

CITY OF MANHATTAN BEACH

**MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION
FEBRUARY 14, 2007**

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on
2 Wednesday, February 14, 2007, at 6:35p.m. in the City Council Chambers, City Hall, 1400
3 Highland Avenue.

4
5 **ROLL CALL**

6
7 Chairman Bohner called the meeting to order.

8
9 Members Present: Cohen, Lesser, Powell, Chairman Bohner
10 Members Absent: Schlager
11 Staff: Richard Thompson, Director of Community Development
12 Eric Haaland, Assistant Planner
13 Sarah Boeschen, Recording Secretary
14

15 **APPROVAL OF MINUTES**

16
17 Commissioner Lesser requested that page 8, line 4 of the January 24, 2007 minutes be revised to
18 state:

19
20 “He indicated that the ~~Coastal Commission~~ City’s Local Coastal Program is subject to the
21 Coastal Act of 1976 for the protection and expansion of public access to the shoreline and
22 recreational opportunities and resources. He said that in the absence of further data, he does not
23 see that charging for seating beyond the current threshold of 25 percent achieves the goal of
24 protecting public access. He indicated that he feels the decision of state rather than local control
25 over the ~~amount of paid seating for the tournament~~ coast was decided long ago with by the
26 adoption of Proposition 20 in 1972 and with adoption of the California Coastal Act in 1976 and
27 the City’s Local Coastal Program. He stated that the guidelines governing paid seating balance
28 between the authority of cities and the point at which the State limits their authority, which
29 includes charging for seats at temporary events.” coastal communities and the state’s limits on
30 their authority, which includes paid seating at temporary events.”

31
32 In response to a suggestion from Commissioner Lesser, Director Thompson indicated that it
33 would be appropriate to include language on Page 11 of the minutes after the vote to state:
34 “Director Thompson requested the Commissioners to summarize their positions for the record.”

35
36 Commissioner Powell requested that page 8, line 38 of the minutes be revised to state: “He
37 indicated that access to the pier and the area of the beach is free during the event . . .”

38
39 Commissioner Powell requested that page 9, line 9, be revised to read: “He indicated that the
40 paid seating could be for the courtside and VIP Seats.”
41

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1 Commissioner Powell requested that quotes be included on the passage cited on page 10, line 36
2 of the minutes, which reads: “He indicated that the Coastal Commission ruled on March 17,
3 2004, “that unlimited or expansive reserve seating areas do exclude the general public from the
4 event and the public beach and that Section 20311 of the Coastal Act states that development
5 shall not interfere with the public right of access to the sea, including but not limited to the use of
6 dry sand.”

7
8 A motion was MADE and SECONDED (Lesser/Powell) to **APPROVE** the minutes of January
9 24, 2007, as amended.

10
11 AYES: Cohen, Lesser, Powell, Chairman Bohner
12 NOES: None
13 ABSENT: Schlager
14 ABSTAIN: None

15
16 **AUDIENCE PARTICIPATION** None

17
18 **BUSINESS ITEMS**

19 **06/0726.1 Consideration of an application for a minor exception requesting approval to**
20 **merge 2.7 original lots into one combined parcel, which will result in the**
21 **existing structures becoming nonconforming to the setback standards for the**
22 **enlarged site, at 3604 and 3608 The Strand**

23
24 Director Thompson pointed out that the meeting agenda references the addresses of 3604 and
25 3408 The Strand for the application; however, the correct addresses are actually 3604 and 3608
26 The Strand.

27
28 Commissioner Powell stated that he lives within the noticing radius area for the subject
29 application and was mailed a notice of the hearing. He indicated that since the proposal may
30 impact his property, he is abstaining from considering the issue.

31
32 Commissioner Lesser disclosed that he has been a member of the Mansionization Issues
33 Committee for the past year, and the project applicant has been a contributing participant in the
34 discussions. He said that he has no personal relationship with the project applicant other than
35 through the Committee meetings, and he has no financial interest in the project. He stated that
36 he believes he can rule on the application fairly.

