



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Mitch Ward and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Laurie B. Jester, Acting Director of Community Development
Esteban M. Danna, Assistant Planner

DATE: August 3, 2010

SUBJECT: Consideration of Planning Commission Approval of a Use Permit Amendment to Allow the Extension of Hours of Operation for Izaka-Ya Restaurant, Located at 1133 Highland Avenue.

RECOMMENDATION:

Staff recommends that the City Council **RECEIVE** and **FILE** the Planning Commission's approval of the Use Permit Amendment for the restaurant located at 1133 Highland Avenue.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

BACKGROUND

In April of 2010, Staff received an application for a Use Permit amendment for the subject property. At its regular meeting on July 14, 2010, the Planning Commission held a Public Hearing and adopted Resolution No. PC 10-04 (Exhibit A), approving the Use Permit amendment (4-1). The subject application proposes to expand the hours of operations.

DISCUSSION

Currently, the restaurant is restricted to operating hours from 11:30am to 2:30pm and 5:30pm to 11pm Monday through Thursday and 5:30pm to midnight Fridays and Saturdays. The applicant proposed to amend the current use permit to allow the expansion of hours of operation from 11am to midnight everyday. The Planning Commission discussed the proposal and modified the hours of operation from 11am to 11pm Sunday through Wednesday and 11am to midnight Thursday through Saturday. Some of the Commissioners were concerned that increasing the hours to midnight everyday would have a negative impact on surrounding properties and potentially set a precedent for the Downtown. The public hearing was opened and the applicant's representative addressed the Commission. No one else wished to speak before the Commission and thus the public hearing was closed. Upon discussion, the Commission compromised to approve an extended hour on Thursday, midday hours, and hours of operation on Sunday.

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 10-04
B. Planning Commission minutes excerpt 07/14/2010
C. Planning Commission Staff Report & Attachments (Exhibits A-E)
07/14/2010

RESOLUTION NO. PC 10-04

**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 1133 HIGHLAND AVENUE (Izaka-Ya)**

**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. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on July 14, 2010, 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 Lots 11 and 12, Block 66, Manhattan Beach Division No. 2., located at 1133 Highland Avenue in the City of Manhattan Beach.
- B. The applicant for the subject project is Izaka-Ya, Inc. The owner of the property is Norma Ann Maltz.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The conditions in Resolution No. BZA 84-55, the use permit in effect for the subject site, does not specify hours of operation directly, but refers to policing litter and serving food during all hours of operation. The Staff Report prepared for the Resolution No. BZA 84-55 defines the hours of operation and thus regulates the hours, as was common practice for BZA resolutions in the 1980s.
- E. 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 use.
- F. 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.
- G. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that serve City residents, and are buffered from residential areas.
- H. A Coastal Development permit is not necessary since there are no relevant coastal issues related to the subject application
- I. Pursuant to Section 10.84.060 of the Manhattan Beach Municipal Code, the following findings for the Use Permit are made:
 - 1. The existing uses and proposed change in hours of operation are consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for commercial uses, to provide a broad range of



community businesses, and to serve beach visitors.

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

Goal LU-7.1: Encourage the upgrading and growth of businesses in the downtown area to serve as a center for the community and to meet the needs of local residents and visitors.

Goal LU-7.4: Encourage first-floor street front businesses with retail, restaurants, service/commercial, and similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

3. The existing uses and proposed change in hours of operations will comply with the conditions required for the district in which it is located.
 4. The change of hours of operation 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. 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.
- J. 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 BZA 84-55.

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

Site Preparation / Construction

1. The project shall be in substantial compliance with the submitted plans and project description as approved by the Planning Commission on July 14, 2010. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

2. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

3. The restaurant shall operate as an eating and drinking establishment. The service of food and beverages shall be primarily by employee service to customers seated at tables and the establishment shall have no take-out window.
4. Hours of operation shall be limited to 11am to 11pm Sunday through Wednesday and 11am to midnight Thursday through Saturday, or as approved by the Department of Alcoholic Beverage Control, whichever is more restrictive.
5. Alcohol service is limited to on-site consumption of beer and wine only. Sale of alcoholic beverages for consumption off-premise is prohibited.
6. Alcohol service to customers shall occur only in conjunction with food service during all hours of operation.
7. Entertainment other than background music or television is prohibited. Any outside sound or amplification system or equipment is prohibited. Noise emanating from the establishment shall be in compliance with the Municipal Noise Ordinance.
8. The management of the property shall police the property and all areas adjacent to the business during hours of operation to keep it free of litter and debris.
9. The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
10. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.

Procedural

11. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
12. 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.
13. 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.
14. 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.

15. 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 July 14, 2010 and that said Resolution was adopted by the following vote:

AYES: Andreani, Lesser, Paralusz, Fasola

NOES: Seville-Jones

ABSTAIN:

ABSENT:

LAURIE B. JESTER,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JULY 14, 2010**

The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 14th day of July, 2010, at the hour of 6:35 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

A. ROLL CALL

Present: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola
Absent: None
Staff Present: Laurie Jester, Acting Director of Community Development
Esteban Danna, Assistant Planner
Carol Jacobson, Building Official
Recording Secretary, Sarah Boesch

B. APPROVAL OF MINUTES – June 23, 2010

A motion was MADE and SECONDED (Seville-Jones/Lesser) to **APPROVE** the minutes of June 23, 2010.

