

**CITY OF MANHATTAN BEACH  
PARKING AND PUBLIC IMPROVEMENTS COMMISSION  
MINUTES OF REGULAR MEETING  
October 27, 2011**

**A. CALL TO ORDER**

The regular meeting of the Parking and Public Improvements Commission of the City of Manhattan Beach, California, was held on the 27th day of October, 2011, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

**B. ROLL CALL**

Present: Vigon, Fournier, Silverman, Adami, and Chair Stabile.  
Absent: None.  
Staff Present: Curtin, Haaland, and Jester.  
Clerk: Schilling.

**C. APPROVAL OF MINUTES**

A motion was MADE and SECONDED (Adami/Vigon) to approve the minutes of September 22, 2011, regular meeting as written.

Chair Stabile, asked if those commissioners who were absent from the September 22, 2011, meeting were allowed to vote on approval of the minutes.

Planning Manager Laurie Jester stated that those commissioners who were not present at the meeting of the minutes to be approved must abstain.

The Commissioners voted as follows:

AYES: Vigon, Fournier, and Chair Stabile.  
NOES: None.  
ABSENT: None.  
ABSTAIN: Silverman, Adami.

**D. AUDIENCE PARTICIPATION**

None.

Before introducing the first item under General Business, Chair Stabile asked that the Commissioners allow staff to complete their presentation before asking questions.

## **E. GENERAL BUSINESS**

### **10/27/11-2 Consideration of an Encroachment Permit Appeal to Allow Existing Yucca Trees Over 42” in Height on the Public Walkstreet to Remain - 228 7<sup>th</sup> Street.**

Planning Manager Laurie Jester reported that the Appellant, Mr. Wattles in the above mentioned item regarding the Yucca trees at 228 7<sup>th</sup> Street had requested a continuance. She stated that this is the second continuance requested by the party and that the request had been reviewed by the City Attorney and Staff had no objections to a continuance.

Planning Manager Jester asked the Commission to continue the item to the December 1, 2011, meeting emphasizing that the item would move forward at that time, and this would be the last continuance granted.

#### **Action**

A motion was MADE and SECONDED (Vigon/Adami) to continue the item, “Consideration of an Encroachment Permit Appeal to Allow Existing Yucca Trees over 42” in Height on the Public Walkstreet to Remain – 228 7<sup>th</sup> Street” to the December 1, 2011, meeting.

AYES: Vigon, Fournier, Adami, Silverman, and Chair Stabile.  
NOES: None.  
ABSENT: None.  
ABSTAIN: None.

### **10/27/11-3 Consideration of an Encroachment Permit Appeal to Allow Raised Planters in the Public Right-of-Way to Remain – 301 28<sup>th</sup> Street.**

Planning Manager Jester introduced Associate Planner Eric Haaland to present an over view of the Encroachment Permit Appeal to Allow Raised Planters in the Public Right-of-Way to Remain at 301 28<sup>th</sup> Street.

Associate Planner Haaland presented a power point presentation on the Encroachment Appeal. He stipulated that the City issued an encroachment permit for the subject property on December 15, 2010. The approved plan called for curb-height planters stepping down the slope between the roadway curb and the new house being constructed at that same time. Taller planters were actually constructed, and staff notified the applicant that these planters could not be approved. The applicant subsequently filed an encroachment permit appeal application to retain the taller planters.

The submitted appeal plans show three L-shaped concrete walls as high as 20 inches, forming raised planters occupying most of the site’s sloped encroachment area (currently unused public right-of-way on 28<sup>th</sup> Street) between walkways leading to

the house. The approved encroachment permit allows for a maximum height of 12 inches. Staff permitted the one-foot tall planter walls based on the practice of treating six-inch curb height grade changes as insignificant, and applying an averaging method on the slope. This method allows the leveled off planters desired by the applicant to be an average of six inches in height, and no more than 12 inches high at any point.

Staff's position has been that, although some raised planters were pre-existing, they were being eliminated, and the general grade of the encroachment area matched the sloped 28<sup>th</sup> Street curb. New construction is required to eliminate any old non-conformities and new construction must conform to the new code.

