very recently  
3 which noted that the subject site has a Coastal Development Permit that contains a condition  
4 requiring six parking spaces. She noted it is unclear to staff the method by which the  
5 requirement of six spaces was determined. She indicated that staff is suggesting a condition be  
6 added that the proposed use be subject to confirming the Coastal Permit requirements. She  
7 pointed out that at the time of the Coastal Permit, in approximately 1980, the City had no on-site  
8 parking requirements for the downtown area, nor did it have a certified Local Coastal Plan, as it  
9 has today. She indicated that by today's standards the site is nonconforming for parking for 9  
10 spaces, and the proposal to convert from 100% retail to retail plus a small portion as an "eating  
11 or drinking establishment" use classification results in the requirement of one additional parking  
12 space. She suggested that staff conduct an on-site walk-through to determine the use of the site,  
13 which could be included as a condition. She stated that the issue of trash disposal is addressed in  
14 condition 5 of the draft Resolution, and trash collection requirements for businesses are handled  
15 by the Public Works Department with the City's waste hauling contractor. She suggested that  
16 conditions 5 and 13 in the draft Resolution regarding trash be incorporated into one condition.  
17 She commented that there is a condition included requiring a mop sink if determined to be  
18 necessary by the Public Works Department. She indicated that the applicant has submitted a  
19 petition with 8 signatures in support of the proposal and this document has been provided to the  
20 Commission tonight. She commented that food service is proposed only incidental to wine  
21 tasting, and there is a condition prohibiting cooking facilities. She concluded that staff believes  
22 that the project is consistent with the Zoning Code and General Plan and that it would not create  
23 detrimental or adverse impacts to the surrounding areas and findings are included in the draft  
24 Resolution. .

25  
26 In response to a question from Commissioner Savikas, Senior Planner Lackow stated that the  
27 operational conditions for the Sepulveda Wine Company include a requirement that the on-site  
28 alcohol consumption shall be conducted only in designated areas; wine tasting shall be limited to  
29 a maximum of five 1 ounce sips per person; and sips shall only be poured by store employees.

30  
31 In response to a question from Commissioner Savikas, Senior Planner Lackow indicated that she  
32 believes the denial of the previous request by the applicant in 2000 was mainly due to concerns  
33 of alcohol use in general on the private premises and the concern of the commercial use of the  
34 public right-of-way adjacent to residences.

35  
36 Director Thompson pointed out that most of the controversy for the previous application was  
37 regarding the commercial use of the walk street.

38  
39 Commissioner Montgomery stated that the word "seating" should be deleted from condition 9 on  
40 page 3 of the draft Resolution.

41

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1 Chairman O'Connor opened the public hearing.

2  
3 **Ron Miranda**, representing the applicant, said that they want to offer wine tasting to help  
4 enhance their store. He indicated that they have many questions regarding their wine from  
5 customers, and allowing customers to sample wines would help their business.

6  
7 In response to a question from Commissioner Simon, **Mr. Miranda** stated that they have a 30  
8 gallon trash container and two 96 gallon recycling containers on site.

9  
10 In response to a question from Commissioner Savikas, **Mr. Miranda** indicated that they would  
11 have to make modifications to their existing bathroom to allow greater access to satisfy Health  
12 Department requirements. He stated that their existing mop sink would be enlarged to  
13 accommodate the proposed use. He commented that their existing on-site space behind the  
14 building on Bayview Drive is currently used by their staff but could be incorporated for  
15 customer parking if necessary. He pointed out that there is a public parking garage around the  
16 corner from their store. He commented that 85 percent of their customers walk or take the  
17 Ocean Express trolley rather than drive to their store.

18  
19 **Michael Zislis**, a resident of the 400 block of 29<sup>th</sup> Street, commented that the proposed use  
20 would not result in the store becoming a bar. He indicated that wine is a big part of the City. He  
21 commented that tasting would be an important addition to the applicant's business, and it would  
22 be a great opportunity for the community. He stated that allowing the proposed use would help  
23 to maintain a small business atmosphere downtown in a market filled with big warehouse stores  
24 such as Costco. He indicated that the hours would not be intrusive, and wine tasting would  
25 occur inside, not on the walk street.

