

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Anne McIntosh, Community Development Director

**SUBJECT:**

Recent Planning Commission Quasi-Judicial Decision: Master Use Permit Amendment to Modify Existing Uses - Metlox

**SUPPLEMENT TO INFORMATIONAL MEMO (ITEM 17, FEBRUARY 20, 2018 AGENDA)**

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**Master Use Permit Amendment to Modify the Existing Uses and Allow Additional Restaurant Space: 451 Manhattan Beach Boulevard (Metlox)**

Item 17 on the February 20, 2018 City Council Meeting agenda (“Planning Commission Quasi-judicial Matters”) stated that on February 14, the Planning Commission would consider a resolution to approve a request to modify conditions to allow certain uses.

**The Commission Adopted the Attached Resolution Conditionally Approving the Master Use Permit Amendment (3:2- Seville-Jones and Burkhalter voting No).**

The Resolution amends conditions in the Master Use Permit to allow: (1) more restaurant square footage (including indoor on the second floor above Petros), (2) sale and service of alcohol at all restaurants and (3) limited personal improvement service uses in Building C, 1200 Morningside Drive and 451 Manhattan Beach Boulevard, Suite C (e.g., yoga studios, spin studios, pilates and personal training). The Planning Commission denied the requests for outdoor dining on the second floor and a bank use at the ground floor of the location currently occupied by Waterleaf on Morningside Drive.

One member of the public spoke regarding the environmental classification of the scope of the project. One Commissioner expressed concerns that the increase in the allowable amount of restaurant square footage would add additional traffic, parking impacts and create an overall intensification to the Metlox site. However, the majority of the Commissioners supported the application in that the project will provide more options and services for customers and still keep a desired mix of uses. They supported the applicant’s goal of having flexibility to manage the demand in the mix of uses and continued economic success of Metlox. The Planning Commission felt that conditions imposed on the approval address all concerns, mitigate any impacts of the Project, and adopted the Resolution, as drafted.

PC RESOLUTION NO. 18-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
MANHATTAN BEACH APPROVING A MASTER USE PERMIT  
AMENDMENT TO MODIFY THE EXISTING USES AND ALLOW  
ADDITIONAL RESTAURANTS AT THE METLOX SITE –451  
MANHATTAN BEACH BOULEVARD (Metlox, LLC c/o Tolkin Group)

THE PLANNING COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. Metlox, LLC c/o Tolkin Group (the applicant) is seeking approval of an Amendment to a Master Use Permit to allow modifications of existing uses. The proposed project is a modification of the previously approved Master Use Permit (City Council Resolution No. 5770). Specifically, the applicant is requesting conversion of existing retail and personal service uses to restaurant uses, including increasing the number of restaurants, and increasing the restaurant square footage with indoor and outdoor dining and alcohol consumption, allowing personal service, personal improvement service and bank uses on the ground floor and allowing the City Manager the flexibility to administratively modify certain conditions of approval for the Metlox site- 451 Manhattan Beach Boulevard.
- B. The Planning Commission conducted a public hearing regarding the proposed project at their regularly scheduled meeting on January 24, 2018, discussed the proposed project, closed the public hearing and directed staff to bring back a resolution of approval with revised conditions on February 14, 2018. The public hearing was advertised pursuant to applicable law and testimony was invited and received. At the meeting of February 14, 2018, the Planning Commission reviewed the Draft Resolution and conditions and adopted Resolution No. PC 18 – XX approving a Master Use Permit amendment for a portion of the request, modifying some of the existing uses to allow an increase in the number of restaurants, more indoor and outdoor restaurant square footage, but no outdoor second floor restaurant dining, and allow personal service, and personal improvement service on the ground floor, but not a bank on the ground floor on Morningside Drive.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. The decision on the proposed project will be forwarded to the Coastal Commission for consideration and determination if an amendment to their Coastal Development Permit is required.
- D. A Master Use Permit amendment is required for any modification request to conditions of approval to a Master Use Permit.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The applicant is Metlox, LLC c/o Tolkin Group and the property owner is the City of Manhattan Beach.
- G. The following is a summary of some of the key milestones for the Metlox site:
  - 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
  - 1997/98- The City purchased the Metlox property to control development and master plan the site
  - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
  - December 1998- The City selected the Tolkin Group as a development partner
  - April 2001- The City Council certified the EIR