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

C. AUDIENCE PARTICIPATION

D. PUBLIC HEARINGS

07/14/10-2 Consideration of a Use Permit Amendment to Allow the Extension of Hours of Operation for Izaka-Ya Restaurant Located at 1133 Highland Avenue

Assistant Planner Danna summarized the staff report. He commented that the subject restaurant is located in a commercial building with three tenant spaces on the ground level and four tenant spaces on the second level. He indicated that the tenants on the ground level of the building are food and restaurant services, and the tenants on the second level spaces are office uses. He stated that the subject restaurant is currently operated under the 1984 Board of Zoning Adjustment Board Use Permit. He indicated that the site has historically been occupied by restaurants. He said that the subject restaurant is currently restricted to operating hours between 11:30 a.m. to 2:30 p.m. and 5:30 p.m. to 11:00 p.m. Mondays through Thursdays and 11:30 a.m. to 2:30 p.m. and 5:30 p.m. to midnight on Fridays and Saturdays. He indicated that the proposed hours are 11:00 a.m. to midnight seven days a week. He commented that the project was noticed to properties within 500 feet and advertised in the Beach Reporter. He said that the proposed hours are fairly typical for restaurants in the downtown area, and staff does not have any concerns with the proposal. He indicated that the applicant intends to file a request with the ABC (Alcoholic Beverage Control) to change the license to reflect the expanded hours of operation. He said that the current license from the ABC allows for the sale of beer and wine at the restaurant, and no change is proposed for the type of license. He indicated that staff has received no comments from the public regarding the proposal.

EXHIBIT

B

Commissioner Seville-Jones commented that the chart provided in the staff report indicates that 16 of the 33 restaurants in the downtown area have earlier closing hours during the week than on Friday and Saturday nights. She said that she would have a concern that having a single closing time seven days a week would set a precedent for other establishments.

In response to a question from Commissioner Seville-Jones, Assistant Planner Danna commented that approving hours until midnight seven days a week for a particular establishment can be based on factors such as whether there are any concerns with noise or disturbances. He stated that there is not evidence showing that there have been any disturbances at the subject restaurant.

Commissioner Seville-Jones asked if there are any concerns with additional traffic that would result from allowing the later closing hours. She asked if staff feels there are already a sufficient number of restaurants in the downtown area that are open until midnight during the week in the downtown area.

Acting Director Jester pointed out that each application for a Use Permit is viewed on its own merit. She commented that each site is different in terms of proximity to residential properties and parking and whether there is a history of complaints. She indicated that the proposal with the subject restaurant is for beer and wine service and not for full alcohol service. She indicated that the Commission can determine whether they feel the findings can be made to approve the extended hours. She indicated that staff has provided the Commissioners with the hours of other establishments so that they have that information in helping to make their determination.

In response to a question from Commissioner Lesser, Assistant Planner Danna indicated that bars and other establishments with full alcohol service where people generally stay for a longer duration will typically have split hours between weeknights and weekends. He said that the function of the subject establishment is as a restaurant, and staff did not feel it was necessary to differentiate the hours for weeknights and weekends.

In response to a question from Commissioner Lesser, Assistant Planner Danna said that staff is not aware of any complaints that were received for the establishment while it was operated by the former owner. He stated that the current operator has been established for several months, and no complaints have been received. He commented that the proposal seems to meet the goals of the General Plan for the downtown area.

Commissioner Paralusz pointed out that the Kettle, which is located across the street from the subject site, is open 24 hours every day.

In response to a question from Chairman Fasola, Acting Director Jester indicated that generally the weekend and holidays or during special events is typically when most complaints are made. She commented that Thursday nights have become more like a typical weekend night.

Commissioner Seville-Jones asked whether there is a concern that the granting the extension would result in more traffic in the downtown area for an additional hour on weekdays.

Assistant Planner Danna said that it is difficult to determine the additional impact on traffic because it is not certain how many people would patronize the restaurant during the additional hour.

Chairman Fasola opened the public hearing.

Kevin Franklin, representing the applicant, commented that the ABC requires approval by the City before they will approve modified hours for alcohol service. He said that being open until midnight would result in more patrons at the restaurant, as the intent for extending hours is to increase business. He pointed out that the subject property is located in a commercial area and is more than 100 feet away from any residents. He indicated that other commercial developments provide a buffer between the subject site and the nearest residents. He pointed out that there is no live entertainment or dancing proposed for the establishment. He stated that none of the restaurants operated by the applicant have received any ABC violations. He commented that it is traditional for sushi restaurants to close between 3:00 p.m. and 5:00 p.m., but the applicant wishes to remain open during those hours to better accommodate customers.

Chairman Fasola closed the public hearing.

Chairman Fasola pointed out that the subject establishment is not located adjacent to residences and has not generated any problems. He stated that he does not see any reason to limit the hours. He stated that many bars are open until 1:00 a.m. or 2:00 a.m. which generate more noise than the subject restaurant.

