

## Martha Alvarez

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**From:** Neil Leventhal <nl@lma-web.com>  
**Sent:** Tuesday, October 5, 2021 5:22 PM  
**To:** List - City Council  
**Cc:** Bruce Moe; Liza Tamura; Carrie Tai, AICP; Martha Alvarez; Erik Zandvliet  
**Subject:** [EXTERNAL] at & Drink Encroachment Parking Deficiency, Agenda Item L-14

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Mayor and Council Members,

Now is the time to take a deep breath and fully consider the fiscal, logistical and legal implications and consequences inherent in the work plan currently under consideration.

Assuming the city continues with plans to **drastically reduce available parking while dramatically increasing restaurant capacity and the resulting parking demand** – not to mention the traffic, trash, noise and sidewalk encroachments – there is no doubt that a comprehensive Environmental Impact Study will be necessary.

With the financial benefit of this exercise accruing to a handful, the idea that the city would attempt to fund such a study at taxpayer expense would be inappropriate in the best of times.

Moreover, to execute an accurate and appropriate baseline for the EIR, it would be necessary to remove all the dining decks and return the downtown to its pre-pandemic condition. And, for the baseline to have any legitimacy and relevance, the study would have to be executed during the peak summer season.

City costs in support of restaurants and outdoor dining have been substantial to date, but this is just the tip of the proverbial iceberg. Beyond the EIR, the total administrative, planning and legal expense that is likely to result – including staff and outside experts and consultants, is entirely undefined at this time, and is likely to be many multiples of the Downtown Specific Plan.

The prioritization of all this effort is nothing short of remarkable. The regulatory considerations and concessions developed to assist restaurants are based on the negative financial impact to restaurant operations statewide. They are, however, entirely inapplicable to the current circumstances in many coastal areas, and certainly not relevant in downtown Manhattan Beach, where, *with* expanded capacity, a timely restaurant reservation is harder to obtain than a parking space. And, to date, no one has documented the current financial condition and impact for downtown restaurants.

It's interesting to note that even state regulatory moratoriums *do not include the Coastal Act*, acknowledging the different circumstances in coastal communities, and the paramount importance of protecting both the access and character of the coast, which is the very soul of California.

The proposed work plan, while outlining some of the many complex steps and challenges in this effort, is remarkably optimistic in both tone and time frame, and lacking in any detail concerning cost, and certainly should not be approved as presented.

As we continue to remind you – and our commercial “partners” downtown -the stated mission of Manhattan Beach is “Preserving our small beach town character and enhancing the quality of life for our residents...”

Nothing in this process or plan is consistent with that mission.

Neil Leventhal

128 13th. St.  
Manhattan Beach, CA 90266

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## Martha Alvarez

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**From:** Nadine Jackson <nadinejackson54@gmail.com>  
**Sent:** Tuesday, October 5, 2021 5:38 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Supporting diversity equity and inclusion

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Council,

This is to encourage you to support the values and teaching of diversity, equity and inclusion for the kids in our school district. I believe that only adds to our schools excellence.

I am fully in support of all the hard working elected school board officials.

I was so saddened , actually outraged to learn of the nasty anonymous emails that are circulating with the slanderous comments about our own residents in high profile positions. Unacceptable!

Nadine Jackson

## Martha Alvarez

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**From:** Carol Perrin <cplaw28@gmail.com>  
**Sent:** Tuesday, October 5, 2021 2:38 PM  
**To:** Hildy Stern; Joe Franklin; List - City Council; Richard Montgomery; Steve Napolitano; Suzanne Hadley  
**Cc:** Bruce Moe; Liza Tamura; Martha Alvarez; Carrie Tai, AICP; Erik Zandvliet  
**Subject:** [EXTERNAL] Eat & Drink Encroachment Parking Deficiency, Agenda Item L-14

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Mayor Stern and Council Members,

I ask the City Council to take a deeper dive and **consider, in advance**, the **financial, legal and practical ramifications** of commencing a study to determine whether to allow long term outdoor dining and business uses in the public right of way and on private property. Specifically, the **enormous costs** that will be incurred to conduct such a study and to attempt to implement such a plan should be discussed, known, acknowledged and **published for the residents to understand what their tax dollars will be directed towards**, before the process is allowed to fully get underway. Tonight 's staff Draft Work Plan provides the funding source as "General".

When the City Council submitted the proposed **Downtown Specific Plan** to the Coastal Commission several years ago, after spending millions of dollars on that process, it was simply **disapproved by the Coastal Commission** in one afternoon and then completely dropped! With all the diminished parking and environmental impacts that this proposal will necessarily contain, **why would you expect a different outcome** after all the above reports are completed and the money is spent?

This is supposed to be a City Council cognizant of **fiscal responsibility**. But the legally required studies to determine **impacts to the parking supply, changes to land use character, possible physical concepts and configurations, design criteria, permitting requirements, Coastal Zone requirements, Environmental Impact Report, operational criteria and protocols, and fee structure(s) will hugely impact the City's budget.**

*The millions of our tax dollars the City will spend on this effort plus the cost of staff time **will significantly reduce the money available for improvements and repairs that are much more basic and needed.** All of our **parks** - Polliwog - for one instance - are in dire need of upgrades, maintenance and repairs. Our **dog parks** are an embarrassment in our dog friendly community. We have **above ground electrical**, just as in many third world countries. With all the additional visitors, our **streets are filthy and trash cans forever overflowing.** Our **police and fire fighters could use more funding.** But instead, you are being asked to spend millions of dollars to enrich the personal wealth of a handful of restaurant owners whose restaurants are so crowded that a timely reservation is impossible? Is that the number one priority?*

*To remind everyone, the dining decks have significantly altered the quality of living in Manhattan Beach. There is reduced parking and therefore limited ability and desire of residents to shop and use the services of downtown providers; the streets are often non passable and dangerous with all the diners crowding while waiting for tables and with servers carrying trays in the walk spaces; trash cans are overflowing and garbage is everywhere.*

*The stated mission of Manhattan Beach is "Preserving our small beach town character and enhancing the quality of life for our residents...." Please preserve our Small Town Downtown and spend our tax dollars on items meaningful and beneficial to thousands of our residents - not just a select handful.*

Respectfully,  
Carol Perrin

## Martha Alvarez

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**From:** Birkel, Julia L. <jbirkel@hfbllp.com>  
**Sent:** Tuesday, October 5, 2021 1:09 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Tonight's City Council Meeting

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Dear Esteemed Council,  
I have lived in Manhattan Beach for over 30 years.

I write in support of the grace and intelligence that is marking Mayor Stern's new term. The peace pole sends her message that, truly, Manhattan Beach is a welcoming town. I was gratified to see Councilmembers Napolitano and Montgomery at its dedication in support. I don't know what message the other Councilmembers hoped to send by boycotting, but the optics weren't good.

Unfortunately, there is an anonymous group not following Mayor Stern's lead, and instead is spreading libelous and hateful attacks on our school board for supporting EDSJI in our schools. I urge the Council to take a stand for good citizenship and respectful discourse. The majority in our town is outraged by the cancer they are trying to grow.

I have a proposal that I think would go far to begin healing our hateful rifts. Councilman Franklin, would you be willing to draft an "acknowledgment and condemnation" of threats and defamation of our school board, who dedicate their time and energy to ensuring that our children receive a proper education in a safe environment? If not, perhaps Councilwoman Hadley would be willing to step up?

Thank you for your consideration.  
Julie Birkel



**Julia L. Birkel** | Partner | Hill, Farrer & Burrill LLP  
One California Plaza | 300 So. Grand Ave., 37th Fl. | Los Angeles, CA 90071  
Dir: 213.621.0857 | Main: 213.620.0460  
[jbirkel@hillfarrer.com](mailto:jbirkel@hillfarrer.com) | [www.hillfarrer.com](http://www.hillfarrer.com) | [v card](#) | 

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## Martha Alvarez

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**From:** Carrie Tai, AICP  
**Sent:** Tuesday, October 5, 2021 1:09 PM  
**To:** Liza Tamura; Martha Alvarez; Bruce Moe  
**Subject:** FW: [EXTERNAL] Re: Majority of restaurants say business is worse than 3 months ago: survey.

For tonight's CC item.

Carrie

**From:** Steve Napolitano  
**Sent:** Monday, October 4, 2021 11:01 PM  
**To:** Dario Vullo  
**Cc:** Jill Lamkin ; Carrie Tai, AICP ; David Slay ; Mike Simms ; Michael Zislis ; Erik Zandvliet ; Ron Newman ; Jordan Cressman ; John Altamura ; Richard Montgomery  
**Subject:** [EXTERNAL] Re: Majority of restaurants say business is worse than 3 months ago: survey.

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hi Dario, it's incorrect to say the City has proposed to reduce the outdoor dining decks prior to Jan 3, 2022. The proposal to reduce the decks next month came from the downtown association. Nevertheless, I will take the gist of your comments under consideration before making any decision.

Thanks

On Mon, Oct 4, 2021, 10:44 PM Dario Vullo <[dariovullo88@gmail.com](mailto:dariovullo88@gmail.com)> wrote:

Hi All,  
please a little reading prior to consider patios modifications.  
Here a link to National restaurants current survey ( reads is 30 seconds, I did, you can in half of the time).

Covid is not over, our struggle is real.

People Dont feel comfortable to sit Indoor, it is a fact we need room to operate.

I cant cope with the fact that city like Beverly Hills, the Riviera in Redondo Beach, El segundo to mention few are supporting 1000% the business creating an insane amount of spaces.  
While MB is trying to reduce the spaces.

Are we really joking here?  
Are you considering the amount of money we spent to create, set up, manage the patios?

Have you thought the idea to shorting the patio will lead an additional worker crisis?

It is already difficult finding people at this time, will be even worst if we have to let go the few good workers we founds.  
Patio are vital for the business not parking in front of it.

We need to think different to find alternative and creative solutions to sustain the whole downtown business. There are plenty of possibilities around town.

Patios are the best outcomes we had in this dramatic times, people love it, the City is alive, vibrant I have many of our customers who are so thankful for what you have created.

We need to keep as is

the whole business and residential community has having many benefits, which are not necessarily financially but mostly quality of life.

The residents love so much don't want to sit indoor.

We need to understand that money flow with pedestrian area, a dead parking spot in front of business does necessarily translate in Income.

People buy value, experience regardless parking, business in 2021 is different and business owner have to adapt accordingly.

Cars can only bring traffic, congested street and hazard for family.

Retailers are suffering like restaurants that's a fact but creating a parking space in front of their business is not the solution to solve the whole problem.

Let's the residents and whole business owners decide since the majority of the residents are with us too.

Best regards

Dario

<https://www.cnbc.com/2021/09/29/majority-of-restaurants-say-business-is-worse-than-3-months-ago-survey.html>



**CARRIE TAI, AICP**

DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5502

ctai@manhattanbeach.gov

The City of Manhattan Beach continues to care about your health and safety. The [Citizen Self Service \(CSS\) Online Portal](#) is available for City permit and planning applications and inspections. Most Community Development services are available [online](#) and various divisions can be reached at (310) 802-5500 or [Email](#) during normal City business hours.

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## Martha Alvarez

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**From:** dmcphersonla@gmail.com  
**Sent:** Tuesday, October 5, 2021 12:48 PM  
**To:** Hildy Stern; Joe Franklin; List - City Council; Richard Montgomery; Steve Napolitano; Suzanne Hadley  
**Cc:** Bruce Moe; Liza Tamura; Martha Alvarez; Carrie Tai, AICP; Erik Zandvliet  
**Subject:** [EXTERNAL] Eat & Drink Encroachment Parking Deficiency, Agenda Item L-13  
**Attachments:** 210808-PermanentOutdoorDiningParkingMeterMap.pdf; 211005-CC-ItemL13-AreaReductionMap-Encroach.pdf

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hildy Stern, Mayor  
City Council  
Manhattan Beach

Subject: Eat and Drink Encroachment Parking Deficiency. Agenda Item L-13

Mayor Stern and Councilmembers,

The August 24 hearing on eat and drink encroachments included a map that shows the city will privatize 34 parking spaces for exclusive use by 24 premises. [Attch-1]

Per Attch-2, the city has now increased the number of spaces privatized to 39, thereby increasing encroachment parking demand by roughly 15%.