April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease  
July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council  
November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit  
February 2003- Groundbreaking for the Metlox parking structure  
2004- Grand opening of public parking structure with 460 parking spaces, Shade Hotel and Metlox commercial buildings started construction  
December 2005- Ribbon cutting and grand opening for the Metlox Center

- H. The City Council will review the Disposition and Development Agreement (DDA) and determine if any revisions are required.
- I. Pursuant to CEQA Guidelines Section 15301, the proposed project qualifies for a Class 1 Categorical Exemption because the Master Use Permit Amendment authorizes the continued operation of an existing facility, with a negligible expansion of the presently existing use of the property. Per Section 15162 (a), since a prior EIR was certified by the City on April 17, 2001 when the original Metlox development was approved no new subsequent EIR is required to be prepared for the current Amendment.
- J. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the properties to the north are zoned Downtown Commercial and Public and Semipublic, and the properties to the east are zoned Open Space. Further east past Valley/Ardmore and the Veterans parkway is zoned single-family residential.
- K. The General Plan designation for the property is Downtown Commercial.
- L. The proposed project will continue to offer a mix of uses and keep a strong relationship between the public and outdoor areas as originally approved. The request to convert one of the Waterleaf tenant spaces facing Morningside Drive to a bank was not approved since the Planning Commission felt that the use would not complement the mix of uses in Metlox and may create a low-activity space on the weekends and/or evenings. The second floor outdoor dining was not approved as the Commission had concerns with noise and other potential neighborhood impacts, and compatibility with the Downtown Specific Plan. The Commission also did not approve the request for the City Manager to approve modifications administratively as the Commission felt that public input was important for major changes and there is already some administrative flexibility in the Master Use Permit.
- M. This Resolution, upon its effectiveness, constitutes an Amendment to the Master Use Permit for the subject property. This Resolution amends limited conditions No's. 25 B and 38 of City Council Resolution No. 5770, all other conditions remain effective and in full force. Previous approvals and all conditions in PC No. 08-08 (Le Pain), PC No. 06-20 (Petros), and PC No. 14-0064 (Shade Hotel) as well as all other conditions of Resolution No. 5770 remain effective and in full force, except as amended specifically herein.
- N. Based upon State law, and MBLCP Section A.84.050, relating to the Master Use Permit Amendment application for the proposed project, the following findings are hereby made:
1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located, since the proposed amendment is consistent with the Downtown Commercial (CD) Zone designation. The Downtown Commercial (CD) zone provides opportunities for residential, commercial, public and semipublic uses that are appropriate for the downtown area. This district is intended to accommodate a broad range of community businesses and to serve beach visitors. The proposed project will strengthen the city's economic base, but also protect small businesses that serve city residents. The proposed project is intended to create a suitable environment for various types of commercial uses, and protect surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial

development on adjacent residential districts. Additionally, the proposed project is intended to accommodate a broad range of community businesses and serves beach visitors.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since, the proposed amendment is consistent with the following General Plan Goals and Policies for the Commercial Downtown designation. The proposed project is already a commercial use and the Amendment modifies the mix of commercial uses. Amending the Master Use Permit will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the proposed uses due to conditions imposed that limit square footages and do not allow outdoor second floor dining or bank uses adjacent to the ground floor public sidewalk. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the City due to the conditions on the project.

**GOALS AND POLICIES: LAND USE**

Policy 2.3: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

Policy 4.1: Protect all small businesses throughout the City which serve City residents.

Policy 5.1: The City recognizes the need for a variety of commercial development types and has designated areas appropriate for each. The City shall encourage development proposals which meet the intent of these designations.

Policy 5.2: Require the separation or buffering of low-density residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, and other techniques.

GOAL 6: CONTINUE TO SUPPORT AND ENCOURAGE THE VIABILITY OF THE "DOWNTOWN" AREA OF MANHATTAN BEACH.

Policy 6.1: Encourage the upgrading and expansion of business in the Downtown area to serve as a center for the community and to meet the needs of beach area residents.

Policy 6.2: Develop and encourage the use of design standards for the Downtown area to improve its visual identification as a unique commercial area.

GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy. The proposed amendment is within the scope of the original approved Master Use Permit.
4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the proposed amendment will all be complied with. Conditions to conform to applicable Code standards will apply. The proposed amendment will not alter the fundamental use, purpose, or character of Metlox since it is within the original approval because there will be no change in the hours of

operation, changes requested are within existing tenant spaces, the proposed amended use complies with required parking, and will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.