Commissioner Seville-Jones said that she feels it is too narrow to only consider the proximity of the nearest residents in determining whether the hours should be extended. She pointed out that almost half of the restaurants in the downtown area have a closing hour that is 11:00 p.m. or earlier on Sundays through Thursdays. She said that there is good public policy in having restaurants closing earlier during the week to reduce traffic and noise. She stated that there are currently plenty of establishments in the downtown area where people can get a late night drink or meal. She indicated that the proposal would set a precedent for other small restaurants that may request to remain open until midnight which would result in more traffic and parking impacts. She said that she has difficulty making the finding that the extended hours on weeknights would not result in an adverse impact.

Commissioner Andreani indicated that she also is in favor of allowing different hours of operation for weekdays and weekends. She indicated that she would support allowing the restaurant to open at 11:00 a.m. every day and to remain open through the evening hours. She stated that the proposed hours until midnight every night would set a precedent and is not in keeping with the ambiance that is intended for the City. She said that she is not aware of issues regarding noise at the location, but she has noticed lines of patrons forming outside of the restaurant. She indicated that Simmzy's has different operating hours on weeknights and on weekends and is located on the same property as the subject restaurant.

Commissioner Lesser said that he is swayed toward granting the proposed hours because the subject site is not adjacent to residences. He also pointed out that there are public parking lots nearby the subject site. He said that he does not feel the main concern is whether there is a bifurcation of hours between weeknights and weekends but rather whether the closing hours are appropriate considering the hours of other establishments in the downtown area. He stated that the Kettle across from the subject site is open 24 hours, and some of the restaurants to the east of the subject site have much later closing hours than are proposed even with bifurcated hours. He said that he feels he can make the specific findings for allowing the proposed hours at the subject location. He also indicated that the establishment does have a history of operating as a restaurant with alcohol service secondary to food service. He commented that although the Commission considers each project in an individual basis, it is true that a precedent is somewhat set with approvals that are granted. He commented that he would have liked more information included in the staff report regarding the criteria that staff used in evaluating the proposal. He said that the City Council has previously made an express decision to limit the

hours of operation for establishments in the downtown area, and he does acknowledge the concerns raised by Commissioner Seville-Jones. He said, however, that he does not feel the subject application would provide a party atmosphere to the downtown area, and he can support the expansion of hours as proposed.

Commissioner Paralusz pointed out that many restaurants that are nearby to the subject site are open later than midnight every night. She said that it is not likely that many people will eat dinner at the subject restaurant at 11:00 p.m. on weekdays. She commented that she is sensitive to the concerns raised by Commissioner Seville-Jones, but she does not want to employ a blanket approach to approving hours. She indicated that the establishment has not generated complaints in the past, and there is not a proposal for live entertainment or dancing. She stated that she supports the application.

In response to a question from Chairman Fasola, Acting Director Jester commented that she cannot recall any requests for an increase in operating hours other than for Petros and Sashi, as well as Shade. She indicated that operators are reevaluating their businesses and determining ways in which to attract customers with the current economy, which could result in more requests for increasing hours. She pointed out that each proposal is considered on an individual basis. She stated that the subject establishment serves beer and wine only. She also commented that the restaurant also has no live entertainment or dancing. She said that staff is not aware of any complaints to the City or the Police Department regarding the establishment.

Commissioner Seville-Jones commented that currently there is a split in the downtown area of closing times for restaurants, and the question is whether the mix of closing times is the correct balance. She said that for every restaurant that is open late, there is also a restaurant that has earlier closing times on weeknights than on weekends. She commented that the decisions of the Commission are often cited later by other applicants with similar requests. She said that approving longer hours for an applicant would result in the approval of other similar requests and in residents having to endure increased traffic every night. She said that she believes that the reason for the request is for the applicant to accommodate patrons later at night. She indicated that she does not feel there is a reason for granting the extra hour on weeknights if it is not anticipated that the applicant will have patrons during that time. She indicated that if the applicant does have patrons until midnight, it would result in more traffic being generated during later hours. She stated that she believes there are a sufficient number of restaurants in the downtown area that are open until later hours.

Chairman Fasola stated that approving longer operating hours for the subject restaurant would set a precedent that could result in a gradual creep of more establishments generating more noise during later hours. He indicated that the applicant has not operated that restaurant for very long and has not had an opportunity to establish their operation. He said that an option would be to grant the request for additional hours during the afternoon and then allowing the applicant to return in a year for the closing hours at midnight. He pointed out that many restaurants that are entitled to operate during later hours do not necessarily remain open until that time. He said that he would not be in favor of granting the extra hours simply to help the applicant because of the current poor economy, as the economy will change in the future.

Commissioner Lesser said that he does share the concern of Commissioner Seville-Jones regarding the hours for other establishments slowly being expanded if a precedent is set by the subject restaurant. He stated, however, that he does not feel the subject application would result in many of the concerns, particularly because of the mix of customers that the restaurant attracts. He commented that he personally would prefer to have the option of going to the

subject restaurant for a late night dinner on weeknights rather than going to some of the other establishments in town that have a louder atmosphere.

Commissioner Andreani said that she is also concerned with not changing the nature of the downtown area. She said that she is suggesting that the restaurant open at 11:00 a.m. every day and close at 11:00 p.m. Sunday through Wednesday and midnight Thursday through Saturday. She indicated that there are several restaurants in the downtown area that close at midnight. She indicated that she also does not believe it is the role of the Commission to help restaurants increase their revenue during the current poor economic condition by increasing hours.

