



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Richard Montgomery and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Esteban M. Danna, Assistant Planner

DATE: July 15, 2008

SUBJECT: Consideration of Planning Commission Approval of a Use Permit Amendment to Allow the Extension of Hours of Operation for Berritree Frozen Yogurt, Located at 350 N. Sepulveda Boulevard.

RECOMMENDATION:

Staff recommends that the City Council **RECEIVE** and **FILE** the Planning Commission's approval of the Use Permit Amendment for 350 N. Sepulveda Boulevard.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

BACKGROUND

In April of 2008, Staff received an application for a Use Permit amendment for the subject property. At its regular meeting on June 25, 2008, the Planning Commission held a Public Hearing and adopted Resolution No. PC 08-10 (Exhibit A), approving the Use Permit amendment. The subject application proposes to expand the hours of operations to include morning hours.

DISCUSSION

The applicant proposes to expand Berritree's menu by adding breakfast foods (bagels, muffins, waffles, etc.) and coffee drinks to their existing frozen yogurt menu. Currently, the Use Permit restricts the business from opening before 11am. The applicant proposes to amend Condition 6 in Section 2 of Resolution No. PC 00-16 and requests earlier opening hours but not change closing hours. The proposed hours of operation are 7am to 11pm weekdays, and 7am to midnight Fridays and Saturdays. Staff has no concerns with the proposed new morning hours. The City's Traffic Engineer and Police Department did not express concerns with the expansion of hours of operations. Alcoholic beverage service is prohibited.

Condition 6 on page 2 in Resolution No. PC 08-10 has been changed. All other conditions of the previous resolution will remain substantially the same. The Use Permit findings have been revised in Resolution No. PC 08-10. A public notice for the project was mailed to the property owners within 500 feet of the site and published in the Beach Reporter newspaper. Staff did not receive any comments regarding this application.

The Planning Commission discussed the proposal and concluded that it was consistent with the General Plan and made all the necessary findings required to approve the Use Permit Amendment. The public hearing was opened, no one wished to speak before the Commission and thus the public hearing was closed.

ALTERNATIVES:

The alternative to the staff recommendation includes:

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

Attachments: A. Resolution No. PC 08-10
B. Planning Commission minutes excerpt 06/25/2008
C. Planning Commission Staff Report & Attachments (Exhibits A-D)
06/25/2008

cc: Pete Song, Applicant Representative
Stuart Sackley, Property Owner

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RESOLUTION NO. PC 08-10

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO ALLOW EXTENSION OF MORNING OPERATING HOURS FOR A RESTAURANT LOCATED AT 350 N. SEPULVEDA BOULEVARD (Berritree Frozen Yogurt)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on June 25, 2008, received testimony, and considered an application for a use permit to allow extension of operating hours at an existing restaurant located on the property legally described as portions of Southerly 70 feet of Lots 10, 11, and 12, and the northerly 50 feet of Lots 15, 16, and 17, Block 30 Tract 142, located at 350 N. Sepulveda Boulevard in the City of Manhattan Beach.
- B. The applicant for the subject project is Jeff Choung. The owner of the property is Stuart Sackley.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The project is Categorically Exempt (Class 1, Section 15301) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of an existing facility.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The General Plan designation for the property is General Commercial. The General Plan encourages commercial uses such as this that serve City residents, and are buffered from residential areas.
- G. The existing uses and proposed change in hours of operations are consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for a full range of retail and service businesses as well as professional office uses.
- H. The existing uses and proposed change in hours of operations pose no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
- I. The existing uses and proposed change in hours of operations will comply with the conditions required for the district in which it is located.
- J. The change in hours of operations would not adversely impact nearby resident or commercial properties as they are related to traffic, parking, noise, vibration, odors, personal safety, or aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. The proposed change will not affect the required on-site parking and will not create an additional demand for public services and facilities which cannot be mitigated.
- K. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject restaurant and supersedes all previous resolutions pertaining to the restaurant use, including Resolution Nos. PC 00-16, 78-44, 77-41, 76-16, and 74-16.



Resolution No. PC 08-10

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans and project description as approved by the Planning Commission on June 25, 2008. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

5. * The facility shall operate as an eating and drinking establishment use.
6. * Hours of operation shall be limited to 7am to 11pm Sunday through Thursday, and 7am to midnight Friday and Saturday.
7. * Alcohol service shall be prohibited.
8. * Entertainment other than background music or television is prohibited.
9. A trash storage area, with adequate capacity shall be available on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided and implemented as required by the Public Works Department.
10. Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code. No additional parking is required as a result of this use permit amendment.
11. The restaurant operator shall prohibit employees from parking personal vehicles on the surrounding residential streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The operator shall provide written instructions to all employees identifying where parking is appropriate and where street parking is prohibited. Prior to use permit implementation, a written employee parking program shall be submitted for Community Development Department approval.
12. All signs shall be in compliance with the City's Sign Code.
13. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.
14. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
15. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.

- 1 16. The management of the facility shall police the property and all areas immediately adjacent to the
- 2 business during the hours of operation to keep it free of litter.
- 3 17. The operator of the facility shall provide adequate management and supervisory techniques to
- 4 prevent loitering and other security concerns outside the subject business.
- 5 18. No waste water shall be permitted to be discharged from the premises. Waste water shall be

6 **Procedural**

- 7 19. All provisions of the Use Permit are subject to review by the Community Development Department
- 8 6 months after occupancy and yearly thereafter.
- 9 20. This Use Permit shall lapse two years after its date of approval, unless implemented or extended
- 10 pursuant to 10.84.090 of the Municipal Code.
- 11 21. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c),
- 12 the project is not operative, vested or final until the required filing fees are paid.
- 13 22. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal
- 14 and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions
- 15 associated with the approval of this project brought against the City. In the event such a legal
- 16 action is filed against the project, the City shall estimate its expenses for the litigation. Applicant
- 17 shall deposit said amount with the City or enter into an agreement with the City to pay such
- 18 expenses as they become due.
- 19 23. At any time in the future, the Planning Commission or City Council may review the Use Permit for
- 20 the purposes of revocation or modification. Modification may consist of conditions deemed
- 21 reasonable to mitigate or alleviate impacts to adjacent land uses.
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Resolution No. PC 08-10

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 25, 2008 and that said Resolution was adopted by the following vote:

**AYES: Lesser, Powell, Seville-Jones, Fasola,
Paralusz**

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

1 E. PUBLIC HEARINGS

2 1. Consideration of a Use Permit Amendment to Allow the Extension of Hours of
3 Operation for Berritree Frozen Yogurt Located at 350 N. Sepulveda Boulevard

4 Assistant Planner Danna summarized the staff report. He indicated that the subject
5 establishment operates under an existing Use Permit. He commented that restaurant uses have
6 historically been located on the subject site with varying hours of operation. He said that
7 Condition 6 on page 2 of the current Use Permit allows hours of operation of 11:00 a.m. until
8 11:00 p.m. Sunday through Thursday and 11:00 a.m. until midnight on Friday and Saturday.
9 He indicated that the proposal is to expand their current yogurt menu to include breakfast items
10 such as bagels, muffins, waffles, and coffee. He said that the hours as proposed would be 7:00
11 a.m. to 11:00 p.m. Sunday through Thursday and 7:00 a.m. to midnight on Friday and Saturday.
12 He indicated that staff does not have a concern with the proposed morning hours, as the site is
oriented toward a major thoroughfare and is not directly adjacent to any residences. He
commented that the Police Department and the City's Traffic Engineer have not expressed any
concerns regarding the proposal. He indicated that all other conditions in the existing Use
Permit would not change, and the Use Permit findings have been changed in the draft
Resolution. He stated that notice was mailed to properties within 500 feet and published in the
Beach Reporter. He said that staff has received no public comments regarding the proposal.

