




Agenda Item #:



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Richard Thompson, Director of Community Development 
Michael P. Rocque, Assistant Planner 

DATE: February 3, 2009

SUBJECT: Consideration of the Planning Commission Approval of a Use Permit Amendment to Change an Alcoholic Beverage License from a Brewpub with a Restaurant (Type 75) to a Restaurant only (Type 47) at Manhattan Beach Brewery, 124 Manhattan Beach Boulevard

RECOMMENDATION:

Staff recommends that the City Council receive and file the decision of the Planning Commission to approve a Use Permit Amendment to change an Alcohol Beverage License at the existing Brewpub/Restaurant located at 124 Manhattan Beach Boulevard and determine that the public convenience and necessity convenience would be served by the issuance of a liquor license.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

BACKGROUND:

The Planning Commission, at its regular meeting of January 14, 2009, conducted a public hearing and adopted Resolution PC 09-01 (5-0), approving an amendment to a Use Permit allowing a change in alcohol license. The applicant currently has an existing Type 75 license which allows for full alcohol service with a restaurant and a brewery. The applicant is requesting a Type 47 license which still allows for full alcohol service and restaurant only. When approving alcohol licenses, the Department of Alcohol Beverage Control (ABC) reviews other alcohol licenses in the surrounding vicinity to insure that a condition of "undue concentration" does not exist. The determination of public convenience and necessity is required by ABC when issuing alcohol licenses.

DISCUSSION:

The Commission had no objections to the proposed Use Permit Amendment and no public comments or testimony was received. The Commission felt that the proposal was straight-forward and that the proposed change met the necessary legal findings for approval as well as the finding for public convenience and necessity which is required by the ABC for the alcohol license.

The Planning Commission approved (5-0) the subject application and adopted Resolution No. PC

Agenda Item #: _____

09-01 at its regular meeting on January 14, 2009.

The staff report and draft minute excerpts from the Planning Commission's proceedings are attached to this report for reference.

ALTERNATIVES:

The alternatives to the staff recommendation include:

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 09-01

B: Planning Commission Minute excerpt, dated 1/14/09

C: Planning Commission Staff Report and attachments, dated 1/14/09

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RESOLUTION NO. PC 09-01

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A USE PERMIT AMENDMENT TO ALLOW A CHANGE OF ALCOHOL BEVERAGE CONTROL LICENSE FOR AN EXISTING BREWPUB/RESTAURANT TO A RESTAURANT ONLY LOCATED AT 124 MANHATTAN BEACH BOULEVARD (Manhattan Beach Brewing Company – Zislis)

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

- A. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on January 14, 2009 to consider an Amendment to the approved Use Permit (Resolution Nos. BZA 76-33, BZA 91-3, 4882, and PC 97-43) for the property legally described as Lots 1 and 2, Block 3, South Pacific home Tract in the City of Manhattan Beach.
- B. The applicant for said use permit Amendment is David Zislis. The owner of the subject property is Jerico Development, Inc.
- C. The public hearing was advertised pursuant to applicable law, testimony was invited and received January 14, 2009. The Planning Commission adopted Resolution No. PC 09-01 on January 14, 2009 approving the subject project. On February 3, 2009 the City Council received and filed the Planning Commission approval.
- D. The applicant is exempt from Coastal Development Permit requirements per the provision of Section A.96.050 (B) of the City of Manhattan Beach Local Coastal Program (LCP).
- E. The subject Use Permit Amendment is Categorically Exempt (Class 1) from the provisions of The California Environmental Quality Act (CEQA) per Section 15301 "Existing Facilities".
- F. An Initial Study and Negative Declaration were prepared for the original proposal in accordance with the California Environmental Quality Act (CEQA) and City of Manhattan Beach CEQA Guidelines, finding no significant environmental impacts associated with the project.
- G. The Planning Commission finds that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the State of California Fish and Game Code.
- H. The applicant is requesting an amendment to the existing Use Permit, Resolution Nos. BZA 76-33, BZA 91-3, 4882, and PC-97-43 which govern the use of the site.
- I. On January 1, 1997 the State of California Business and Professions Code Section 23396.3 became effective. This legislation introduced the Type 75 Alcohol Beverage

EXHIBIT A
CC Mtg 2/3/09

Control license which allows the sale of beer, wine, and distilled spirits in conjunction with brewpub/restaurant businesses.

- J. The business currently operates with a Type 75 "On-Sale General Brewpub". The current Use Permit allows the sale of beer and wine and distilled spirits.
- K. The applicant requests authorization to change the liquor license for the existing brewpub/restaurant from a Type 75 "On-Sale General Brewpub" to a restaurant only Type 47 "On-Sale General-Eating Place" license.
- L. This change in alcohol licensing to a Type 47 will allow the business to keep the full alcohol sales, including distilled spirits pursuant to the provisions of Government Code Section 22396.3.
- M. The provisions of the Type 47 license require that the subject business utilizing such license be a "bona fide public eating place" as defined in Government Code Section 23038. The subject license cannot be utilized by any other business other than those meeting the stated provisions contained in the above-referenced code Sections.
- N. The subject business is located within the "Commercial Downtown" General Plan Land Use designation and is consistent with surrounding uses, and the provisions of this Land Use Designation.
- O. The subject business is consistent with the land use and development regulations of the "CD" (Commercial Downtown) zoning district in which it is located.
- P. Use Permit Findings

The Use Permit amendment is consistent with Section 10.84.060 of the Manhattan Beach Municipal Code as follows:

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

The proposed amendment to the use permit is consistent with the Commercial Downtown (CD) zoning designation. The use and proposed revisions to the sales of alcoholic beverages 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 including restaurants and the sale of alcoholic beverages.

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 use and proposed amendment pose no detrimental effects to public health, safety, or welfare of persons residing or working at the project site or to

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the adjacent neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City, due to the conditions of approval and the fact that the site will continue to operate as a restaurant.

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. The proposed amendment is consistent with these goals and policies.

- 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 change from the current Type 75 alcohol license to a Type 47 is consistent with the existing use as a restaurant at this location. This application follows MBMC Section 10.16.020 (L) which requires a use permit amendment when there is new alcohol license being issued or amended.

- 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, personal safety, and aesthetic, or create demands exceeding the capacity of public services and facilities which cannot be migrated.*

The proposed amendment will not alter the fundamental use, purpose or character of the existing business and due to the fact that there will be a negligible change in occupancy and seating, the proposed amendment will not create any adverse impacts of the above mentioned.

- Q. The proposed use will comply with the provisions of Title 10 of the Manhattan Beach Municipal Code, the Implementation Program of the Local Coastal Program, and the conditions of this Resolution.

- R. Compliance with the following conditions will ensure that the proposed use will not adversely impact nor be adversely impacted by nearby properties.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the Use Permit Amendment application subject to the following conditions:

- 1. This resolution shall amend, supersede, and replace Resolutions Nos. BZA 76-33, BZA 91-3, 4882, and 97-43.
- 2. Alcohol sales shall be operated consistent with the provisions and restrictions of Section 23396.3 of the State Government Code (Type 47 Alcohol Beverage Control License).

3. Future businesses utilizing the Type 47 Alcohol Beverage Control license must be a “bona fide public eating place”, and must be consistent with the provision of Government Code Section 23396.3.
4. Any future changes to the operation of the business resulting in an inconsistency with the provisions of Government Code Section 23396.3 shall require an amendment to the Use Permit, and shall require an Alcohol Beverage Control license consistent with the operation of the business.
5. Alcohol service shall be concluded only in conjunction with the service of food.
6. At all times, the business shall identify itself as restaurant and will not identify itself as a “bar” in public advertisements.
7. At no time will the business offer “happy hour” alcohol at reduced prices.
8. At no time will the business offer drink specials at reduced prices.
9. All alcohol beverages must be sold in glassware, the use of plastic cups for the service of alcohol beverages is prohibited.
10. Live entertainment and dancing is prohibited, any future entertainment or dancing at this site will require an amendment to the Use Permit.
11. The applicant shall comply with all applicable provisions of the Manhattan Beach Municipal Code including refuse enclosure and signage.
12. All noise emanating from the subject site shall comply with the standards set forth in Ordinance No. 1957.
13. The hours of operation shall be limited to:

Sunday –Thursday
7:00A.M. to 12:00 A.M.