Associate Planner Haaland stated that the series of planters in question are approximately 100 feet in length all together and is currently planted with drought tolerant plants, which are great for conserving water but the applicant has stated that they are not useful for preventing erosion. He went on to convey that there are some homes in the area with similar pre-existing planters that are even higher.

Associate Planner Haaland said that staff cannot make the decision on the appeal. It is the responsibility of the PPIC to decide and forward their recommendation to City Council. He explained that staff recommends denial of the encroachment appeal and that the property owner either reduce the height of the planters or eliminate 8 inches of dirt inside the planter.

Commissioner Vigon inquired about a law/code for dedicated sidewalk on 28<sup>th</sup> Street for pedestrian use. Associate Planner Haaland responded that a sidewalk is not required by Public Works.

Commissioner Vigon also asked if the house was new construction from the ground up to which Associate Planner Haaland replied affirmative.

Commissioner Adami asked about the codes for new construction conformity on page two of the report. Planning Manager Jester interjected that the constructed walls do not conform to code and that is why the item is before the PPIC Commission tonight.

Commissioner Fournier inquired about the criteria used by Public Works for sidewalk placement and if the area required sidewalks.

Commissioner Adami wanted clarification on the submitted plans, original and revised for wall height.

Commissioner Silverman asked if there was any discussion about the height of the walls going beyond 12 inches when the plans were submitted. Associate Planner Haaland remarked that there were discussions with the architect at the time.

Commissioner Vigon questioned whether the permit had been finalized, and it had not.

Planning Manager Jester said that there was some confusion with the contractor regarding the code. The contractor was under the impression that the codes were the same for walk streets and vehicular streets. She explained that the property owners were given a temporary Certificate of Occupancy at their request, in order to allow them to landscape as the plants had been purchased and were being stored in the garage. The owners were afraid the plants would die if they continued to wait.

Commissioner Adami asked staff to clarify the problem and the impact the higher walls would have on others. Planning Manager Jester said that staff is opposed to the 20" walls because they did not want a significant grade change nor non-compliance with the code. Associate Planner Haaland added that if the appeal is denied the property owners would have to modify the existing wall to meet code.

Commissioner Vigon asked that staff clarify that it was a public right-of-way and the City was not using it. Associate Planner Haaland confirmed that the City was not using it therefore, encroachments could occur.

Commissioner Adami indicated that if the property owner does not comply with code then staff can't approve the project.

Chair Stabile summarized the information provided by stating that the plans presented to the City were in compliance but the walls as constructed were higher than the maximum 12 inches so they did not comply.

Commissioner Silverman wanted clarify the fact that staff is recommending that they deny the appeal, but at the same time states that staff does not have the authority to make a decision on this appeal item. Planning Manager Jester replied that he was correct.

Commissioner Adami asked if there were any other new projects on the street that did not comply with code. Planning Manager Jester said "No."

Commissioner Fournier asked about the height of the pre-existing planters. Planning Associate Haaland said that there were drainage problems in the past. Planning Manager Jester explained that there were substantial improvements made regarding drainage and erosion and that the City Engineer had signed off on the improvements.

Planning Manager Jester confirmed to Commissioner Adami that the approved plans did comply with code but the walls were built higher.

Planning Manager Jester noted that staff had received letters from neighbors supporting the appeal in the area and that those had been forwarded to the commissioners.

Chair Stabile asked if anyone wished to speak on this item.

Bob Weiss, property owner of 301 28<sup>th</sup> Street stepped to the podium. Mr. Weiss stated that the plans were approved but did not state that the walls were limited to 12 inches.

Mr. Weiss stressed that they are not requesting any special treatment from the City. They want their walls to remain as is per the approved plans by the City. He went on to share that he and his wife purchased the home in the mid 90's and learned quickly that there was a drainage problem when their garage and landscaping were flooded after a hard rain. It appears that there are too many streets in the area that drained down to the corner of Crest and 28<sup>th</sup> and the runoff flowed into the landscape and homes. He complained to the City about the drainage problems and nothing was done. He installed drainage and walls in the landscaping to prevent the erosion and flooding in October 1997 and the height of the walls then was 30 inches (with the City's approval).