A motion was MADE (Seville-Jones) to **APPROVE** a Use Permit Amendment to Allow the Extension of Hours of Operation for Izaka-Ya Restaurant from 11:00 a.m. until 11:00 p.m. Sunday through Thursday and 11:00 a.m. until midnight on Fridays and Saturdays.

There was no second to the motion.

In response to a question from Commissioner Lesser, **Mr. Franklin** indicated that the applicant would accept the hours as suggested by Commissioner Andreani. He pointed out that condition 15 allows the Commission and City Council to review the Use Permit at any time at the expense of the applicant.

Acting Director Jester said that Condition 15 indicates that the City has the ability through the Zoning Code to have a revocation hearing of the Use Permit if issues arise regarding the establishment. She commented that it is a public process that needs to be noticed. She said that there must be a clear history of issues before the conditions would be modified or the permit revoked.

Commissioner Seville-Jones commented that she feels like Thursdays are the same as other weeknights and should not be treated the same as a weekend night.

Chairman Fasola said that he would support approving the applicant's request for the restaurant to remain open during the afternoon hours now and allowing the applicant to come back in a year after they are better established to request hours until midnight.

Commissioner Paralusz commented that she would support allowing operating hours until midnight on Thursdays. She said that many people have work schedules with Fridays off which allows them to stay out later on Thursday evenings.

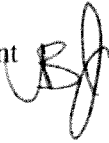
A motion was MADE and SECONDED (Andreani/Lesser) to **APPROVE** a Use Permit Amendment to Allow the Extension of Hours of Operation for Izaka-Ya Restaurant Located at 1133 Highland Avenue from 11:00 a.m. to 11:00 p.m. Sunday through Wednesday and from 11:00 a.m. to midnight Thursday through Saturday with no requirement to close between 2:30 p.m. and 5:30 p.m.


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

Acting Director Jester explained the appeal process and indicated that the item will be placed on the City Council's Consent Calendar for their meeting of August 3, 2010.

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

TO: Planning Commission

FROM: Laurie B. Jester, Acting Director of Community Development 

BY: Esteban Danna, Assistant Planner 

DATE: July 14, 2010

SUBJECT: Consideration of Use Permit Amendment to Allow the Extension of Hours of Operation for Izaka-Ya Restaurant Located at 1133 Highland Avenue.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the request to increase the hours of operation (current: 11:30am to 2:30pm and 5:30pm to 11pm Monday through Thursday and 5:30pm to midnight Fridays and Saturdays; proposed: 11am to midnight everyday).

APPLICANT

Izaka-Ya, Inc.
16633 Ventura Blvd., No. 1212
Encino, CA 91436

OWNER

Norma Ann Maltz
1970 Silver Leaf Circle
Carlsbad, CA 92009

PROJECT OVERVIEW

Location

<u>Location</u>	1133 Highland Avenue
<u>Area District</u>	III
<u>Legal Description</u>	Lots 11 and 12, Block 66, Manhattan Beach Division No. 2.
<u>Coastal Zone</u>	Non-Appealable

Landuse

<u>General Plan</u>	Downtown Commercial
<u>Zoning</u>	CD – Downtown Commercial
<u>Existing Land Use</u>	Commercial Building with restaurant and office uses
<u>Neighboring Zoning</u>	North CD – Downtown Commercial
	South CD – Downtown Commercial
	East CD – Downtown Commercial
	West CD – Downtown Commercial



ENVIRONMENTAL REVIEW

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Class 1, Section 15301 based on staff's determination that the use on the property does not change and thus will not have a significant impact on the environment.

BACKGROUND:

The subject property is currently developed with a commercial building consisting of three tenant spaces on the ground floor and four tenant spaces on the second floor. All tenant spaces on the ground floor have restaurant/food service uses (Simmzy's, Starbucks, and Izaka-Ya). All tenant spaces on the second floor have office uses. The subject restaurant facility, formerly Octopus Restaurant, is currently occupied by the applicant, Izaka-Ya, under an existing 1984 Board of Zoning Adjustment (BZA) use permit (Exhibit B). Historically, restaurant uses have occupied the subject space. The conditions in the current use permit does not specify hours of operation directly, but refers to policing litter and serving food during all hours of operation. The Staff Report prepared for the current use permit defines the hours of operation and thus regulates the hours, as was common practice for BZA resolutions in the 1980s.

DISCUSSION:

Currently, the restaurant is restricted to operating hours from 11:30am to 2:30pm and 5:30pm to 11pm Monday through Thursday and 5:30pm to midnight Fridays and Saturdays. The applicant proposes to amend the current use permit to allow the expansion of hours of operation to 11am to midnight everyday. The proposed hours of operation are fairly typical for restaurants in the downtown area and staff has no concerns with the proposed new hours of operation (Exhibit C).

The City's Police Department reviewed the application and expressed concerns since the existing Department of Alcoholic Beverage Control (ABC) license allows alcoholic beverage service 10am to 11pm Monday through Thursday, 10am to 11:30pm Friday and Saturday, and 5pm to 10:30pm Sunday. The applicant's representative has indicated that the applicant intends to file a request with the ABC to change the license to reflect the expanded hours of operation. The current ABC license allows sale of beer and wine only for which no change is proposed.