Friday and Saturday
7:00 A.M. to 1:00 A.M.
14. Alcohol may not be sold for off-site consumption or distribution.
15. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the required filing fees are paid.

General/procedural Conditions

1. *Compliance.* The project shall be in compliance with the plans and project description submitted to and approved by the Planning Commission on January 14, 2009. All development must occur in compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation

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from the approved plans and project description, except as provided in this approval, shall require review by the Director of Community Development and a determination if Planning Commission review and an amendment to the Master Use Permit is required.

2. *Lapse of Approval.* The Use Permit shall lapse two (2) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
3. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.
4. *Effective Date.* Unless appealed to the City Council, the subject Use Permit shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
5. *Legal Fees.* The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach in defending any legal action 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. The Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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.

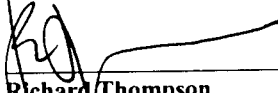
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **January 14, 2009** and that said Resolution was adopted by the following vote:

**AYES: FASOLA, PARALUSZ, POWELL,
SEVILLE-JONES, LESSER**

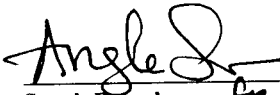
NOES:

ABSTAIN:

ABSENT:



Richard Thompson
Secretary to the Planning Commission



Sarah Boeschen *for Sarah Boeschen*
Recording Secretary

1 CITY OF MANHATTAN BEACH
2 PLANNING COMMISSION
3 MINUTES OF REGULAR MEETING
4 JANUARY 14, 2009

5 The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California,
6 was held on the 14th day of January 2009 at the hour of 6:35 p.m., in the City Council
7 Chambers of City Hall, at 1400 Highland Avenue, in said City.

8 A. ROLL CALL

9 Present: Fasola, Paralusz, Powell, Seville-Jones and Chairman Lesser
10 Absent: None
11 Staff Present: Richard Thompson, Community Development Director
12 Michael Rocque, Assistant Planner
13 Recording Secretary: Sarah Boeschen

14 B. APPROVAL OF MINUTES December 10, 2008

15 Commissioner Seville-Jones requested that the last line on page 11 of the December 10, 2008,
16 minutes be revised to reflect that Chairman Lesser rather than Commissioner Powell first
17 thanked staff, the City Council, and fellow Commissioners for their hard work and efforts. She
18 indicated that Commissioner Powell then added to Chairman Lesser's comments.

19 Commissioner Powell requested that line 8 of the second paragraph on page 7 of the minutes be
20 revised to read: "Conditions 14 and 19 address enforcement in the event the ride share program
21 is not continued . . ."

22 Commissioner Powell requested that the second paragraph on page 10 of the minutes be revised
23 to read: "Commissioner Powell pointed out that the applicant does not feel providing as many
24 as 25 parking spaces is economically viable."

25 A motion was MADE and SECONDED (Paralusz/Powell) to ADOPT the minutes of
26 December 10, 2008, as amended.

27 AYES: Fasola, Paralusz, Powell, Seville-Jones and Chairman Lesser
28 NOES: None.
29 ABSENT: None.
30 ABSTAIN: None.

31 C. AUDIENCE PARTICIPATION

32 None.

D. PUBLIC HEARINGS, CONTINUED

01/14/091 Consideration of a Use Permit Amendment to Change an Alcoholic
Beverage License from a Brewpub with a Restaurant (Type 75) to a
Restaurant Only (Type 47) at Manhattan Beach Brewery at 124 Manhattan
Beach Boulevard (Zislis)

Director Thompson stated that the proposal is to change an existing alcohol license from a brew
pub to a restaurant type of alcohol license. He indicated that the subject establishment has been

EXHIBIT B
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in existence for many years and has been a good neighbor to the downtown area. He pointed out that conditions are included in the draft Resolution that alcohol service shall be conducted only in conjunction with food service; that the business shall identify itself at all times as a restaurant rather than a bar; that live entertainment and dancing shall not be permitted; and that the hours of operation be limited to typical hours that have been imposed for other restaurants in the downtown area. He said that staff is recommending approval.

In response to a question from Commissioner Fasola, Assistant Planner Rocque indicated that the conditions included in the draft Resolution are the same as in the existing Conditional Use Permit. He stated that the only change from the previous Conditional Use Permit pertains to the existing equipment which will be removed.

In response to a question from Commissioner Powell, Director Thompson said that the assumption is that alcohol is permitted to be served during the designated hours of operation for the restaurants listed in Exhibit C attached to the staff report.

Michael Zislis, the applicant, pointed out that Manhattan Beach Brewery has been in operation for 18 years, and the brewing equipment is in need of replacing. He said that their choice is either to invest in new brewing equipment or to eliminate the equipment and change to a restaurant use that serves beers on tap. He indicated that they currently have a type 75 alcohol license which allows for a brewery that sells alcohol. He said that without the brewery, they are required to change to a type 47 liquor license. He stated that they have now received the Type 47 alcohol license at a very good price and have entered into a 10 year extension on their lease. He commented that the only change to the establishment would be that they would operate under the different type of alcohol license. He commented that they are also planning to change their name from "Manhattan Beach Brewing Company" to "Manhattan Beach Beer Company."

In response to a question from Commissioner Powell, **Mr. Zislis** indicated that there would be no change in the maximum occupancy of the restaurant as a result of the proposal.

Chairman Lesser opened the public hearing.

There being no one wishing to speak on the issue, Chairman Lesser closed the public hearing.

Discussion

Commissioner Seville-Jones said that the application is straightforward, and she is in favor of the proposal.

Commissioner Fasola indicated that he supports the proposal.

Commissioner Paralusz stated that she also is in support of the proposal.

Commissioner Powell commented that the project meets the necessary legal findings for approval as well as the finding for public convenience and necessity which is required for the alcohol license. He stated that he supports the proposal.

Chairman Lesser said that he agreed that the project met each of the necessary findings, the applicant is a good member of the community, and he has no objections to the project.

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Action

A motion was MADE and SECONDED (Seville-Jones/Paralusz) to **APPROVE** a Use Permit Amendment to change an alcoholic beverage license from a brewpub with a restaurant (Type 75) to a restaurant only (Type 47) at Manhattan Beach Brewery at 124 Manhattan Beach Boulevard

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

Director Thompson explained the 15-day appeal period and indicated that the item will be placed on the City Council's Consent Calendar for their meeting of February 3, 2009.

E. BUSINESS ITEMS

None.

F. DIRECTORS ITEMS

Director Thompson indicated that there will be a tree pruning demonstration at the Polliwog Park Botanical Gardens on January 24, 2009, from 9:00 a.m. to 11:00 a.m.

Director Thompson stated that a housing element workshop is scheduled to take place at the Police Fire Facility on January 29, 2009 at 6:30 p.m.

G. PLANNING COMMISSION ITEMS

None.

H. TENTATIVE AGENDA


- 1. **Revisions to the City Tree Preservation Ordinance**

I. ADJOURNMENT

The meeting was adjourned at 6:50 p.m. to Wednesday, January 28, 2009, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

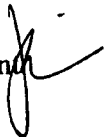
ATTEST:




 RICHARD THOMPSON
 Community Development Director

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development 

FROM: Michael P. Rocque, Assistant Planner 

DATE: January 14, 2009

SUBJECT: Consideration of a Use Permit Amendment to Change an Alcoholic Beverage License from a Brewpub with a Restaurant (Type 75) to a Restaurant only (Type 47) at Manhattan Beach Brewery, 124 Manhattan Beach Boulevard. (Zislis)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING** and adopt the attached Draft Resolution **APPROVING** the subject request.