Mr. Weiss stated that he and his wife have complied with all the City's demands while building their new home, including the addition of more steel which raised the cost of the project by more than \$50,000. The City also made him improve the street behind his home, which he did for an additional fee. He also stated that they had to remove dirt from the area where the old planters were to accommodate the City approved plans. Now the City will not give them a final until they lower the walls eight inches or remove the dirt inside the planters eight inches.

Mr. Weiss complained that the City has given him several interpretations of the code over this issue with the walls and he finds that there is no consistency. First he has to take down the wall, now he was told he can leave the wall if he removes eight inches of dirt. Again Mr. Weiss reiterated the fact that the City approved the plans and the walls were built according to the drawings and the elevation approved by the City. He feels the City has been unreasonable and he has not been given an acceptable reason as to why the landscaping is a problem.

The City did grant Mr. Weiss a temporary permit so he could move in but he had to give a deposit of \$5000 and pay \$500 for the appeal.

Mr. Weiss shared his concerns with the Director of Community Development, Richard Thompson who suggested that he build a walkway between the curb and the planters at which time he would approve the planter height.

Mr. Weiss reiterated the fact that all he and his wife want is for the City to give him his final permit and for the walls to remain as they are per the approved plans presented to the City in 2009.

Mr. Weiss referred to exhibits that he had compiled in a binder for each of the commissioners to show a visual of the wall and issues he was referring to throughout his presentation.

Chair Stabile asked why Mr. Weiss waited until tonight to provide the bulk of information regarding his appeal to the commissioners and staff. Mr. Weiss responded that his architect was working on a PowerPoint presentation but staff would not permit such a presentation at the PPIC meeting. However, Mr. Weiss stated that staff had seen the information provided in the binder on more than one occasion.

Chair Stabile said he understands Mr. Weiss's frustration but that there was too much information submitted in the binders for the commissioners to process right then and there. Chair Stabile stated that he could not fully consider the information presented in the binder because it was too late.

Mr. Weiss reported that he was not aware of any deadline regarding the introduction of information to commissioners prior to the PPIC meeting.

There was a brief exchange between Commissioner Adami and Mr. Weiss over Exhibit G in the binder and if Public Works approved the plans and height classification on the walls. Mr. Weiss assured him that the contractor built the walls to comply with the elevation on the plans.

Planning Manager Jester responded that the significant alteration of the grade is the problem, and the higher walls are needed to support the raised grade.

Chair Stabile clarified the options; either lower the walls eight inches or remove eight inches of dirt from the planter.

Commissioner Vigon suggested that there might be a third option and that would be to raise the dirt around the outside of the wall.

Mr. Weiss once more stated that the contractor had to remove dirt from the property in order to comply with the construction of the new lower walls that the City approved.

Mr. Weiss stressed that by the time he learned that there was a problem with the walls, the plants were already purchased. Either option presented by the City to comply with the code would require Mr. Weiss to tear up the landscaping in his yard.

Commissioner Adami asked staff what impact there would be to the City if the walls remained as is. Planning Manager Jester stated that there is a significant

change in the grade and that if Mr. Weiss is allowed to leave the wall as is, it would be inconsistent with City municipal code.

Commissioner Adami commented on the rains and flooding issues.

Commissioner Vigon said that it appeared the wall was built to the height relevant to the structure and relevant to the elevation on the plans.

Mr. Weiss said that there was no fixed grade at the time of construction, the curb was installed later and the contractor could only build according to plans. He was not aware of the dirt behind the wall being an issue.

Chair Stabile asked for the status of the project from Staff regarding the wall height and grade.

Planning Manager Jester reported that the City approved the plans, construction began, then at the completion the inspector went out for the final and told the contractor and owner that the walls were too high and he could not provide him with a Certificate of Occupancy. Planning Manager Jester said there have always been two solutions available to Mr. Weiss; lower the wall and soil or lower only the soil.

Chair Stabile asked Mr. Weiss if either of the City's options would be acceptable to him. Mr. Weiss stated that he filed his appeal on August 3, 2011. He refused both options stating that they would destroy his landscaping. Mr. Weiss reiterated the fact that he does not believe that he has violated any code sections as his home was constructed according to City approved plans.

There was a brief exchange between Commissioner Adami and Associate Planner Haaland regarding the appearance of the wall if it were dropped.