37
38 Associate Planner Haaland summarized the staff report. He stated that the proposal is to
39 formally merge 2.67 original lots and retain three existing apartment buildings. He commented
40 that three walls of the existing buildings are nonconforming to the 5’ required side setback
41 resulting from a merged parcel. He commented that the most extreme nonconformity is the

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1 existing 33.8 foot wall on the southeast portion of the site which has a 3.1' existing side setback.
2 He pointed out that the subject application does not propose any new construction. He indicated
3 that a Minor Exception is required because the enlargement of the site would result in
4 nonconformities with the side setbacks from the 5' requirement. He commented that a Coastal
5 Development Permit is not required since construction or subdivision proposals are not included
6 with the application. He stated that the criteria required for a Minor Exception are that the
7 deviation from the Code is considered minor; that there would be no detrimental impact to the
8 surrounding area; and that there would be a significant practical difficulty present in altering the
9 building to relocate the nonconforming wall. He indicated that the issue is before the
10 Commission because there was significant public opposition to the application. He said that the
11 main opposition to the merger in general is in formally creating a site that is substantially larger
12 than a standard size lot on The Strand. He commented that one criterion for approval of a Minor
13 Exception is that any construction be limited to 50 percent of the valuation of the existing
14 structure. He indicated that a Minor Exception application must involve construction that is less
15 than 50 percent replacement value of the existing structure, and a project that exceeds 50 percent
16 is not eligible for a Minor Exception.

17
18 In response to a question from Commissioner Lesser, Associate Planner Haaland indicated that
19 the Code does not require Planning Commission approval for a lot merger application, and they
20 are typically approved by staff. He said that Minor Exceptions are also approved by staff;
21 however this case has been brought to the Commission because of the amount of public input
22 received. He said that the General Plan does not have any criteria that are inconsistent with the
23 subject application, and there is language encouraging the retention of existing buildings.

24
25 In response to a comment from Commissioner Cohen, Director Thompson indicated that there is
26 a State law which obligates the City to approve lot merger applications. He said that there is the
27 possibility of future construction on the properties; however nothing is proposed at this time.

28
29 In response to a question from Commissioner Lesser, Associate Planner Haaland commented
30 that any future development that would occur on the site over 50 percent of the valuation of the
31 existing buildings would either need to comply with the existing Code requirements for
32 construction or else be granted a Variance. He said that the Minor Exception would be
33 conditioned upon the existing structures remaining with no alterations unless a new application
34 is approved.

35
36 In response to a question from Chairman Bohner, Director Thompson indicated that staff's
37 position is that the existing heights of the walls and setbacks have been in place for many years
38 without creating a detrimental impact to the neighborhood, and the finding cannot be made that it
39 would be a detrimental impact to allow them to remain.

40
41 Commissioner Cohen asked whether it would be better to wait to consider this request until the

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1 Mansionization Committee has made their recommendations regarding lot mergers. She
2 commented that she does not see any detriment to the property owner in waiting given that the
3 owner has no plans for demolishing the existing buildings or for new construction.

4
5 Director Thompson pointed out that the recommendations of the Mansionization Committee
6 regarding lot mergers is not the topic of the discussion for this hearing. He stated that the City
7 Council has not passed a moratorium on lot mergers at this time, so the Planning Commission
8 should consider the application in accordance with the current codes.

9
10 Chairman Bohner opened the public hearing.

11
12 **Cheryl Vargo**, representing the applicant, stated that the lot merger is not before the
13 Commission but rather the nonconformities of the existing buildings. She stated that the existing
14 buildings are 55 years old and are very large. She indicated that the existing structures could not
15 be built as they are under the current Code requirements. She said that the applicant has
16 purchased the property as an investment for the future. She commented that they have submitted
17 nine letters in support of the proposal. She pointed out that there were three or four letters
18 submitted in opposition, and there are six residents in total who have expressed opposition to the
19 project. She pointed out that 82 residents were notified of the hearing, and there are a large
20 number of residents who are not objecting to the proposal by passively not responding. She
21 commented that the rear building on the northerly property line adjacent to Ocean Avenue meets
22 the setback requirements at approximately 5.1 feet from the property line, and the front building
23 on The Strand is very close to the 5 foot setback requirement at 4.8 and 4.7 feet. She stated that
24 the largest deviation from the setback requirements is the rear building on Ocean Avenue and the
25 southerly property line with a setback of 3.1 feet from the property line. She said that Minor
26 Exceptions are allowed by Code for site enlargements due to lot line adjustments.