13 In response to a question from Chairman Lesser, Director Thompson said that the restrictions
14 were clear when the original Resolution was first adopted. He said that varying any conditions
15 from the original Resolution including the hours of operation requires approval by the
16 Commission. He commented that language could possibly be included in Condition 6 to allow
17 the Community Development Director the authority to adjust the hours of operation further;
however, staff would want any expansion beyond the subject proposal to come back before the
Commission.

18 Commissioner Powell requested that asterisks be included on items 5 through 8 on page 2 of
19 the draft Resolution as are included in the original Use Permit to indicate that they are site
specific conditions.

20 In response to a question from Commissioner Fasola, Director Thompson said that older
21 restaurants which were in operation before Use Permit requirements or that have Use Permits
22 that include no restrictions can operate 24 hours. He indicated that hours for restaurants are
23 restricted in certain zones. He commented that the hours permitted within the CG (commercial
general) zone in which the subject site is located along Sepulveda Boulevard are very liberal.

24 Audience Participation

25 Pete Song, representing the applicant, said that there has been a demand for establishments in
26 the subject area that serve breakfast and coffee since the closing of the Manhattan Coffee
Company. He said that approval would not have any adverse effects on the adjacent area.

27 Chairman Lesser opened the public hearing.

28 There being no one wishing to speak before the Commission, Chairman Lesser closed the
29 public hearing.

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Discussion

Commissioner Powell said that it would be a benefit to residents and businesses in the area to extend the hours of the subject use to open at 7:00 a.m. for breakfast. He pointed out that no alcohol would be allowed to be served. He indicated that the proposal meets the legal requirements to grant the Use Permit and is consistent with the General Plan. He said that the proposal meets the goals of encouraging a mix of local businesses; encouraging the generation of sales taxes; and encouraging a diversity of retail and service industries. He commented that it would not have any detriment to the community or to public health safety and welfare. He pointed out that no objections have been raised in response to the proposal by surrounding neighbors. He also pointed out that it is the type of business that is appropriate for the CG zone. He indicated that it meets the necessary requirements, and he would be in favor of the application.

Commissioner Fasola commented that he is in favor of the application and does not have a concern with the proposed earlier hours of operation. He commented that parking is not an issue during the morning; however the subject shopping center has one of the worst parking situations on Sepulveda Boulevard. He asked if there may be any opportunities to add parking to the rear of the site. He commented that he feels the proposal may be an opportunity to consider possibly adding parking.

Director Thompson said that the subject building is older and generally not in conformance with current Code requirements. He commented that the parking demands would be considered more closely for an intensification of use. He indicated that parking generally is not a problem during the morning hours, and staff does not have a concern with any parking impact resulting from the subject proposal.

Commissioner Seville-Jones said that she visited the site and enjoyed sampling yogurt at the establishment. She stated that the site is oriented toward Sepulveda Boulevard and does not impact the neighbors. She commented that she supports the proposal.

Commissioner Paralusz said that she is in favor of granting the subject Use Permit Amendment for the reasons stated by the other Commissioners.

Chairman Lesser said he also fully supports the application.

Action

A motion was MADE and SECONDED (Seville-Jones/Paralusz) to **APPROVE** a Use Permit Amendment to Allow the Extension of Hours of Operation for Berritree Frozen Yogurt Located at 350 North Sepulveda Blvd.

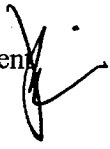
- AYES: Fasola, Paralusz, Powell, Seville-Jones, Chairman Lesser
- NOES: None
- ABSENT: None
- ABSTAIN: None


F. DIRECTORS ITEMS

None.

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

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Esteban Danna, Assistant Planner 

DATE: June 25, 2008

SUBJECT: Use Permit Amendment to Allow the Extension of Hours of Operation for Berritree Frozen Yogurt Located at 350 N. Sepulveda Boulevard.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the request to increase the morning hours of operation from 11am to 7am with no change to the closing hours of 11pm Sunday through Thursday, and midnight Friday and Saturday.

APPLICANT

Jeff Choung
350 N. Sepulveda Blvd
Manhattan Beach, CA 90266

OWNER

Stuart Sackley
4108 The Strand
Manhattan Beach, CA 90266

BACKGROUND

The subject restaurant facility, formerly Ben and Jerry's Ice Cream, is currently occupied by the applicant, Berritree Frozen Yogurt under an existing use permit (Exhibit A). Historically, restaurant uses have occupied the subject space and hours of operations have varied since 1978. Condition 6 in Section 2 of Resolution PC 00-16 (current Use Permit) allows the Berritree Frozen Yogurt to operate from 11am to 11pm Sunday through Thursday and from 11am to midnight on Fridays and Saturdays. Alcoholic beverage service is prohibited. The subject application requests that the Planning Commission consider extending the allowed hours of operation. Section 10.84.020 of the Manhattan Beach Municipal Code (MBMC) gives the Planning Commission authority to approve Use Permits or Variances.

DISCUSSION

The applicant proposes to expand Berritree's menu by adding breakfast foods (bagels, muffins, waffles, etc.) and coffee drinks to their existing frozen yogurt menu. Currently, the Use Permit restricts the business from opening before 11am. The applicant proposes to amend Condition 6 in Section 2 of Resolution PC 00-16 and requests earlier opening hours but not change closing hours.

The proposed hours of operation are 7am to 11pm weekdays, and 7am to midnight Fridays and Saturdays. The existing closing times are fairly typical of recent restaurant approvals in the City and staff has no concerns with the proposed new morning hours since the use is oriented toward a major



Condition 6 on page 2 in the Draft Resolution (Exhibit B) has been changed. All other conditions of the previous resolution will remain substantially the same. The Use Permit findings have been revised in the Draft Resolution.

Use Permit Findings

In order to approve a Use Permit or an amendment to a Use Permit the following findings must be made by the Planning Commission in accordance with MBMC Section 10.84.060. Staff believes all findings can be met as follows:

1. *The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located.*

The building is located within the CG district. The existing uses and proposed change of hours of operations are consistent with MBMC Section 10.16.010 which states that the district is intended to provide opportunities for a full range of retail and service businesses as well as professional office uses.

2. *The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city.*

The existing uses and proposed change of hours of operations pose no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. Specifically, the project is consistent with the following Goals and Policies of the General Plan:

Goal LU-6.1: Support and encourage small businesses throughout the City.

Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

Goal LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.

3. *The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located;*

The existing uses and proposed change of hours of operations will comply with the conditions required for the district in which it is located.

4. *The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.*

The change of hours of operations would not adversely impact nearby resident or commercial properties as they are related to traffic, parking, noise, vibration, odors, personal safety, or aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. The proposed change will not affect the required on-site parking and will not create an additional demand for public services and facilities which cannot be mitigated.

Public Input

A public notice for the project was mailed to the property owners within 500 feet of the site and published in the Beach Reporter newspaper. Staff did not receive any comments at the writing of this report.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 1) as minor modifications to an existing facility per Section 15301 of CEQA.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and **APPROVE** the subject Use Permit Amendment.