Other departments did not express concerns for the proposed use permit amendment. A Coastal Development permit is not required since there are no relevant coastal issues related to the subject application.

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. The findings are 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 downtown commercial district. The existing uses and proposed change of hours of operation are consistent with MBMC Section 10.16.010 which states that the district is intended to provide opportunities for commercial uses, to provide a broad range of community businesses, and to serve beach visitors.

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

The existing uses and proposed change of hours of operation pose no detrimental effects to the public health, safety, or welfare of persons working on the proposed project site or on the adjacent properties. The proposed change of hours 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.

Goal LU-7.1: Encourage the upgrading and growth of businesses in the downtown area to serve as a center for the community and to meet the needs of local residents and visitors.

Goal LU-7.4: Encourage first-floor street front businesses with retail, restaurants, service/commercial, and similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

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

The existing uses and proposed change of hours of operation 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 operation 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. 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.

Planning Commission Authority

In accordance with Chapter 10.84 of the MBMC, the Planning Commission conducts a public hearing and has the authority to approve, approve with conditions or deny the Use Permit Amendment and a Variance. With any action the Use Permits findings must be considered (10.84.060 A), and conditions (10.84.070) may be placed on an application. The Commission has the ability to approve only portions of the request and modify the proposal to meet the Use Permit purpose, findings, and criteria.

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.

CONCLUSION

The project before the Planning Commission is an Amendment to the Use Permit for Izaka-Ya restaurant. Staff recommends that the Planning Commission review the information presented in the report, open the public hearing, discuss the project, close the public hearing, and adopt the draft resolution. The Resolution will replace the existing Resolution No. BZA 84-55.

Attachments:

- A. Draft Resolution No. PC 10-XX
- B. Staff Report and Resolution No. BZA 84-55
- C. ABC Licenses in Downtown Manhattan Beach
- D. Vicinity Map
- E. Application Materials

DRAFT RESOLUTION NO. PC 10-XX

**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 1133 HIGHLAND AVENUE (Izaka-Ya)**

**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. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on July 14, 2010, 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 Lots 11 and 12, Block 66, Manhattan Beach Division No. 2., located at 1133 Highland Avenue in the City of Manhattan Beach.
- B. The applicant for the subject project is Izaka-Ya, Inc. The owner of the property is Norma Ann Maltz.
- C. The extension of operation hours to the existing restaurant requires use permit approval.
- D. The conditions in Resolution No. BZA 84-55, the use permit in effect for the subject site, does not specify hours of operation directly, but refers to policing litter and serving food during all hours of operation. The Staff Report prepared for the Resolution No. BZA 84-55 defines the hours of operation and thus regulates the hours, as was common practice for BZA resolutions in the 1980s.
- E. 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 use.
- F. 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.
- G. The General Plan designation for the property is Downtown Commercial. The General Plan encourages commercial uses such as this that serve City residents, and are buffered from residential areas.
- H. A Coastal Development permit is not necessary since there are no relevant coastal issues related to the subject application
- I. Pursuant to Section 10.84.060 of the Manhattan Beach Municipal Code, the following findings for the Use Permit are made:
 1. The existing uses and proposed change in hours of operation are consistent with Section 10.16.010 of the Manhattan Beach Zoning Code which states that the district is intended to provide opportunities for commercial uses, to provide a broad range of

EXHIBIT
A

community businesses, and to serve beach visitors.

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

Goal LU-7.1: Encourage the upgrading and growth of businesses in the downtown area to serve as a center for the community and to meet the needs of local residents and visitors.

Goal LU-7.4: Encourage first-floor street front businesses with retail, restaurants, service/commercial, and similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

3. The existing uses and proposed change in hours of operations will comply with the conditions required for the district in which it is located.
 4. The change of hours of operation 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. 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.
- J. 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 BZA 84-55.

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

Site Preparation / Construction

1. The project shall be in substantial compliance with the submitted plans and project description as approved by the Planning Commission on July 14, 2010. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

2. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations.

Operational Restrictions

3. The restaurant shall operate as an eating and drinking establishment. The service of food and beverages shall be primarily by employee service to customers seated at tables and the establishment shall have no take-out window.
4. Hours of operation shall be limited to 11am to midnight everyday or as approved by the Department of Alcoholic Beverage Control, whichever is more restrictive.
5. Alcohol service is limited to on-site consumption of beer and wine only. Sale of alcoholic beverages for consumption off-premise is prohibited.
6. Alcohol service to customers shall occur only in conjunction with food service during all hours of operation.
7. Entertainment other than background music or television is prohibited. Any outside sound or amplification system or equipment is prohibited. Noise emanating from the establishment shall be in compliance with the Municipal Noise Ordinance.
8. The management of the property shall police the property and all areas adjacent to the business during hours of operation to keep it free of litter and debris.
9. The operator of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject business.
10. The operation shall remain in compliance with all Fire and Building occupancy requirements at all times.

Procedural

11. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter.
12. 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.
13. 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.
14. 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.