My letter for the August 24 hearing estimated, that in addition to the 34 privatized spaces, the encroachment area would require 163 spaces, per Local Coastal Program § A.64.030, for a total parking shortfall of 206 spaces, including the 900 Club patio.

The Attch-2 inflation of privatized spaces to 39 increases the total parking deficiency to approximately 236 spaces, 25 spaces more than the total combined number in Parking Lots 2 and 3. That qualifies as a significant impact on the environment, considering it a violation of the local coastal program.

In Attch-2, it appears the city traffic engineer has back-dated the document to 23 August 2021, to make it part of the record for the August 24 hearing. The record for that hearing does not include Attch-2.

The council should direct staff to correct the record regarding the date of Attch-2 and to update *Outdoor Street Dining Business Use Permit Fees and Cost List (August 4 2021)*, City of Manhattan Beach, consistent with the increased privatization of 39 parking spaces. The minutes should reflect these modifications.

Don McPherson  
1014 1<sup>st</sup> St, Manhattan Beach CA 90266  
Cell 310 487 0383  
[dmcphersonla@gmail.com](mailto:dmcphersonla@gmail.com)

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**From:** dmcphersonla@gmail.com <dmcphersonla@gmail.com>  
**Sent:** Monday, 4 October, 2021 19:09  
**To:** Hildy Stern <hstern@citymb.info>; Joe Franklin <jfranklin@citymb.info>; MB Council <citycouncil@citymb.info>; Richard Montgomery <rmontgomery@citymb.info>; Steve Napolitano <snapolitano@citymb.info>; Suzanne Hadley <shadley@citymb.info>  
**Cc:** Bruce Moe <bmoe@citymb.info>; Liza Tamura <LTamura@citymb.info>; Martha Alvarez <malvarez@citymb.info>;

Carrie Tai <ctai@citymb.info>

**Subject:** Critique: Eat & Drink Encroachments Work Plan

Please find attached my critique of the work plan for eat and drink encroachments, Agenda Item L-14 for the 5 October 2021 meeting.

The summary provided below.

**IMPOSSIBLE SCHEDULE FOR TAXPAYER-FINANCED COSTLY FAILURE.**

The work plan ignores three fatal errors in the eat and drink encroachment project:

- Prior to the city permitting process, the Local Coastal Program requires an amendment to remove the parking deficiency, over which the Coastal Commission has superior jurisdiction and is unlikely to approve, considering the impact on coastal access;
- Prior to the city permitting process, an Environmental Impact Report required, paid for by applicants. The parking deficiency has no mitigating solution acceptable to the Coastal Commission; and,
- Considering the time required to: 1) Obtain an unlikely Coastal Commission approval of an LCP amendment; 2) Prepare an applicant financed EIR that can solve the impossible parking deficiency; 3) Conduct the city permitting process; and, 4) Complete the likely litigation, the enabling Senate Bill 314 will have expired beforehand in July 2024.

This analysis does not address Department of Alcoholic Beverage Control jurisdiction over the all-important licensing for the encroachments, subject to protest by the public. The grounds comprise: 1) Proximity to residences [4-CCR-61.4]; 2) Violation of Penal Code 370 regarding impacts on public right of ways; and, 3) Violation of the LCP. The encroachments doomed to die without alcohol.

The city council must require a work plan that addresses these issues and provides a realistic schedule and cost to taxpayers for this dubious enterprise.

Thanks,

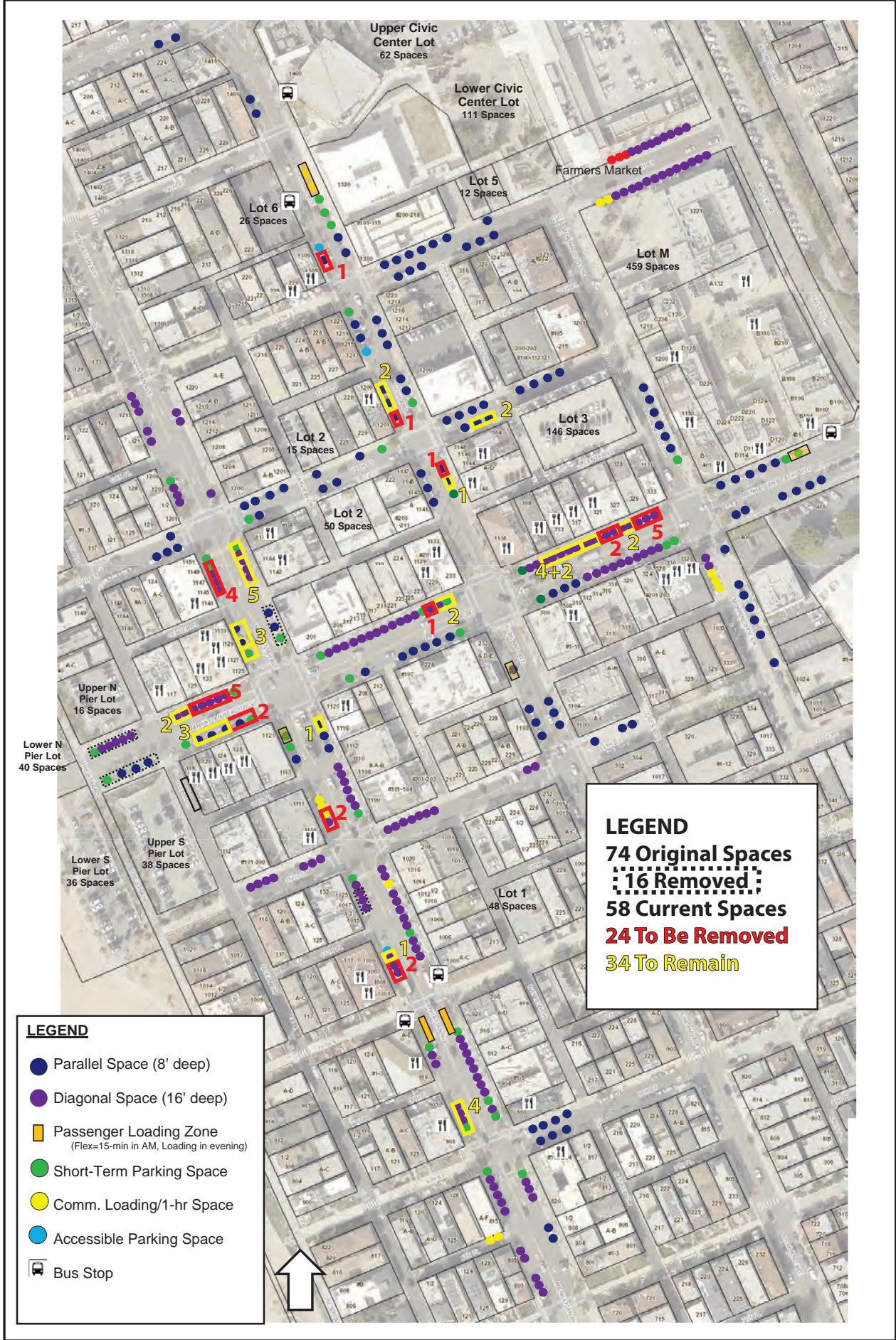
Don McPherson

1014 1<sup>st</sup> St, Manhattan Beach CA 90266

Cell 310 487 0383

[dmcphersonla@gmail.com](mailto:dmcphersonla@gmail.com)

# EXHIBIT 1. 34 ENCROACHMENT PARKING SPACES, 8 AUGUST 2021



**LEGEND**

- Parallel Space (8' deep)
- Diagonal Space (16' deep)
- ▭ Passenger Loading Zone (Flex=15-min in AM, Loading in evening)
- Short-Term Parking Space
- Comm. Loading/1-hr Space
- Accessible Parking Space
- 🚌 Bus Stop

**LEGEND**

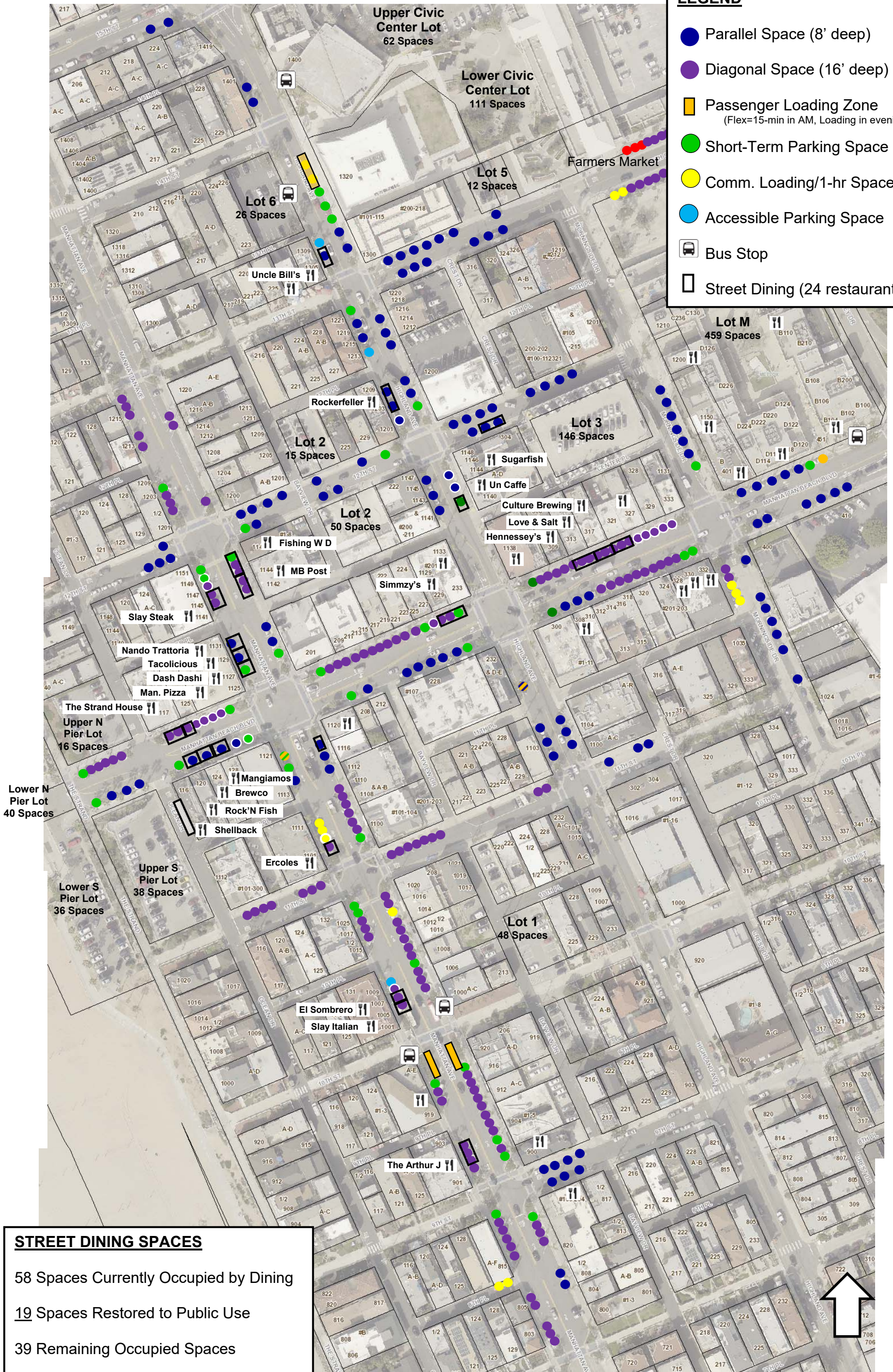
- 74 Original Spaces
- ▭ 16 Removed
- 58 Current Spaces
- 24 To Be Removed
- 34 To Remain



# EXHIBIT 2. 39 ENCROACHMENT PARKING SPACES, 5 OCTOBER 2021

## LEGEND

- Parallel Space (8' deep)
- Diagonal Space (16' deep)
- Passenger Loading Zone (Flex=15-min in AM, Loading in evening)
- Short-Term Parking Space
- Comm. Loading/1-hr Space
- Accessible Parking Space
- Bus Stop
- Street Dining (24 restaurants)



### STREET DINING SPACES

58 Spaces Currently Occupied by Dining  
 19 Spaces Restored to Public Use  
 39 Remaining Occupied Spaces



City of Manhattan Beach  
 Community Development  
 Traffic Engineering Division

DOWNTOWN MANHATTAN BEACH  
 REDUCED STREET DINING  
 PROPOSAL ~~8/23/2021~~ 10/05/2021

## Martha Alvarez

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**From:** Tina Shivpuri <tina@shivpuri.com>  
**Sent:** Tuesday, October 5, 2021 12:47 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] I fully support the city elected MBUSD Board of Trustees and their goals

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Council,

I am a resident of 11 years and I stand against the false spoken statements I have witnessed and read against our city's elected officials. I fully support the elected MBUSD Board of Trustees and their goal "To continue to develop a climate of care, equity, diversity, social justice, and inclusion in all MBUSD schools." I am also aware of an anonymous group that would like to ban the MBUSD Equity, Diversity Social Justice and Inclusion Committee. Since we are at the early stages of getting to know what support our students, faculty and staff need, this is a time to champion it. EDSJI is not destroying the quality of our student's education. In fact, it is a key part in developing a rigorous curriculum that focuses on critical thinking skills. I stand against harmful gestures, hurtful slurs, or worse in our community. I recognize there is work to do as we stand against unwarranted hate and slander. I support a "more kind" tomorrow. Thank you.