26  
27 **Richard Foss**, a resident of the 800 block of 11<sup>th</sup> Street, indicated that he has witnessed the  
28 commercialization and loss of small town atmosphere of the City over time. He said that he  
29 supports the proposed application. He stated that the best way to educate people about wine is to  
30 allow for samples to be tasted, and the atmosphere of a bar is very different than wine tasting.  
31 He indicated the people would come for wine tasting for the purpose of making an informed  
32 decision in purchasing wine, and such patrons are more likely to taste wine moderately. He  
33 indicated that it would provide a community oriented personal service by trained staff at a time  
34 in which the City is losing community stores.

35  
36 **Cathy Smith**, a resident of the 100 block of 10<sup>th</sup> Street, said that she has been to multiple  
37 hearings for Bacchus to change from a retail use to an on-site consumption establishment. She  
38 indicated that the proposal would result in the change from a type 20 license allowing the sale of  
39 wine for off-site consumption to a type 42 license with consumption permitted on premises,  
40 which is attached permanently to the property. She commented that the original owners had to  
41 agree when the type 20 license was granted that their alcohol sales would consist of less than 50

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1 percent of their annual sales, and the current applicants had to agree to the same condition when  
2 they took over the business. She said that the condition was imposed as a state law based upon  
3 the decision and conclusion that there was an overabundance of liquor consumption and liquor  
4 licenses in Los Angeles County and specifically Manhattan Beach. She stated that while staff is  
5 stating that it is not the jurisdiction of the Commission to enforce the conditions of the  
6 applicant's license, they are also recommending that the applicant be granted an enhanced liquor  
7 license. She stated that the applicants originally requested unlimited 2-ounce pours rather than  
8 limiting the number to five 1-ounce pours as now recommended by staff. She indicated that the  
9 previous application made by the applicants was for wine to be sold by the glass. She  
10 commented that the applicants have not tried to comply with their ABC license since it was  
11 granted in 1998, and **Mr. Miranda** admitted in a meeting with the neighbors that alcohol  
12 consisted of 90 percent of their sales. She said that the Commission is being asked to approve  
13 almost 100 percent alcohol sales, which would change the character of the neighborhood. She  
14 asked regarding the method by which the new conditions would be enforced. She indicated that  
15 they originally bought next to a shoe store and not next to an establishment that permitted on site  
16 consumption.

17  
18 **Jeff Hughes**, a resident of the 1000 block of 9<sup>th</sup> Street, stated that he supports the proposal. He  
19 said that it helps for customers to be able to taste wine in order to make an informed purchase.

20  
21 **Toni Hudson**, a resident of the 400 block of 21<sup>st</sup> Place, said that she is in support of the  
22 proposal. She commented that she has expertise in evaluating appraisals, and values of the  
23 adjacent residential properties would not increase or decrease whether the use is a shoe store or  
24 an alcohol establishment.

25  
26 **Paul Spadone**, a resident of the 900 block of Bayview Drive, stated that he would not see any  
27 negative impact with adding wine tasting. He commented that only 100 square feet would be  
28 dedicated to tasting wine, which be equivalent to 10 percent of the store.

29  
30 **Laurie Hatcher**, a resident of the 100 block of 10<sup>th</sup> Street, indicated that they live with the  
31 inconveniences of being located next to commercial properties such as trash trucks coming every  
32 day right outside their windows; taxi drivers and valet parking attendants driving down the  
33 street; and the noise of pedestrians. She indicated her concern that traffic, noise and trash issues  
34 would be increased with the proposed use. She said that the applicant has not complied with the  
35 requirement for under 50 percent alcohol sales, and she is not confident that they would comply  
36 with allowing only five 1-ounce pours. She commented that 5-ounces is a significant amount of  
37 wine. She stated that people who visit the establishment would be noisy at 9:00 at night.