15. 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 July 14, 2010 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

LAURIE B. JESTER,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

CITY OF MANHATTAN BEACH

MEMORANDUM

NOVEMBER 13, 1984

TO: Board of Zoning Adjustment

FROM: Community Development Department

SUBJECT: Conditional Use Permit to Allow the Establishment of a Restuarant with On-Sale Beer and Wine Service within an Existing Commercial Building at 1133 Highland Avenue (Octopus)

APPLICANTS/LESSEES

Hisao Inoue and Masaaki Eda
2309 Schoolside Avenue
Monterey Park, California 91754

PROPOSAL

The applicants request approval of a Conditional Use Permit to allow the establishment of a Japanese restaurant and sushi bar with an on-sale beer and wine service license within a 2,260 square foot vacant lease space within an existing commercial building.

GENERAL INFORMATION

Location: 1133 Highland Avenue, the second business north of Manhattan Beach Boulevard on the west side of Highland Avenue (see Exhibit A)

Legal Description: Lots 11 and 12, Block 66, Manhattan Beach Division No. 2

General Plan: Commercial

Zoning: C-2 (General Commercial)

Area District: III (the beach area)

Property Size: 5400 square feet - 60 feet by 90 feet

Existing Land Use: Retail clothing store/medical office containing vacant space

Neighboring Land Uses/Zoning:

North, across Center Place	- Retail and public parking structure (C-2 and PF)
South, across Manhattan Beach Boulevard	- Retail/office (C-2) [3-Story building currently under construction] (C-2)
East, across Highland Avenue	- Restaurant/Retail (C-2)
West	- Retail/office (C-2)

EXHIBIT
B

Business Details:

Gross Floor Area - 2,260 square feet
Dining Room/Sushi Bar Area - 1,153 square feet
Waiting/Customer Service Area - 209 square feet
Kitchen - 400 square feet
Food Storage and Employee's
Service Restroom Areas - 452 square feet
Trash Area - 50 square feet

<u>Seating Capacity:</u>	<u>Proposed</u>	<u>Allowed</u>
	50	50

Alcohol Service: Beer and wine

Hours of Operation: - Monday through Friday, 11:30 a.m. to 2:30 p.m.
5:30 p.m. to 11:00 p.m.

Fridays and Saturdays, 5:30 p.m. to 12 midnight

Signs:

<u>Proposed</u>	<u>Permitted</u>
50 sq.ft.	78 sq.ft.

DISCUSSION

The applicants propose to establish a new restaurant specializing in Japanese cuisine within a part of the building formerly occupied by a coin-operated laundromat (Exhibit B). No expansion of the building is proposed. The exterior building facade will be improved with architectural modifications to include a new door and sign. The interior of the restaurant will be substantially renovated to include the placement of both booth and table seating. A separate sushi bar counter will be located to the south of the building area. The kitchen and customer service area will provide restrooms conforming to handicap standards as well as extensive food storage area.

The interior of the restaurant will be segregated into three distinct areas. The dining area and sushi bar will encompass approximately 1,150 square feet, whereas the kitchen and employee's service area will encompass another 950 square feet. The customer waiting and cashier/entry area will be approximately 209 square feet. The main dining area and sushi bar area will provide seating for 50 persons, which is located in the center and south section of the building. A service counter bar adjacent to the sushi preparation area will provide bar seating for the customers wishing to specialize in the sushi offerings of the business. The business is proposed to provide a beer and wine alcoholic service license. The only entertainment proposed will be background music provided by a stereo system.

LAND USE

The proposed restaurant will be located in a C-2, General Commercial, Zone in Area District III, which is located in the Downtown Business District. Other land uses in the area range from restaurants, retail, service businesses, and offices to a financial institution. The subject property also contains a business known as Bentley's Clothing for Men and Women as well as a medical office. There are no residentially zoned properties located near the project.

PARKING AND CIRCULATION

The property is exempt by Code from providing on-site parking since no expansion of the building is contemplated. Two public parking lots serving the property are located on 12th Street. The larger parking structure, located at the intersection of Morningside Drive and 12th Street, provides 90 metered parking

spaces. The smaller parking structure, located directly northwest of the project, provides metered parking for 30 vehicles. Current Code restrictions do not require that additional parking be provided when the land use is intensified as is proposed. However, the City Council will, in December of 1984, consider a Planning Commission recommendation to modify the Code to require the provision of additional parking when there is an intensification of land use involved and the improvements on the site exceed a 1:1 building site to floor area ratio.

SIGNS

The applicants are proposing to install 50 square feet of signing on the property. All signing will be incorporated into a single business sign adjacent to Highland Avenue. The Code, based on the business frontage, provides that 78 square feet of signing may be provided for this business.

ENTERTAINMENT

As noted above, the entertainment provided within the business will be limited to background music emanating from a stereo system. The business management will be responsible for the volume control of the entertainment system.

CONCLUSION

The restaurant project, as proposed, conforms to all current zoning criteria. No building expansion is proposed for the project and is by Code, exempt from parking regulations. The property is within an established commercial area. The noise generating uses within the business are located adjacent to the commercial streets. The project will provide an aesthetic upgrade and will be compatible to all surrounding land uses. The public parking structures in the nearby vicinity will provide adequate parking for the use.