Sincerely, Tina Shivpuri

Tina Shivpuri  
[tina@shivpuri.com](mailto:tina@shivpuri.com)  
1-415-336-5075 mobile

## Martha Alvarez

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**From:** Diana Skaar <dianaskaar@gmail.com>  
**Sent:** Tuesday, October 5, 2021 12:43 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Please denounce the anonymous attacks on elected school and city officials

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Councilmembers,

I may not always agree on certain positions that the Council takes, but I do always believe in civil discourse and signing your name to comments shared with our elected officials. In absence of identifying yourself, it's easy to fall into anonymous cyber-bullying and unfortunately that is where we are at today. It is not only unproductive but risks the safety of our community leaders.

I'm very concerned with the rise of slander, defamation and cyber-bullying being shown to our elected School Board officials who volunteer their time and work tirelessly to ensure excellence in our education system. My family moved to MB for its excellent school district. There is a current movement impacting school boards across the country that is strongly advocating AGAINST inclusion efforts in schools. The idea that Equity is incompatible with Excellence in Education is a misguided notion. The idea that Diversity lowers academic standards is false. I am concerned that there are a few (but vocal) misguided MB residents on this. I'm more concerned that anonymous groups like 'WeTheParentsMB' are demonstrating increased vitriol against our elected officials trying to bully them into resignation. **City Councilmembers, please speak out against this. We all want the same things: Excellence in Education. A welcoming and inclusive MB. But we need to be able to engage in civil discourse.**

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Diana Skaar

## Martha Alvarez

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**From:** Lisa Guidone <lisafguidone@gmail.com>  
**Sent:** Tuesday, October 5, 2021 11:55 AM  
**To:** Steve Napolitano  
**Cc:** List - City Council  
**Subject:** [EXTERNAL] Fireworks suggestion

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Hi Steve,

May I suggest that we close MMB entirely to all pedestrian viewing... the city closes MBB for all the large volleyball events and on insane beach weekends. It seems somewhat counterintuitive to encourage the public to pack in like sardines on MBB when we are still in a pandemic and variants are still very much an issue. The city can encourage the public to view from the beach where there is plenty of space and available to all, not just those who camp out at 2:00 pm to secure a space on the boulevard. Beach seating allows all to view and remain safe and appropriately distanced which is the main objective. Seating on MMB only serves a very small percentage of those who attend and does not encourage distancing. By eliminating this option, it creates a more equitable participation experience and most importantly contributes to a safer experience.....plenty of access for emergency vehicles. Just because the city has allowed seating on MBB in the past, it should not be assumed that sitting on MBB is a foregone conclusion. The world is very different now. There will be gratitude that event is even taking place at all. Where a small percentage of the attendees view the fireworks show should not be such an issue in my opinion.

Thank you for your time.

Sincerely,  
Lisa Freitas Guidone  
Mangiamo

Sent from my iPad

**Martha Alvarez**

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**From:** Michael Zislis <mz@zislisgroup.com>  
**Sent:** Tuesday, October 5, 2021 10:17 AM  
**To:** List - City Council  
**Cc:** Erik Zandvliet; Carrie Tai, AICP; Jill Lamkin  
**Subject:** [EXTERNAL] Outdoor Deck Removal

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Mayor Stern and Council Members,

It has come to my attention that tonight you will be discussing the downsizing and removal of decks below Manhattan Avenue for Fireworks and Holiday Open House. I am in support of downsizing to support our retailers during the holidays.

In regard to removing the decks, the costs and loss of business would be substantial. Ron Guidone of Mangiamo's got a bid for removal and reinstallation of 40K, My share would be about 25K. I would also need to replace all decorative wood aspects and new flooring, not to mention the loss of business revenue. I had my team put together the numbers.

I just spent the amount below in September for new flooring and replacing black side skirting with wood and paint. This would have to be spent again.

**TSH**

\$8,332.52

**Rock'n Fish**

\$4,918.06

**BrewCo**

\$4,189.38

The revenue loss for 4 days before fireworks and 4 days after that day.

**RNF**

\$42,377

\$40,732

\$49,624 (last week 10-day cycle). Average for the 3 period **\$44,244**

**Brewco**



\$23,982

\$24,843

\$24,677 (last week 10-day cycle). Average for the 3 period

**\$24,500**

**TSH**

\$50,049

\$50,080

\$60,315 (last week 10- day cycle). Average for the 3 period

**\$53,481**

This would be a \$165,664.96 hit to my restaurants only.

Let's work together for a plan to have a safe firework show without having to remove the decks.

Some Idea's to leave decks in place:

Close all outdoor dining decks on lower MB BLVD and no seating between Manhattan Ave and Ocean ave. This will help reduce the number of people in the downtown firework night. This would help to keep show from becoming a Mega event requiring vaccination cards, etc.

Work on trying to push residents and visitors to the actual beach.

Require 6ft between blankets.

Cheers,

Michael Zislis

Owner



## Martha Alvarez

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**From:** Carrie Tai, AICP  
**Sent:** Tuesday, October 5, 2021 7:18 AM  
**To:** Liza Tamura; Martha Alvarez  
**Subject:** Fwd: [EXTERNAL] Extension of Outdoor Dining

Sent from my iPhone

Begin forwarded message:

**From:** SUZANNE LERNER  
**Date:** October 5, 2021 at 06:39:18 PDT  
**To:** Steve Napolitano , Hildy Stern , Richard Montgomery , Joe Franklin , Suzanne Hadley  
**Cc:** Bruce Moe , "Carrie Tai, AICP" , Erik Zandvliet  
**Subject:** [EXTERNAL] Extension of Outdoor Dining

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Dear Mayor Hadley, Councilmembers Napolitano, Montgomery, Franklin and Hadley

Hope you are all doing well. I am in Europe so unfortunately with the time change I will not be able to make any public comments.

You are tonight reviewing plans for the extension of outdoor dining during COVID period.

As a resident of downtown, i encourage you to NOT extend any longer than you feel is absolutely necessary.

The impact of these encroachments on the public is huge.

1) Parking.

There has been an issue with parking for many years as more and more restaurants opened with more and more staff. Where do they park? Where do residents who do not have garages/parking spaces park? Where can visitors/guests park?

It's impossible!

People just keep driving around trying to find one - (pollution and traffic increases)

And

People who want to shop downtown (local residents who provide most of the sales to downtown businesses) barely bother to come down as it's so difficult to run errands.

Taking away any parking spaces impacts our town thru increased density.

I have spoken personally with the owners of a number of small businesses that local residents utilize and they are annoyed and feel a decrease in their businesses.

Please understand that these businesses do not always feel comfortable speaking up as they also do business with the restaurants, and other large retailers so concerned they will impact their businesses.

I have also heard that they do speak up at downtown business association meetings....their emails are only directed to the director, as requested so do NOT share their opinions with other small businesses. .who is tabulating exactly how these businesses feel about the parking and density issues?

I have spoken to a number of MB residents who live outside of downtown who no longer come into downtown to shop and run errands. Why? Too much traffic, no parking...

## 2) Lack of walkways -

Have you walked downtown during the weekends and busy days? Please try it.

There are some restaurants/bars which are basically blocking the sidewalk.

Yes, they have chairs/tables close to their premises but as soon as patrons arrive, chairs are adjusted and there is no longer space to walk past these establishments.

Busboys and waiters walking to and fro from inside to outside....impeding pedestrian traffic and clogging up the sidewalks.

Too often, i turn to walking on the street behind parked cars to avoid the area.

When people drink too much, they can turn into rude humans who wouldn't bother moving aside for someone. I have experienced this multiple times.

reminding you about ADA regulations - how can a wheelchair or a disabled person on a walker walk comfortably and safely down our sidewalks?

## 3) Trash/Garbage

Trash is overwhelming. The trash cans as well as our sidewalks are filthy.

Example: The Creamery's trash cans are now a permanent fixture right on Manhattan Beach Blvd.

Open trash cans too. How charming is our town for our visitors to have to walk past garbage cans?!

4) Sidewalks - look down when you are walking down our streets. Dirty, unsanitary with spilled food and drink, that then dries and stains are all over. Would be nice for our businesses to clean the front of their businesses but that rarely happens.

I would like to commend businesses that actually do take care of this issue.

Those businesses deserve our respect and admiration.

Take a walk down Center Street. It has running filthy water, incredibly filthy trash cans...and storage for the restaurants. This is unsanitary as well as an eyesore. Increased outdoor dining has led to increased trash in all these establishments. If outdoor dining becomes permanent, then trash in our alleyways, blocked alleys due to constant trucks delivering food....I cannot believe this is what you want for our community.

Check out other alleys - (the one just north of MB Blvd - same issue!)

If you are considering this study, it will be a long term commitment spending most likely hundreds of thousands of taxpayer's money to review the possibility of a permanent outdoor dining situation. Won't this in the end just benefit the few restaurants who are involved?

The city will have to go thru ABC, Coastal Commission, local coastal commission, etc.

Our town can still be a gem if we return to our roots and who we were before the pandemic. I believe a few businesses that have your ear want to take financial advantage of the pandemic to create permanent lastly negative change.

Below is the brand mission of Manhattan Beach.

You as elected official were voted in to protect these values. "Preserving our small beach town character and enhancing the quality of life for our residents....."

Please govern wisely.

Thank you.

Best

Suzanne Lerner

124 Tenth St

Manhattan Beach, CA. 90266



The City of Manhattan Beach logo is a visual identity representing the City as a California beach town with a balanced laid-back, classic, upscale and family-friendly lifestyle paying homage to its past. The logo reflects the strength and direction of the City of Manhattan Beach, which "is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors." Be sure to view the link below for use and brand guidelines. Contact [Manhattan Beach Brand](#) for all inquiries.

### [Brand Guidelines](#)



**CARRIE TAI, AICP**

DIRECTOR OF COMMUNITY DEVELOPMENT

## Martha Alvarez

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**From:** Jim Burton <jburton@ecokai.com>  
**Sent:** Tuesday, October 5, 2021 6:04 AM  
**To:** List - City Council  
**Cc:** Bruce Moe; Carrie Tai, AICP  
**Subject:** [EXTERNAL] Reduction of Outdoor Dining Decks by November 1, 2021

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Mayor Stern and Honorable Members of Council,

As both a resident and business owner I am writing in support of DBPA Board's proposal to have all dining decks not in front of restaurants removed prior to Nov 1, 2021.

However, **NON-RESTURANT DOWNTOWN STAKEHOLDERS NEED YOUR HELP** to make this happen. Because DBPA's proposal is just that – a proposal - there is no enforcement if a small rouge group of individual owners decide they don't want to comply. I am **ASKING** Council take the lead and make a motion to adopt the DBPA proposal as a formal policy that is enforceable by City staff.