APPLICANT

Manhattan Beach Brewing Company
David Zislis, President
124 Manhattan Beach Boulevard
Manhattan Beach, CA 90266

PROPERTY OWNER

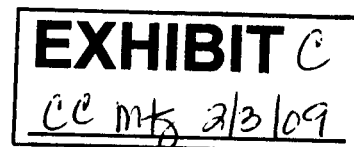
Jerico Development, Inc.
222 W. 6th Street Suite 1010
San Pedro, CA 90731

SURROUNDING LAND USES

North: CD-Restaurant/Commercial
South: CD-Commercial
East: CD-Restaurant
West: CD-Restaurant/Beach

BACKGROUND

The Planning Commission previously approved a Use Permit amendment in 1997 (PC 97-43 Exhibit B), allowing full alcohol service instead of only beer and wine for the Brewpub/Restaurant at the subject property. The Planning Commission approval allowed a change of the alcohol beverage license from a Type 23 (Small Brewers License) to a Type 75 (On-Sale General Brewpub). The current Use Permit allows for sale of all alcoholic beverages for on-site consumption only.



DISCUSSION

The Manhattan Beach Brewing Company is a full service, family-oriented brewpub which has been in operation for over eighteen (18) years and is located within the City's Downtown Commercial district (CD zone-Area District III). The subject application proposes to amend Resolution PC 97-43 to change the alcoholic beverage license from the existing Type 75 (On-Sale General Brewpub) to a Type 47 (On-Sale General for a Bona Fide Eating Place). A bona fide eating place is defined as a restaurant with food sales in excess of 50% of the total food and beverage sales. Manhattan Beach Brewing Company has always operated and will continue to operate as bona fide eating place. Both types of licenses permit the sale of beer, wine, and liquor, which the restaurant currently offers. The reason for the change in license is to replace the aging brewery equipment with a new back bar, seating area, and a cold box (Exhibit D). The cost of replacing the brewery equipment is prohibitive to the applicant as they would like to transition the current brewpub to a pub specializing in high quality food while still offering hand-crafted quality beers as well as other premium alcoholic beverages.

The subject business consists of a 2250 square-foot restaurant/bar area, 700 square-foot kitchen area and a 460 square-foot storage/office area. The applicant is not proposing to expand the existing space and the only change will be the remodeled back bar area which will fit into the space where the brewery is currently located. The project will also include a minor remodel of the interior and exterior of the building to update the look. The building occupancy is proposed to increase from 82 to 84.

The Manhattan Beach Municipal Code (MBMC) Section 10.16.020 (L) requires a Use Permit or Use Permit Amendment when there is a new alcohol license issued or amended. The existing Use Permit contains many conditions which ensure that the location always remain a bona fide eating place and at all times the business shall identify itself as a restaurant. All other conditions of the previous resolution PC 97-43 will generally remain the same, except for the ones that are specific to the brewery and its associated equipment. The project is located in the Coastal Zone but no Coastal Permit is required for alcohol licenses. A chart of all the downtown restaurants hours of operations and alcohol licenses has been provided in this report (Exhibit C).

The Manhattan Beach Police, Fire, and Public Works Departments, as well as the Building and Safety Division, had no comments or concerns regarding the proposed amendment.

Use Permit Findings

Section 10.84.060 of the Manhattan Beach Zoning Code provides the findings that are necessary to approve a Use Permit. Staff believes all findings can be met as follows:

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

The proposed amendment to the use permit is consistent with the Commercial Downtown (CD) zoning designation. The use and proposed revisions to the sales of alcoholic beverages 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 including restaurants and the sale of alcoholic beverages.

- 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 use and proposed amendment pose no detrimental effects to public health, safety, or welfare of persons residing or working at the 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, due to the conditions of approval and the fact that the site will continue to operate as a restaurant.

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. The proposed amendment is consistent with these goals and policies.

- 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 change from the current Type 75 alcohol license to a Type 47 is consistent with the existing use as a restaurant at this location. This application follows MBMC Section 10.16.020 (L) which requires a use permit amendment when there is new alcohol license being issued or amended.

- 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, personal safety, and aesthetic, or create demands exceeding the capacity of public services and facilities which cannot be migrated.*

The proposed amendment will not alter the fundamental use, purpose or character of the existing business and due to the fact that there will be a negligible change in occupancy and seating, the proposed amendment will not create any adverse impacts of the above mentioned.

Other Findings

The California Department of Alcoholic Beverage Control (ABC) requires the City of Manhattan Beach to find that the proposed change in license type at the subject property is a public convenience and necessity. Staff supports the proposed change in that it will provide a convenient community service.

Public Input

A public notice for the project was mailed to 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.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This application is Categorical Exempt in accordance with Class 1, Section 15301, of the California Environmental Quality Act (CEQA) Guidelines, as the subject amendment is determined to be categorically exempt from environmental review in that it is a minor change in the operation of the business and thus a negligible change of use in the existing site.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and adopt the attached draft resolution approving the subject Use Permit Amendment with conditions.

ALTERNATIVES

Other than the stated recommendation, the Planning Commission may:

1. **DENY** the project subject to public testimony received, based upon appropriate findings, and **DIRECT** Staff to return with a draft Resolution.

EXHIBITS:

- A. Draft Resolution PC 09-XX
- B. PC Resolution No. 97-43
- C. Chart of Downtown Restaurants with Alcohol Licenses
- D. Project applications and plans

RESOLUTION NO. PC 09-XX

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A USE PERMIT AMENDMENT TO ALLOW A CHANGE OF ALCOHOL BEVERAGE CONTROL LICENSE FOR AN EXISTING BREWPUB/RESTAURANT TO A RESTAURANT ONLY LOCATED AT 124 MANHATTAN BEACH BOULEVARD (Manhattan Beach Brewing Company – Zislis)

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

- A. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on January 14, 2009 to consider an Amendment to the approved Use Permit (Resolution Nos. BZA 76-33, BZA 91-3, 4882, and PC 97-43) for the property legally described as Lots 1 and 2, Block 3, South Pacific home Tract in the City of Manhattan Beach.
- B. The applicant for said use permit Amendment is David Zislis. The owner of the subject property is Jerico Development, Inc.
- C. The public hearing was advertised pursuant to applicable law, testimony was invited and received January 14, 2009. The Planning Commission adopted Resolution No. PC 09-XX on January 14, 2009 approving the subject project. On XXXXX, XX, 2009 the City Council received and filed the Planning Commission approval.
- D. The applicant is exempt from Coastal Development Permit requirements per the provision of Section A.96.050 (B) of the City of Manhattan Beach Local Coastal Program (LCP).
- E. The subject Use Permit Amendment is Categorically Exempt (Class 1) from the provisions of The California Environmental Quality Act (CEQA) per Section 15301 "Existing Facilities".
- F. An Initial Study and Negative Declaration were prepared for the original proposal in accordance with the California Environmental Quality Act (CEQA) and City of Manhattan Beach CEQA Guidelines, finding no significant environmental impacts associated with the project.
- G. The Planning Commission finds that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the State of California Fish and Game Code.
- H. The applicant is requesting an amendment to the existing Use Permit, Resolution Nos. BZA 76-33, BZA 91-3, 4882, and PC-97-43 which govern the use of the site.
- I. On January 1, 1997 the State of California Business and Professions Code Section 23396.3 became effective. This legislation introduced the Type 75 Alcohol Beverage

Control license which allows the sale of beer, wine, and distilled spirits in conjunction with brewpub/restaurant businesses.