Attachments:

- A. Resolution No. PC 00-16
- B. Draft Resolution No. PC 08-XX
- C. Previous Resolutions
- D. Vicinity Map

cc: Pete Song, Applicant Representative
Stuart Sackley, Property Owner

RESOLUTION NO. PC 00-16

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO
ALLOW EXTENSION OF OPERATING HOURS FOR A RESTAURANT
LOCATED AT 350 N. SEPULVEDA BOULEVARD (Ben & Jerry's of
California Inc.)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES
HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on June 14, 2000, received testimony, and considered an application for a use permit to allow extension of operating hours at an existing restaurant located on the property legally described as portions of Southerly 70 feet of Lots 10, 11, and 12, and the northerly 50 feet of Lots 15, 16, and 17, Block 30 Tract 142. located at 350 N. Sepulveda Boulevard in the City of Manhattan Beach.
- B. The applicant for the subject project is Ben & Jerry's of California Inc. The owner of the property is Stuart Sackley.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The project is Catorgically Exempt (Class 1, Section 15301) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of an existing facility.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The General Plan designation for the property is General Commercial. The General Plan encourages commercial uses such as this that serve city residents, and are buffered from residential areas.
- G. The property is located within Area District I and is zoned CG Commercial General. The surrounding private land uses consist of commercial and residential uses. The use is permitted by the zoning code and is appropriate as conditioned for the Sepulveda Boulevard commercial area.
- H. Approval of the later hours for the existing restaurant use, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since the use is expected to be desirable to area residents, and the closing times are typical reasonable restaurant hours for a commercial area.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code as well as specific conditions contained herein further regulating the project.
- J. The later closing times will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities, since it is a very small operation in general, appropriately located within a commercial area, and conditioned herein to prevent possible adverse impacts.
- K. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject restaurant and supersedes all previous resolutions pertaining to the restaurant use.

EXHIBIT
A

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans as approved by the Planning Commission on June 14, 2000. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

5. * The facility shall operate as an eating and drinking establishment use.
6. * Hours of operation shall be limited to 11am to 11pm Sunday through Thursday, and 11am to midnight Friday and Saturday.
7. * Alcohol service shall be prohibited.
8. * Entertainment other than background music or television is prohibited.
9. A trash storage area, with adequate capacity shall be available on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided and implemented as required by the Public Works Department.
10. * Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code and Local Coastal Program. No additional parking is required as a result of this use permit amendment.
11. * The restaurant operator shall prohibit employees from parking personal vehicles on the surrounding residential streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The operator shall provide written instructions to all employees identifying where parking is appropriate and where street parking is prohibited. Prior to use permit implementation, a written employee parking program shall be submitted for Community Development Department approval.
12. All signs shall be in compliance with the City's Sign Code.
13. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.

14. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
15. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.
16. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
17. The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
18. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

19. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
20. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
21. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
22. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
23. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

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

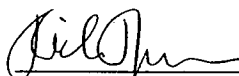
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 14, 2000 and that said Resolution was adopted by the following vote:

AYES: Kuch, Milam, Simon,
Ward, Chairman Kirkpatrick

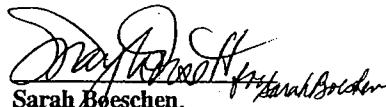
NOES: None

ABSTAIN: None

ABSENT: None



RICHARD THOMPSON,
Secretary to the Planning Commission



Sarah Boeschen,
Recording Secretary

RESOLUTION NO. PC 08-XX

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO ALLOW EXTENSION OF MORNING OPERATING HOURS FOR A RESTAURANT LOCATED AT 350 N. SEPULVEDA BOULEVARD (Berritree Frozen Yogurt)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on June 25, 2008, received testimony, and considered an application for a use permit to allow extension of operating hours at an existing restaurant located on the property legally described as portions of Southerly 70 feet of Lots 10, 11, and 12, and the northerly 50 feet of Lots 15, 16, and 17, Block 30 Tract 142, located at 350 N. Sepulveda Boulevard in the City of Manhattan Beach.
- B. The applicant for the subject project is Jeff Choung. The owner of the property is Stuart Sackley.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The project is Categorical Exempt (Class 1, Section 15301) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of an existing facility.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The General Plan designation for the property is General Commercial. The General Plan encourages commercial uses such as this that serve City residents, and are buffered from residential areas.
- G. The existing uses and proposed change in hours of operations are consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for a full range of retail and service businesses as well as professional office uses.
- H. The existing uses and proposed change in hours of operations pose no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
- I. The existing uses and proposed change in hours of operations will comply with the conditions required for the district in which it is located.
- J. The change in hours of operations would not adversely impact nearby resident or commercial properties as they are related to traffic, parking, noise, vibration, odors, personal safety, or aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. The proposed change will not affect the required on-site parking and will not create an additional demand for public services and facilities which cannot be mitigated.
- K. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject restaurant and supersedes all previous resolutions pertaining to the restaurant use, including Resolution Nos. PC 00-16, 78-44, 77-41, 76-16, and 74-16.

EXHIBIT
B

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans and project description as approved by the Planning Commission on June 25, 2008. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

5. The facility shall operate as an eating and drinking establishment use.
6. Hours of operation shall be limited to 7am to 11pm Sunday through Thursday, and 7am to midnight Friday and Saturday.
7. Alcohol service shall be prohibited.
8. Entertainment other than background music or television is prohibited.
9. A trash storage area, with adequate capacity shall be available on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided and implemented as required by the Public Works Department.
10. Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code. No additional parking is required as a result of this use permit amendment.
11. The restaurant operator shall prohibit employees from parking personal vehicles on the surrounding residential streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The operator shall provide written instructions to all employees identifying where parking is appropriate and where street parking is prohibited. Prior to use permit implementation, a written employee parking program shall be submitted for Community Development Department approval.
12. All signs shall be in compliance with the City's Sign Code.
13. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.
14. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
15. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.

16. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
17. The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
18. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

19. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
20. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
21. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
22. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
23. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

Resolution No. PC 08-XX

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 25, 2008 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

RESOLUTION NO. 78-44

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH AMENDING THE CONDITIONAL USE PERMIT, GRANTED BY RESOLUTION NO. 76-16, FOR PROPERTY CONSISTING OF A PORTION OF LOTS 10, 11, 12, 15, 16, AND 17 OF BLOCK 30 OF TRACT NO. 142, IN THE CITY OF MANHATTAN BEACH. (350 North Sepulveda Boulevard)

WHEREAS, The Board of Zoning Adjustment of the City of Manhattan Beach conducted a public hearing to consider the Conditional Use Permit Amendment for the operation and expansion of the Great American Egg Company located at 350 North Sepulveda Boulevard; and

WHEREAS, the application was filed by Mr. Juan Valencia, owner of the Great American Egg Company, and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the subject property:

1. The expanded facility consists of the abandoned floor area of the Smokey Gap-Deli together with that of the Great American Egg Company which adjoins the Smokey Gap-Deli.
2. That both of the aforementioned businesses are covered by Conditional Use Permit which permits the serving of beer and wine in conjunction with food.
3. The hours of operation will be 8 a.m. to 4 p.m., Sunday and Monday and 8 a.m. to 9 p.m. Tuesday through Saturday.
4. That there were no substantial problems expressed by local residents at this hearing or separately to the Staff.