The adoption and approval of a formal position will begin to provide some level of equity to the non-restaurant stakeholders in downtown and allow for a small, measurable, and (for some) significant increase in usable parking.

Your consideration on this item is appreciated.

Respectfully,

Jim Burton  
328 11<sup>th</sup> Street

## Martha Alvarez

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**From:** Bobby Eskowitz <bobbyeskowitz@aol.com>  
**Sent:** Monday, October 4, 2021 8:21 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Manhattan Pizzeria

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

I was forwarded a letter from Erik Z where he recommends to council the need to remove our outdoor decks for the Holiday Fireworks. I really don't understand why this topic is even being discussed? After 23 years as a Business Owner in Downtown Manhattan Beach, this is the most outrageous thing I've heard. I've always tried really hard to be of service to my community, and my city Manhattan Beach. After COVID hit, I thought that was the end, we held onto all of our employees, and paid out rent and taxes on time throughout this hard time in our history... I thought we would have to close because even with the grants and forgivable loans we went through all of our savings. We barely had enough money to build and maintain the outdoor dining decks, over the past year. Those decks are the only reason that our doors are still open. I'd like to thank The City Council for allowing outdoor dining at our restaurant..

The time it would take to take down and put back up, loss of sales for 10 days, and the costs to store furniture etc, wouldn't just hurt us, it would shut us down! Hopefully you take this into consideration, when you try to work out solutions that let's us keep the decks and have a safe firework show. We've been paying taxes, and have been supporting the local schools and community for over 23 years already hopefully we get the same support and love back from our City we love so much.,

Thank you for your Time,

Bobby Eskowitz

Manhattan Pizzeria

133 Manhattan Beach blvd

Manhattan Beach ca 90266

310.422.4666

Sent from my iPhone

## Martha Alvarez

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**From:** dmcphersonla@gmail.com  
**Sent:** Monday, October 4, 2021 7:09 PM  
**To:** Hildy Stern; Joe Franklin; List - City Council; Richard Montgomery; Steve Napolitano; Suzanne Hadley  
**Cc:** Bruce Moe; Liza Tamura; Martha Alvarez; Carrie Tai, AICP  
**Subject:** [EXTERNAL] Critique: Eat & Drink Encroachments Work Plan  
**Attachments:** 211005-Report-Don-Encroachments-Compiled.pdf

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Please find attached my critique of the work plan for eat and drink encroachments, Agenda Item L-14 for the 5 October 2021 meeting.

The summary provided below.

### **IMPOSSIBLE SCHEDULE FOR TAXPAYER-FINANCED COSTLY FAILURE.**

The work plan ignores three fatal errors in the eat and drink encroachment project:

- Prior to the city permitting process, the Local Coastal Program requires an amendment to remove the parking deficiency, over which the Coastal Commission has superior jurisdiction and is unlikely to approve, considering the impact on coastal access;
- Prior to the city permitting process, an Environmental Impact Report required, paid for by applicants. The parking deficiency has no mitigating solution acceptable to the Coastal Commission; and,
- Considering the time required to: 1) Obtain an unlikely Coastal Commission approval of an LCP amendment; 2) Prepare an applicant financed EIR that can solve the impossible parking deficiency; 3) Conduct the city permitting process; and, 4) Complete the likely litigation, the enabling Senate Bill 314 will have expired beforehand in July 2024.

This analysis does not address Department of Alcoholic Beverage Control jurisdiction over the all-important licensing for the encroachments, subject to protest by the public. The grounds comprise: 1) Proximity to residences [4-CCR-61.4]; 2) Violation of Penal Code 370 regarding impacts on public right of ways; and, 3) Violation of the LCP. The encroachments doomed to die without alcohol.

The city council must require a work plan that addresses these issues and provides a realistic schedule and cost to taxpayers for this dubious enterprise.

Thanks,

Don McPherson  
1014 1<sup>st</sup> St, Manhattan Beach CA 90266  
Cell 310 487 0383  
[dmcphersonla@gmail.com](mailto:dmcphersonla@gmail.com)

## **DEFICIENCIES IN WORK PLAN FOR EAT & DRINK ENCROACHMENTS**

### **EAT & DRINK ENCROACHMENTS WORK-PLAN DEFICIENT.**

The staff report for the work plan omits crucially important issues that require consideration before approval, as follows:

- Senate Bill 314 ["SB 314"] extends the encroachments after the state emergency order lifted, which will result in the unlawful decks remaining to July 2024. When the emergency order lifted, SB 314 temporarily exempts the encroachments from complying with certain provisions in the municipal code and the ABC Act, **but not the Coastal Act and state codes**;
- Taxpayers will pay multimillions to prepare the inevitable Environmental Impact Report ["EIR"] for the project in the Downtown and North End, which will enrich the many owners of premises proposed for encroachments<sup>1</sup>. The applicants must pay for the EIR;
- An overly optimistic 30-month schedule for a project that requires amendments to the local coastal program ["LCP"], possibly state codes, as well as tens of alcohol-licenses all subject to time-consuming litigation, Coastal Commission ["CCC"] appeal and ABC protests; and,
- Costs to taxpayers for the multiyear administrative and legal processes above, which will divert funds from mandatory high-priority requirements, such as affordable housing

The staff report for the work plan discloses an abysmal lack of understanding of these crucial issues. Community Development must first do their homework, by coordinating with the CCC and the ABC on the encroachment proposal. Otherwise, if staff continues to ignore the facts, launching a costly and years-long, time-consuming project for eat and drink encroachments will fail in the end, specified as July 2024 by SB 314.

The city council should not approve the work plan, until the above issues resolved.

### **SUBSTANTIAL EVIDENCE OF EAT & DRINK ENCROACHMENT VIOLATIONS.**

The following provides substantial evidence that supports the above cited issues.

#### **Eat & Drink Encroachments Violate the Local Coastal Program.**

After the state emergency order lifted, SB 314 does not exempt encroachments from complying with the city Local Coastal Program ["LCP"], which for alcohol-serving premises, requires on-site parking based on use-area at one space per 50 square-feet.<sup>2</sup>

SB 314 temporarily permits alcohol service in encroachment areas not licensed but does not permit violations of parking requirements in the LCP, over which the Coastal Commission has jurisdiction. Parking crucial for coastal access, the Commission's highest priority.

An August 2021 analysis on record concludes that per the LCP, encroachment applicants must provide an additional 206 spaces onsite in the Downtown.<sup>3</sup> This an impossibility, considering that all premises except Shade Hotel grandfathered for little or no onsite parking.

Item L-13 at the 5 October 2021 council meeting proposes to increase the Downtown encroachment area, which will proportionally inflate the current 206 parking-shortfall.<sup>4</sup>

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<sup>1</sup> Exhibit 1. Eat & Drink Encroachment Applicants; DMBB&PA, August 2021

<sup>2</sup> Local Coastal Program § A.64.030

<sup>3</sup> Exhibit 2. 210823-Critique-StaffReport-Eat&DrinkEncroachments-Final; Donald Mcpherson; 23 August 2021

<sup>4</sup> Agenda Item L-13, City Council Meeting, 5 October 2021.



## DEFICIENCIES IN WORK PLAN FOR EAT & DRINK ENCROACHMENTS

In 2020, Superior Court Judge Chalfant ruled that the city ban on vacation rentals unlawful in the coastal zone, because the provision not included in the LCP. That case an indirect interpretation of law, whereas for the encroachment project, the LCP specifically requires one space per 50 square-feet of service area. LCP amendments require CCC approval. Any person can appeal changes in the LCP to the Coastal Commission.

Consequently, before the city proceeds with the encroachment approval process, they must obtain Coastal Commission approval for an LCP amendment that resolves the parking deficiencies in the Downtown and North End. It doubtful that any such solution exists.

### **Eat & Drink Encroachments Violate State Right of Way Law.**

Penal Code 370 prohibits an act that, *“unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway”*. [Emphasis added]

It appears that no means exist for privatizing street parking and sidewalk right of ways in the coastal zone. Last amended in the 1870's, Penal Code 370 has withstood the test of time, so it unlikely that the legislature will revise it to permit encroachments into coastal public parking and sidewalks.

### **Inevitable Environmental Impact Report.**

The staff report acknowledges that eat and drink encroachments require environmental review. The California Environmental Quality Act [“CEQA”] requires, *“An EIR must be prepared if the cumulative impact may be significant and the project’s incremental effect, though individually limited, is cumulatively considerable.”* [CEQA § 15064(h)(1)]

The proposed Downtown encroachments of 24 premises constitute cumulative impact. Furthermore, the cumulative impacts significant, per CEQA Guidelines, *“A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project.”* [Guidelines § 15002(g)]

Evicting the public from street parking and sidewalks for private profit-making uses constitutes a substantial adverse change in physical conditions, per CEQA Checklist Factor X. Land Use and Planning:

*“b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?”* [Guidelines Appendix G; Emphasis added]

The city has inferior jurisdiction over the LCP, subject to Coastal Commission approval.

An EIR requires establishment of a baseline at the time applications for the encroachments filed, which has not yet occurred. This situation unprecedented, however, because the encroachment development already built and operating. Consequently, the city must order the encroachments removed, to establish the environmental baseline during the summer. The draft work plan, however, does not include this requirement in the schedule.

## **DEFICIENCIES IN WORK PLAN FOR EAT & DRINK ENCROACHMENTS**

At a minimum, the EIR must address parking<sup>5</sup>, traffic, noise and coastal access. It appears the city has not conducted a traffic analysis for the Downtown since the 2000s and never for the North End. No record appears to exist for any summer parking analyses.

Consequently, before commencing the permitting process, during summer 2022, the city must first conduct extensive environmental analyses of the Downtown and North End with the encroachments operating. Then, they must order the encroachments removed, for an environmental analysis of the baseline.

Applicants for developments must pay for EIRs that the city conducts. The work plan, however, appears to assume that taxpayers will bear the multimillion costs of the Downtown and North End EIR for private profitmaking businesses. That not acceptable.

### **IMPOSSIBLE SCHEDULE FOR TAXPAYER-FINANCED COSTLY FAILURE.**

The work plan ignores three fatal errors in the eat and drink encroachment project:

- Prior to the city permitting process, the Local Coastal Program requires an amendment to remove the parking deficiency, over which the Coastal Commission has superior jurisdiction and is unlikely to approve, considering the impact on coastal access;
- Prior to the city permitting process, an Environmental Impact Report required, paid for by applicants. The parking deficiency has no solution acceptable to the Coastal Commission.
- Considering the time required to obtain an unlikely Coastal Commission approval of an LCP amendment, preparation of an applicant-financed EIR that can solve the impossible parking deficiency, the city permitting process and the likely litigation, the enabling Senate Bill 314 will have expired in July 2024.

This analysis does not address Department of Alcoholic Beverage Control jurisdiction of the all-important licensing for the encroachments, subject to protest by the public. The grounds comprise proximity to residences [4-CCR-61.4], violation of Penal Code 370 regarding impacts on public right of ways, and violation of the LCP. <sup>6</sup> The encroachments doomed to die without alcohol.

The city council must require the work plan to provide a realistic schedule and costs to taxpayers for this dubious project.

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<sup>5</sup> Parking not a CEQA factor, unless it conflicts with law, the case herein. [Guidelines § 15183(f & g)]

<sup>6</sup> Exhibit 3. Form ABC-510; Department of Alcoholic Beverage Control; January 2016

## EXHIBIT 1

Which restaurants have expressed interest in building permanent outdoor dining in the 34 parking spaces?

Arthur J (4)	Brewco (1)	Culture Brewing (2)	Dash Dashi (1)	El Sombrero (1)	Esperanza (2)
Fishing w/Dynamite (2)	Hennessey's (2)	Love & Salt (2)	Mangiamo (1)	MB Creamery (1)	MB Post (3)
Nando (1)	Rockefeller (2)	Rock'N Fish (1)	Simmzy's (2)	The Strand House (2)	Sugarfish (2)
		Tacolicious (1)	Un Caffé Altamura (1)		

Which restaurants have expressed interest in permanent sidewalk dining?