- J. The business currently operates with a Type 75 "On-Sale General Brewpub" which restricts the operation to the sale of beer and wine only. The current Use Permit allows the sale of beer and wine and distilled spirits.
- K. The applicant requests authorization to change the liquor license for the existing brewpub/restaurant from a Type 75 "On-Sale General Brewpub" to a restaurant only Type 47 "On-Sale General-Eating Place" license.
- L. This change in alcohol licensing to a Type 47 will allow the business to keep the full alcohol sales, including distilled spirits pursuant to the provisions of Government Code Section 22396.3.
- M. The provisions of the Type 47 license require that the subject business utilizing such license be a "bona fide public eating place" as defined in Government Code Section 23038. The subject license cannot be utilized by any other business other than those meeting the stated provisions contained in the above-referenced code Sections.
- N. The subject business is located within the "Commercial Downtown" General Plan Land Use designation and is consistent with surrounding uses, and the provisions of this Land Use Designation.
- O. The subject business is consistent with the land use and development regulations of the "CD" (Commercial Downtown) zoning district in which it is located.
- P. Use Permit Findings

The Use Permit amendment is consistent with Section 10.84.060 of the Manhattan Beach Municipal Code as follows:

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

The proposed amendment to the use permit is consistent with the Commercial Downtown (CD) zoning designation. The use and proposed revisions to the sales of alcoholic beverages 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 including restaurants and the sale of alcoholic beverages.

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 use and proposed amendment pose no detrimental effects to public health, safety, or welfare of persons residing or working at the 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, due to the conditions of approval and the fact that the site will continue to operate as a restaurant.

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. The proposed amendment is consistent with these goals and policies.

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 change from the current Type 75 alcohol license to a Type 47 is consistent with the existing use as a restaurant at this location. This application follows MBMC Section 10.16.020 (L) which requires a use permit amendment when there is new alcohol license being issued or amended.

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, personal safety, and aesthetic, or create demands exceeding the capacity of public services and facilities which cannot be migrated.*

The proposed amendment will not alter the fundamental use, purpose or character of the existing business and due to the fact that there will be a negligible change in occupancy and seating, the proposed amendment will not create any adverse impacts of the above mentioned.

- Q. The proposed use will comply with the provisions of Title 10 of the Manhattan Beach Municipal Code, the Implementation Program of the Local Coastal Program, and the conditions of this Resolution.
- R. Compliance with the following conditions will ensure that the proposed use will not adversely impact nor be adversely impacted by nearby properties.

Section 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the Use Permit Amendment application subject to the following conditions:

1. This resolution shall amend, supersede, and replace Resolutions Nos. BZA 76-33, BZA 91-3, 4882, and 97-43.
2. Alcohol sales shall be operated consistent with the provisions and restrictions of Section 23396.3 of the State Government Code (Type 47 Alcohol Beverage Control License).

3. Future businesses utilizing the Type 47 Alcohol Beverage Control license must be a "bona fide public eating place", and must be consistent with the provision of Government Code Section 23396.3.
4. Any future changes to the operation of the business resulting in an inconsistency with the provisions of Government Code Section 23396.3 shall require an amendment to the Use Permit, and shall require an Alcohol Beverage Control license consistent with the operation of the business.
5. Alcohol service shall be concluded only in conjunction with the service of food.
6. At all times, the business shall identify itself as restaurant and will not identify itself as a "bar" in public advertisements.
7. At no time will the business offer "happy hour" alcohol at reduced prices.
8. At no time will the business offer drink specials at reduced prices.
9. All alcohol beverages must be sold in glassware, the use of plastic cups for the service of alcohol beverages is prohibited.
10. Live entertainment and dancing is prohibited, any future entertainment or dancing at this site will require an amendment to the Use Permit.
11. The applicant shall comply with all applicable provisions of the Manhattan Beach Municipal Code including refuse enclosure and signage.
12. All noise emanating from the subject site shall comply with the standards set forth in Ordinance No. 1957.
13. The hours of operation shall be limited to:

Sunday - Thursday
7:00 A.M. to 12:00 A.M.

Friday and Saturday
7:00 A.M. to 1:00 A.M.
14. Alcohol may not be sold for off-site consumption or distribution.
15. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the required filing fees are paid.

General/procedural Conditions

1. *Compliance.* The project shall be in compliance with the plans and project description submitted to and approved by the Planning Commission on January 14, 2009. All development must occur in compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation

from the approved plans and project description, except as provided in this approval, shall require review by the Director of Community Development and a determination if Planning Commission review and an amendment to the Master Use Permit is required.

2. *Lapse of Approval.* The Use Permit shall lapse two (2) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
3. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.
4. *Effective Date.* Unless appealed to the City Council, the subject Use Permit shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
5. *Legal Fees.* The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach in defending any legal action 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. The Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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.

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 **January 14, 2009** 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

A-1000
Sept. 10, 1998

RESOLUTION NO. PC 97 - 43

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A USE PERMIT AMENDMENT TO ALLOW A CHANGE OF ALCOHOL BEVERAGE CONTROL LICENSE TO ALLOW FULL ALCOHOL SERVICE IN CONJUNCTION WITH THE OPERATION OF AN EXISTING BREWPUB / RESTAURANT ON THE PROPERTY LOCATED AT 124 MANHATTAN BEACH BOULEVARD (Manhattan Beach Brewing Company - Zislis)

This Resolution shall amend, supersede, and replace Resolution Nos. BZA 76-33, BZA 91-3, 4882; and,

The Planning Commission of the City of Manhattan Beach pursuant to the provisions of the Municipal Code held a public hearing on August 27, 1997 to consider an Amendment to the approved Use Permit (Resolution Nos. BZA 76-33, BZA 91-3, and 4882) for the property legally described as Lots 1 and 2, Block 3, South Pacific Home Tract in the City of Manhattan Beach; and,

The applicant for said Use Permit Amendment is David Zislis, owner of the subject business; and,

A public hearing was advertised pursuant to applicable law, testimony was invited and received; and,

The application is exempt from Coastal Development Permit requirements per the provision of Section A.96.050 (B) of the City of Manhattan Beach Local Coastal Program (LCP); and,

The subject Use Permit Amendment is Categorically Exempt (Class 1) from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 "Existing Facilities"; and,

An Initial Study and Negative Declaration were prepared for the original proposal in accordance with the California Environmental Quality Act (CEQA) and City of Manhattan Beach CEQA Guidelines, finding no significant environmental impacts associated with the project; and,

The Planning Commission finds that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the State of California Fish and Game Code; and,

The Planning Commission made the following findings with regard to this application:

1. The applicant is requesting an amendment to Use Permit Nos. BZA 76-33, BZA 91-3, and 4882 which govern the use of the site.
2. On January 1, 1997 the State of California Business and Professions Code Section 23396.3 became effective. This legislation introduced the Type 75 Alcohol Beverage Control license which allows the sale of beer, wine, and distilled spirits in conjunction with brewpub / restaurant businesses.
3. The business currently operates with a Type 23 "Small Brewer's License" which restricts the operation to the sale of beer and wine only. Additionally, the business is restricted by the current Use Permit approvals to the sale of beer and wine only.
4. The applicant requests authorization to expand the liquor license for the existing brewpub / restaurant from a Type 23 "Small Brewer's License" to a Type 75 "Brewpub / Restaurant" license.

PC RESOLUTION NO. 97 - 43
(Page 2 of 4)

5. This change in alcohol licensing to a Type 75 will allow the business to expand to include full alcohol sales, including distilled spirits pursuant to the provisions of Government Code Section 23396.3.
6. This change in alcohol licensing necessitates an amendment to the existing Use Permit to allow such change in the sale of distilled spirits.
7. The provisions of the Type 75 license require that the subject business utilizing such license be a "bona fide public eating place" as defined in Government Code Section 23038, and a brewpub as defined in Government Code Section 23396.3. The subject license cannot be utilized by any business other than those meeting the stated provisions contained in the above-referenced Code Sections.
8. The subject business is located within the "Commercial Downtown" General Plan Land Use Designation and is consistent with surrounding uses, and the provisions of this Land Use Designation.
9. The subject business is consistent with the land use and development regulations of the "CD" (Commercial Downtown) zoning district in which it is located.
10. The use and the conditions under which it is operated will not be detrimental to the public health, safety or welfare of persons residing in 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.
 - A. The project site is located within an area that is predominately commercial, and is located immediately adjacent to uses of a similar nature with similar operating characteristics.
 - B. The project site is not located within the immediate vicinity of residential uses that could be potentially impacted by the operation of the business.
 - C. Eating and drinking establishments have been located at the subject site since 1976, with no significant impact upon surrounding properties.
11. The proposed use will comply with the provisions of Title 10 of the Manhattan Beach Municipal Code, the Implementation Program of the Local Coastal Program, and the conditions of this Resolution.
12. Compliance with the following conditions will ensure that the proposed use will not adversely impact nor be adversely impacted by nearby properties.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Manhattan Beach, hereby APPROVES the Use Permit Amendment, subject to the following conditions:

1. Alcohol sales shall be operated consistent with the provisions and restrictions of Section 23396.3 of the State Government Code (Type 75 Alcohol Beverage Control License).
2. Future businesses utilizing the Type 75 Alcohol Beverage Control license must be a "bona fide public eating place", and must maintain a brewing capacity consistent with the provision of Government Code Section 23396.3.
3. Any future changes to the operation of the business resulting in an inconsistency with the provisions of Government Code Section 23396.3 shall require an amendment to the Use Permit, and shall require an Alcohol Beverage Control license consistent with the operation of the business.