RECOMMENDATION

It is recommended that the Board of Zoning Adjustment APPROVE the proposed Conditional Use Permit, subject to the conditions stated in the attached draft Resolution.

SAL:da

Attachment

- Draft Resolution No. BZA 84-
- Exhibit A - Site Location Map
- Exhibit B - Plans



CUP
1133 Highland Avenue
November 13, 1984
EXHIBIT "A"

SUBJECT
PROPERTY

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE ESTABLISHMENT OF A RESTAURANT WITH A BEER AND WINE SERVICE WITHIN AN EXISTING COMMERCIAL BUILDING FOR THE PROPERTY LOCATED AT **1133 HIGHLAND AVENUE** IN THE CITY OF MANHATTAN BEACH (Inoue and Eda)

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 Lots 11 and 12, Block 66, Manhattan Beach Division No. 2 in the City of Manhattan Beach; and,

WHEREAS, the applicants for said Conditional Use Permit are Hisao Inoue and Masaaki Eda, lessees of the subject property; and,

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

WHEREAS, an Initial Study/Environmental Assessment was prepared and a Negative Declaration was filed in compliance with all respects with CEQA and the City of Manhattan Beach guidelines, finding no significant environmental impacts associated with the project; and,

WHEREAS, the following findings were made with regard to this application:

1. The applicants request approval of a Conditional Use Permit to allow the establishment of a restaurant with an on-sale beer and wine service within an existing commercial building. The existing building is 2,262 square feet in size, and no expansion is proposed.
2. The property is zoned C-2, General Commercial, and is located within Area District III, in the Downtown Business District.
3. The interior will be completely renovated to provide for the restaurant use to include a new kitchen and bar area, as well as the inclusion of handicap access and restroom facilities.
4. The off-site, off-street parking spaces located within two public parking structures on 12th Street will provide adequate parking for the project. The property is exempt by Code from providing on-site parking.
5. The property is in an established commercial area. The subject business, with the conditions enumerated below, shall be compatible with all neighboring uses.

NOW, THEREFORE, BE IT RESOLVED that based on the above findings, the Board of Zoning Adjustment of the City of Manhattan Beach hereby APPROVES the Conditional Use Permit, subject to the following conditions:

1. The management of the property shall police the property in all areas immediately adjacent to the business during the hours of operation to keep it free of litter.
2. The business proprietor(s) shall provide adequate management and supervisory techniques to prevent loitering, unruliness, and boisterous activities of patrons outside the subject business or in the immediate area.
3. The service of alcohol shall be in conjunction with minimal food service during all hours of operation.

RESOLUTION NO. BVA 74-55
(continued)

4. All amplified entertainment shall be limited to background music only and the volume shall be controlled by the restaurant management only.
5. Noise emanating from the property shall be within the limitations prescribed by the City's Noise ordinance.
6. All utilities shall be underground pursuant to City ordinance.
7. One street tree, of size and variety approved by the Public Works Department shall be planted on the Highland Avenue frontage.
8. A handicapped access ramp shall be installed in the public right-of-way at the southwest corner of Highland Avenue and Center Drive.
9. The Conditional Use Permit shall be reviewed within six months from the date of occupancy and annually thereafter.
10. A fully enclosed and sealed refuse storage area shall be constructed on the premises, subject to the approval of the Community Development and Public Services Departments. The refuse container lids shall remain closed at all times.


I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Board of Zoning Adjustment at its regular meeting of **November 13, 1984**, and that said Resolution was adopted by the following vote:

AYES: Cole, Duffy, Johnson, Lilligren,
and Chairwoman Hollingsworth

NOES: None

ABSENT: None

ABSTAIN: None


TERRY STAMBLER-WOLFE
Secretary to the Board of Zoning Adjustment


ARLETTE FIRMAN
Recording Secretary

ABC Licenses in Downtown Manhattan Beach				
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
Simmzy's	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	
Mr. Cecils California Ribs	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	



EXHIBIT
C

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 Sombbrero	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
Memphis	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	



Vicinity Map
1133 Highland Ave

Legend

-  1133 Highland Ave
-  Other Parcels

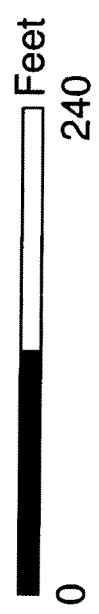


EXHIBIT
D





MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

DATE
5:00 PM
34 10 01

Office Use Only
Date Submitted: 4/19/10
Received By: m R.
F&G Check Submitted: pd \$50.00

1133 Highland ave
Project Address

Lots 11 and 12 Block 66, MANHATTAN BEACH DIV 2
Legal Description

Commercial C-2 111 (Beach area)
General Plan Designation Zoning Designation Area District

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

- Project located in Appeal Jurisdiction
Project not located in Appeal Jurisdiction
Major Development (Public Hearing required)
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)

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

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

Pre-Application Conference: Yes No Date: Fee:
Amount Due: \$ 5,010 (less Pre-Application Fee if submitted within past 3 months)
Receipt Number: Date Paid: Cashier:

Applicant(s)/Appellant(s) Information

The Izaka-Ya Inc
Name
16633 Ventura blvd. #1212 Encino 91436
Mailing Address
Lessee
Applicant(s)/Appellant(s) Relationship to Property
Kevin Franklin -Consultant 213 706-6997
Contact Person (include relation to applicant/appellant) Phone number / e-mail
30408 Olympic st.Castaic CA. 91384
Address
Applicant(s)/Appellant(s) Signature Phone number
213 706 6997