Izaka-Ya by  
Katsu-Ya

Shade Hotel

Slay Italian

Slay Steak and  
Fish House

## **EXHIBIT 2. CRITIQUE OF STAFF LACK OF PLANNING FOR EAT & DRINK ENCROACHMENTS**

### **SUMMARY OF EAT & DRINK ENCROACHMENT VIOLATIONS.**

Encroachments into the public right of way for eating and drinking [“ENCROACHMENTS”] will violate the Local Coastal Program [“LCP”] and regulations of the Department of Alcoholic Beverage Control [“ABC”], as follows:

- The Downtown B&PA<sup>1</sup> proposal creates a 197 parking-space shortfall that will impact coastal access, the Coastal Commission’s highest priority; and,
- The ENCROACHMENTS and off-street parking lots used by their patrons lie within 100 feet of residences, which precludes alcohol service, per California Code of Regulations 4-CCR-61.4. Furthermore, the decks constitute a public nuisance, by obstructing use of parking spaces in the right of way and blocking sidewalks, a violation of the penal code, PEN 370, per Form ABC 510, Grounds 4 for license denial.

The staff report discloses an abysmal lack of understanding of these crucial legal issues. Community Development must first do their homework, by coordinating with Coastal and the ABC on the Downtown B&PA proposal. Otherwise, launching into an expensive and time-consuming preparation of an encroachment workplan will fail, if staff ignorant of the facts.

To avoid this certain failure, the city council should direct Community Development to coordinate with Coastal and the ABC, for obtaining their guidance on the ENCROACHMENTS.

### **SUBSTANTIAL EVIDENCE OF EAT & DRINK ENCROACHMENT VIOLATIONS.**

The following provides the substantial evidence that supports the above cited two violations, regarding the Coastal Act and ABC regulations.

#### **Eat & Drink Encroachments Will Create a 206 Parking-Space Shortfall.**

The staff report and its attachments allege that ENCROACHMENTS will only reduce parking by 34 spaces. Not true.

Community Development has neglected the requirement that the encroachment decks require parking at the rate of one space per 50 square feet {“SF”}<sup>2</sup>. Based on city-determined areas for the decks<sup>3</sup>, the proposed ENCROACHMENTS comprise 8,166 SF, which requires 163 spaces. [Exhibit 1]

The 163-space parking requirement plus the 34 parking spaces occupied by the decks result in a parking shortfall of 197 spaces. A search of city records failed to disclose a recent parking analysis for the Downtown, but anecdotal evidence establishes that parking availability nonexistent in summer, the prime beach season. The 900 Club increases this to 206 spaces.<sup>4</sup>

As result, it highly unlikely that the Coastal Commission will approve the ENCROACHMENTS, considering that coastal access their highest priority. In addition, all ENCROACHMENTS west of the Manhattan Ave centerline lie within the zone for public appeal to the Coastal Commission. Therefore, city-council approval of the ENCROACHMENTS will inevitably result in administrative review by the commission.

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<sup>1</sup> Downtown B&PA [“BP&A”]: Downtown Manhattan Beach Business and Professional Association

<sup>2</sup> Manhattan Beach Municipal Code § 10.64.030.

<sup>3</sup> *Outdoor Street Dining Business Use Permit Fees and Cost List (August 4 2021)*, City of Manhattan Beach.

<sup>4</sup> The 900 Club conversion of their 437 SF parking area to alcohol service requires nine spaces, for a total deficiency of 206 parking spaces

## **CRITIQUE OF STAFF LACK OF PLANNING FOR EAT & DRINK ENCROACHMENTS**

Perhaps city staff will invoke a condition that eat & drink establishments must comply with occupancies in their current use permits, as required by the state fire code. Such a condition unenforceable for the ENCROACHMENTS, because they lie outside building interiors and thus not subject to state-fire code regulations.

Furthermore, city code-enforcement works forty hours a week during weekdays and has no authority to conduct unannounced inspections, for counting numbers of patrons inside the premises and out on the street decks.

### **Eat & Drink Encroachments Violate ABC Regulations.**

Exhibit 2 illustrates that the ENCROACHMENTS, the 900 Club outdoor patio and the off-street parking lots used by eat & drink patrons lie within 100 feet of residences.

Consequently, the ABC cannot approve alcohol license extensions for the 21 premises, unless each owner establishes *“that the operation of the business would not interfere with the quiet enjoyment of the property by residents.”* [California Code of Regulations 4-CCR-61.4]

The endemic nightclub environment in the Downtown precludes such determination.

A few premises do not lie within 100 feet of residences<sup>5</sup>, but because parking availability nonexistent at times, their patrons will use off-street parking wherever found, often within 100 feet of residences.

Because the ENCROACHMENTS and the 900 Club patio violate the parking ordinance, that constitutes grounds for the ABC to deny license, namely Grounds 8., *“Licensing the premises would be contrary to the provisions of a valid zoning ordinance of any city or county. (Bus. & Prof. Code § 23790.)”*<sup>6</sup>

Additionally, denying use of the 34 parking spaces in the public right of way and obstructing the sidewalk constitutes grounds for denial license, namely Grounds 4., *“Licensing the premises would create a public nuisance as defined in Penal Code Section 370.”* [Ibid.]

Approved 1882, Penal Code 370 prohibits an act that, *“unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway”*. It survived the 139-year test of time.

The ENCROACHMENTS and the 900 Club patio **unlawful**, by violating the zoning code.

### **CONCLUSION: ENCROACHMENTS WORKPLAN PREMATURE.**

The staff report establishes that Community Development has no understanding of the legal issues regarding eat & drink ENCROACHMENTS in the public right of way.

To correct staff deficiencies, the city council should direct Community Development to coordinate with Coastal and the ABC, for obtaining their guidance on the eat and drink encroachments, before proceeding with a workplan.

The council must have opinions from Coastal and the ABC of the ENCROACHMENTS, before approving the superficial workplan proposed by staff.

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<sup>5</sup> For example, Hennesey’s, Esperanza, Love & Salt, Culture Brewing. Un Caffè, Dash Dashi and Sugar Fish.

<sup>6</sup> ABC-510 (Rev. January 2016), Grounds 8, p. 2.

## EXHIBIT 1. STAFF IGNORES 163 PARKING SPACES REQUIRED FOR EAT & DRINK ENCROACHMENTS

#	BUSINESS NAME	ADDRESS	ENCROACHMENT AREA (* Bldg Permit Req'd)	2020 SPACES	PROPOSED SPACES	AREA, SF	CODE SPACES
1	Tacolicious	1129 Manhattan Ave.	17'x43.5', 2 spaces	2	1	370	7.4
2	Rock'N Fish	120 Manhattan Bch Bl.	17.5'x20', 2 spaces*	2	1	175	3.5
3	Brewco	124 Manhattan Bch Bl.	17.5'x24', 1 spaces	1	1	420	8.4
4	The Strand House	117 Manhattan Bch Bl.	16'x128', 4 spaces*	4	2	1024	20.5
5	Love & Salt	317 Manhattan Bch Bl.	16'x32', 5 spaces*	5	2	205	4.1
6	Arthur J's	903 Manhattan Ave.	12'x60', 3 spaces*	3	4	960	19.2
7	MB Post	1142 Manhattan Ave.	12'x68', 5 spaces 8'x66', 3 spaces	8	3	490	9.8
8	Simmzy's	229 Manhattan Bch Bl.	12.5'x50', 4 spaces*	4	2	313	6.3
9	Fishing W/ Dynamite	1148 Manhattan Ave	See MB Post 8 spaces	0	2	352	7.0
10	Mangiamos	128 Manhattan Bch Bl.	17.5'x 64', 2 spaces*	2	1	560	11.2
11	MB Creamery	1120 Manhattan Ave.	8'x 28', 1 space	1	1	224	4.5
12	Rockerfeller	1209 Highland Ave	8'x39', 2 spaces	2	2	312	6.2
13	Hennessey's	313 Manhattan Beach Bl.	14.5'x32', 3 spaces*	3	2	309	6.2
14	Nando Milano	1131 Manhattan Ave	17'x33', 1 space	1	1	561	11.2
15	Sugarfish	304 12th St	8'x42', 2 spaces	2	2	336	6.7
16	Un Caffè	1140 Highland Ave	8'x46', 2 spaces	2	1	184	3.7
17	El Sombrero	1005 Manhattan Ave	18'x 27', 2 spaces	2	1	243	4.9
18	Culture Brewing	327 Manhattan Beach Bl.	16'x52', 5 spaces	5	2	339	6.8
19	Dash Dashi	1142 Highland Ave.	-	-	1	263	5.3
20	Esperanza	309 Manhattan Beach Bl			2	526	10.5
			<b>TOTALS</b>	<b>71</b>	<b>34</b>	8166	<b>163.3 spaces</b>

Note 1. Parking dimensional information obtained from city "*Outdoor Street Dining Business Use Permit Fees and Cost List (August 4 2021)*"

Note 2. Dash Dashi and Esperanza encroachment areas determined from average encroachment area per space

Note 3. Table does not include parking demand for sidewalk encroachments by Izaka-Ya, Shade Hotel, Slay Italian, & Slay Steak and Fish House.

Note 4. 900 Club use-permit violation not included, of converting onsite parking into outdoor service, increasing unfulfilled demand by 9 spaces.

## EXHIBIT 2. EAT & DRINK ENCROACHMENTS AND OFF-STREET PARKING WITHIN 100 FEET OF RESIDENCES

Prohibited for Alcohol Licenses by ABC California Code of Regulations § 61.4



Key: 1) Tacolicious; 2) Rock'N Fish; 3) Brewco; 4) Strand House; 5) Love & Salt; 6) Arthur Js; 7) MB Post; 8) Simmzy's; 9) Fishing/Dynamite; 10) Mangiamos; 11) Creamery; 12) Rockerfeller; 13) Hennesey's; 14) Nando; 15) Sugarfish; 16) Un Caffe; 17) El Sombrero; 18) Culture Brewing; 19) Dash Dashi; 20) Esperanza



## Information Regarding Alcoholic Beverage License Applications and Protests

### Public Notice of Application

A person or business (applicant) planning to open a new ABC-licensed business, change the ownership, or move an existing business to a new site must apply for the proper license at an ABC district office. As part of the process, notice must be given to the public and to local officials. This notice occurs in several ways:

- **Public Notice** — The applicant must post a white or yellow public notice (Form ABC-207 or -207-B) in a prominent place at the proposed premises for 30 days. (Bus. & Prof. Code § 23985.)
- **Written Notice by Mail** — ABC mails a copy of the application to the sheriff, chief of police, district attorney, and city council (or the board of supervisors if in an unincorporated area). In some cases, the applicant must also mail written notice to residents and owners of real property within a 500 foot radius of the proposed business. (Bus. & Prof. Code §§ 23985.5 & 23987.)

### Filing Your Protest

Any person may protest an ABC license Application using this form. The deadline to file a protest is 30 days from whichever date is later:

- The date the Public Notice is first posted at the proposed business; *or*
- The date the applicant mails written notice to residents or owners of real property within a 500' radius.

You may mail, hand deliver, or fax your signed and dated protest. (Code of Civ. Proc. § 1013.) You may also e-mail a scanned signed protest, for example, in .pdf or .jpg format.

If sent by US Mail, the date of the postmark is deemed the filing date. If delivered by courier service (UPS, Fed Ex, etc.), or e-mail, your protest must be received by ABC by the 30th day. If the 30th day is a holiday or weekend, then your protest must be received on the next business day.

Any protest received after the 30 day deadline cannot be considered. (Bus. & Prof. Code § 24013.)

We encourage you to contact the local ABC district office to find out the exact deadline for filing your protest or to speak with the assigned staff member about your concerns. District office information is found on our website at: [www.abc.ca.gov](http://www.abc.ca.gov). Please provide the exact address of the proposed business and the applicant's name.

If you feel that there was insufficient notice posted, you must notify the Department within 10 days of becoming aware of the posting. An extension to file a protest may be granted by the Department, but the burden to show why the extension should be granted is on the person requesting the extension. An affidavit or other document submitted under penalty of perjury related to the facts should be submitted.

**Please print legibly.** Incomplete and/or illegible information will cause the protest to be rejected. The protest must be **signed**. Failure to do so will result in the protest being rejected.