38  
39 **Scott Herring**, a resident of the 700 block of Manhattan Beach Boulevard, stated that he is  
40 strongly in favor of permitting wine tasting. He commented that wine tasting would add to the  
41 City and would improve the applicant's business. He commented that regulating the hours and

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1 quantity of wine that is served would mitigate and concerns that have been expressed regarding  
2 permitting a bar.

3  
4 **Martha Andreani** requested that the proposal be denied. She commented that the staff report  
5 indicates that no bar is proposed; however the applicant would incorporate some type of bar area  
6 if seating is not provided. She commented that a type 42 license would stay permanently with  
7 the property and would allow for the possibility of the business becoming a bar in the future.  
8 She indicated that food preparation and cleaning would not be possible without a kitchen sink  
9 and a hot plate, which are not proposed. She indicated that the existing trash container in front  
10 of the store is often overflowing currently, and any trash placed in the rear must be accessed  
11 within the adjacent residential property. She said that wine tasting would consist of more  
12 alcohol service than food service. She said that she does not trust that pours would be limited to  
13 3 ounces. She stated that the number of alcohol licenses within the downtown area is considered  
14 high and should not be increased, and there is not a necessity for another drinking establishment  
15 in the downtown area. She stated that the applicant currently conducts wine tasting at the XO  
16 Wine Bistro and does not have a need for another wine tasting facility. She submitted a copy of  
17 an advertisement for Bacchus and it indicates that they provide private tastings which infers they  
18 are already serving wine at the business. She indicated that the applicant cannot meet the parking  
19 requirement of 6 to 10 parking spaces, which would compound the issue of parking in the  
20 downtown area. She commented that Mr. Miranda did meet with residents and stated that  
21 alcohol represents 90 percent of their sales.

22  
23 **Don McPherson** indicated that the subject property with its three businesses currently operates  
24 in violation of its building permit, Coastal Permit and ABC license. He commented that the  
25 Coastal and Building Permits require six on-site parking spaces and 2000 square feet on the  
26 second floor maintained as storage. He said that the subject Resolution would allow the upper  
27 level useable for offices or potentially a restaurant without adding any parking requirement. He  
28 commented that if the building were constructed today there would be a parking requirement of  
29 10 parking spaces. He indicated that the number of employees who park at the meters would be  
30 reduced if they were required to park in the downtown structure. He commented that it cannot  
31 be justified to exempt the applicant from any parking requirement. He indicated that currently  
32 the applicant must access his property in order to place trash at the rear of the subject building.  
33 He said that the proposal includes serving food such as cheese and salami and this is not typical  
34 for authentic wine tasting. He indicated that the applicant openly and blatantly violates the ABC  
35 condition requiring less than 50 percent of alcohol sales, and there is no guarantee that they  
36 would adhere to any condition regarding the size of servings for wine tasting. He indicated that  
37 the proposed Resolution requires that the proposed use comply with the City, Coastal Permit,  
38 and ABC requirements, which demonstrates that it is the responsibility of the City to ensure that  
39 all conditions of the ABC are met. He commented that the building needs to have sufficient  
40 trash storage and collection, which it does not provide currently.

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1 **Dean Tooms**, a resident of the 200 block of 10<sup>th</sup> Street, said that he enjoys wine tasting and  
2 appreciates that the applicants are attempting to improve their business. He indicated that he  
3 would support the proposal if he could be assured that the business would remain the same 10 or  
4 15 years in the future. He said that the large number of drinking establishments in the downtown  
5 area results in many people who have been drinking creating a lot of noise. He indicated that he  
6 supports the applicant's concept, but he does not want the problem to be worsened in the future  
7 by the store eventually changing into another drinking establishment.