NOW, THEREFORE, BE IT RESOLVED, that based on the above findings, the Board of Zoning Adjustment approves the requested conditional use permit amendment with the following conditions:

- A. That the service of beer and wine be sold only in conjunction with the service of food.
- B. That noise emanation from the subject property across residential property lines shall comply with the City's adopted Noise Ordinance.
- C. That a refuse enclosure be erected on all sides of the bin, including top.
- D. That no storage of any materials be permitted in the open. Said materials to include, but not be limited to, the following: boxes, refuse, bottles, trash, trash cans, beer kegs, and materials related to the operation of said business.
- E. That the rear portion of the subject property be "policed" by employees of said business to insure that there are no articles stored in the open.
- F. That should the business change substantially from that described in the findings, the change shall first be reviewed by the Board of Zoning Adjustment.
- G. That no amplified live music be permitted.

EXHIBIT
C

BZA RESOLUTION NO. 78-44
350 N. Sepulveda Blvd.
Great American Egg Co.

Page 2 of 2

I certify that the attached is a full, true and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of October 10, 1978, and that said resolution was carried by the following vote:

AYES: Commissioners Clancy, Cole, Duffy,
Logan and Chairman Hayden;

NOES: None;

ABSENT: None

NOT VOTING: None

THOMAS H. CORLEY
Secretary to the Board of Zoning Adjustment

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH AMENDING THE CONDITIONAL USE PERMITS FOR THE BUSINESSES LOCATED AT 250, 350 #1, 350 #2 NORTH SEPULVEDA BOULEVARD. PROPERTY LEGALLY DESCRIBED AS LOTS 10, 11, & 12 of Blk. 30, TRACT No. 142 AND THE WEST 150 FEET OF VACATED PORTION OF 3rd. STREET LYING EAST OF SEPULVEDA BOULEVARD AND THE NORTH 15 FEET OF LOTS 10, 11, & 12 OF BLOCK 35 OF TRACT NO. 142 IN THE CITY OF MANHATTAN BEACH, (BUSINESSES COMMONLY REFERRED TO AS: STRAW HAT PIZZA, GREAT AMERICAN EGG CO., AND SMOKEY GAP-DELI).

WHEREAS, the subject of the resolution is a review of the existing Conditional Use Permits for three restaurants on adjacent properties on Sepulveda Blvd. which restaurants are known as Straw Hat Pizza, 250 No. Sepulveda Blvd. ; Smokey Gap-Deli, 350 #1 No. Sepulveda Blvd. ; 350 #2 No. Sepulveda Blvd. ; and

WHEREAS, the condition prompting the review is the throwing of debris onto residential property located down the slope to the rear of the property containing the restaurants. Such a throwing of debris creates a health and safety hazard.

WHEREAS, a public hearing was scheduled and testimony was received from the owner of the property and representatives of each of the three affected restaurants and members of the public residing in the area.

WHEREAS, police reports of May 23, 1977, and August 1, 1977, were submitted and reviewed by the Board of Zoning Adjustment, and a petition signed by 42 local residents was reviewed.

WHEREAS, effective December 6, 1978, there will be a requirement for the construction of a 6-foot screen wall on the east boundary of the property being reviewed. Code Section 10-3.1317(i)1

NOW, THEREFORE, BE IT RESOLVED, that the Board of Zoning Adjustment recommends that the Conditional Use Permits for the three affected establishments be modified according to the terms of Section 10-3.2001 to add the following conditions:

1. That a 6-foot screen wall as measured from the top of the parking lot of a nature that you cannot see through and is non-climbable shall be constructed and it shall be of architectural treatment found suitable to the staff of the Community Development as judged against the standards of the improvements on the property. The extent of the wall is along the entire east property line from 5th Street south to the south boundary of the Straw Hat Pizza leasehold.
2. That a landscape planter with a 6" concrete curb be installed along the west side of said wall except in the region immediately behind the Goat Hill building improvement and for a suitable drive-way leading to said parking area.
3. That all refuse enclosures be enclosed on all sides (including top) and provided with a locking device to allow opening by commercial tenants only.
4. That no storage of any materials be permitted in the open. Said materials to include, but not limited to, the following: boxes, refuse, bottles, trash, trash cans, beer kegs and materials related to operation of said businesses.
5. That the rear portion of the subject property be "policed" by employees of said establishments to insure that there are no articles stored in the open.

6. That an architectural screen wall be build along the south property line of Straw Hat Pizza.
7. That the above additional conditions shall be implemented within 60 days from the time the modified Conditional Use Permit becomes final.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution adopted by the Board of Zoning Adjustment at its regular meeting of August 23, 1977, and that said Resolution was adopted by the following vote:

AYES: Commissioners Logan, Hayden, Myska and Chairman Armistead.

NOES: None

ABSENT: Commissioner Clancy

NOT VOTING: None.

THOMAS H. CORLEY,
Director of Community Development.

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH GRANTS THE CONDITIONAL USE PERMIT FOR PROPERTY CONSISTING OF PORTION OF LOTS 10, 11, 12, 15, 16, and 17 OF BLOCK 30 OF TRACT NO. 142, IN THE CITY OF MANHATTAN BEACH. (350 North Sepulveda Boulevard)

WHEREAS, the Board of Zoning Adjustment, of the City of Manhattan Beach, conducted a Public Hearing, pursuant to applicable law, to consider an application for a Conditional Use Permit for the property legally described as Portion of Lots 10, 11, 12, 15, 16, and 17, of Block 30 of Tract No. 142, in the City of Manhattan Beach; and

WHEREAS, the application was requested to use the above legally described property for the purpose to sell beer and wine in conjunction with a bonafide restaurant business; and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the property known as "The Great American Egg Company":

1. Applicant proposes to sell beer and wine in conjunction with a bonafide restaurant.
2. The proposed use will not have an adverse environmental impact or an impact on the neighborhood.
3. The proposed use will be consistent with the General Plan provided the following conditions are met:
 1. That beer and wine be sold only in conjunction with the service of food.
 2. Applicant complies with all applicable provisions of the Municipal Code including refuse enclosure, signs and parking.
 3. That all noise emanation from the subject property across residential property lines shall not exceed the noise level set forth in Ordinance 1362 for residential uses.
 4. That no amplified music or entertainment be permitted.
 5. That compliance to the above stated conditions be verified by an inspection prior to issuance of the subject Conditional Use Permit.
 6. That review of the above conditions take place annually.

I hereby certify that the foregoing is a full, true and correct copy of the Resolution adopted by the Board of Zoning Adjustment at its regular meeting of February 24, 1976, and that said Resolution was adopted by the following vote:

AYES: Commissioners Hayden and Schuck and
Chairman Armistead

NOES: None

ABSENT: Commissioners Logan and Olson

NOT VOTING: None

THOMAS H. CORLEY
Director of Community Development

RESOLUTION NO. 74-16

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT
OF THE CITY OF MANHATTAN BEACH GRANTING A
CONDITIONAL USE PERMIT FOR PROPERTY CONSIST-
ING OF A PORTION OF LOTS 10, 11, 12, 15, 16 AND 17,
BLOCK 30, TRACT NO. 142, IN THE CITY OF MANHAT-
TAN BEACH. (350 North Sepulveda Boulevard)

WHEREAS, the Board of Zoning Adjustment of the City of Manhattan Beach conducted a public hearing to consider a request for a conditional use permit from Richard and Mary Davy for property consisting of the south 70 feet of Lots 10, 11, 12, and the north 50 feet of Lots 15, 16, 17, Block 30, Tract No. 142, located at 350 North Sepulveda Boulevard in the City of Manhattan Beach; and

WHEREAS, said requested conditional use permit is for the purpose of selling beer and wine on an on-sale general basis in conjunction with food consumption in an establishment named "Smoky Gap"; and

WHEREAS, the following findings of fact were made by said Board:

1. Proposed use is not in conflict with the General Plan of the City of Manhattan Beach;
2. There is no significant environmental impact;
3. If appropriate conditions are observed, the proposed use will not adversely affect neighboring properties;
4. Lot area and street access are adequate;
5. Landscaping requirements of the Municipal Code have been met;

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustment of the City of Manhattan Beach hereby grants a conditional use permit for the on-sale service of beer and wine in conjunction with food consumption for property located at 350 North Sepulveda Boulevard, legally described above, subject to the following conditions:

1. Service of beer and wine only in conjunction with the service of food;
2. No live music or entertainment shall be permitted;
3. That the noise level from the subject property shall not exceed the noise level set forth in Ordinance No. 1362 for residential areas;
4. The applicant shall maintain the parking facility now presented to the Board;
5. The conditional use permit shall be reviewed by the Board of Zoning Adjustment within one year to ensure compliance to the above.