Protests may be made only by individuals. If multiple people wish to file protests they must each complete their own form. Anonymous protests will be rejected. Protests must be location-specific.

A copy of valid protests will be provided to the applicant as part of the licensing process.

All protests submitted to the ABC are public records and are open to inspection pursuant to the California Public Records Act. (Gov. Code § 6254 *et seq.*)

Professional legal advice is not required to file a protest.

### Public Officials

If the protest is made by a public officer acting in his or her official capacity, the attached form with the declaration under penalty of perjury is not required, but the protest should be on official letterhead and show the public official's capacity. Requests for time extensions are pursuant to Business & Professions Code section 23987. Contents of a protest submitted as a public official's official protest must meet all other requirements of this regulation.

## Grounds for Protest

The California Constitution provides that the sale, purchase, and consumption of alcoholic beverages in licensed premises are legal. Therefore, ABC cannot deny a license solely because a protestant has personal beliefs against the use of alcoholic beverages - denial must relate to public welfare and morals. (Cal. Const. art. XX, Sec. 22) Some of the grounds of protest, which could relate to public welfare and morals, are as follows:

1. The premises is located within the immediate vicinity of a school, church, hospital, or children's playground and the normal operation of the licensed premises would interfere with their functions. (Bus. & Prof. Code § 23789.)

**Be specific as to how the sale of alcoholic beverages will adversely affect the facility.**

Mere proximity to such a facility is not sufficient legal grounds to deny the license.

2. The premises is located in a residential area and the normal operation of the licensed premises would interfere with the quiet enjoyment of their property by the residents of the area. (Dept.'s. Rule 61.4, found in tit. 4, Cal. Code Regs.) Be specific as to how the sale of alcoholic beverages will adversely affect the residents.

3. The premises or parking lot is located within 100 feet of a residence and the applicant has failed to establish that the operation of the licensed premises would not interfere with the quiet enjoyment of the property by the residents. (Rule 61.4.) This only applies to premises that have not been operated with the same type license within 90 days of the application.

4. Licensing the premises would create a public nuisance as defined in Penal Code Section 370. State specific facts leading to this conclusion.

5. Issuance of the license would result in or add to an undue concentration of licenses. (Bus. & Prof. Code 23958 & 23958.4.) List any problems that existing licensed businesses in the area may be causing. Note that this is not a valid ground of protest if the application is for a premises-to-premises transfer within the same census tract; if a current license is being exchanged for a different license type with fewer privileges; if the license applied for will be in the same location as a

current license; if the license will not add to the existing number of licenses within the census tract, or if the license will be a retail license type exempted in 23958.4, subdivision (c)(5)(B).

6. The applicant is not the true or sole owner of the business to be licensed. (Bus. & Prof. Code §§ 23300, 23355, 23950, *et seq.*) You must present testimony or other evidence as to the true ownership.

The following are grounds usually cited by city or county enforcement agencies only. But they can be used by persons who have independent, adequate evidence of same:

7. Issuance of the license to the premises would tend to create a law enforcement problem, or aggravate an existing police problem. (Bus. & Prof. Code §23958.)

8. Licensing the premises would be contrary to the provisions of a valid zoning ordinance of any city or county. (Bus. & Prof. Code § 23790.)

9. The applicant has been convicted of a felony, a crime involving moral turpitude, or one of the offenses listed in the Alcoholic Beverage Control Act section 24200, subdivision (b). (Bus. & Prof. Code § 23952.)

10. The applicant has a police record that disqualifies him or her for a license. (Cal. Const. art. XX., sec. 22.)

11. The applicant has misrepresented a material fact in obtaining a license. (Bus.& Prof. Code § 24299, subd. (c).)

### Tips Before Filing a Protest:

For your protest to be more effective, it should be specific and not just a restatement of the above examples. Failure to be specific may cause the protest to be rejected.

Note - Parking or Traffic will not be considered a valid protest issue if the local jurisdiction has issued a Conditional Use Permit (CUP) for the premises OR if the local jurisdiction has confirmed that the use is appropriate to its zoning ordinances.

Some people find it worthwhile to meet with the applicant before filing a protest. This lets the applicant know that and gives the applicant a chance to respond to your concerns.

In some cases, the applicant may be willing to agree to certain conditions. For example, if there could be late-night noise, the applicant may be

willing to stop alcohol sales after a certain time. The parties should contact the ABC staff member assigned to the case if the applicant is willing to agree to conditions that alleviate the concerns of the protestant. ABC will then evaluate if the proposed condition is appropriate to impose on the license.

## After Your Protest is Submitted

You will be notified by letter whether or not your protest is accepted or rejected. Accepted protests may be reassessed during the license investigation and may be subsequently rejected. If that happens, you will be notified. **If your protest is rejected**, you may request a hearing within 10 days following issuance of the license. It is your responsibility to determine when the license was issued; ABC will not notify you. (Bus. & Prof. Code § 24013.)

If you change your address, it is your responsibility to notify the Department. Letters returned by the Post Office without a forwarding address will be considered as an abandonment of the protest.

Failure to respond to communications from the Department to the protestant's address shall be considered abandonment of the protest.

## Investigation

After a person or business applies for the ABC license, the Department conducts a thorough investigation, as required by law. The ABC agent or licensing representative looks into the applicant's personal history, the applicant's source of funds, the suitability of the proposed premises, and any issues raised in the protest(s). (Bus. & Prof. Code § 23958.)

**Interim Operating Permit.** If ABC recommends approval of a protested license application, the applicant may apply for an Interim Operating Permit. This allows the business to sell alcoholic beverages pending the protest hearing and any appeals. (Bus. & Prof. Code § Sec. 24044.5.)

## Public Hearing

**Purpose.** Under the California Alcoholic Beverage Control Act (Bus. & Prof. Code § 23000 *et seq.*), a hearing may be held on a valid protest. This affords the applicant the right to meet the objections with any evidence he or she may have.

However, the submission of your protest does not complete the matter. You will be notified by letter regarding a hearing on your protest if a hearing is scheduled. Each protestant shall be considered a party under Government Code 11505. You or your authorized representative will need to attend the hearing to present testimony and/or evidence to support your protest. If you do not request a hearing or request a hearing but fail to appear, your protest will be considered withdrawn.

**Time and Place of Hearing.** The hearing will take place in the county seat for the business. However, if the governing body of a city files an official protest, the hearing shall be held within such city.

**After the Hearing.** After the hearing, the administrative law judge will take the protest under advisement. The judge will issue a proposed decision, which is a ruling, usually within 30 days, for review by the ABC Director. ABC may adopt or reject the proposed decision of the judge.

Once ABC has rendered a decision, any party to the matter may appeal the decision to the ABC Appeals Board, an independent, three-member Board appointed by the Governor.

The ABC Appeals Board decision can then be appealed to the State Courts of Appeal and to the State Supreme Court.

### Tips for Public Hearing

- If there are multiple protestants, decide who will speak on behalf of the group at the hearing. An attorney is not needed for this role. In fact, local community members may be most effective in raising community issues.
- To be most effective, all presentations should be short and concise and not repeat other presentations.
- Protestants may submit testimony and other evidence such as graphs, tables, pictures, photographs, video, etc. These items do not need to be professionally done. However, because this hearing is a legal proceeding, any evidence submitted is subject to discovery rules and objection. The judge will keep and be able to study any materials entered into evidence.

For the location of the ABC district office nearest you, consult your phone directory or visit our website at: **[www.abc.ca.gov](http://www.abc.ca.gov)**.



## Martha Alvarez

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**From:** Dave Rusher <drusher@rusherair.com>  
**Sent:** Monday, October 4, 2021 3:37 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Outdoor Dining

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

To whom it may concern:

1. Delay the scheduled October 4 vote on whether or not to reduce patio seating
2. Extend the January 5 deadline to implement the DTBP plan until after the November 2022 election.

David Rusher  
1512 The Strand  
Manhattan Beach, CA 90266  
Drusher@rusherair.com  
Cell: 310-963-3177

Sent from my iPhone

## Martha Alvarez

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**From:** Lisa Guidone <lisafguidone@gmail.com>  
**Sent:** Monday, October 4, 2021 2:33 PM  
**To:** List - City Council; Bruce Moe  
**Subject:** [EXTERNAL] Mangiamo Restaurant and Bar  
**Attachments:** DEC 2021 FIREWORKS REMOVAL COSTS (3).xlsx

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

The Honorable Mayor Hadley, City Council Members and Mr. Moe,

My husband Ron and I are the owners of Mangiamo Restaurant and Bar. This morning we were informed that on tomorrow's City Council agenda the idea of dismantling the outdoor decks west of Manhattan Avenue for the December 12, 2021 Fireworks Show will be discussed. Simply said, this idea is not feasible for any of the restaurants on the boulevard west of Manhattan Avenue. I have attached and estimated work order from the contractor who built the entire deck structure on both sides of Manhattan Beach Boulevard, Mr. Jim Sala. For those of us on MMB, building our decks was not a simple build out. It required very specific engineering due to the slope of MBB, and construction by a specialized contractor. Not only did we all incur build out costs, but we all continue to rent the decks every single month. Rent for our restaurants, rent for our outdoor decks and rent for the parking spaces.....it is a big nut every single month.

As you can see, the estimate to remove the decks for an evening is exorbitant. Deck removal, storage and deck rebuild is estimated at \$40,000. This will require four days of labor on both the front end and the back end which will total eight days of loss revenue from the outdoor decks during our busy holiday season. For our restaurant, that could be a loss of revenue in the ballpark of \$50-65K, not to mention a loss of income to our employees who service the outdoor decks.

Ron and I respectfully request that you explore other options. We know that the Fireworks Show is a beloved tradition in our town, but our world is so different from years past. This HUGE expense and loss of income does not seem justified to those of us on Manhattan Beach Boulevard.

Most respectfully,

Lisa and Ron Guidone

Mangiamo

## MANHATTAN BEACH FIREWORKS SUNDAY DEC 12

REMOVAL OF DECKS ON MANHATTAN BEACH BLVD  
OCEAN AVE TO MANHATTAN AVENUE

	DECKS	RAILS	BLOCKS	TURF SQFT	WATER BARRIER
PIZZERIA	32	14	600	600	
STRAND	60	51	38	1260	
MANGIAMO	46	45	18	1160	
BREWCO	40	34	15	720	
RNF	10	13	8	180	
<b>TOTALS</b>	<b>188</b>	<b>157</b>	<b>679</b>	<b>3920</b>	

REMOVAL COSTS	\$ 9,600.00	8-10 men	Strike decks Thur 12/9 - Sat Dec 11
FORKLIFT	\$ 1,400.00	3 days	
TRUCKING	\$ 2,000.00	8 trucks	
STORAGE	\$ 4,500.00	4 days	
RE-INSTALL	\$ 9,600.00	8-10 men	Mon Dec 13 - Wed Dec 15
TRUCKING	\$ 2,000.00	8 trucks	
FORKLIFT	\$ 1,400.00	3 days	
REPLACE TURF	\$ 9,900.00		
<b>TOTAL COSTS</b>	<b>\$ 40,400.00</b>		

## Martha Alvarez

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**From:** John Ward <john@turnstone.com>  
**Sent:** Monday, October 4, 2021 1:14 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Re: Outdoor dining areas - support for keeping them

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

I wanted to add to my last email regarding the outdoor dining areas, that I believe it is important to keep the dining areas the same size and configuration as they are currently. They are good just the way they are.

I appreciate your consideration on this matter.

John

### John Ward CEO

**(310)874-3311**

**Turnstone Capital Manager**

California                      Texas  
811 W Gardena Blvd      20475 SH 249 Ste 100  
Gardena CA 90247      Houston TX 77070

*[Offering luxury apartments in Low and Moderate income areas](#)*

[john@Turnstone.com](mailto:john@Turnstone.com)

[www.Turnstone.com](http://www.Turnstone.com)

On Mon, Oct 4, 2021 at 12:47 PM John Ward <[john@turnstone.com](mailto:john@turnstone.com)> wrote:

I am unable to attend the meeting Tuesday, but I wanted to weigh in with support for keeping the outdoor dining areas. There are many reasons.