27
28 **Ms. Vargo** indicated that they believe that the deviation of the application request from the Code
29 is minor in nature because it is retaining a building that is 55 years old and always had a 3.1 foot
30 side setback. She commented that the existing structure would almost meet the required setback
31 for a typical lot on The Strand of 3.33 feet. She indicated that they do not feel there is a
32 detrimental impact to the neighborhood because the building has existed for 55 years and
33 maintained the same setback and height. She commented that bringing the building into
34 compliance for the required setback would not be feasible and would be a significant hardship.
35 She said that there are no current policy guidelines that the City Council is considering regarding
36 Minor Exceptions. She commented that many substandard setbacks have been approved for
37 projects in the past under the Minor Exception process. She commented that the two sites have
38 always been under a single ownership and have been treated as one parcel. She said that the
39 assessor's office is in the process of tying the parcels together with one parcel number.

40
41 **Cindy Fisk**, a resident of the 3600 block of The Strand, said that the narrowest setback is

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1 actually 2.6 feet rather than 3.1 feet because of the boxes that have been installed on the side of
2 the existing building to accommodate the undergrounding of utilities. She commented that the
3 front buildings are 52 years old; however, the nonconforming building in the rear was built in the
4 1970s.

5
6 **John Clark**, a resident of the 3600 block of The Strand, said that he has sent the Commissioners
7 an e-mail regarding the issue. He stated that the deviation from the Code is not minor in nature,
8 as the height exceeds the maximum allowable by about 4 feet and creates visual bulk. He
9 indicated that the height violation is further compounded by various satellite dishes and antennas
10 on the structure. He stated that the people reacting to the application are the various surrounding
11 neighbors to the north, south and east of the site who are the most impacted. He indicated that
12 the application is contrary to the City’s General Plan which requires that structures not be bulky
13 and out of scale with the surrounding residential neighborhood. He indicated that the present
14 building is out of scale, and any new construction that is close to the existing size would not be
15 compatible with the neighborhood. He commented that the property owner bought the existing
16 property inexpensively knowing the nonconformities and is now attempting to make a profit. He
17 said that it is clear that the property owner plans to rebuild on the site. He indicated that the
18 exception being requested is not minor nor does it meet the required legal findings and should be
19 denied. He indicated that if an Ordinance is approved that is damaged by precedents is
20 detrimental to other issues.

21
22 Commissioner Cohen commented that the complaints of the residents who have spoken appear to
23 be with the setbacks and height of the rear structure exceeding the limit.

24
25 In response to a question from Commissioner Cohen, **Mr. Clark** said that he is concerned with
26 the bulk of a structure that could be built on the site with any new development. He said that any
27 new development on a merged lot could potentially dwarf all of the other buildings in the area.

28
29 **John Golden**, a resident of the 3600 block of The Strand, said that the lot merger could be
30 approved administratively if there were no existing buildings on the site. He said that he would
31 like to see the existing buildings demolished, as any new construction could open up the view for
32 the properties to the east of the site. He commented that the surrounding residents have
33 upgraded their properties, but the subject site has not been well maintained. He said that
34 allowing the way for new construction would result in a reduction in density, and any new
35 development would result in a reduction from 11 to possibly 6 units. He said that any new
36 development would be reduced in height, density, and parking demand. He said that new
37 construction would also help to improve the look of the neighborhood. He commented that the
38 applicant should not be penalized by being prevented from developing to the maximum
39 permitted. He indicated that he feels there is no reason to deny the application as long as it is an
40 improvement to the surrounding properties and the look of the neighborhood.