8  
9 **Erin Horowitz**, a downtown property owner, commented that she feels the amount of drinking  
10 and resulting noise in the downtown area has decreased in recent years. She indicated that it is  
11 important to allow the applicants the opportunity to provide tasting, and they will comply with  
12 any requirements because their business is extremely important to them. She indicated that she  
13 supports the proposal.

14  
15 **Jackie May**, downtown resident, commented that she noted people who have spoken in support  
16 do not live near the downtown area. She said that enforcement in the downtown area is a  
17 problem, and people currently stand outside of Fonz's drinking. She indicated that there is a  
18 serious problem with trash accumulation in the downtown area. She also stated that street  
19 parking is very limited in the area, and allowing only one on-site space for an increased use  
20 would increase the problem.

21  
22 **Mr. Miranda** commented that people will not visit their store if parking is not available, and  
23 there is a two hour limit on the street which results in a turnover of parking. He said that  
24 downtown parking should not be an issue with the construction of the new large parking  
25 structure. He commented that only the 100 foot space would be under the type 42 liquor  
26 license, and the remainder of the store would be under the existing type 20 license. He said that  
27 the issue would need to come before the Commission and City Council again if they or any  
28 future operators proposed a type 42 license for the remainder of the store. He indicated that they  
29 would not have the ability to convert the upstairs storage area into a restaurant. He pointed out  
30 that the operators of the surrounding businesses have expressed support for the proposed use. He  
31 indicated that the ABC is more concerned about businesses serving alcohol to minors than they  
32 are in enforcing the 50 percent requirement. He indicated that he has invited representatives of  
33 the ABC to visit their store and view their operation, and he has been assured that he has no  
34 issues. He indicated that they currently keep their trash at the rear of the property, which has  
35 sufficient space for trash storage without interfering with **Mr. McPherson's** property. He  
36 indicated that he would not have an objection to keeping the trash cans inside their building and  
37 placing it outside on Manhattan Avenue for pickup if necessary. He indicated that the private  
38 tasting that he advertises occur off-premise, not in the store.

39  
40 In response to a question from Commissioner Savikas, **Mr. Miranda** stated that a type 42  
41 license allows for the serving of beer and wine and only allows incidental food service. He

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1 commented that they would wash their glasses in a sink, which is permissible by the Board of  
2 Health provided that the water reaches 110 degrees and soap is used.

3  
4 Chairman O'Connor closed the public hearing.

5  
6 Commissioner Montgomery stated that no outside seating is proposed. He commented that  
7 condition 5 would regulate trash collection. He stated that the use could not be automatically  
8 converted by future owners, and item 7 severely limits and restricts the use of the site. He  
9 pointed out that there is also a condition that the permit be reviewed after six months and  
10 subsequently on an annual basis. He indicated that the proposed operation would also be  
11 required to be in compliance with the Code and Local Coastal Program. He indicated that he  
12 supports the proposal.

13  
14 Commissioner Simon commented that the proposal is not for a bar, and the use would be  
15 substantially restricted by containing the activities inside. He indicated that he is satisfied with  
16 the responses to the issues that have been raised. He said that he is comfortable with the  
17 condition that the proposed use would be subject to compliance with the requirements of the  
18 Coastal Commission. He indicated that he is also confident that the concerns regarding trash  
19 will be addressed. He commented that large amounts of trash would not result from the proposed  
20 use because glasses would be used rather than paper cups. He said that he would support the  
21 proposal.

22  
23 Commissioner Savikas commented that public hearings allow an opportunity for applicants to  
24 understand the concerns and work with the neighbors. She stated that she would like conditions  
25 as referenced by Commissioner Simon to be included in the Resolution.

26  
27 Commissioner Kuch stated that he voted against the previous proposal of the applicant for wine  
28 tasting because it was to occur in the outside area. He commented that he appreciates that the  
29 current proposal is for tasting to occur indoors, but he would hope that the intention would not be  
30 to eventually open up the patio for wine tasting. He said that he does not have an issue with the  
31 conditions as presented; however, his vote is influenced by the large number of establishments in  
32 the downtown area that currently serve alcohol. He commented that he also wants his vote to be  
33 consistent with his vote for the Sepulveda Wine Company application.