First, the dining in MB attracts tourists to visit our city. Second, we do not know what will happen with covid and mandates in the next year and it would be a shame to tear it all down and then have more restaurant closures. Our businesses have had to endure too much already. Third, if the city can work out a reasonable financial structure, the outdoor areas add so much to the restaurants. Fourth, there is a certain part of our population that is high-risk for COVID, elderly, and immunocompromised. If we take away the outdoor dining areas, we are eliminating almost all restaurant activity for those people and for their friends, This would be very exclusionary against those populations...



Outdoor dining in Southern CA is good most of the year even at night. These areas are fun and add to the ambiance of our city.

Please consider at least extending them past Summer 2022...

Thanks in advance

john

**John Ward CEO**

**(310)874-3311**

**Turnstone Capital Manager**

California                      Texas  
811 W Gardena Blvd      20475 SH 249 Ste 100  
Gardena CA 90247      Houston TX 77070

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[john@Turnstone.com](mailto:john@Turnstone.com)

[www.Turnstone.com](http://www.Turnstone.com)

## Martha Alvarez

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**From:** Donald Behrens <dbehrens@baenc.com>  
**Sent:** Monday, October 4, 2021 12:07 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] DTBP Restaurant Patio Vote

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

I am opposed to the upcoming resolution vote limiting the size of outdoor patios because it will be unfair to our smaller restaurants.

A group is in the process of putting an initiative on the November 2022 ballot to allow the voters of MB to determine what size and scope of the patios should be.

I am requesting the following from the MB City Council:

- 1.) Delay the scheduled October 4 vote on the patio seating.
- 2.) Extend the January 5<sup>th</sup> deadline to implement the DTBP plan until after the November 2022 election.

**Donald Behrens**  
President

**Behrens and Associates · Environmental Noise Control**

13806 Inglewood Avenue | Hawthorne, California | 90250  
Office 310 679 8633 · Cell 310 463 5105 · Fax 310 331 1538

[www.environmental-noise-control.com](http://www.environmental-noise-control.com) | [www.drillingnoisecontrol.com](http://www.drillingnoisecontrol.com)

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## Martha Alvarez

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**From:** Charlotte Marshall <charmpr@aol.com>  
**Sent:** Monday, October 4, 2021 11:33 AM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Peace Pole

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Council,

Thank you for all your hard work and fortitude over these past tumultuous months. With all that has gone throughout the City, County, State and Nation, I feel your installation of a Peace Pole in the Civic Center is a wonderful message to impart and I would like to see it become a permanent reminder to all who view it of what we need to strive for. Please keep make it permanent.

Sincerely,  
Charlotte Marshall

Sent from my iPad

## Martha Alvarez

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**From:** Faith Backus Lyons <faithbl@gmail.com>  
**Sent:** Saturday, October 2, 2021 9:23 AM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Peace Pole

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Council:

Please do not remove the Peace Pole. It should become a permanent public art piece on our community. To imply in any way that peace is not a community value for MB is insulting. The Peace Pole should remain as a constant reminder that peace is a universal goal for civilized society.

Faith and Tom Lyons

--

***Faith Backus Lyons***  
***(310) 266-3205***

## Martha Alvarez

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**From:** Vivian Rahe <vmrahe@verizon.net>  
**Sent:** Friday, October 1, 2021 2:06 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Peace Pole

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Council Members:

My name is Vivian Rahe. My family and I are long-time residents of Manhattan Beach.

I am writing you today to voice my support for postponement of the Peace Pole's removal from the Civic Center Plaza until the Cultural Arts Commission has had a chance to review the matter and make its recommendation to you all.

Primarily though, I am writing to voice my support for the Peace Pole's permanent installation at Civic Center Plaza, or some other suitable, well-trafficked location within the City. Peace Poles are found in every country in the world. It would be exciting to have beautiful Manhattan Beach be part of the international community striving to symbolically connect with the people of other nations. Visitors would know we were a City contributing to the process of mending hearts and minds in a deeply divided Country, City, and even City Council. It would be an artistic representation of the freedom from strife and conflict we all long for as human beings in our hearts, mind and world.

We have two large steel columns taken from the wreckage of the World Trade Center towers serving as a memorial to the victims of the September 11, 2001 attacks prominently located at the corner of 15th Street and Valley Drive. That tragedy was borne of hatred. A Peace Pole (far smaller in scale) could help connect us to the world and have a ripple effect on the hearts and minds of those who see it and help promote peace so tragedies like that can never happen again.

Thank you.

Vivian Rahe

## Martha Alvarez

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**From:** roycasey@aol.com  
**Sent:** Thursday, September 30, 2021 9:41 PM  
**To:** List - City Council; Bruces Beach Task Force; Quinn Barrow  
**Subject:** [EXTERNAL] Current draft of Plaque Language

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

This is a follow-up to my previous email wherein, among other things, I requested that drafts of Plaque Language be posted on the City's website.

i went on the City's website tonight and could not find a posting of proposed plaque language; maybe I missed it.

During the entire process of preparing a History Report, the Bruce's Beach Task Force posted many drafts of the history report on the City's website to be transparent even though the "Activity Reports" were incomplete and unapproved.

The draft status was made clear by marking the document as a "DRAFT" with a large stamp across each page.

The History Advisory Board has never made their proposed plaque language available for the public to review and analyze; not even for the 6/16/21 City Council meeting wherein proposed plaque language was reviewed during the meeting and the history report was adopted.

And again, for the 7/20/21 City Council meeting wherein the HAB's proposed plaque language was the central focus of the meeting, HAB did not make their proposed plaque language available for the public to review and analyze.

As a result on this lack of transparency, residents of MB have been deprived of their right to make public comments on the proposed plaque language because residents have not been provided with a copy of the proposed language even though it will be included on monument signs posted on City owned property. .

At a minimum, please post the most current version of proposed plaque language on the City's website by the end of the day on Friday, October 1, 2021 so that residents will be afforded ample time to review and analyze the language in preparation for exercising our right to make comments in public during what could be the last HAB meeting next Wednesday morning at 10am on 10/6/21.

Thanks for your consideration,  
Roy Casey

## Martha Alvarez

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**From:** daegelesmom <daegelesmom@aol.com>  
**Sent:** Thursday, September 30, 2021 10:14 AM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Make the Peace Pole Permanent

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

I am in support of making the Peace Pole in the Civic Plaza permanent.  
Thank you for your consideration,  
Diane Daegele  
Resident since 1997

## Martha Alvarez

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**From:** roycasey@aol.com  
**Sent:** Wednesday, September 29, 2021 6:38 PM  
**To:** List - City Council; Quinn Barrow  
**Cc:** Bruces Beach Task Force  
**Subject:** [EXTERNAL] Urgent Needs RE: Bruce's Beach

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

### Highlights of Most Urgent Issues covered below:

- 1) Video reveals the History Advisory Board (HAB) intentionally crafts misleading language for Bruce's Beach plaques. [Video Here](#) (follow along with list at end of email)
- 2) Appearance of Conflict of Interest and Collusion between HAB Members and representatives of Bruce Family (Dwayne Shepherd)
- 3) Star Witness for opinion of Racial Discrimination, Frank Daugherty, lied about about being on Board Of Trustees at time of Eminent Domain decision.
- 4) HAB crafts plaque language without transparency of posting for public review
- 5) History Report must be revised for HAB changes because it ties to plaques via QR codes, thus requiring a vote by City Council to adopt
- 6) OVERFLOWING NEED FOR BIPARTISAN HISTORY FIRM ANALYSIS AND EDIT

### 1) NEW VIDEO ILLUSTRATES HAB INTENTIONALLY CRAFTS MISLEADING PLAQUE LANGUAGE

Link to a new video, "The Blind at Work," by Joe Ryan, popular Historian, reveals that HAB intentionally crafts misleading plaque language [or else they must be blind]: <https://www.youtube.com/watch?v=yIqOG-reRA0>

### 2) APPEARANCE OF CONFLICT OF INTEREST & COLLUSION WITH DWAYNE SHEPHERD

The 9/29/21 HAB meeting began with Kristin Long reviewing language of a new document that will be issued by the HAB entitled "Summary of Our Process." This document states in part that members of the Bruce and Prioleau families attended meetings, offered information, photos and opinions, including representative's of the families [assumed to be Dwayne Shepherd that vowed to sue MB on many public occasions for damages, lost income and future income, "even if we get our land back"].

At least one problem remains despite this very tardy and vague disclosure. Video's of HAB meetings reveal that Dwayne Shepherd was provided with direct access to and a direct line of communication with certain HAB members wherein Shepherd was allowed special access to submit recommendations during private conversations and correspondence and possibly private meetings. In addition, Shepherd's recommendations were given special consideration by way of aggressive arguments for inclusion of the language he recommended because presented by and advocated for by Isla Garraway on a persistent basis and Lindsey Fox. If you want to witness this special treatment firsthand via specific examples, simply tune into the 5/17/21 HAB meeting starting at 1hr:19min:30sec. In addition, the public and City Council will never know the extent to which Dwayne Shepherd influenced the content and opinions stated within the History Report and proposed plaque language, thus begging the need for an independent analysis and edit by a bipartisan history firm.

### 3) STAR WITNESS Frank Daugherty LIED

it is hidden in back pages of the History Report by way of showing dates in office that Daugherty was not on the Board of Trustees when Eminent Domain was voted on to be enacted. At the 9/29/21 HAB meeting, rather than make this simple statement, HAB members add a range of years that Daugherty served on the Board, which includes 1924 but he left 2 months before the vote was taken IN 1924. The video referenced above also points out that Daugherty's statements were speculation as he makes statements about the intention of others.

### 4) DRAFT OF AND REVISIONS TO PLAQUE LANGUAGE HAVE NOT BEEN MADE AVAILABLE TO RESIDENTS:

Please consider this email as my official request for all previous and current drafts of plaque language to be posted immediately on the City's website. More specifically, please include all drafts of plaque language leading up to and including language submitted for review at the 7/20/21 Council Meeting and beyond. HAB members make changes to proposed plaque language on-screen during HAB meetings but the documents containing draft plaque language have never been made available to the public, thus rendering this process difficult, if not impossible, for the public to follow. Therefore, in the spirit of full disclosure and transparency, even though it is late in the process, please post all drafts of plaque language as of the end of each HAB meeting without delay, including draft language developed during the latest HAB meetings on 9/22/21 and 9/29/21 post haste because the next meeting is coming up quickly on 10/6/21.

### 5) A REVISED HISTORY REPORT MUST BE PREPARED AND VOTED ON BY CITY COUNCIL

During the 9/29/21 HAB meeting, it was decided to make changes to the History Report adopted by City Council on 6/16/21. Preparing an amendment only was discussed but the History Report ties into QR codes on plaques, so the History Report itself must be revised.



Please consider this as my official request for a revised version of the History Report to be posted on the City's website immediately after it is approved by the HAB. Also consider this email to be my official request for City Council's vote to adopt the revised History Report to be added to the prospective Agenda for a future City Council meeting as posted on the City's website.

#### 6) OVERFLOWING NEED FOR A BIPARTISAN HISTORY FIRM

City Council Members that have been begging for "just the facts" and a "factually accurate history report and plaque language" are not going to get that from the History Advisory Board. And the only way for the public to feel comfortable that there was "no thumb on the scale" related to an obviously partisan process from the beginning and the recent discovery of the appearance of a conflict of interest and collusion with Dwayne Shepherd, is for City Council to engage a bipartisan History Firm to perform a rigorous analysis and editing process on the Bruce's Beach History Report and proposed plaque language. The reputation of our City is at stake as well as the risk that Dwayne Shepherd may bankrupt the City if an inaccurate History Report on Bruce's Beach is adopted by City Council that proclaims an opinion of Racial Discrimination even though the evidence presented is totally insufficient and this claim by the Bruce's was already litigated in Court from 1924 to 1929 and HAB has the documents. This need is further amplified by the obviously partisan and biased behavior of HAB members as illustrated in the video referenced herein. Also, I have provided many emails to City Council that fully describe and documents the biased behavior of the History Advisory Board, including the unauthorized engagement of 4 Far Left professors for substantive input on language. In addition, the Bruce's Beach Task Force, its co-chairs and the beginning document prepared by City staffers in August 2020 have been dominated by residents with Far Left viewpoints with no attempt whatsoever at creating a fair and balanced process. In addition, the HAB has shown no evidence of seriously considering the long list of major issues raised by City Council on 7/20/21. An independent process by experts will take care of this need as well, which must be done somehow by somebody because the HAB is not demonstrating a willingness to accomplish that task as assigned to them by City Council on 7/20/21.