PC RESOLUTION NO. 97 - 43

(Page 3 of 4)

4. Alcohol service shall be conducted only in conjunction with the service of food.
5. At all times, the business shall identify itself as restaurant / brewery and will not identify itself as a "bar" in public advertisements.
6. At no time will the business offer "happy hour" alcohol at reduced prices.
7. At no time will the business offer drink specials at reduced prices.
8. All alcoholic beverages must be sold in glassware, the use of plastic cups for the service of alcoholic beverages is prohibited.
9. Live entertainment and dancing is prohibited, any future entertainment or dancing at this site will require an amendment to this Use Permit.
10. The applicant shall comply with all applicable provisions of the Manhattan Beach Municipal Code including refuse enclosure and signage.
11. All noise emanating from the subject site shall comply with the standards set forth in Ordinance No. 1957.
12. The hours of operation shall be limited to:

Sunday - Thursday
7:00 A.M. to 12:00 A.M.

Friday and Saturday
7:00 A.M. to 1:00 A.M.
13. All organic waste from brewing operations shall be store inside the restaurant building and removed by private entity in a sanitary manner.
14. All brewing equipment and procedures shall comply with all applicable Building, Fire, and Health Code requirements.
15. All clean water resulting from the brewing process shall be re-used or recycled.
16. No products manufactured on the subject site shall be sold for off-site consumption or distribution.
17. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired. The project shall be operated in substantial compliance with the plans and materials as approved by the Planning Commission on September 10, 1997.
18. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the required filing fees are paid.
19. Applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, up to \$20,000, in defending any legal action brought against the City within 90 days after the City's final approval of the project, other than one by the Applicant, challenging the approval of this project, or any action or failure to act by the City relating to the environmental review process pursuant to the California Environmental Quality Act. In the event such a legal action is filed against the City, the City shall estimate its expenses for the litigation and Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

20. An annual review of these conditions of approval will be conducted by the Planning Commission within one year (September 10, 1998) of the initial date of this approval. The applicant shall obtain written reports from the Police Department, Fire Department, and Community Development Department identifying any violations, problems, citizen's complaints with reference to the business operation.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as ADOPTED by the Planning Commission at their regular meeting of September 10, 1997, and that said Resolution was adopted by the following vote:

AYES: Chair Kaplan, Milam, Kirkpatrick, Blanton

NOES: None

ABSENT: Dougher

ABSTAIN: None



Richard Thompson, Secretary to the Planning Commission



Kim Chafin, Recording Secretary

SURVEY OF DOWNTOWN EATING AND DRINKING ESTABLISHMENTS

| Establishment | Address | Hours of Operation | Alcohol License | Date |
|-----------------------------|---------------------------|--|------------------------|-------------|
| 900 Manhattan Club/Sidedoor | 900 Manhattan Ave. | M-Th 11am-12 am F 11am-1 am Sat 9am-12am Sun 9am-12am | Full Liquor | |
| Coco Noche | 1140 Highland Ave. | Su-Th 6am-10pm F-Sa 6am-11pm | Beer and Wine | |
| Beaches | 117 Manhattan Beach Blvd. | M-F 10am-1am Sa-Sun 8 am-1am | Full Liquor | |
| Café Pierre | 317 Manhattan Beach Blvd. | Su-Sa 9am-1am | Full Liquor | |
| Pasta Pomodoro | 401 Manhattan Beach Blvd. | Sun-Wed 9am-11pm Thu-Sat 7am-12am | Beer and Wine | 03/05 |
| Ebizio | 229 Manhattan Beach Blvd. | M-Th 6am - 11pm F-Sa 6am-12am | Beer and Wine | |
| El Sombrero | 1005 Manhattan Ave. | Su-Th 7am-11pm F-Sa 7am-12am | Beer and Wine | |
| Ercoles | 1101 Manhattan Ave. | Su-Sa 11am-2am | Full Liquor | |
| Fonzs | 1017 Manhattan Ave. | Su 9am-9pm M-Th 5:30am-10pm F-Sa 5:30am-11pm | Full Liquor | |
| Creperie | 1209 Highland Ave. | Sun-Th 7am-11pm F-Sat 7am-12am | Beer and Wine | 05/07 |
| Hennesseys | 313 Manhattan Beach Blvd. | Su-Sa 11am-2am | Full Liquor | |
| Fusion Sushi | 1150 Morningside Dr. | Su-W 9am -11pm Th-Sa 7am-12am | Full Liquor | |
| Kettle | 1138 Highland Ave. | Su-Sa 24 Hours | Beer and Wine | |
| Le Pain Quotidien | 451 Manhattan Beach Blvd. | M-Sun 7 am -7:30 PM- (alcohol 10 am) | Limited beer and wine | 5/08 |
| Mama D's | 1125 A Manhattan Ave. | Su-Sa 7am-2am | Beer and Wine | |
| Mangiamo | 128 Manhattan Beach Blvd. | Su-Sa 8am-12am | Full Liquor | |
| Manhattan Brewing Company | 124 Manhattan Beach Blvd. | Su-Sa 7am-12am F-Sat 7am-1am | Full Liquor | |
| Sharks Cove | 309 Manhattan Beach Blvd. | Su-Sa 7am-2am | Full Liquor | |
| Manhattan Pizzeria | 133 Manhattan Beach Blvd. | No Reso | Beer and Wine | |
| Mucho | 903 Manhattan Ave. | Su-T 11am-12am F-Sat 11am-2am | Full Liquor | |
| Octopus | 1133 Highland Ave. | M-F 11:30am-2:30pm to 5:30pm-11pm F-Sa 5:30pm-12am | Beer and Wine | |
| Old Venice/El Sombrero | 1001 Manhattan Ave. | Sun-Thu 7am-11pm Fri-Sat 7am-12am | Beer and Wine | 07/07 |
| Penny Lane | 820 Manhattan Ave. | Su-Th 7am-10:30pm F-Sa 7am-11:30pm | Beer and Wine | |
| Rock N Fish | 120 Manhattan Beach Blvd. | Su-Th 7am-12am F-Sa 7am-1am | Full Liquor | |
| Shellback | 116 Manhattan Beach Blvd. | No Reso | Full Liquor | |

| | | | | |
|-----------------|---|--|---------------|-------|
| Sun & Moon Café | 1131 Manhattan Ave. | Su-Th 6am-11pm F-Sa 6am-12am | Beer and Wine | |
| Talia's | 1148 Manhattan Ave. | Su-W 7am-11pm Th-Sa 7am-12am | Full Liquor | 11/01 |
| Towne | 1142 Manhattan Ave. | M-W 11am-11pm Th-F 11am-12am Sa 7am-12am Su 7am-11pm | Full Liquor | |
| 12th+Highland | 304 12th Street | Su-Th 10am-12am F-Sa 10am-1am | Full Liquor | |
| Wahoo's | 1129 Manhattan Ave. | Su-Th 6am-11pm F-Sa 6am-12am | Beer and Wine | |
| Avenue | 1141 Manhattan Ave. | Su-Th 11am-11pm F-Sa 11am-12am | Full Liquor | |
| Shade Hotel | 1221 Valley Drive | Lobby Bar- daily 5pm-11pm Courtyard Su-Th 6am-11pm F-Sat 6am-12am Roofdeck daily 6am-10pm | Full Liquor | |
| Petro's | 451 Manhattan Beach Blvd Suite B-110 | Su-Th 6am-12 am F-Sa 6am-1am Off-site specialty wine | Full Liquor | 12/06 |
| Sashi | 451 Manhattan Beach Blvd Suite D-126 1200 Morningside | Su-Th 6am-11pm F-Sa 6am-12am | Full Liquor | |