34  
35 Chairman O'Connor stated that it is clear from the letters that were received that misinformation  
36 has been circulated, and it is important that it be made very clear that the proposal is not for use  
37 of the outside space. He said that his understanding of the previous hearings for Bacchus is that  
38 the main issue was the use of the outside area and not the concept of allowing wine tasting. He  
39 said that Commissioner Simon did summarize the issues and conditions that he also feels should  
40 be included. He commented that there is a difference between the ABC license and the  
41 Conditional Use Permit.

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1  
2 Director Thompson said that approval of the Use Permit allows the owner to conduct the  
3 business under the provisions and conditions of the permit, and subsequent owners must also  
4 abide by those conditions. He said that the county and ABC have their own set of permits and  
5 requirements which they are responsible for enforcing.

6  
7 Chairman O'Connor stated that there appears to be a consensus of the Commission that  
8 conditions be included regarding trash and parking.

9  
10 Director Thompson summarized changes to be made to the resolution for clarification: he  
11 pointed out that the proposed Resolution addresses trash collection and parking. He stated that  
12 condition 8 restricts the number and amount of samples that are poured. He also stated that staff  
13 will revise condition 9 to require that no seating be provided in the tasting area.

14  
15 Commissioner Simon said that his concern was regarding **Mr. McPherson's** statement that the  
16 business is not in compliance with building improvement requirements and with parking  
17 requirements of the Coastal Commission. He indicated that he supports staff's suggestion that  
18 the proposed use be subject to compliance with all regulations of the Coastal Commission.

19  
20 Chairman O'Connor commented that he also has a concern regarding parking, and he also would  
21 want a condition to be included that the applicant must comply with the requirements of the  
22 Coastal Permit. He commented that it was expressed by staff that they are not certain if the  
23 requirement of six spaces was still appropriate or still valid, and his understanding is that staff's  
24 intent was not necessarily to specify six spaces but rather to specify compliance with the Coastal  
25 Permit.

26  
27 A motion was MADE/SECONDED (Savikas/Montgomery) to USE PERMIT and COASTAL  
28 DEVELOPMENT PERMIT to Allow On-Site Wine Tasting and Food Sampling at an Existing  
29 Retail Wine Store Located at 1000 Manhattan Avenue subject to conditions as discussed.

30  
31 AYES: Montgomery, Savikas, Simon, Chairman O'Connor

32 NOES: Kuch

33 ABSENT: None

34 ABSTAIN: None

35  
36 Director Thompson explained the 15 day appeal period and stated that the item will be placed on  
37 the City Council's Consent Calendar for their meeting of February 1, 2005.

38  
39 **DIRECTOR'S ITEMS**

40  
41 The American Planning Association national conference will be held March 19 through 23 in

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1 San Francisco.

2

3 Commissioner Simon requested that staff e-mail him information regarding the conference.

4

5 **PLANNING COMMISSION ITEMS**

6

7 **A. Public Noticing**

8

9 Chairman O'Connor requested that the Commissioners be included in the public noticing process  
10 for all projects by mail or e-mail.

11

12 Director Thompson said that staff will add the Commissioners to the list of public noticing.

13

14 **TENTATIVE AGENDA: January 26, 2005**

15

16 A. Use Permit Amendment/350 North Sepulveda Boulevard (El Tarasco Restaurant)

17

18 **ADJOURNMENT**

19

20 The meeting of the Planning Commission was **ADJOURNED** at 10:50 p.m. in the City Council  
21 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, January 26, 2005, at 6:30 p.m. in  
22 the same chambers.

23

24

25 \_\_\_\_\_  
26 RICHARD THOMPSON  
27 Secretary to the Planning Commission

\_\_\_\_\_  
SARAH BOESCHEN  
Recording Secretary