Chair Stabile closed public testimony.

Commissioner Fournier agreed with Chair Stabile's stand on the amount and content of information presented tonight regarding this item. He felt that he had been blindsided by all the information presented tonight from Mr. Weiss incorporated in the binder he had received just before the start of the meeting. He has a number of questions but feels that they will only lead to more questions. He is not an architect or a landscaper.

Commissioner Vigon said that this was no different from any other meeting where the commission receives a stack of letters, documents, etc. thrown at them prior to the start of the meeting. He did not feel that Mr. Weiss had done anything wrong in presenting his information at the beginning of the meeting and that Mr. Weiss had not violated any rules. Commissioner Vigon stated that the rules might need to be changed. He stated that this would permit the commissioners to absorb the information presented before moving forward on an item.

Chair Stabile indicated that there was not enough time to question factual findings or to decipher what was presented; it was simply too much information. He asked if there was a motion to continue the matter.

Commissioner Adami suggested that a rule that no evidentiary materials could be submitted the same night as the meeting.

Planning Manager Jester reminded the commission that their role is to provide a public forum, listen, and determine a recommendation. No other bodies refuse material the night of a meeting, City Council or Planning Commission, she stated. The matter to be determined she said, is that the walls are over 12" high and not constructed to code.

Commissioner Adami stated that he is aware that it can be stressful to build a home in Manhattan Beach because he has done it. He noted that it does not appear that the walls would pose any significant problem if left as is.

Chair Stabile was concerned about setting a president for encroachment appeals if the commission agrees to make an exception. It is a standard code he noted and is fearful that it will not have any meaning if an exception is permitted. Planning Manager Jester explained that encroachments need to be viewed on a case-by-case basis because the curbs, slopes and grades are all different. She commented that one needs to also see the big picture and to determine what the City should look like as a whole.

Commissioner Adami stated that he understands the code but if there is no significant impact that the commission should grant the appeal.

Commissioner Silverman said that exceptions are permitted within the code. The question is practicality.

Chair Stabile closed the discussion among the commissioners.

### **Action**

A motion was MADE and SECONDED (Adami/Silverman) to approve the Encroachment Appeal to allow raised planters in the public-right-of-way to remain as is at 301 28<sup>th</sup> Street.

AYES: Vigon, Silverman, and Adami.  
NOES: Stabile and Fournier.  
ABSENT: None.  
ABSTAIN: None.

Planning Manager Jester explained that staff will present the recommendation of the Commission under the Consent Agenda at the November 15, 2011, regular City Council meeting.

## Audience Participation

None.

### F. COMMISSION ITEMS

1. Commissioner Silverman expressed his concerns over the parking signs and meters on Parkview Avenue. He does not understand why the City doesn't allow parking on the street where they were unable to place meters because of the grade. Why take parking away. He would like the No Parking signs to be consistent with the meter signs, same restrictions on both sides of the street.

Commissioner Adami feels that the meters are seldom in use.

Commissioner Fournier asked for clarification from Commissioner Silverman on his suggestions for Parkview, asking whether he wanted the meters removed from Parkview. In response, Commissioner Silverman said that it was not his issue for tonight but something that may need to be brought up in the future.

Commissioner Vigon agreed that the signage should be the same on both sides of the street but questioned if it would make a significant difference.

Commissioner Adami said that the meters were placed on Parkview without notifying the PPIC Commission as far as he can recall. He reiterated the fact that it he has observed very few cars parked there regardless of the time of day since the meters were installed.

Chair Stabile asked Management Analyst Curtin to look in to changing signage to reflect the same message on both sides of the street.

Management Analyst Curtin stated that the Commission's recommendation and comments will be forwarded to City Council and this item is scheduled to be presented to Council at the January 17<sup>th</sup> City Council meeting.

Commissioner Adami commented that there was \$30,000 worth of equipment installed on Parkview that wasn't generating any revenue for the City.

2. Commissioner Vigon addressed the issue of submitting information to the commissioners at the time of the meeting. He expressed his desire to be able to view the information submitted and felt it was important to have the time to do so. Though he acknowledged that other government bodies in the City do not do so; perhaps it may still be an option for the PPIC Commission to pursue.