41

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1 **Diane Decker**, a resident of the 3600 block of Ocean Drive, stated that approving the proposed
2 Minor Exception would basically be ratifying the existing structure and its nonconformities. She
3 indicated that the view from her property is completely hampered by the rear structure on the
4 subject property because of the nonconforming height and setback. She indicated that she agrees
5 that the existing building is an eyesore and would welcome new construction, but that is not
6 being considered by the Commission with this application. She said that the issue with the
7 subject application is the detrimental impact and whether the exceptions to the Code are
8 considered minor in nature.

9
10 Commissioner Cohen said that the subject property will be developed in the future, and it seems
11 the most likely opportunity for the neighbors to have new development that would improve their
12 views would be for the lot merger to be permitted.

13
14 Director Thompson commented that this application is unique because no development is
15 proposed at this time, and what is being reviewed is the current development on the site. He
16 indicated that staff does not feel there is a concern with setting a precedent by approving or
17 denying the subject application in terms of future building construction.

18
19 **Charles Nau** said that the neighboring residents appear to be attempting to control the activity of
20 the applicant. He indicated that a property owner has the right to build on their property within
21 the framework of the Code requirements. He commented that the bulk of structures is regulated
22 by the amount of square footage that is permitted by the Code, and the appearance of bulk can be
23 subjective.

24
25 **David Hennessy**, a resident of the 3600 block of The Strand, commented that there is a reason
26 that the two subject parcels have separate addresses. He said that he feels there are no findings
27 that can be made to approve the application. He said that no one in the neighborhood is asking
28 the applicant to demolish any structures or conform to the current Code. He said that there have
29 been no improvements to the existing structures. He said that the nonconformities are not minor
30 in nature, and there are no precedents for such an approval. He stated that there are no
31 development plans being proposed for the subject property. He indicated that the lots in the area
32 are 33 feet or slightly larger, and there is space between the structures. He said that there would
33 not be an objection if the applicant proposed a new development that would maintain the
34 neighborhood character, but that is not known at this time. He said that the applicant has a desire
35 to have the lot merger approved before any development is proposed; however, the discussion
36 should occur when a new construction plan is brought forward. He said that the neighbors do
37 not want a single lot of 88 feet, and there is no other construction in the neighborhood to that
38 size. He also commented that the setback is less than 3.1 feet with the underground equipment.

39
40 **Terry McCall**, a resident of the 3600 block of The Strand, said that she is uncertain of the
41 reasoning behind why the application is being considered now before any development is being

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1 proposed. She indicated that no one is asking the applicant to make any changes to the existing
2 structure. She said that she feels that the reasoning behind approving the application should not
3 be because new construction is not proposed when it is quite certain that the property will be
4 redeveloped in the future. She indicated that she would be much more comfortable if building
5 plans were brought forward so that the neighbors could have an idea of the new development.

6
7 **Paul McCall**, a resident of the 3600 block of The Strand, said that the property is certain to be
8 developed. He indicated that the applicant wishes to take advantage of a hiatus in the decision
9 making process regarding lot mergers. He said that the applicant is requesting the lot merger
10 now so that the plans would not be subjected to any new rules that would be put into place in the
11 future.