The perfect time to approve the engagement of a bipartisan history firm would be when the revised History Report and proposed plaque language come up for a vote to, among other things, address all issues raised by City Council on 7/20/21 in the History Report and to draft proposed plaque language that is limited to the factually accurate history of Bruce's Beach vs. tales of Race Wars 4 years after Eminent Domain, uncorroborated stories, speculation and unsupported opinions.

#### ANOTHER MISLEADING STORY ADDED BY THE HAB ON 9/29/21

During the 7/20/21 City Council meeting, Council Member Steve Napolitano made a very effective argument that arresting Elizabeth Catley for trespassing is not an act of Racism. However, at the 9/29/21 HAB meeting it was decided to make this story even more misleading by adding a report that the NAACP defended Ms. Catley successfully in a Court of Appeals regarding her violation.

#### RACE ISSUES in 1927 & 1928 NOT RELATED TO EMINENT DOMAIN DECISION IN 1924 REMAIN IN PLAQUE LANGUAGE

Again, City Council Member Steve Napolitano raised this issue during the 7/20/21 Council meeting as not only lacking concrete evidence but also not related to the story of Bruce's Beach because these supposed events occurred in 1927 and 1928, long after the Eminent Domain vote in 1924.

#### LIST OF KEY ISSUES COVERED BY VIDEO REFERENCED ABOVE

- "Negro Invasion" term - Video debunks use of term (Kristin Long again argued for inclusion at 9/29/21 HAB meeting). Council Member Steve Napolitano said this entire story should be deleted during the 7/20/21 Council Meeting. Kristin has now presented a letter from one person that used the "invasion" term but it was removed from the screen so quickly I could not analyze it for context, who wrote it and when. But it was only one person.
- Ordinances to thwart Bruce's business and drive the Black Community out of the City - video debunks. During 9/29/21 meeting, HAB added wording to worsen the already inaccurate and misleading statement by using the term "intention" as if the HAB can read the minds of members of the Board of Trustees almost a hundred years ago based on uncorroborated stories and op-eds in newspapers. Also, omitting context and pertinent facts turns this whole story into a lie.
- Blocking access to beach ["No Trespassing" signs] - Video explains the need for land owners to cordon off land to protect ownership of beach property, like in present-day Malibu. HAB softened this plaque language at 9/29/21 meeting, but it still misleads readers into thinking restrictions were only enforced against "Black beachgoers" to make them walk a few blocks.
- \$14,500 was Fair Compensation - The plaque simply states that the Bruce's requested \$70,000 for their property, plus \$50,000 for damages and received \$14,500 with no other facts. This makes it appear to readers of the plaque that the Bruce's were not fairly compensated and brings into question if they received the benefit of due process. As she did again on 9/29/21, Kristin asks other HAB members if they want to include the fact that \$14,500 was above fair market value and that the Bruce's received due process because the amount was determined by a Court appointed committee of Referees comprised of Realtors that calculated the amount [and the Court had no other choice after the Bruce's waived their right to trial by jury and let the deadline pass for a trial by Referees]. Lindsey Fox argues that the current language is OK - "its straight facts" and "its all in the report." Worse than amateurs, this shows intent to mislead.

## Martha Alvarez

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**From:** Mich Levy <mich@wetipthebalance.org>  
**Sent:** Wednesday, September 29, 2021 3:51 PM  
**To:** List - City Council; City Manager; Suzanne Hadley; Hildy Stern; Steve Napolitano; Richard Montgomery; Joe Franklin  
**Subject:** [EXTERNAL] Re: Goat Hill

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Thank you to those of you who replied and corrected my misunderstandings.

As a young person, when I thought of MB as a place with no history, it was because I felt lost in a way; it didn't help me understand where I came from. I see now, as an adult, that this need for history in order to understand and make sense of who we are isn't only vital for individuals, but for entire communities. And cities.

All best,

Micheline

On 2021-09-28 17:14, Mich Levy wrote:

To Mayor Stern and City Council Members,

I was extremely disappointed to hear that the City of Manhattan Beach is planning to build a senior living complex on Goat Hill.

The businesses there (and adjacent) are vibrant and well used. They are accessible by foot for many and come with their own accessible parking. Personally, I use no less than three businesses there on a regular basis. Why remove them?

I support the idea of the city creating housing and support services for its older adults, but not there. Whereas all the shops at Goat Hill benefit from being on a main thoroughfare, there is no such need for senior housing. On the contrary, it seems like a quieter, more residential location for such housing would be more appropriate for residents and guests, avoiding the need to displaced flourishing local businesses.

As a young person growing up in this city, I found the architecture and constant construction alienating. Goat Hill was one of the few exceptions, and I find that still true today. It would be a pity to lose that structure as well, when it's one of the only ones remaining.

Thank you for considering these three factors among others,

Micheline Levy

## Martha Alvarez

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**From:** Mich Levy <mich@wetipthebalance.org>  
**Sent:** Tuesday, September 28, 2021 5:14 PM  
**To:** List - City Council; City Manager; Suzanne Hadley; Hildy Stern; Steve Napolitano; Richard Montgomery; Joe Franklin  
**Subject:** [EXTERNAL] Goat Hill

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

To Mayor Stern and City Council Members,

I was extremely disappointed to hear that the City of Manhattan Beach is planning to build a senior living complex on Goat Hill.

The businesses there (and adjacent) are vibrant and well used. They are accessible by foot for many and come with their own accessible parking. Personally, I use no less than three businesses there on a regular basis. Why remove them?

I support the idea of the city creating housing and support services for its older adults, but not there. Whereas all the shops at Goat Hill benefit from being on a main thoroughfare, there is no such need for senior housing. On the contrary, it seems like a quieter, more residential location for such housing would be more appropriate for residents and guests, avoiding the need to displaced flourishing local businesses.

As a young person growing up in this city, I found the architecture and constant construction alienating. Goat Hill was one of the few exceptions, and I find that still true today. It would be a pity to lose that structure as well, when it's one of the only ones remaining.

Thank you for considering these three factors among others,

Micheline Levy

## Martha Alvarez

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**From:** Alice Neuhauser <apntrc@msn.com>  
**Sent:** Monday, September 27, 2021 3:21 PM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Peace Pole

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Ladies and Gentlemen,

I am so pleased by the addition of the Peace Pole. In this time of polarization on the national level through the local level, it is gratifying to see this display that should be a beacon of hope and aspiration for everyone. I think the City itself said it best: "The Peace Pole is an internationally-recognized symbol of hope and unity that bears the universal phrase 'May Peace Prevail on Earth.....' We look forward to seeing you as we embrace the inspiring message of hope for a world of peace, a community of peace, for peace in our homes and peace in our schools."

I support postponing the removal of the Peace Pole until the Cultural Arts Commission has had an opportunity to consider the matter.

Thank you,

Alice

Alice P. Neuhauser  
P: 310-275-7505  
[apntrc@msn.com](mailto:apntrc@msn.com)



Please consider whether it is necessary to print this email.

## Martha Alvarez

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**From:** CityOfManhattanBeach@manhattanbeach.gov on behalf of City of Manhattan Beach  
<CityOfManhattanBeach@manhattanbeach.gov>  
**Sent:** Saturday, September 25, 2021 12:03 PM  
**To:** List - City Council  
**Subject:** Peace Pole

Message submitted from the <City of Manhattan Beach> website.

**Site Visitor Name:** Kathe Reiken  
**Site Visitor Email:** Schoepe@aol.com

I would like to express my support in keeping the peace pole. In a much politically divided country it only expresses love. Please give peace a chance.



### CITY OF MANHATTAN BEACH

CITY ENOTIFICATION

(310) 802-5000

CityofManhattanBeach@manhattanbeach.gov

**NOTICE:** The City has migrated the [www.citymb.info](http://www.citymb.info) domain to [www.manhattanbeach.gov](http://www.manhattanbeach.gov). The use of .gov is exclusive to US government agencies, and this change aligns with government best practices and helps protect the City and citizens. This will impact the City's website domain, which will now be [www.manhattanbeach.gov](http://www.manhattanbeach.gov)

**CITY OF MANHATTAN BEACH** 1400 Highland Avenue Manhattan Beach, CA 90266

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## Martha Alvarez

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**From:** Laura Kiely <laurakiely@verizon.net>  
**Sent:** Saturday, September 25, 2021 8:10 AM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Peace Pole

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Council Members,

I support Mayor Stern's request that Council consider postponing the removal of the Peace Pole until its installation is considered by the Cultural Arts Commission. Thank you, Council member Montgomery, for seconding the request. I'd love to see the Peace Pole become a permanent fixture in Manhattan Beach.

Thank you for your consideration.

Best,

Laura Kiely

Manhattan Beach resident since 1994

Sent from my iPhone

## Martha Alvarez

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**From:** Shereen Rayan Lavi <smlhoops1@hotmail.com>  
**Sent:** Thursday, September 23, 2021 10:49 AM  
**To:** List - City Council  
**Subject:** [EXTERNAL] Peace Pole

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### **CC Meeting – change of Mayor**

First, I would like Susan Hadley to apologize to Manhattan Beach residents and Mayor Hildy Stern for her comments during the pass the gavel speech. Hadley is not in the majority when it comes to the residents of Manhattan Beach, she is in the majority *of the council* as it stands today but she does not represent the majority of MB residents. The last candidate who won a seat at the table, won with a slim majority over two liberal candidates who together represented more liberal votes than the candidate who won the seat. In addition, the candidate with the most votes by far was Steve Napolitano, he speaks for the majority of MB residents, and Hildy and Steve align most of the time. Stats on the internet prove that Manhattan Beach leans left/democrat. To falsely claim her views are the majority of the city is a lie, flat out, and she acted like a bully, not professional. Obviously, the only majority in MB that is conservative and backs the prior Mayor are the very loud MINORITY, with a lot of time on their hands.

<https://www.manhattanbeach.gov/home/showpublisheddocument/45119/637425881416330000>

<http://www.digmb.com/2020/11/07/334629/manhattan-beach-voted-68-for-biden>

<http://www.digmb.com/2016/11/15/127257/manhattan-beach-voted-for-clinton-cannabis>

<http://www.digmb.com/2021/09/17/368695/manhattan-beach-voted-62-percent-no-on-recall>

### **Peace Pole**

Second, please make the Peace Pole permanent!!!! If there is anything we need in this city and world right now is a constant reminder for peace, to spread peace, to give peace, to strive for peace. Especially within the city council which to me is ironic that anyone on the council would argue against it, if only just to vote against anything Mayor Stern would suggest even if it is a good suggestion. KEEP THE PEACE POLE!

Thank you for your time.

BTW, it is ugly out there on social platforms, leadership comes from the top! I hope all of you, ALL OF YOU, call for calm and to stop the bullying from conservatives in this town to anyone who disagrees with them. It is really ugly. We need peace. There is so much fear out there, so much, and this is what causes folks not to get vaccinated, save some lives! I believe you all can.

## Martha Alvarez

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**From:** Kim Brant-Lucich <kbrant007@gmail.com>  
**Sent:** Wednesday, September 22, 2021 8:39 AM  
**To:** Bruces Beach Task Force; List - City Council  
**Subject:** [EXTERNAL] Support for Plaque Language

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Bruce's Beach Task Force and City Council,

As a resident of Manhattan Beach, I strongly support the work of the Bruce's Beach History Advisory Board and the plaque language proposed. The HAB followed the direction of City Council to draft a factual account of the Bruce story, based upon the History Report that was previously accepted by City Council. The substance and tone of the plaque language is appropriate.

I urge City Council to accept the plaque language and move forward with replacing the historically inaccurate plaque currently standing at Bruce's Beach Park. Residents and visitors visit the renowned Bruce's Beach to view the location, park and plaques and honor history. Please display our history accurately.

Regards,

Kim Brant-Lucich