RESOLUTION NO. 74-16

(Continued)

I hereby certify that the foregoing is a full, true and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of July 9, 1974, and that said resolution was adopted by the following vote:

AYES: Commissioners Armistead,
McKenna, Schuck, and
Chairman Bard

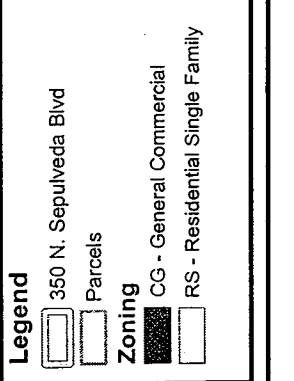
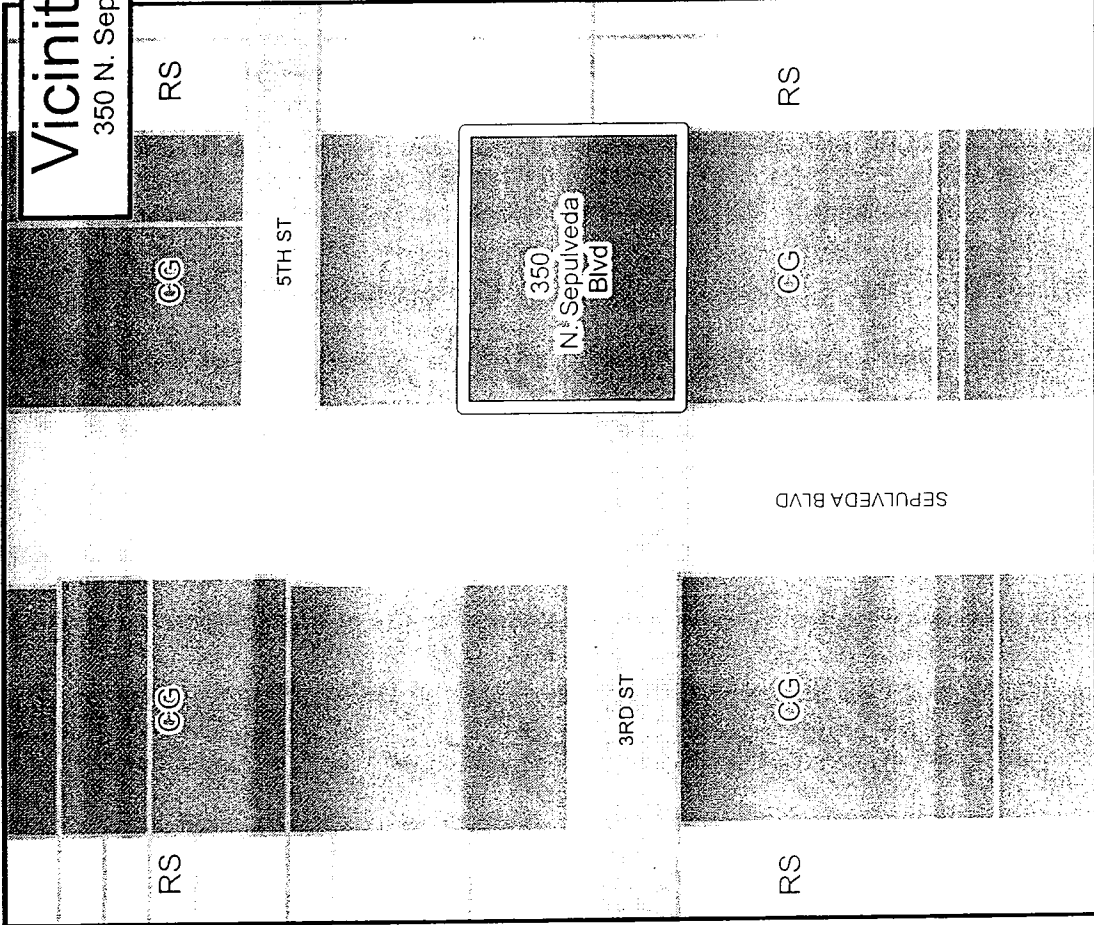
NOES: None

ABSENT: Commissioner Hayden

NOT VOTING: None

THOMAS H. CORLEY
Secretary to the Board of Zoning
Adjustment

Vicinity Map
350 N. Sepulveda Blvd



Legend

- 350 N. Sepulveda Blvd
- Parcels

Zoning

- CG - General Commercial
- RS - Residential Single Family

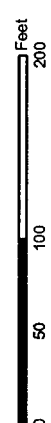
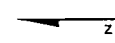


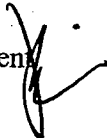
Exhibit D




City of Manhattan Beach
Community Development

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

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Esteban Danna, Assistant Planner 

DATE: June 25, 2008

SUBJECT: Use Permit Amendment to Allow the Extension of Hours of Operation for Berritree Frozen Yogurt Located at 350 N. Sepulveda Boulevard.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the request to increase the morning hours of operation from 11am to 7am with no change to the closing hours of 11pm Sunday through Thursday, and midnight Friday and Saturday.

APPLICANT

Jeff Choung
350 N. Sepulveda Blvd
Manhattan Beach, CA 90266

OWNER

Stuart Sackley
4108 The Strand
Manhattan Beach, CA 90266

BACKGROUND

The subject restaurant facility, formerly Ben and Jerry's Ice Cream, is currently occupied by the applicant, Berritree Frozen Yogurt under an existing use permit (Exhibit A). Historically, restaurant uses have occupied the subject space and hours of operations have varied since 1978. Condition 6 in Section 2 of Resolution PC 00-16 (current Use Permit) allows the Berritree Frozen Yogurt to operate from 11am to 11pm Sunday through Thursday and from 11am to midnight on Fridays and Saturdays. Alcoholic beverage service is prohibited. The subject application requests that the Planning Commission consider extending the allowed hours of operation. Section 10.84.020 of the Manhattan Beach Municipal Code (MBMC) gives the Planning Commission authority to approve Use Permits or Variances.

DISCUSSION

The applicant proposes to expand Berritree's menu by adding breakfast foods (bagels, muffins, waffles, etc.) and coffee drinks to their existing frozen yogurt menu. Currently, the Use Permit restricts the business from opening before 11am. The applicant proposes to amend Condition 6 in Section 2 of Resolution PC 00-16 and requests earlier opening hours but not change closing hours.

The proposed hours of operation are 7am to 11pm weekdays, and 7am to midnight Fridays and Saturdays. The existing closing times are fairly typical of recent restaurant approvals in the City and staff has no concerns with the proposed new morning hours since the use is oriented toward a major



Condition 6 on page 2 in the Draft Resolution (Exhibit B) has been changed. All other conditions of the previous resolution will remain substantially the same. The Use Permit findings have been revised in the Draft Resolution.