G:/Planning/Ledger/Downtown Alcohol & Hrs List

06/03/08



MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only
Date Submitted: 10/15/08
Received By: *[Signature]*
F&G Check Submitted: *yes \$8500*

124 Manhattan Beach Blvd. Manhattan-Beach, CA 90266
Project Address

Lot 15 Block 12 Manhattan Beach Division #2
Legal Description

Downtown Commercial
General Plan Designation

CD III
Zoning Designation Area District

310 704-8507

For projects requiring a Coastal Development Permit, select one of the following determinations¹

- Project located in Appeal Jurisdiction
- Major Development (Public Hearing required) Project not located in Appeal Jurisdiction
 Minor Development (Public Hearing, if requested) etc.) Public Hearing Required (due to UP, Var., etc.)
 No Public Hearing Required

Submitted Application (check all that apply)

- | | | | |
|--|-------|--|-------|
| <input type="checkbox"/> Appeal to PC/PWC/BBA/CC | _____ | <input type="checkbox"/> Use Permit (Residential) | _____ |
| <input type="checkbox"/> Coastal Development Permit | _____ | <input type="checkbox"/> Use Permit (Commercial) | _____ |
| <input checked="" type="checkbox"/> Environmental Assessment | _____ | <input checked="" type="checkbox"/> Use Permit Amendment | _____ |
| <input type="checkbox"/> Minor Exception | _____ | <input type="checkbox"/> Variance | _____ |
| <input type="checkbox"/> Subdivision (Map Deposit)4300 | _____ | <input checked="" type="checkbox"/> Public Notification Fee / \$65 | _____ |
| <input type="checkbox"/> Subdivision (Tentative Map) | _____ | <input type="checkbox"/> Park/Rec Quimby Fee 4425 | _____ |
| <input type="checkbox"/> Subdivision (Final) | _____ | <input type="checkbox"/> Lot Merger/Adjustment/\$15 rec. fee | _____ |
| <input type="checkbox"/> Subdivision (Lot Line Adjustment) | _____ | <input type="checkbox"/> Other _____ | _____ |

Fee Summary: Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes _____ No _____ Date: _____ Fee: _____

Amount Due: \$ 5,010.00 (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: _____ Date Paid: _____ Cashier: _____

Applicant(s)/Appellant(s) Information

Manhattan Beach Brewing Company Inc.
Name

124 Manhattan Beach Blvd Manhattan Beach CA 90266
Mailing Address

MANHATTAN BEACH BREWING COMPANY (TENANT); David Zisis (President)
Applicant(s)/Appellant(s) Relationship to Property

Michael Zisis (Founder, Manager)
Contact Person (include relation to applicant/appellant) (310) 704 8507
Phone number / e-mail

124 Manhattan Beach Blvd Manhattan Beach CA 90266
Address

[Signature]
Applicant(s)/Appellant(s) Signature (310) 714 5036
Phone number

Complete Project Description- including any demolition (attach additional pages if necessary)

To amend existing CUP to change alcoholic beverage license from a Type 75

(On sale General Brewpub) to a Type 47 (On-sale General For Bona Fide Public

Eating Place)

¹ An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

PAID
E/001-01230891
10-16-2008

WRITTEN DESCRIPTION

Purpose of Application

Manhattan Beach Brewing Company is a full service, family oriented restaurant and brewpub located at 124 Manhattan Beach Boulevard in the Downtown Commercial designation. We are in our eighteenth year of operation and are confronted by the need to replace the aging brewery equipment. The cost to purchase the equipment and renovate the brewery space is cost prohibitive given today's economic realities.

We seek to change our alcoholic beverage license from the existing Type 75 (On-Sale General Brewpub) to a Type 47 (On-Sale General for a Bona Fide Eating Place). Both the Type 75 and 47 licenses permit the sale of beer, wine and liquor. A bona fide eating place is defined as a restaurant with food sales in excess of 50% of total food and beverage sales. Manhattan Beach Brewing Company has always operated and qualified as a bona fide eating place. The property's existing use permit contains many protective conditions to ensure that the location always remains a bona fide eating place (no happy hours, no drink specials at reduced prices, no live entertainment or dancing, and alcohol service must be in conjunction with food service).

Our intention is to remove the brewery equipment and transition Manhattan Beach Brewing Company from a brewpub to a gastropub – a public house (pub) specializing in high quality food. The restaurant will continue to offer the same extensive food menu as today, but instead of brewing beer will feature a selection of thirty handcrafted draft beers and twenty premium wines by the glass while still offering other top shelf alcoholic beverages. The only real change we are proposing at Manhattan Beach Brewing Company is that we will no longer be brewing the quality beers we offer guests at the restaurant.

Legal Description

Lot 15, Block 12, Manhattan Beach Division #2.

Area District

III.

General Plan Designation

Downtown Commercial.

L.C.P., L.U.P. Designation

Downtown Commercial.

Zoning

CD, Downtown Commercial.

Neighboring Land Uses

| | |
|-------|----------------------------|
| North | CD, Restaurant/ Commercial |
| South | CD, Commercial |
| East | CD, Restaurant |
| West | CD, Restaurant, Beach |

Alcohol License

Type 75 – On-Sale General Brewpub (Beer, wine, liquor).

Occupancy

84 persons.

Parking

None required.

Hours of Operation

| | |
|-------------------|-----------------------|
| Sunday – Thursday | 7:00 a.m. – Midnight. |
| Friday/ Saturday | 7:00 a.m. – 1:00 a.m. |

No change.

Peak Hours

| | |
|-----------------|------------------------|
| Monday – Sunday | 7:30 p.m. – 9:30 p.m. |
| Friday – Sunday | 12:00 p.m. – 3:00 p.m. |

Environmental Impact

None.



ENVIRONMENTAL INFORMATION FORM

(to be completed by applicant)

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Date Filed: _____

APPLICANT INFORMATION

Name: Manhattan Beach Brewing Co.

Contact Person: Michael Zislis

Address: 124 Manhattan Beach Blvd.

Address: 124 Manhattan Beach Blvd.

Phone number: 310-714-5036

Phone number: 310-704-8507

Relationship to property: Business Owner

Association to applicant: Founder, Manager

PROJECT LOCATION AND LAND USE

(Tenant)
Project Address: 124 Manhattan Beach Blvd., Manhattan Beach, CA 90260

Assessor's Parcel Number: Block 12, Lot 15

Legal Description: Lot 15. Block 12. Manhattan Beach Division #2

Area District, Zoning, General Plan Designation: III

Surrounding Land Uses:

North Commercial C-2

West Commercial Pier

South Commercial C-2

East Commercial C-2

Existing Land Use: Commercial. Restaurant with brewery.

PROJECT DESCRIPTION

Type of Project: Commercial Residential _____ Other _____

If Residential, indicate type of development (i.e.; single family, apartment, condominium, etc.) and number of units: _____

If Commercial, indicate orientation (neighborhood, citywide, or regional), type of use anticipated, hours of operation, number of employees, number of fixed seats, square footage of kitchen, seating, sales, and storage areas: Orientation-

Neighborhood. Use- Restaurant. Hours- 7:00 - 1:00 (Fri/Sat), 7:00 a.m.