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

Conditiona use permit amendment to allow an existing sit down res
restaurant with beer and wine to operate from 11am-12midnight
seven days a week in lieu of the current operating hours of 1130-230
530-12midnight

EXHIBIT
E

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)

OWNER'S AFFIDAVIT

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I/We NORMA ANN MALTZ being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

Norma Ann Maltz, Trustee
Signature of Property Owner(s) - (Not Owner, in Escrow or Lessee)

NORMA ANN MALTZ, TRUSTEE
Print Name

1970 Silverleaf Circle, Carlsbad, Cal. 92009
Mailing Address

(760) 704-1338
Telephone

Subscribed and sworn to before me,
this _____ day of _____, 20____
in and for the County of _____
State of _____

Notary Public As attached on Jurat with Applicant Statement

Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply - refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

Submitted Application (circle applicable fees, apply total to Fee Summary on application)

<i>Coastal Development Permit</i>	
Filing Fee (public hearing - no other discretionary approval required):	\$ 4,275 ☑
Filing Fee (public hearing - other discretionary approvals required):	\$ 815 ☑
Filing Fee (no public hearing required):	\$ 560
<i>Use Permit</i>	
Use Permit Filing Fee:	\$ 5,200 ☑
Master Use Permit Filing Fee:	\$ 8,145 ☑
Amendment Filing Fee:	<u>\$ 4,730</u> ☑
Master Use Permit Conversion	\$ 4,080 ☑
<i>Variance</i>	
Filing Fee:	\$ 4,925 ☑
<i>Minor Exception</i>	
Filing Fee (with notice):	\$ 1,095 ☑
Filing Fee (without notice):	547.50
<i>Subdivision</i>	
Certificate of Compliance	\$1,505
Final Parcel Map / Final Tract Map	585
Lot Line Adjustment or Merger of Parcels	1,010
Mapping Deposit (paid with Final Map application)	473
Quimby (Parks & Recreation) fee (per unit/lot)	1,817
Tentative Parcel Map (less than 4 lots / units) No Public Hearing	805
Tentative Parcel Map (less than 4 lots / units) Public Hearing	3,180** ☑
Tentative Tract Map (more than 4 lots / units)	3,770** ☑
<i>Environmental Review (contact Planning Division for applicable fee)</i>	
Environmental Assessment:	\$ <u>215</u>
Environmental Assessment (if Initial Study is prepared):	\$ 2,210
Fish and Game County Clerk Fee ² :	\$ <u>65</u>
☑ <i>Public Notification Fee</i> applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable.	\$ <u>65</u>

² Make \$50 check payable to LA County Clerk, (DO NOT PUT DATE ON CHECK)
G:\Planning Counter Handouts\Master Application Form.doc Rev. 7/08

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

~~_____
Signature of Document Signer No. 1~~

~~_____
Signature of Document Signer No. 2 (If any)~~

State of California

County of SAN DIEGO

Subscribed and sworn to (or affirmed) before me on this

31ST day of MARCH, 2010, by
Date Month Year

(1) NORMA ANN MALTZ
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.)

(and

(2) _____
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Signature Diana L. Blanc
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

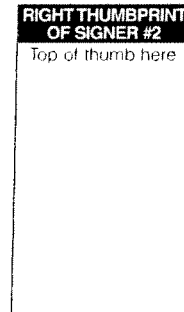
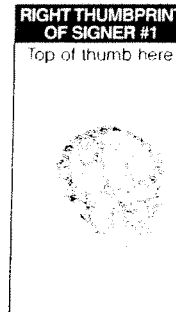
Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Further Description of Any Attached Document

Title or Type of Document: OWNER'S AFFIDAVIT

Document Date: MARCH 31, 2010 Number of Pages: TWO

Signer(s) Other Than Named Above: NONE



Description of Business:

The restaurant is Japanese styled Sushi . It has been in existence for more than 25 years under different ownership. The CUP BZA 84-55 has been maintained without interruption or violations. The operating hours of the business is currently 1130-230 and 530-1100pm Monday to Friday and 530-12 midnight on Saturday, closed Sunday. The applicant is requesting the restaurant continue to operate on a daily basis from 11am-12 midnight daily, to be consistent with the other restaurants in the area. No other changes are proposed to the C.U.P.

FINDINGS:

1. The restaurant currently exists as a full service sit down Sushi styled family establishment in a fully commercialized beach area with similiar uses such as ; restaurants, business offices and retail stores.
2. The restaurant has an existing C.U.P. It has not been detrimental to the area and has not been a law enforcement burden to the community. The restaurant has maintained an excelent track record and continues to offer first class service to the area.
3. The restaurant has fully complied with its operating conditions.
4. The restaurant has mandated conditions which has mitigated any potential problems to the community. The restaurant is located in a commercial zone not near residentially zoned properties. Plenty of public parking exists on the street and in parking lots. The business provides no live entertainment, dancing or Karoke. Background music is not audible beyond the interior of the premises. The premises has not added any potential negative impact to the community it services.