Use Permit Findings

In order to approve a Use Permit or an amendment to a Use Permit the following findings must be made by the Planning Commission in accordance with MBMC Section 10.84.060. Staff believes all findings can be met as follows:

1. *The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located.*

The building is located within the CG district. The existing uses and proposed change of hours of operations are consistent with MBMC Section 10.16.010 which states that the district is intended to provide opportunities for a full range of retail and service businesses as well as professional office uses.

2. *The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city.*

The existing uses and proposed change of hours of operations pose no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. Specifically, the project is consistent with the following Goals and Policies of the General Plan:

Goal LU-6.1: Support and encourage small businesses throughout the City.

Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

Goal LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.

3. *The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located;*

The existing uses and proposed change of hours of operations will comply with the conditions required for the district in which it is located.

4. *The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.*

The change of hours of operations would not adversely impact nearby resident or commercial properties as they are related to traffic, parking, noise, vibration, odors, personal safety, or aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. The proposed change will not affect the required on-site parking and will not create an additional demand for public services and facilities which cannot be mitigated.

Public Input

A public notice for the project was mailed to the property owners within 500 feet of the site and published in the Beach Reporter newspaper. Staff did not receive any comments at the writing of this report.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act (CEQA), and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 1) as minor modifications to an existing facility per Section 15301 of CEQA.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and **APPROVE** the subject Use Permit Amendment.

Attachments:

- A. Resolution No. PC 00-16
- B. Draft Resolution No. PC 08-XX
- C. Previous Resolutions
- D. Vicinity Map

cc: Pete Song, Applicant Representative
Stuart Sackley, Property Owner

RESOLUTION NO. PC 00-16

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO
ALLOW EXTENSION OF OPERATING HOURS FOR A RESTAURANT
LOCATED AT 350 N. SEPULVEDA BOULEVARD (Ben & Jerry's of
California Inc.)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES
HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on June 14, 2000, received testimony, and considered an application for a use permit to allow extension of operating hours at an existing restaurant located on the property legally described as portions of Southerly 70 feet of Lots 10, 11, and 12, and the northerly 50 feet of Lots 15, 16, and 17, Block 30 Tract 142. located at 350 N. Sepulveda Boulevard in the City of Manhattan Beach.
- B. The applicant for the subject project is Ben & Jerry's of California Inc. The owner of the property is Stuart Sackley.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The project is Categorical Exempt (Class 1, Section 15301) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of an existing facility.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The General Plan designation for the property is General Commercial. The General Plan encourages commercial uses such as this that serve city residents, and are buffered from residential areas.
- G. The property is located within Area District I and is zoned CG Commercial General. The surrounding private land uses consist of commercial and residential uses. The use is permitted by the zoning code and is appropriate as conditioned for the Sepulveda Boulevard commercial area.
- H. Approval of the later hours for the existing restaurant use, subject to the conditions below, will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since the use is expected to be desirable to area residents, and the closing times are typical reasonable restaurant hours for a commercial area.
- I. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code as well as specific conditions contained herein further regulating the project.
- J. The later closing times will not create adverse impacts on, nor be adversely impacted by, the surrounding area, or create demands exceeding the capacity of public services and facilities, since it is a very small operation in general, appropriately located within a commercial area, and conditioned herein to prevent possible adverse impacts.
- K. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject restaurant and supersedes all previous resolutions pertaining to the restaurant use.

EXHIBIT

A

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans as approved by the Planning Commission on June 14, 2000. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

5. * The facility shall operate as an eating and drinking establishment use.
6. * Hours of operation shall be limited to 11am to 11pm Sunday through Thursday, and 11am to midnight Friday and Saturday.
7. * Alcohol service shall be prohibited.
8. * Entertainment other than background music or television is prohibited.
9. A trash storage area, with adequate capacity shall be available on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided and implemented as required by the Public Works Department.
10. * Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code and Local Coastal Program. No additional parking is required as a result of this use permit amendment.
11. * The restaurant operator shall prohibit employees from parking personal vehicles on the surrounding residential streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The operator shall provide written instructions to all employees identifying where parking is appropriate and where street parking is prohibited. Prior to use permit implementation, a written employee parking program shall be submitted for Community Development Department approval.
12. All signs shall be in compliance with the City's Sign Code.
13. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.

Resolution No. PC 00-16

14. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
15. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.
16. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
17. The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
18. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

19. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
20. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
21. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
22. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
23. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

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


I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 14, 2000 and that said Resolution was adopted by the following vote:

AYES: Kuch, Milam, Simon,
Ward, Chairman Kirkpatrick


NOES: None

ABSTAIN: None

ABSENT: None



RICHARD THOMPSON,
Secretary to the Planning Commission



Sarah Boeschen,
Recording Secretary

RESOLUTION NO. PC 08-XX

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO ALLOW EXTENSION OF MORNING OPERATING HOURS FOR A RESTAURANT LOCATED AT 350 N. SEPULVEDA BOULEVARD (Berritree Frozen Yogurt)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on June 25, 2008, received testimony, and considered an application for a use permit to allow extension of operating hours at an existing restaurant located on the property legally described as portions of Southerly 70 feet of Lots 10, 11, and 12, and the northerly 50 feet of Lots 15, 16, and 17, Block 30 Tract 142, located at 350 N. Sepulveda Boulevard in the City of Manhattan Beach.
- B. The applicant for the subject project is Jeff Choung. The owner of the property is Stuart Sackley.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The project is Categorically Exempt (Class 1, Section 15301) from the requirements of the California Environmental Quality Act (CEQA) since it involves minor modification of an existing facility.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The General Plan designation for the property is General Commercial. The General Plan encourages commercial uses such as this that serve City residents, and are buffered from residential areas.
- G. The existing uses and proposed change in hours of operations are consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for a full range of retail and service businesses as well as professional office uses.
- H. The existing uses and proposed change in hours of operations pose no detrimental effects to the public health, safety, or welfare of persons residing or working on the proposed project site, or to the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
- I. The existing uses and proposed change in hours of operations will comply with the conditions required for the district in which it is located.
- J. The change in hours of operations would not adversely impact nearby resident or commercial properties as they are related to traffic, parking, noise, vibration, odors, personal safety, or aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. The proposed change will not affect the required on-site parking and will not create an additional demand for public services and facilities which cannot be mitigated.
- K. This Resolution, upon its effectiveness, constitutes the Use Permit for the subject restaurant and supersedes all previous resolutions pertaining to the restaurant use, including Resolution Nos. PC 00-16, 78-44, 77-41, 76-16, and 74-16.

EXHIBIT

B

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions (*indicates a site specific condition):

Site Preparation / Construction

1. The project shall be constructed and operated in substantial compliance with the submitted plans and project description as approved by the Planning Commission on June 25, 2008. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.
2. A Traffic Management Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including delivery of materials and parking of construction related vehicles.
3. Utility improvements such as property line cleanouts, backwater valves, mop sinks, drain lines, etc., shall be installed and maintained as required by the Public Works Department.
4. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

5. The facility shall operate as an eating and drinking establishment use.
6. Hours of operation shall be limited to 7am to 11pm Sunday through Thursday, and 7am to midnight Friday and Saturday.
7. Alcohol service shall be prohibited.
8. Entertainment other than background music or television is prohibited.
9. A trash storage area, with adequate capacity shall be available on the site subject to the specifications and approval of the Public Works Department, Community Development Department, and City's waste contractor. A trash and recycling plan shall be provided and implemented as required by the Public Works Department.
10. Parking quantities and design shall be provided in conformance with the Manhattan Beach Municipal Code. No additional parking is required as a result of this use permit amendment.
11. The restaurant operator shall prohibit employees from parking personal vehicles on the surrounding residential streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The operator shall provide written instructions to all employees identifying where parking is appropriate and where street parking is prohibited. Prior to use permit implementation, a written employee parking program shall be submitted for Community Development Department approval.
12. All signs shall be in compliance with the City's Sign Code.
13. Noise emanating from the site shall be in compliance with the Municipal Noise Ordinance. Any outside sound or amplification system or equipment is prohibited.
14. The operation shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
15. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.