12
13 **Wayne Partridge**, a resident of the 3500 block of The Strand, said that the only request
14 currently being made is for a lot merger. He indicated that the only reason the application is
15 before the Commission is because the historical buildings do not conform to the modern Code
16 requirements that have been amended many times since they were built. He indicated that the
17 existing buildings will remain whether or not the subject application is approved until the
18 applicant decides to tear them down. He commented that all of the surrounding property owners
19 bought their properties after the subject structures were built at a discounted price from what
20 they otherwise may have paid, and the property owners will have a significant benefit when the
21 structures are removed. He indicated that he does not see any reasonable basis for objecting to
22 the application, and he does not feel the Commission has the discretion to deny the request. He
23 indicated that the impacts to the neighbors result from the existing structures, and the decision
24 regarding the subject request will not change the existing conditions. He pointed out that the
25 Code permits lot mergers independently from submitting construction plans, and requiring
26 development plans to be submitted before allowing the lot merger would be a violation of the
27 Code. He stated that the neighbors are objecting to construction that might occur in the future;
28 however, any future construction must conform to the Code requirements that are in place at the
29 time the plans are submitted. He indicated that if future construction plans conform to the Code
30 requirements including setbacks and open space, it will not come back before the Commission.
31 He said that the objections of the neighbors would be appropriate only if a non-conforming
32 application is submitted in the future.

33
34 **Robert Schumann**, 900 block of Manhattan Beach Boulevard, said that he and his partner
35 purchased the property in order to acquire 88 feet on the ocean front. He indicated that they
36 wanted to be very measured about what would be done with the property. He pointed out that
37 they would never receive an entitlement to have 11 units on the site as currently exist with any
38 new development. He stated that whatever development that may occur in the future would be
39 done in the highest quality. He said that their concerns are to preserve the property rights which
40 they received when they purchased the property and that the former owner had for 30 years. He
41 indicated that the properties have been developed as a single lot, used as a single lot, and

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1 purchased as a single lot. He indicated that having the parcels considered as one lot allows a
2 variety of options which would result in the highest and best use for the property. He
3 commented that they are not prepared at this time and do not want to be rushed into making a
4 decision regarding development plans. He said that any future project would be a substantial
5 improvement over what currently exists. He indicated that a reduction of units from 11 to 6 or 7
6 would greatly reduce density and improve parking, and the quality of design and the amount of
7 open space would be improved with a new project. He commented that the easterly building on
8 the west side of Ocean Drive would be reduced from three to two stories which would greatly
9 increase the quality of life of every neighboring resident within the view corridor.

10
11 In response to a question from Commissioner Lesser, **Mr. Schumann** said that they are
12 requesting a lot merger to preserve the rights that they have to develop the property in the best
13 possible manner. He said that he feels it is in his best interest to confirm the usage that has
14 existed for over 50 years of the parcels as one lot.

15
16 In response to a question from Commissioner Lesser, **Mr. Schumann** indicated that he does feel
17 the existing nonconformities are minor in nature, and the application would have been approved
18 by staff if opposition had not been received by the neighboring residents. He pointed out that
19 guidelines regarding mansionization are not intended to apply to large buildings that currently
20 exist but rather to prevent huge buildings from being constructed in the future.

21
22 Chairman Bohner closed the public hearing.

23
24 Commissioner Cohen commented that she feels it is the responsibility of the Planning
25 Commission to discuss mansionization because it is an issue that is of great concern in the
26 community. She indicated that there is not a specific building design being considered with this
27 application but rather a Minor Exception application to a lot merger. She said that the Minor
28 Exception rule allows mergers unless such a merger does not meet the four criteria that has been
29 discussed by staff. She commented that the existing structures will remain even if the height
30 deviation from the Code is considered major rather than minor, which is the unique nature of the
31 subject application. She indicated that the neighboring residents have been living with the
32 existing structures and came to the neighborhood knowing the existing conditions. She also
33 commented that it would be extremely economically difficult for the applicant to bring the
34 current structures into compliance with the current Code requirements. She indicated that there
35 currently is not a law against permitting lot mergers, and there has not been direction from the
36 City Council for a moratorium on lot mergers until the Mansionization Committee gives its
37 recommendations. She said that she does not find any legal means to deny the application. She
38 indicated that there has been nothing presented to indicate that any future development would
39 not comply with the Code and General Plan guidelines.