Midnight (Sun-Thurs). Employees- 25. Occupancy- 24. Kitchen Size- 700

Feet. Sales- Greater than \$1.5 million.

If use is other than above, provide detailed operational characteristics and anticipated intensity of the development: We anticipate no change of intensity

of use as a result of the CUP amendment.

Removed/

| | <u>Existing</u> | <u>Proposed</u> | <u>Required</u> | <u>Demolished</u> |
|---------------------------|-------------------|-------------------|-------------------|-------------------|
| Project Site Area: | <u>2,750</u> | <u>2,750</u> | <u> </u> | <u> </u> |
| Building Floor Area: | <u>2,750</u> | <u>2,750</u> | <u> </u> | <u> </u> |
| Height of Structure(s) | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Number of Floors/Stories: | <u> 2 </u> | <u> 2 </u> | <u> </u> | <u> </u> |
| Percent Lot Coverage: | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Off-Street Parking: | <u>None</u> | <u>None</u> | <u> </u> | <u> </u> |
| Vehicle Loading Space: | <u>Alley</u> | <u>Alley</u> | <u> </u> | <u> </u> |
| Open Space/Landscaping: | <u>None</u> | <u>None</u> | <u> </u> | <u> </u> |

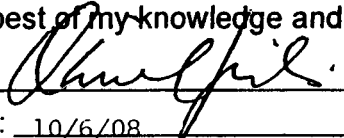
Proposed Grading:
 Cut Fill Balance Imported Exported

Will the proposed project result in the following (*check all that apply*):

- | <u>Yes</u> | <u>No</u> | |
|-------------------|--------------|--|
| <u> </u> | <u> X </u> | Changes in existing features or any bays, tidelands, beaches, lakes, or hills, or substantial alteration of ground contours? |
| <u> </u> | <u> X </u> | Changes to a scenic vista or scenic highway? |
| <u> </u> | <u> X </u> | A change in pattern, scale or character of a general area? |
| <u> </u> | <u> X </u> | A generation of significant amount of solid waste or litter? |
| <u> </u> | <u> X </u> | A violation of air quality regulations/requirements, or the creation of objectionable odors? |
| <u> </u> | <u> X </u> | Water quality impacts (surface or ground), or affect drainage patterns? |
| <u> </u> | <u> X </u> | An increase in existing noise levels? |
| <u> </u> | <u> X </u> | A site on filled land, or on a slope of 10% or more? |
| <u> </u> | <u> X </u> | The use of potentially hazardous chemicals? |
| <u> </u> | <u> X </u> | An increased demand for municipal services? |
| <u> </u> | <u> X </u> | An increase in fuel consumption? |
| <u> </u> | <u> X </u> | A relationship to a larger project, or series of projects? |

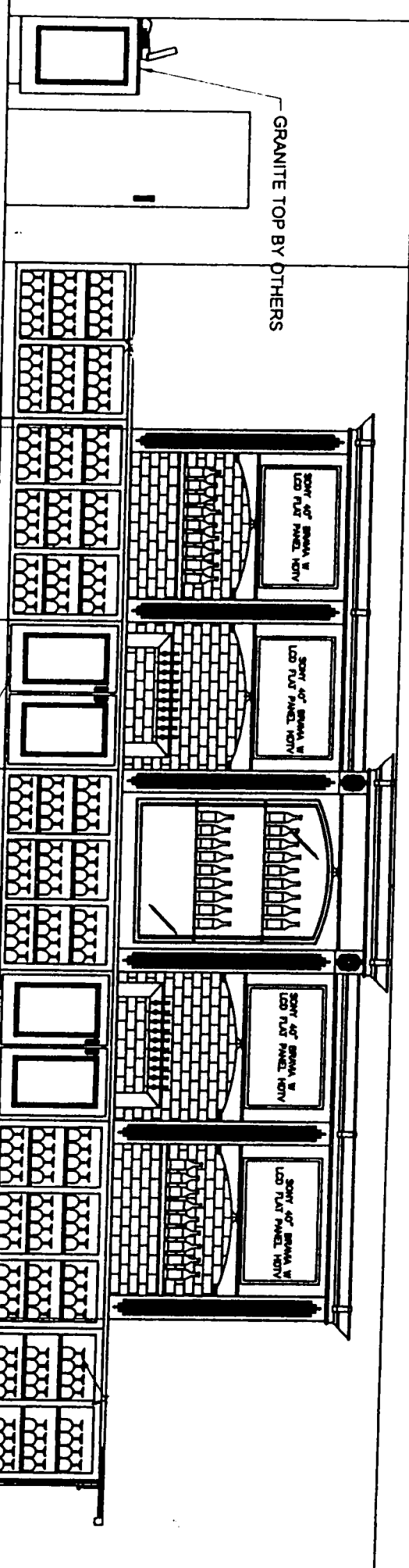
Explain all "Yes" responses (*attach additional sheets or attachments as necessary*):

CERTIFICATION: I hereby certify that the statements furnished above and in attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Signature:  Prepared For: Manhattan Beach Brewing Co.
 Date Prepared: 10/6/08
 Revised 7/97

DESCRIPTION OF HOW FINDINGS WILL BE MET

1. The proposed amendment to the use permit of 124 Manhattan Beach Boulevard (Manhattan Beach Brewing Company) is consistent with the Commercial Downtown designation. This area is specifically designated for community activity and a service area for residents and beach visitors. Several other restaurants and taverns in the area already engage in similar use.
2. The amended use of this location to include a Type 47 alcohol license is consistent with the General Plan for the Commercial Downtown designation, because it is merely the granting of a different but similar privilege to an already existing use that will result in no fundamental change of that use. The change of licensing will have no environmental impact and will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of the restaurant. There will be no impact on properties or improvements in the vicinity, nor the general welfare of the city.
3. The change from our current Type 75 alcohol license to the proposed Type 47 is consistent with our existing use as a restaurant at this location. The proposed use will comply with the provisions and conditions of this title.
4. Because the change of licensing from a Type 75 to a Type 47 will not alter the fundamental use, purpose or character of our business, and because there will not be any change in occupancy or seating at our restaurant, the proposed amended use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.