16. The management of the facility shall police the property and all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
17. The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
18. No waste water shall be permitted to be discharged from the premises. Waste water shall be discharged into the sanitary sewer system.

Procedural

19. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
20. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
21. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
22. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
23. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of June 25, 2008 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

RESOLUTION NO. 78-44

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH AMENDING THE CONDITIONAL USE PERMIT, GRANTED BY RESOLUTION NO. 76-16, FOR PROPERTY CONSISTING OF A PORTION OF LOTS 10, 11, 12, 15, 16, AND 17 OF BLOCK 30 OF TRACT NO. 142, IN THE CITY OF MANHATTAN BEACH. (350 North Sepulveda Boulevard)

WHEREAS, The Board of Zoning Adjustment of the City of Manhattan Beach conducted a public hearing to consider the Conditional Use Permit Amendment for the operation and expansion of the Great American Egg Company located at 350 North Sepulveda Boulevard; and

WHEREAS, the application was filed by Mr. Juan Valencia, owner of the Great American Egg Company, and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the subject property:

1. The expanded facility consists of the abandoned floor area of the Smokey Gap-Deli together with that of the Great American Egg Company which adjoins the Smokey Gap-Deli.
2. That both of the aforementioned businesses are covered by Conditional Use Permit which permits the serving of beer, and wine in conjunction with food.
3. The hours of operation will be 8 a.m. to 4 p.m., Sunday and Monday and 8 a.m. to 9 p.m. Tuesday through Saturday.
4. That there were no substantial problems expressed by local residents at this hearing or separately to the Staff.

NOW, THEREFORE, BE IT RESOLVED, that based on the above findings, the Board of Zoning Adjustment approves the requested conditional use permit amendment with the following conditions:

- A. That the service of beer and wine be sold only in conjunction with the service of food.
- B. That noise emanation from the subject property across residential property lines shall comply with the City's adopted Noise Ordinance.
- C. That a refuse enclosure be erected on all sides of the bin, including top.
- D. That no storage of any materials be permitted in the open. Said materials to include, but not be limited to, the following: boxes, refuse, bottles, trash, trash cans, beer kegs, and materials related to the operation of said business.
- E. That the rear portion of the subject property be "policed" by employees of said business to insure that there are no articles stored in the open.
- F. That should the business change substantially from that described in the findings, the change shall first be reviewed by the Board of Zoning Adjustment.

That no amplified live music be permitted.



BZA RESOLUTION NO. 78-44
350 N. Sepulveda Blvd.
Great American Egg Co.

Page 2 of 2

I certify that the attached is a full, true and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of October 10, 1978, and that said resolution was carried by the following vote:

AYES: Commissioners Clancy, Cole, Duffy,
Logan and Chairman Hayden;

NOES: None;

ABSENT: None

NOT VOTING: None

THOMAS H. CORLEY
Secretary to the Board of Zoning Adjustment

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH AMENDING THE CONDITIONAL USE PERMITS FOR THE BUSINESSES LOCATED AT 250, 350 #1, 350 #2 NORTH SEPULVEDA BOULEVARD. PROPERTY LEGALLY DESCRIBED AS LOTS 10, 11, & 12 of Blk. 30, TRACT No. 142 AND THE WEST 150 FEET OF VACATED PORTION OF 3rd. STREET LYING EAST OF SEPULVEDA BOULEVARD AND THE NORTH 15 FEET OF LOTS 10, 11, & 12 OF BLOCK 35 OF TRACT NO. 142 IN THE CITY OF MANHATTAN BEACH, (BUSINESSES COMMONLY REFERRED TO AS: STRAW HAT PIZZA, GREAT AMERICAN EGG CO., AND SMOKEY GAP-DELI).

WHEREAS, the subject of the resolution is a review of the existing Conditional Use Permits for three restaurants on adjacent properties on Sepulveda Blvd. which restaurants are known as Straw Hat Pizza, 250 No. Sepulveda Blvd. ; Smokey Gap-Deli, 350 #1 No. Sepulveda Blvd. ; 350 #2 No. Sepulveda Blvd. ; and

WHEREAS, the condition prompting the review is the throwing of debris onto residential property located down the slope to the rear of the property containing the restaurants. Such a throwing of debris creates a health and safety hazard.

WHEREAS, a public hearing was scheduled and testimony was received from the owner of the property and representatives of each of the three affected restaurants and members of the public residing in the area.

WHEREAS, police reports of May 23, 1977, and August 1, 1977, were submitted and reviewed by the Board of Zoning Adjustment, and a petition signed by 42 local residents was reviewed.

WHEREAS, effective December 6, 1978, there will be a requirement for the construction of a 6-foot screen wall on the east boundary of the property being reviewed. Code Section 10-3.1317(i)1

NOW, THEREFORE, BE IT RESOLVED, that the Board of Zoning Adjustment recommends that the Conditional Use Permits for the three affected establishments be modified according to the terms of Section 10-3.2001 to add the following conditions:

1. That a 6-foot screen wall as measured from the top of the parking lot of a nature that you cannot see through and is non-climbable shall be constructed and it shall be of architectural treatment found suitable to the staff of the Community Development as judged against the standards of the improvements on the property. The extent of the wall is along the entire east property line from 5th Street south to the south boundary of the Straw Hat Pizza leasehold.
2. That a landscape planter with a 6" concrete curb be installed along the west side of said wall except in the region immediately behind the Goat Hill building improvement and for a suitable drive-way leading to said parking area.
3. That all refuse enclosures be enclosed on all sides (including top) and provided with a locking device to allow opening by commercial tenants only.
4. That no storage of any materials be permitted in the open. Said materials to include, but not limited to, the following: boxes, refuse, bottles, trash, trash cans, beer kegs and materials related to operation of said businesses.
5. That the rear portion of the subject property be "policed" by employees of said establishments to insure that there are no articles stored in the open.

6. That an architectural screen wall be build along the south property line of Straw Hat Pizza.
7. That the above additional conditions shall be implemented within 60 days from the time the modified Conditional Use Permit becomes final.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution adopted by the Board of Zoning Adjustment at its regular meeting of August 23, 1977, and that said Resolution was adopted by the following vote:

AYES: Commissioners Logan, Hayden, Myska and Chairman Armistead.

NOES: None

ABSENT: Commissioner Clancy

NOT VOTING: None.

THOMAS H. CORLEY,
Director of Community Development.