40
41 Commissioner Lesser indicated that he is reviewing the application solely as a minor exception

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1 and is concerned with the scale of the existing structure, the narrowness of the setbacks and the
2 height of 3.88 feet above the permitted maximum. As to the issue of mansionization, he said that
3 restricting property rights takes away from the marketability of properties. However, there is a
4 balance with the community as to where it is appropriate to limit rights. He said that the
5 discussion of limiting property rights is not directly relevant to considering the Minor Exception.
6 He stated that he believes the exception that is being requested is more than minor in nature. He
7 said that it would be helpful if there were a specific development project proposed and that it
8 was not before the Commission as a Minor Exception. He said that a specific development
9 project being proposed could allow the neighbors to realize that it would be far preferable to the
10 existing structures. He indicated that the City has already approved a merger for three lots and is
11 considering a second with this proposal. He stated that he feels there needs more of a
12 community discussion as to what constitutes the small town character of the City. He said that
13 he would vote to deny the application.

14
15 Chairman Bohner commented that the structure which is noncompliant currently exists, and there
16 is not a proposal for new construction of such a large of a structure. He said that the criteria does
17 exist for allowing a minor deviation from the Code. He stated that the nonconforming structure
18 already exists, and there is nothing before the City regarding a plan for new construction on the
19 property. He said that the significant detrimental impact to the surrounding neighbors results
20 from the structure as it currently exists. He said that any new development in the future would
21 have to comply with the Code in terms of open space and parking and height, and the scale
22 would have to be reduced from the current building. He said that there is some evidence of
23 practical difficulty or economic hardship that warrants deviation from the Code, as it would be
24 difficult for the applicant to relocate the three exterior building walls. He commented that there
25 is no current policy guideline that would prohibit the merger where there is no new construction
26 involved. He said that there is a concern regarding mansionization, but the subject application is
27 to allow a minor exception with regard to an existing property. He stated that he understands the
28 concerns of the neighbors regarding the structure and their concern with future development. He
29 indicated that the existing structure would not be replaced with a development that is near its
30 size or that would be as noncompliant with current Code requirements. He indicated that he
31 would approve the application.

32
33 Director Thompson recommended a condition that no further additions can occur on the existing
34 structures without bringing the site into compliance with the current Code requirements.

35
36 A motion was MADE and SECONDED (Cohen/Bohner) to **APPROVE** an application for a
37 MINOR EXCEPTION requesting approval to merge 2.7 original lots into one combined parcel,
38 which will result in the existing structures becoming nonconforming to the setback standards for
39 the enlarged site, at 3604 The Strand with a condition that no new additions be permitted on the
40 existing buildings without bringing all nonconformities on the site into full compliance with
41 current Code requirements.

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- 1
- 2 AYES: Cohen, Chairman Bohner
- 3 NOES: Lesser
- 4 ABSENT: Schlager
- 5 ABSTAIN: Powell

6

7 Director Thompson explained the 15 day appeal period and indicated that the item will be placed

8 on the City Council’s Consent Calendar for their meeting on March 7, 2007.

9

10 **DIRECTOR’S ITEMS** None

11

12 **PLANNING COMMISSION ITEMS**

13

14 Commissioner Powell stated that he attended the Planning Commissioner Seminar in Sacramento

15 on February 2, 2007, sponsored by U.C. Davis. He indicated that the class was taught by a well

16 known land use professor and a well known land use attorney. He indicated that he received a

17 lot of information about the legal foundation and principles in planning decisions, and there was

18 discussion of urban planning concepts. He stated that he received reference guides that he will

19 share with the other Commissioners.

20

21 **TENTATIVE AGENDA: February 28, 2007**

- 22 **A. Coastal Development Permit and Variance requesting approval to exceed the**
- 23 **maximum allowable balcony area in a required yard in conjunction with the**
- 24 **construction of a new three-story single family residence at 124 12th Place**

25 **ADJOURNMENT**

26 The meeting of the Planning Commission was **ADJOURNED** at 8:40 p.m. in the City Council

27 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, February 28, 2007, at 6:30 p.m. in

28 the same chambers.

29

30 _____

31 RICHARD THOMPSON

32 Secretary to the Planning Commission

30 _____

SARAH BOESCHEN

Recording Secretary