- O. Based on the MBLCP Sections A.96.150 the following findings are made:

That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program, since the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

#### COASTAL ACCESS POLICIES

##### **A. Access Policies**

Policy I.A.1: The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone.

Policy I.A.3: The City shall preserve pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walkstreets and public open spaces. See Figure NR-1 of the General Plan).

##### **B. Transit Policies**

Policy I.B.3: The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.

#### **II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES**

Policy II.1: Control Development within the Manhattan Beach coastal zone.

##### **A. Commercial Development**

Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.

Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.

The Final EIR for the Civic Center/Metlox project also provides a discussion on consistency with the policies of the LCP.

**SECTION 2.** The Planning Commission hereby APPROVES the subject Master Use Permit Amendment subject to the following conditions.

#### ***General Conditions***

1. The proposed project shall be in substantial conformance with the modification request, as approved by the Planning Commission on February 14, 2018, subject to any special conditions set forth below. The Director of Community Development ("Director" hereinafter) shall determine whether any deviation from the approved project is substantial which requires an amendment to the Master Use Permit or any other discretionary entitlements. Any substantial deviation from the approved plans or Project description shall require approval from the Planning Commission.

#### ***Land Use***

(This condition replaces Condition 25 A and B – City Council Resolution No. 5770)

2. The following land uses and maximum square footages, as defined and approved by the DDA/Ground Lease, and shall be allowed:
  - A) Retail Sales and services, including food service uses, 20,000 square feet total maximum, including:
    - a) Retail sales;
    - b) Personal Services;
    - c) Retail/specialty food service uses that are non-destination type establishments such as a bakery, tea salon, coffee house, ice cream shop, yogurt, candy, cookies, juices, and other similar limited specialty food items. Each business is limited to a maximum of 300 square feet of outdoor seating area, including table, chairs and benches, within the Town Square and Public Areas;
    - d) Limited Personal Improvement Services, such as yoga studios, spin studios, pilates and personal training are permitted in Building C, 1200 Morningside Drive and 451 Manhattan Beach Boulevard, Suite C: and,
    - e) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
  - B) Eating and Drinking Establishments (restaurants), 14,432 square feet total maximum, (including 9,916 square feet maximum dining/seating area regardless of whether located indoors or outdoors). All second floor outdoor dining is prohibited.

**Alcohol**

(This condition replaces Condition 38 – City Council Resolution No. 5770, as amended by Condition No. 6 in Resolution No. PC 08-08)

3. All restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation.

**Procedural**

4. *Expiration.* Unless appealed to the City Council, the subject Master Use Permit Amendment shall become effective after expiration of the time limits for appeal [] established by Manhattan Beach Municipal Code and authorization by the California Coastal Commission.
5. *Terms and Conditions are Perpetual; Recordation of Covenant.* The provisions, terms and conditions set forth herein are perpetual, and are binding on the Applicant, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the Applicant shall submit to the City for recordation a covenant indicating its consent to the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The covenant is subject to review and approval by the City Attorney. APPLICANT shall deliver the executed covenant, and all required recording fees, to the Department of Community Development within 30 days of the adoption of this Resolution. If APPLICANT fails to deliver the executed covenant within 30 days, this Resolution shall be null and void and of no further effect. Notwithstanding the foregoing, the Director may, upon a request by APPLICANT, grant an extension to the 30-day time limit.
6. *Review.* All provisions of the Use Permit, as amended by this Resolution No. 18-XX are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
7. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* APPLICANT shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs,

and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. APPLICANT shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify APPLICANT of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify APPLICANT of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, APPLICANT shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. APPLICANT shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require APPLICANT to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. APPLICANT shall deposit that amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3 The entitlements conferred by this Resolution shall lapse five years after the date of this resolution, unless the subject improvements are installed or the Applicant seeks an extension pursuant to Municipal Code Section 10.84.090.

SECTION 4 Pursuant to Public Resources Code Section 21089(b) and Fish and Game Code Section 711.4(c), the Project is not operative, vested or final until the required filing fees are paid.

SECTION 5 The Planning Commission's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 6 The Secretary shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the applicant. The Secretary shall make this resolution readily available for public inspection.

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 February 14, 2018, and that said Resolution was adopted by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

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ANNE MCINTOSH  
Secretary to the Planning Commission

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Rosemary Lackow  
Recording Secretary