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH GRANTS THE CONDITIONAL USE PERMIT FOR PROPERTY CONSISTING OF PORTION OF LOTS 10, 11, 12, 15, 16, and 17 OF BLOCK 30 OF TRACT NO. 142, IN THE CITY OF MANHATTAN BEACH. (350 North Sepulveda Boulevard)

WHEREAS, the Board of Zoning Adjustment, of the City of Manhattan Beach, conducted a Public Hearing, pursuant to applicable law, to consider an application for a Conditional Use Permit for the property legally described as Portion of Lots 10, 11, 12, 15, 16, and 17, of Block 30 of Tract No. 142, in the City of Manhattan Beach; and

WHEREAS, the application was requested to use the above legally described property for the purpose to sell beer and wine in conjunction with a bonafide restaurant business; and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the property known as "The Great American Egg Company":

1. Applicant proposes to sell beer and wine in conjunction with a bonafide restaurant.
2. The proposed use will not have an adverse environmental impact or an impact on the neighborhood.
3. The proposed use will be consistent with the General Plan provided the following conditions are met:
 1. That beer and wine be sold only in conjunction with the service of food.
 2. Applicant complies with all applicable provisions of the Municipal Code including refuse enclosure, signs and parking.
 3. That all noise emanation from the subject property across residential property lines shall not exceed the noise level set forth in Ordinance 1362 for residential uses.
 4. That no amplified music or entertainment be permitted.
 5. That compliance to the above stated conditions be verified by an inspection prior to issuance of the subject Conditional Use Permit.
 6. That review of the above conditions take place annually.

I hereby certify that the foregoing is a full, true and correct copy of the Resolution adopted by the Board of Zoning Adjustment at its regular meeting of February 24, 1976, and that said Resolution was adopted by the following vote:

AYES: Commissioners Hayden and Schuck and
Chairman Armistead

NOES: None

ABSENT: Commissioners Logan and Olson

NOT VOTING: None

THOMAS H. CORLEY
Director of Community Development

RESOLUTION NO. 74-16

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT
OF THE CITY OF MANHATTAN BEACH GRANTING A
CONDITIONAL USE PERMIT FOR PROPERTY CONSIST-
ING OF A PORTION OF LOTS 10, 11, 12, 15, 16 AND 17,
BLOCK 30, TRACT NO. 142, IN THE CITY OF MANHAT-
TAN BEACH. (350 North Sepulveda Boulevard)

WHEREAS, the Board of Zoning Adjustment of the City of Manhattan Beach conducted a public hearing to consider a request for a conditional use permit from Richard and Mary Davy for property consisting of the south 70 feet of Lots 10, 11, 12, and the north 50 feet of Lots 15, 16, 17, Block 30, Tract No. 142, located at 350 North Sepulveda Boulevard in the City of Manhattan Beach; and

WHEREAS, said requested conditional use permit is for the purpose of selling beer and wine on an on-sale general basis in conjunction with food consumption in an establishment named "Smoky Gap"; and

WHEREAS, the following findings of fact were made by said Board:

1. Proposed use is not in conflict with the General Plan of the City of Manhattan Beach;
2. There is no significant environmental impact;
3. If appropriate conditions are observed, the proposed use will not adversely affect neighboring properties;
4. Lot area and street access are adequate;
5. Landscaping requirements of the Municipal Code have been met;

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustment of the City of Manhattan Beach hereby grants a conditional use permit for the on-sale service of beer and wine in conjunction with food consumption for property located at 350 North Sepulveda Boulevard, legally described above, subject to the following conditions:

1. Service of beer and wine only in conjunction with the service of food;
2. No live music or entertainment shall be permitted;
3. That the noise level from the subject property shall not exceed the noise level set forth in Ordinance No. 1362 for residential areas;
4. The applicant shall maintain the parking facility now presented to the Board;
5. The conditional use permit shall be reviewed by the Board of Zoning Adjustment within one year to ensure compliance to the above.

RESOLUTION NO. 74-16

(Continued)

I hereby certify that the foregoing is a full, true and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of July 9, 1974, and that said resolution was adopted by the following vote:

AYES: Commissioners Armistead,
McKenna, Schuck, and
Chairman Bard

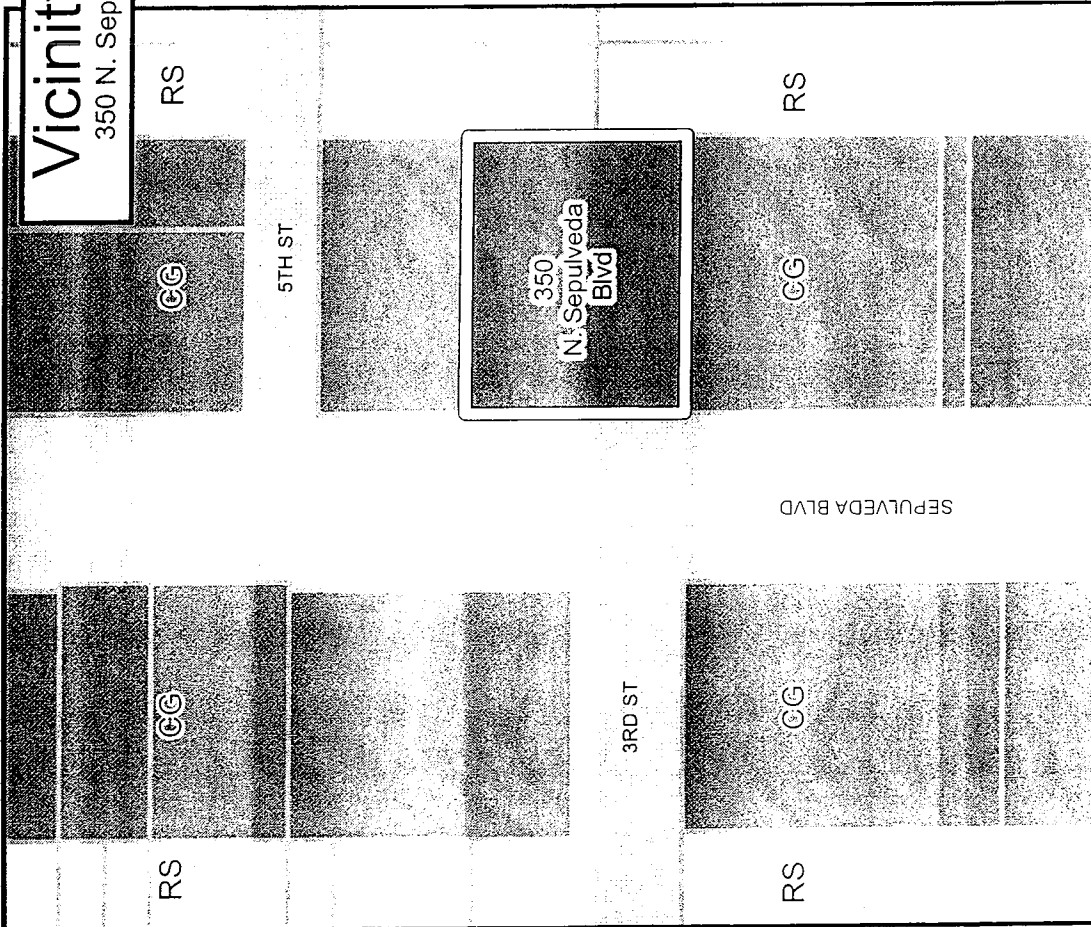
NOES: None

ABSENT: Commissioner Hayden





NOT VOTING: None

THOMAS H. CORLEY
Secretary to the Board of Zoning
Adjustment

Vicinity Map
350 N. Sepulveda Blvd



Legend

-  350 N. Sepulveda Blvd
-  Parcels
- Zoning**
-  CG - General Commercial
-  RS - Residential Single Family

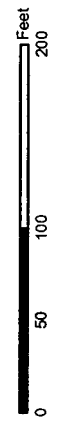


Exhibit D



City of Manhattan Beach
Community Development