GRANITE TOP BY OTHERS

CABINET FOR BEER LINES
(TYP. OF 2) 2852

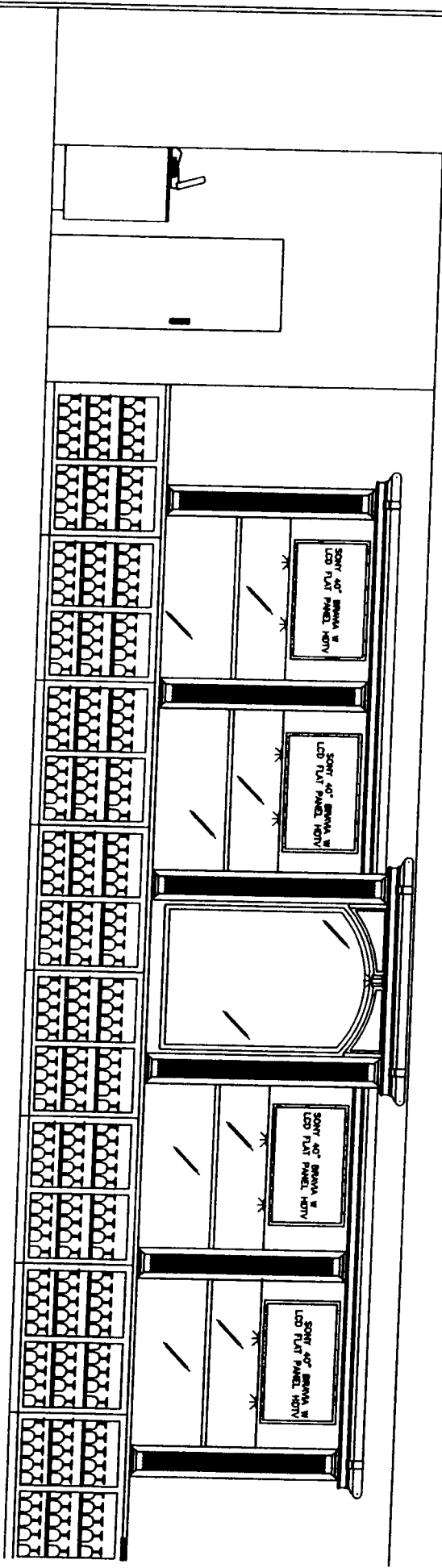
SOMT 40" BRAMA W
LED FLAT PANEL HDTV

SOMT 40" BRAMA W
LED FLAT PANEL HDTV

SOMT 40" BRAMA W
LED FLAT PANEL HDTV

SOMT 40" BRAMA W
LED FLAT PANEL HDTV

COLD BOX





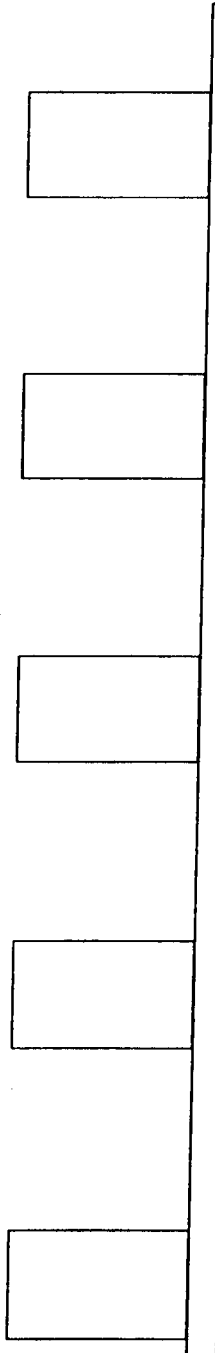
6'-0"



33'-6"

31'-4"

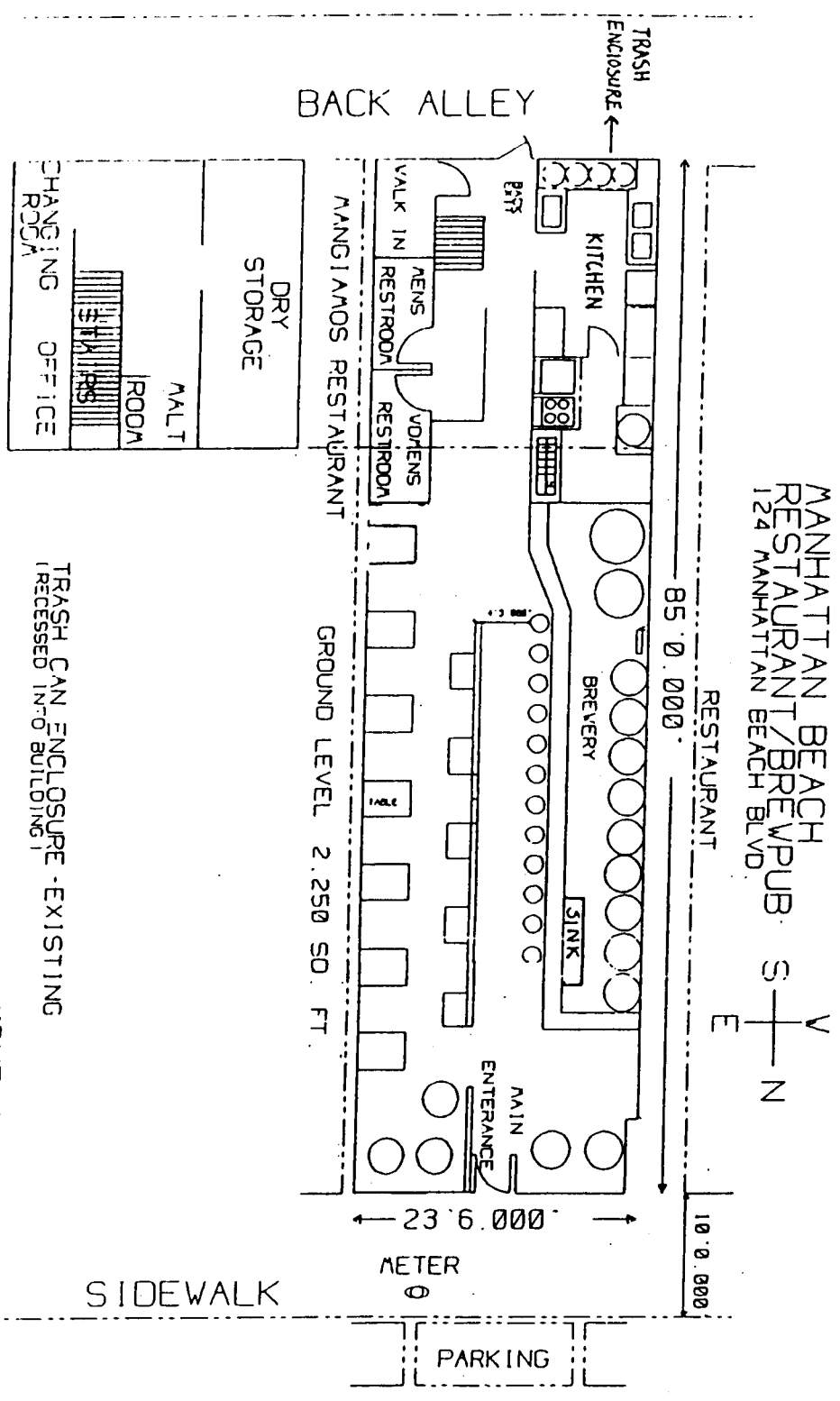
4'-6"



SECOND LEVEL 450 SQ. FT.
 (STACKS ON REAR OF BUILDING)

SCALE 1/8" = 1'
 TRASH CAN ENCLOSURE - EXISTING
 (RECESSED INTO BUILDING)

CONTACT:
 DAVID ZISLIS
 798-2744



MANHATTAN BEACH BLVD.

EXHIBIT A

**COMMON ABC LICENSE TYPES
AND THEIR BASIC PRIVILEGES**

| LICENSE TYPE | DESCRIPTION |
|--------------|--|
| 01 | BEER MANUFACTURER - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises. |
| 02 | WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises. |
| 20 | OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises. |
| 21 | OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises. |
| 23 | SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant. |
| 40 | ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises. |
| 41 | ON SALE BEER & WINE - EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises. |
| 42 | ON SALE BEER & WINE - PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required. |
| 47 | ON SALE GENERAL - EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises. |
| 48 | ON SALE GENERAL - PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required. |
| 49 | ON SALE GENERAL - SEASONAL - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate. |



| LICENSE TYPE | DESCRIPTION |
|--------------|-------------|
|--------------|-------------|

| | |
|----|---|
| 51 | CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises. |
| 52 | VETERAN'S CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises. |
| 57 | SPECIAL ON SALE GENERAL - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises. |
| 59 | ON SALE BEER AND WINE – SEASONAL - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. |
| 60 | ON SALE BEER – SEASONAL - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises. |
| 61 | ON SALE BEER – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required. |
| 67 | BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises. |
| 70 | ON SALE GENERAL – RESTRICTIVE SERVICE - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises. |
| 75 | ON SALE GENERAL – BREWPUB - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises. |
| 80 | BED AND BREAKFAST INN – GENERAL - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises. |



Michael Rocque

From: David Zislis [davidzislis@yahoo.com]

Sent: Friday, December 12, 2008 1:22 PM

To: Michael Rocque

Dear Mike,

Mike Z. asked me to respond to your email. When we remove the brewery equipment, we will install a new back bar, refrigeration and a cold box (to hold draft beer). These items will fit into the space where the brewery is currently located. I should receive architectural drawings next week, which I will forward to you. Any other design changes to the restaurant should be superficial in nature. If you have any questions, please call me at 310-714-5036 or email me at Davidzislis@yahoo.com.

Best regards,

David Zislis