Chair Stabile asked staff about imposing a deadline on submission of information prior to the PPIC meeting of any party appealing a decision.

Commissioner Silverman agreed with Commissioner Vigon that it would be helpful to have applicant information in advance but didn't feel it would be appropriate to lecture people for not getting it in since in fact there is no deadline in place.

Commissioner Adami interjected that he would also like to get information from staff in advance as well.

Commissioner Fournier expressed his concerns with burdening staff but would appreciate some type of notice to applicants to submit information in a more timely manner. He thought perhaps staff was caught off guard with the binders they were given by the applicant tonight as well as the commissioners.

Commissioner Vigon suggested that staff include one sentence on the application requesting that information be submitted in advance so that the PPIC Commissioners could receive it in their Friday packet prior to the Thursday meeting.

Commissioner Fournier agreed with this concept.

Management Analyst Curtin agreed that staff could include one sentence stipulating a deadline on the application similar to the one currently in place on Planning Applications, as well as the notice.

3. Commissioner Adami would like to revisit the placement of a cross walk on Manhattan Beach Boulevard south of Target. He has concerns over the safety of pedestrians who cross at the signal on Manhattan Beach Boulevard and Cedar Avenue.

Management Analyst Curtin said it was not on the CIP passed by Council for the 2011-2012 budget. There was some discussion about gathering signatures from the neighbors to petition Council for a sidewalk. Management Analyst Curtin said he would review any petition submitted.

4. Commissioner Silverman expressed his concerns over the price of a parking ticket, \$48 being rather significant for most people

Chair Stabile asked what he wanted the commission to do about it.

Commissioner Silverman thinks that the City increased the cost of a parking too much when the fees were raised. He would like to revisit the item.

Chair Stabile reminded the commissioners that they recommended the raise.

Commissioner Adami suggested a petition to decrease the cost of a parking ticket.

Commissioner Fournier agrees that the cost of parking tickets is a burden for people and they do get upset when they return to their car to find a ticket. It is his understanding from Councilmember Powell is that the City doesn't realize a lot of revenue from parking tickets.

## **G. STAFF ITEMS**

1. Management Analyst Curtin informed the commissioners that he had inserted a copy of the Financials in their packet for review.

Commissioner Vigon requested financial information on the meters placed on Parkview. He seldom sees vehicles parked there and would like to get a total of revenue produced from those meters.

Chair Stabile agreed stating that he generally sees less than a handful of cars parked there.

Management Analyst Curtin explained that the financial report he provided the commission doesn't reflect such specifics. He offered to check with Finance to see if he could get a report of revenue generated from the meters on Parkview. He will report back to the commission at the next meeting.

2. Management Analyst Curtin provided a status update on the Safe Route to School Grant in response to Commissions request at the September 22, 2011 meeting. He stated that the City was awarded \$490,600 which includes everything the city had requested.

Planning Manager Jester acknowledged that Traffic Engineer Rydell and Management Analyst Madrid did a great deal of work to get the grant done. She added that the City of Manhattan Beach received the same amount of money as Long Beach who has a population much larger than ours. Planning Manager Jester revealed that Pennekamp (who had opted out of the program last time) has a new principal who is interested in working with the City for the next grant application.

In response to the commissions questions regarding the City ticketing those drivers who "do not curb their wheels", Planning Manager Jester noted that it is a safety issue, that was very critical to the police department.

Commissioner Silverman complimented the CSO's for a job well done.

3. Management Analyst Curtin addressed Commissioner Fournier's concerns about the street scape cleaning around Highland and Manhattan Beach Boulevard. Management Analyst Curtin stated that currently the Manhattan Beach Boulevard side

of the street is cleaned two times a week and the Highland side of the street is cleaned one time a week. He said it would be an additional \$800 to increase the cleanings.

4. Commissioner Vigon had expressed concerns over the crosswalks on Highland Avenue in the north end of town. Management Analyst Curtin did a physical inventory of the area in question and found that most cross walks had red curbs of one car length on either side but he counted at least four approaches where vehicles were allowed to park up to the crosswalk.

## **H. ADJOURNMENT**

The Meeting was adjourned at 8:37 p.m. to the Special PPIC Meeting on Thursday, December 1, 2011, at 6:30 p.m. in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.